

HEALTH STANDARDS UPDATE: AUGUST 1984

PLAINTIFF'S EXHIBIT

UC-4238

ASBESTOS

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ORC's recommendations included the mandatory use of engineering controls, work practice controls and/or administrative controls to reduce ambient concentrations to or below 0.5 f/cc. From 0.5 f/cc to 0.2 f/cc the mandatory use of appropriate negative pressure respirators was recommended. If ambient concentrations of airborne asbestos fibers could not be reduced to or below 0.5 f/cc, then the use of supplied air respirators was recommended.

During the hearings, the use of respirators and, particularly, the use of disposable or single use respirators, was condemned by the unions and academics. The only kind of respiratory protection considered acceptable by most commenters was supplied air. However, many of those recommending their use were forced to admit that supplied air respirators were often impossible or unreasonable to use.

During the hearings, OSHA commented that it expects to have a final asbestos standard out around July of 1985. Post hearing comments must be submitted to OSHA by August 27, 1984, and the legal briefing period runs from August 27 to October 11, 1984.

BENZENE

The mediation process between OSHA, labor and industry is still being pushed by the administration. Organized labor does not seem to be optimistic about the chances of reaching agreement on benzene, but is still willing to give it a try. Overall, it seems that there is a general lack of enthusiasm on the part of most concerned with the benzene mediation efforts.

While the mediation effort continues, there has been little progress toward the completion of a final version of the benzene standard. OSHA and OMB have disagreed on several elements of a final standard including respirators, medical surveillance, and risk. At present the standard is at OSHA.

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OSHA has a field directive ready for publication that will give compliance officers guidance in applying the requirements for engineering and work practice controls to reduce employee exposure to airborne lead to the lowest feasible level even if they are not sufficient to reach the PEL. OSHA is allowing a degree of flexibility in complying with this requirement. If an employer has initiated a long-range study of options for reducing employee exposures to lead, they would not be cited for failure to meet the deadline for preparation of compliance plans in primary and secondary lead smelting and battery manufacturing.

OSHA still must report to the courts at set intervals its progress in resolving the issues that led to the administrative stay on the mandatory use of HEPA filters for respirators used to protect against lead dust and fumes. Presently OSHA is enforcing a more relaxed approach, allowing respiratory protection that is "appropriate" to the situation. The courts may force action on the issue.

FORMALDEHYDE

Next to benzene, this substance is causing OSHA the most concern. On July 2, 1984 the U.S. District Court for the District of Columbia ordered OSHA to "reconsider" its denial of a petition by the UAW and other unions for an Emergency Temporary Standard. The UAW petitioned OSHA in December of 1981, and their request was denied by OSHA in 1982.

In 1983 the UAW petitioned the court to force OSHA to issue an ETS for formaldehyde. In defending its denial of an ETS, the agency told the court that there was insufficient evidence to justify a finding of grave danger.

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On July 12, 1984 the UAW petitioned the U.S. District Court to set an October 2, 1984 deadline by which OSHA would have to respond to the unions request for an ETS on formaldehyde. OSHA has ten days in which to respond to the petition.

The court told OSHA to review the scientific evidence and see how it related to its regulatory options. OSHA responded that it would need at least four months to study the justification for an ETS and at least nine months to consider the need for a regular rulemaking. The court responded by requiring OSHA to prepare a time-table outlining when its regulatory decision making would be complete and to submit it to the court by August 10, 1984.

OSHA's response to the court was based, in part, on the findings of an international formaldehyde workshop held October 1983. The National Center for Toxicological Research, which issued a final report on this workshop, found that there was not sufficient human data to give a quantitative link between exposure to formaldehyde and various kinds of cancer.

RESPIRATORS

The draft document on the revision of 1910.134 is, for the present, not being actively worked on. In part, this is due to the fact that the asbestos hearings were heavily focused on the use of engineering controls as opposed to respirators. Until all of the written comments and the oral testimony are reviewed and evaluated, OSHA is reluctant to again begin actively working on this standard. The second reason is that OSHA and OMB have basic disagreements on the appropriate use of respirators.

The ORC Respirator Task Force will be meeting soon to consider updating our 1982 Recommended Revision of 1910.134 and resubmitting it to OSHA as the basis for discussions concerning respirators.

COTTON DUST

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ETHYLENE OXIDE

On June 22, 1984 OSHA published in the Federal Register (49 FR, 25734) a standard for Occupational Exposure to Ethylene Oxide. This standard established a PEL of one ppm and an action level of 0.5 ppm as eight hour time weighted averages.

At the same time, OSHA announced that it was continuing rulemaking on the issue of short-term exposure limits, (STEL). The record will be reopened with respect to this specific issue and further evidence sought.

The STEL was deleted from the standard at the last moment, causing some parts of the standard to read strangely. The deletion of the STEL came largely because OSHA had a very weak justification for a STEL, and as a result of the inability of the Office of Management and Budget (OMB) and OSHA to agree on the extent to which the use of respirators was to be allowed in the standard. OSHA insisted on the maximum use of engineering controls, and OMB on the equivalent use of respirators.

OMB had received a heavy volume of comments regarding this issue, and this has continued since the publication of the standard.

The Ralph Nader Public Citizen Health Research Group (HRG) along with three unions filed suit against OSHA in the U.S. Court of Appeals for the District of Columbia, contesting OSHA's deletion of the STEL.

4,4' METHYLENEDIANILINE

Responsibility for the control of methylenedianiline has been shifted to OSHA by the EPA. OSHA received on August 6, 1984, a Section 9 (TSCA) referral from the EPA, in effect transferring responsibility for MDA to OSHA. According to Section 9, of TSCA the EPA must also publish this referral in the Federal Register.

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OSHA will then have no less than 90 days in which to respond to the EPA referral. OSHA is required to publish a detailed response in the Federal Register.

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INTERAGENCY RISK MANAGEMENT COUNCIL (IRMC)

This group composed of a number of federal agencies, was originally established at the instigation of the EPA to supply a means to resolve differences between various federal agencies concerning the regulation of chemical substances. On June 5, 1984, OSHA testified that the IRMC could meet the need for risk assessment called for in a bill sponsored by Rep. Don Ritter (R-Pa). Concern has been expressed that the IRMC could become politicized as was its predecessor the IRLG. In response to this concern, OSHA commented that the IRMC could avoid politicization by avoiding risk management and sticking with risk assessment.

Under the leadership of Ms. Betty Anderson of the EPA, the IRMC is preparing for an expanded role in the area of reproductive hazards. Ms. Anderson has, in the past, taken a key role in the carcinogen debate as head of the EPA's Carcinogen Assessment Group (CAG). Ms. Anderson has earned a reputation as a bright, hardworking and determined regulator. This is an area that we need to watch very closely.

1,3-BUTADIENE

The EPA has made a decision to refer action on this substance to OSHA under Section 9(a) of TSCA. This is the second substance that the EPA has referred to OSHA, the first being MDA. The National Resources Defense Council (NRDC), in written comments to the Agency, has argued that control over the regulation of 1,3-butadiene should remain with the EPA.

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