



Appropriations

\$156 MILLION FISCAL 1976 BUDGET SOUGHT FOR OSHA, NIOSH, COMMISSION

The Ford Administration's fiscal 1976 budget includes nearly \$156 million for occupational safety and health, with \$116 million for the Occupational Safety and Health Administration, \$34.2 million for the National Institute for Occupational Safety and Health, and \$5.7 million for the Occupational Safety and Health Review Commission.

The budget, submitted to Congress on February 3, also including \$79.5 million for the Mining Enforcement and Safety Administration, Department of Interior. MESA enforces the Federal Coal Mine Health and Safety Act and the Metal and Nonmetallic Mine Safety Act. Funds budgeted for federal agencies to provide safety and health for government employees were not identifiable.

OSHA Budget

The \$116 million OSHA budget includes \$5 million for on-site consultation for small employers, \$2.5 million additional for state-administered safety and health programs, and a \$6.2 million increase for general safety and health.

The funds projected for all programs, with the exception of training and education, information, and executive direction, represent increases over the 1975 estimates. Safety and health standards activities are budgeted at \$5,153,000, up from \$4,802,000 in fiscal 1975. Under enforcement, \$48,050,000 is budgeted for federal inspection and \$48,500,000 for state programs. These compare with the 1975 estimates of \$42,177,000 and \$41,000,000 respectively.

The training budget is \$4,838,000 down from the 1975 estimate of \$4,874,000. OSHA training emphasis in 1976 will shift from direct training to providing curricula packages to be used in the public and private training sector.

For safety and health statistics, the budget calls for \$5,607,000, up from \$5,526,000 in fiscal 1975. Executive direction and administration is budgeted at \$3,877,000, down from the fiscal 1975 estimate of \$3,948,000.

The OSHA budget estimates 100,000 federal inspections and 200,000 state inspections in fiscal 1976.

NIOSH Budget

The \$34.2 million NIOSH budget represents a \$4 million increase from the fiscal 1975 estimated expenditures. Programs expected to expand include surveillance activities, industry wide studies, and laboratory research and services. Of the fiscal 1976 budget, \$1.9 million is slated for occupational health grants, \$30.3 million for direct operations, and \$2 million for program direction and regional operations.

Review Commission

The \$5.7 million Review Commission budget includes \$1.6 million for commission review, \$3.5 million for administrative law judge determinations, \$440,000 for administration, and \$130,000 for change in selected resources. The budget reflects an increase of \$165,000 over fiscal 1975 estimated expenditures.

An additional 3,000 cases are expected to be received by the Review Commission during fiscal 1976, bringing the total 1976 estimate to 8,700. The budget projects 6,055 cases disposed prior to assignment to a judge, 1,470 cases disposed after assignment, and 860 heard and decided by a

judge. Some 300 commission decisions are expected in fiscal 1976, with an estimated 470 pending at the beginning of the year.

MESA Budget

The \$79.5 million MESA budget includes \$7 million for new program initiatives. Some \$43.2 million is budgeted for coal mine health and safety inspections and \$13 million for metal and nonmetallic mine inspections. An additional 75 new inspectors are slated for the metal and nonmetallic inspection staff.

The budget includes \$12.1 million for technical support and \$8.6 million for education and training. For program administration the budget includes \$2.4 million, including \$250,000 for a study on the effectiveness and future needs in health and safety programs.

Litigation

COURT UPHOLDS VINYL CHLORIDE STANDARD, DELAYS EFFECTIVE DATE

The U.S. Court of Appeals for the Second Circuit upheld the permanent standard on vinyl chloride but granted delay in its effective date.

The court's unanimous decision, titled *The Society of the Plastics Industry, Inc. v. Occupational Safety and Health Administration*, disposed of nine consolidated petitions by plastics industry firms and trade associations challenging the validity of the standard. While rejecting all the industry's attacks on the merits of the standard, the court agreed with the petitioners that a "reasonable lead time" was appropriate and ruled that the standard shall become effective 60 days from the date of the decision, January 31. The court previously issued an order staying the standard (Current Report, December 19, p. 843); otherwise, it would have been effective on January 1.

Reviewing the background of the standard, the court noted that warnings of harmful effects from vinyl chloride exposure had appeared as early as 1949, and characterized the record as "a course of continuing procrastination on the part of the industry to protect the lives of its employees." The court also criticized the petitioners for the "generally blunderbuss approach" of their briefs.

According to the court's opinion, the petitioners' principal contentions were as follows: (1) the available evidence does not establish that the adopted one ppm exposure level is necessary; (2) the standard is technologically and economically unfeasible; (3) the standard is unenforceably vague; (4) there was no substantial evidence to support the inclusion of fabricators in the standard's coverage; and (5) the sign and labelling requirements unduly emphasize the carcinogenic nature of vinyl chloride.

Relying heavily on testimony that there is no known safe level of exposure, the court found the evidence of record "quite sufficient" to support the one ppm exposure level. "It must be remembered that we are dealing with human lives," the court said, noting the 13 recorded deaths attributed to vinyl chloride. "[T]he duty of the Secretary [is] to act to protect the workingman, . . . even in circumstances where existing methodology or research is deficient," the court added.

Feasibility of the Standard

After discussing the conflicting evidence as to the feasibility of compliance with the standard, the court held that the petitioners had failed to demonstrate unfeasibility, and admonished them to have "more faith in their own technological potentialities." The court specifically mentioned the problem of cleaning polyvinyl reactors as one operation with high exposure potential, and noted that new methods of cleaning are coming into use that do not require an employee to enter the reactor. The court also relied on the availability of respirators to achieve compliance when engineering and administrative controls are insufficient, finding that "petitioners' claims of dire consequences from the requirement of respiratory protection are exaggerated." The full-time use of respirators does not appear to be necessary, the court said.

Regarding the petitioners' argument of vagueness, the court merely stated that "the secretary's directions are clear, definite, and certain." The court found the inclusion of fabricators in the coverage of the standard "amply justified" in light of the two deaths that have occurred in that industry. The objections to the labelling requirements and other arguments by the petitioners also were rejected summarily.

In conclusion, the court pointed out that provisions exist for the amendment of standards, and stated that upon application and sufficient proof "we feel certain that the petitioners would obtain relief" from the Secretary of Labor in the event that they cannot comply with the standard.

The court's opinion was written by retired U.S. Supreme Court Justice Tom C. Clark. He was joined by Judges Frederick vanPelt Bryan and Kevin T. Duffy, both of the Southern District of New York, sitting by designation.

This ruling will appear in a future Decisions supplement.

OCAW Suit

A separate petition, filed by the Oil, Chemical, and Atomic Workers International Union, was transferred from the District of Columbia Circuit Court of Appeals to the Second Circuit in New York. This suit is unrelated to the SPI suit in that it involves other issues. These issues include labor relations problems, scope of medical examinations, failure to provide separate lunchroom facility requirements (especially in high exposure areas since ingestion of PVC dust is a problem), failure to provide transferability rights for employees found to have problems on medical examination, and failure to provide protective clothing requirements.

OCAW has not determined whether or not the suit will be dropped.

Standards

OSHA PROPOSES MOCA STANDARD IDENTICAL TO EARLIER VERSION

A standard for 4,4'-Methylene bis (2-chloroaniline) (MOCA) was proposed on February 3 by the Occupational Safety and Health Administration.

The standard 29 CFR 1910.93e, which appears in the Full Text section of this report, is identical to the final standard adopted on January 29, 1974 (Reference File 31:5311). That standard was vacated and remanded by the Third Circuit Court of Appeals on December 17, 1974, in *Synthetic Organic Chemical Manufacturers v. Brennan* (2 OSHC 1402).

While a petition by the Justice Department for rehearing on the portion of the court's decision involving MOCA has

been filed, the proposed standard was issued "to assure effective protection of workers in the swiftest possible time." OSHA noted that action by the court may necessitate changes in the proceedings initiated by the proposed standard.

OSHA has asked the National Institute for Occupational Safety and Health to develop appropriate medical protocols for all 14 carcinogens. The provisions for medical examinations of all the carcinogen standards were remanded by the court. The medical examination provisions in the proposed MOCA standard are identical to those in the standard vacated by the court, but OSHA said it will propose amendments in a separate rulemaking as soon as the information is available from NIOSH.

The proposed standard also clarifies the prohibition on open vessel operations in 1910.93e. OSHA noted that environmental impact statements were prepared during the first rulemaking and no new draft impact statement will be prepared, but an amended statement will be issued if significant new information becomes available.

A hearing on the proposed standard was scheduled for April 1 in the Departmental Auditorium, Constitution Avenue, Washington, D.C. 20210.

The proposed standard appears in the Full Text section of this report.

Enforcement

OSHA REPORTS 7,396 INSPECTIONS IN NOVEMBER; TOTAL PASSES 190,000

Some 7,396 workplace inspections were conducted by Occupational Safety and Health Administration during November, bringing OSHA's overall total to 192,495.

The November total is considerably higher than that recorded for October (Current Report, December 26, p. 867).

As a result of the November inspections, OSHA issued to employers 5,535 citations alleging 30,652 violations of job safety and health standards. Proposed penalties totaled \$776,565.

The 192,495 inspections conducted by OSHA to date resulted in 129,564 citations alleging 672,722 violations, with proposed penalties totaling \$16,959,531. Of that amount, \$12,322,015 was remitted to the Secretary of the Treasury. The balance represents funds not yet collected, plus penalties proposed by OSHA that were reduced or vacated by order of the Occupational Safety and Health Review Commission after employer appeals.

Data showing OSHA inspection activity in November 1973 and 1974, and cumulative data for the first five months of fiscal 1974 and 1975, appear in the Full Text of this report.

Standards

ADVANCE NOTICE OF PROPOSED RULES ON 11 SUBSTANCES PUBLISHED BY OSHA

An advance notice of proposed rulemaking for 11 substances was issued by the Occupational Safety and Health Administration on February 3 under the standards completion project.

Draft technical standards covered under the notice include Alpha-Methyl Styrene, Styrene, Terphenyls, Vinyl Toluene,

From the desk of...
L. F. KAAS

Cancer Institute Says Ethylene Dichloride May Endanger Health of Workers, Public

By a WALL STREET JOURNAL Staff Reporter
WASHINGTON—The National Cancer Institute said the chemical ethylene dichloride may endanger the health of many workers and of much of the general populace, as tests on animals show it causes cancer.

The substance, known as EDC, is produced in large quantities as a source for other chemicals. Chemical and plastic workers appear to run the greatest risk of exposure because the bulk of EDC is used in manufacturing vinyl chloride monomer, from which polyvinyl chloride, the widely used plastic, is made. The institute says the general public may be exposed to EDC by contaminated grain or other food, through exhausts or gasoline fumes and via contaminated water supplies, among other things.

The institute didn't make any recommendations in conjunction with its report on the EDC tests, which are part of a program to identify cancer-causing chemicals in the environment. But several other federal agencies are evaluating the data.

An official at the Occupational Safety and Health Administration said that agency isn't certain which industries may need regulation. It plans to ask the public for information regarding the use of EDC; then it will decide whether a temporary emergency standard is needed to limit worker exposure.

Two Million Workers

About two million U.S. workers are exposed each year to EDC, with about 33,675 of them getting full-time occupational exposure, according to a survey conducted by the National Institute for Occupational Safety and Health.

The Environmental Protection Agency said it received early notification of the institute's findings and began a study late last year to learn the amount of EDC produced, its uses, and its effects on health and the environment. Officials are reviewing preliminary results of the study. The agency doesn't expect to have a more comprehensive

Charles, La.; and Guayanilla, Puerto Rico; the Shell Chemical Co. unit of Shell Oil Co., Deer Park, Texas, and Norco, La.; Stauffer Chemical Co., Long Beach, Calif.; Union Carbide Corp., Taft, La., and Texas City, Texas, and the Vulcan chemical division of Vulcan Materials Co., Geismar, La.

Other Possible Exposures

The cancer institute said that there is "considerable potential for human exposure" to EDC in the workplace and noted that some workers outside the chemical and plastic industries may be affected. For example, agricultural workers may be exposed because EDC is used as a soil and crop fumigant. Workers who make insecticides of antiknock agents and those who make or use metal-degreasing compounds may also be exposed.

EDC is used in some textile dry cleaning, in paint removers, and for making adhesives such as rubber cement. Chemicals made from EDC include carbon tetrachloride, freon compounds, methyl chloroform, and perchloroethylene, which is reportedly the most widely used dry-cleaning solvent. The institute said it isn't clear whether chemicals derived from EDC also may cause cancer.

Noting that most EDC is used to make vinyl chloride, an official of the occupational safety agency speculated that OSHA's current standard limiting worker exposure, to

that substance may suffice to protect them from EDC.

The institute said that EDC can be taken into the human body by ingestion, inhalation or skin absorption and that it has even been found in human milk and in the exhaled breath of nursing mothers who were exposed to it.

In the tests commissioned by the institute, EDC was given orally to groups of rats and mice for 78 weeks. In male rats, it caused stomach cancers, vascularization of the lungs, and cancer of the liver, pancreas, and skin. Female rats and mice developed breast cancers. The chemical also caused uterine cancers in female mice and respiratory-tract cancers in both male and female mice, the institute said.

Talcott Agrees to Sell Detroit Finance Office

By a WALL STREET JOURNAL Staff Reporter
NEW YORK—Talcott National Corp. it agreed to sell its Detroit business office to Instalcoan Financial Service. Instalcoan is a subsidiary of National T Corp., a bank holding company and an affiliate of National Bank of Detroit.

The purchase price is about equal to the Detroit office's \$19 million outstanding balance plus a commission on revenues minus a provision against possible losses, Talcott said.

The agreement is the third within a week for sale of business finance. James Talcott Inc., Talcott's principal operating subsidiary.

CTL031410

Workers alerted to cancer hazard

THE STAR-LEDGER, Wednesday, October 1, 1976

By JAMES McQUEENY

The State Department of Labor and Industry yesterday warned some 115,000 employees at 1,300 industrial plants in New Jersey to take special precautions to protect themselves against a chemical element linked with high rates of lung and lymphatic cancer.

The element, an inorganic arsenic compound, was used among 44 industrial occupations and by an unknown number of agricultural workers in the state, the department reported.

It is used for such varied items as paint pigments, cotton defolliants, rat poison and ceramic glazes and is frequently an agent in many other compounds.

The warning, in the form of recommendations designed to lessen exposure to the chemical, came in the wake of a recent report by the U.S. Department of Labor on information obtained from two large out-of-state chemical companies linking inorganic arsenic compounds to a higher incidence of cancer among workers.

One of the recommendations urges a 10-fold reduction of employee exposure to the element, which is usually airborne as dust or sprays and inhaled.

"We do not want to create any large reason for alarm," said Commissioner Joseph A. Hoffman. "But we want to make sure employees observe more stringent means to avoid contact with this chemical."

A spokesman for the State's Workman's Compensation pro-

gram said there was no statistical breakdown on any possible disability cases arising from overexposure to the chemical.

Also, a spokesman for New Jersey Manufacturers Insurance Co., a major underwriter of the compensation program, said the agency did not have such selective statistics.

In a report released by the

department's Bureau of Engineering and Safety, it was noted the recent disclosure by the federal government linking the compound to the cancer rate "makes it imperative that immediate steps be taken to reduce exposure of employees to inorganic arsenic and its various compounds."

Meanwhile, in Washington yesterday the Labor Department announced new rules which reduce the amount of cancer-causing vinyl chloride gas to which factory workers may be exposed.

Under the new regulations from the Occupational Safety and Health Administration, effective Friday, the present allowable 50 parts per million exposure level will continue until Dec. 31. After next Jan. 1 workers may be exposed to no more than one part per million average over eight hours of exposure and no concentration higher than five parts per million over any 15-minute period.

After Jan. 1, 1978, the same exposure levels will be required except that workers exposed to stronger doses will have to wear respirators.

The state report said the arsenic compounds had been used for many years as economic poisons — for pest control, for instance — and only

recently restricted somewhat by federal and state regulations.

But many are still in common use as pest controls and poisons against fungi and weeds, the report said, in addition to its wide use within industry.

Aside from inhalation, skin contact with the arsenic compounds can result in serious ramifications, the report said. But industrial poisoning usually occurs with smaller daily contacts with the chemical by inhalation of dust or fumes.

"The reported effects of chronic arsenic poisoning, in addition to the lung and lymphatic cancers, are injury to mucous membranes, irritation to the larynx and bronchial tubes, skin hyperpigmentation and keratosis, and degeneration of the heart, liver, and kidneys," the report said.

In addition to the recommendation of "stringent avoidance of the dust or fumes of the compound," the report urged employees at plants dealing with the chemical to wear protective clothing, gloves and goggles, and frequent hands and face washings at work.

The recommendations, the department said, are interim measures until the pending hearings and regulatory action by the federal Occupational Safety and Health Administration, now under way, are completed.

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