

American Petroleum Institut
2101 L Street Northwest
Washington, D.C. 20037
202-457-7000



November 11, 1977

TO: Subcommittee on Environmental Law
Interdepartmental Committee on Safety and Health
OSHA Generic Committee

Re: Enclosed Status Report

Gentlemen:

Enclosed is the first of a series of status reports which we will be issuing in cooperation with Steve Swanson, the staff coordinator of API's Steering Committee for the OSHA Generic Rulemaking Proceeding. We invite your comments and suggestions on any aspect of this reporting procedure.

Contained in this report are action item suggestions for one or more of the addressees.

Sincerely,

A handwritten signature in dark ink, appearing to read 'David F. Zoll'.

David F. Zoll
Attorney

DFZ/jh

Enclosures

cc: Ed Warren
Herbert W. Bruch (NPRA)
Ms. Jamie Replogle (IPAA)
OGC legal and technical staffs

AMERICAN PETROLEUM INSTITUTE

STATUS REPORT #1
[November 10, 1977]

OSHA'S GENERIC RULEMAKING PROCEEDING

This is the first of a series of status reports which will be issued throughout API's participation in OSHA's Generic Rulemaking Proceeding.

1. Outside counsel, Ed Warren of Kirkland, Ellis & Rowe, and the API staff are preparing an options and issues paper similar to but shorter than the one which was prepared at the beginning of the photochemical oxidant project. This document will permit those who will be working on this project to identify the policy, legal, medical and economic issues involved, the tasks which must be coordinated and the time table which should be followed. The document should also provide a basis for members' early consideration of their own participation in this matter. It is expected that it will be distributed within the next week to the recipients of this Status Report #1.

2. The deadlines API faces in preparing for this matter are very close upon us. Specifically:

- A. Written comments and notices of intention to appear at the informal hearing [for our industry in general and our witnesses in particular] must be postmarked on or before December 8, 1977. We have received an unofficial, unconfirmed report that OSHA may merge this deadline with that of January 9, 1978 described below. Even

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if true this extension of time will be of little help; the additional time needed is for the substantial filings, not for notices of appearance.

- B. All materials and the direct written testimony of witnesses which will be introduced into the hearing record by any party must be filed by no later than January 9, 1978. A hearing is scheduled to begin March 14, 1978.

Again, because of the enormous planning effort required, we should take little comfort in the possibility of deadline extensions.

3. Mr. DiBona has established the following membership and staff committees to work on this matter:

<u>Expertise</u>	<u>Member</u>	<u>Staff</u>
Medical	Dr. John Thorpe (Exxon) (Alternate: Dr. W. A. McClellan, Gulf)	Dr. Neill Weaver
Legal	William E. Schweinle, Jr.	David F. Zoll
Refining	C. K. Flemming (Marathon)	Ray Wright
Public Relations	Paul Peavey (Standard of Ohio)	Robert Stoepker
Production	[to be named] O.W. Rowley Amale	Rob Trimble
Fire and Safety	E. H. Stockdale (Gulf)	
Economics		Dr. John Scarbrough
Staff		Steve Swanson
Coordinator		

4. The following staff of the Office of the General Counsel will be involved in this proceeding:

<u>Legal</u>	<u>Technical</u>
David Zoll	Gordon Everett
Martha Beauchamp	Will Ollison
David Giamporcaro	[and an additional research
Jay Schaudies	assistant, now being recruited]

To date, the OGC staff has researched various legal issues and, on the basis of our experinece in the benzene project, identified significant medical-legal issues. We are now beginning the following research projects in cooperation with outside counsel:

- A. Reviewing the records of proceedings before other agencies relating to testing for cancer, the balancing of costs and benefits in cancer standard setting.
- B. Conducting a preliminary search of relevant medical literature.

5. Subject to the suggestions of all involved, I am proposing the following procedures for our industry's communications in this project:

- A. Substantive policy and decisionmaking, and, accordingly, related mailings and other communications will involve:
 - (1) the current Steering Committee as supplemented by additional legal representatives;
 - (2) outside counsel;
 - (3) representatives of named parties to any agency or court filings who are not otherwise represented on the Steering Committee.
- B. Information mailings of status reports, agency and court filings and other documents will be made to those in A above plus:

- (1) the Subcommittee on Environmental Law;
- (2) ICOSH;
- (3) NPRA;
- (4) IPAA;
- (5) other persons or groups who specifically request to be placed on the API information only mailing list for this proceeding.

6. API staff and counsel are currently compiling a list of potential medical, health policy and economic witnesses and consultants for the prompt consideration of industry experts.