

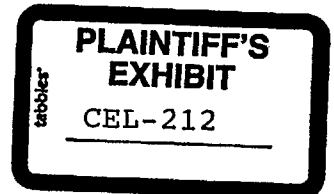
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Interoffice Memorandum

~~SECRET~~ P. J. Volpe

GEN 55 (REV. 6/74)

TO (Name and Location)	DATE
*As Listed	October 8, 1976
FROM (Name and Location)	REFERENCE NO.
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*Plant Managers
Operations Managers
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Safety Supervisors
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Subject: OSHA Standards - Voluntary Guidelines

The Occupational Safety and Health Administration recently began issuing what they call Voluntary Guidelines on certain airborne contaminants which they consider to be serious occupational health risks. Thus far, guidelines have been issued on silica, mercury, and lead, (attached). A guideline is being prepared on benzene. Others are planned.

A word of ~~explanation~~ as to why OSHA has chosen this course. First, a re-hash of how a standard is evolved. NIOSH, which is part of HEW, researches the hazard, develops the methodology, and recommends to OSHA in a Criteria Document how a contaminant should be controlled in the work-place and at what level (PEL). OSHA, which is part of the Department of Labor, reviews NIOSH's recommendation and issues a proposed standard. OSHA does not have to accept NIOSH's recommendation. After several months of public review and revision, OSHA promulgates a standard which is law.

This system should work, but it doesn't. OSHA and NIOSH don't speak to each other. They don't even have inter-department agreement on what chemicals should be considered priority chemicals for standards. The net result is - NIOSH writes about 25 Criteria Documents a year - many on chemicals which OSHA does not even have on their priority list.

The time required to promulgate a standard from the time of issuance of the Criteria Document to the issuance of a standard is about two years. Obviously, this doesn't ingratiate OSHA with NIOSH - or special interest groups - or even industry for that matter.

Dr. Morton Corn, Assistant Secretary of Labor for OSHA, chose the "Voluntary Guideline" concept as a way to break the bureaucratic log-jam and get good industrial health practices on traditionally dangerous substances in the field until a standard is issued. "The guidelines are not enforceable as law." However, OSHA recommends that employers adhere to these guidelines during the standard development stage. OSHA compliance officers will be armed with these guidelines with instructions to use the guidelines in their inspection of the work-place. They cannot cite an employer for exceeding the recommended PEL. However, the full legal ramifications of a published "voluntary" guideline should be reviewed by the Law Department - particularly as it relates to liability suits.

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