

Construction**CONSTRUCTION SAFETY ADVISORY PANEL
WILL CONSIDER 1910/1926 STUDY REPORT**

The Advisory Committee on Construction Safety and Health will meet in Washington, D.C., on January 7-10 to continue its consideration of the recommendations of the 1926/1910 project subcommittee.

The recommendations are oriented toward selected items in Part 1910 of 29 Code of Federal Regulations (the general industry standards) which the subcommittee deemed applicable to Part 1926 of 29 CFR (the construction safety standards).

The meeting will begin at 9 a.m. in the Chinese Room of the Mayflower Hotel, 1127 Connecticut Ave., N.W. The meeting will be open to the public and all interested parties are encouraged to attend.

Any member of the public wishing to submit written presentations and/or recommendations to the committee may do so by filing such a statement, together with 20 duplicate copies, with the committee management officer by December 31. Such submissions will be provided to the members of the committee and will be included in the record of the meeting.

The committee chairman may permit oral statements before the committee by interested persons. Consequently, persons desiring to make an oral presentation should submit a written request to be heard to the committee management officer by December 31. The request must have the name and address of the person wishing to appear, a short summary of the intended presentation, and the approximate amount of time required for his presentation. Such submissions will be provided to the chairman for his consideration.

All materials which have been submitted to or developed by the committee as well as the official record of all committee proceedings are available for public inspection and copying at the committee management office. Any copying will be done at the cost of 20 cents per page. However, no arrangement will be made to supply committee materials to the public at any meeting site.

All communications relating to the committee activities or requests for copies of materials used by the committee should be addressed to Julius Jimeno, committee management officer, Occupational Safety and Health Administration, 1726 M St., N.W., Washington, D.C. 20210, tel. 202-961-2248, 3181.

Vinyl Chloride**FIRESTONE, UNION CARBIDE BRIEF CALLS
FOR REMAND OF FINAL OSHA STANDARD FOR VC**

The failure of the Assistant Secretary of Labor to assess the economic feasibility of the standard for occupational exposure to vinyl chloride requires that the standard be vacated and remanded, Firestone Plastics Company and Union Carbide Corporation maintained in a brief filed with the U.S. Court of Appeals for the Second Circuit.

The brief and petition for intervention was filed in connection with suits filed by the Society for the Plastics Industry, Inc., Hooker Chemical Company, and others (Current Report, October 10, p. 523). A court action to consolidate all cases against the Labor Department and the Assistant Secretary on the standard is expected, a Labor Department spokesman told OSHA.

The brief alleged also that the Assistant Secretary's

denial of the right of industry to cross examine witnesses of Foster D. Snell, Inc. who were commissioned by the Occupational Safety and Health Administration to prepare the economic impact statement on the standard was unconstitutional in denying due process. Also alleged as unconstitutional was failure to allow a timely motion to reopen the fact-finding hearings (Current Report, July 18, p. 174) to cross examine or receive deposition from two doctors who were allowed to submit statements, comments, and conclusions on the merits of the proposed standard.

These denials violated OSHA's procedural rules also, and are also grounds for remand of the standard, the brief said, noting such failures "contaminated the final determinations."

Other issues presented for review in the petition, similar to those in the SPI petition, include: whether the final standard is supported by evidence of record, and whether the standard is so vague, indefinite, and essentially incapable of consistent and uniform enforcement, as to contravene the Act and due process of law.

The brief said "the Assistant Secretary's most telling omission, however, is that which relates to his failure to notify interested parties that the final standard would, in effect, although not intended, and as a direct consequence of his setting the permissible exposure level at one part per million time weighted average, elevate respiratory protection which was expressly stated in the proposed standard to be only a temporary measure, to the level of a permanent method of compliance without an opportunity for interested parties adequately to be heard or present evidence on this issue."

The Government is expected to submit its brief on the issue about December 9.

Petition for Stay

The Society for the Plastics Industry, Inc., petitioned the U.S. Court of Appeals for a stay on the vinyl chloride standard on December 3. SPI, in the petition, reiterated the position that there is no possible way to supply the required number of respiratory protective devices by the end of the year, nor have they been approved by the National Institute for Occupational Safety and Health and are not likely to be by January 1.

BOR 008345

Arsenic**PROPOSED RULE TO BE ISSUED BY OSHA:
LEVEL BELOW 0.01 MG PER CUBIC METER EXPECTED**

A standard for occupational exposure to inorganic arsenic will be proposed by the Occupational Safety and Health Administration soon, an OSHA spokesman told OSHA.

It is expected that the proposed standard will specify levels below 0.01 milligrams per cubic meter. The recommendation forwarded by the National Institute for Occupational Safety and Health to OSHA based on new mortality studies for arsenic (Current Report, August 29, p. 347) was for "no detectable level" in the workplace (Current Report, November 14, p. 683).

The spokesman expected widespread reaction from industry and labor unions to the proposed standard. "In my opinion, at least three days of public hearings will be required to handle the testimonies," he said.

The spokesman expressed surprise that lead smelters so far have submitted almost no data to OSHA on the presence of arsenic in the smelting of lead ores.

12/14/74
copy to Dr. Cunningham
JFO