

Chemical Manufacturers Association
Minutes of Meeting
OCCUPATIONAL SAFETY AND HEALTH COMMITTEE

CMA Headquarters

March 13, 1980

Washington, D.C.

Dr. O'Connell convened the meeting at 9:00 A.M. Following is a record of attendance:

Members Present

R.L. O'Connell, Chairman
L.M. Casey
E.E. Christofano
R.M. Clyne
C.F. Andres (for D.W. Hillman)
J.R. Venable
R.B. Hoots, Jr.
H.L. Kusnetz
W. Westendorf (for T.F. Evans)
A.W. Sheldon
W.M. Smith
G.D. Kirk (for J.S. Snyder)
F.A. Ubel

J.A. Young
C.H. Nolde (Part Time)
P.C. Joyce (Part Time)
M. Freifeld

Olin Corp.
Ashland Oil Inc.
Hercules Inc.
American Cyanamid Co.
Diamond Shamrock Corp.
Dow Chemical USA
ICI Americas Inc.
Shell Oil
Monsanto Co.
M & T Chemicals Inc.
Air Products & Chemical Co.
Merck & Co., Inc.
Minnesota Mining &
Manufacturing Co.
CMA
CMA
CMA
CMA

Guest

R. Gold (Representing Executive Stauffer Chemical Co.
Committee Chairman, Barclay Morley)

Members Absent

C. De Martino
H. Eschenbach

E.I. duPont de Nemours
W.R. Grace & Co.

Action

1) Attempt to restore "control" and "legal" sections to CMA draft embryo-fetotoxin guidelines. The Executive Committee has indicated these sections should be reviewed by Chemical Regulations Advisory Committee and the General Counsel's Advisory Group as well as coordinated with the American Industrial Health Council (AIHC).

2) Make available to the OSH Committee for information the latest draft of the revised ANSI Z129.1 standard.

3) Outline proposed oral testimony on HR5482, Beard's Bill on Worker's Compensation, for approval of key members of the Executive Committee. Complete presentation if such concurrence is obtained.

4) Develop written statement favorable to Schweiker Bill modifying the OSH Act. This should include comments on OSHA reform, particularly since we do not intend to participate in hearings on that subject.

5) In view of recent developments in the law concerning possible criminal violations of OSHA standards, member companies should be advised that affected employees should be represented by counsel after a workplace fatality.

6) Investigate need for training private (contract) physicians regarding occupational medicine and how best to meet it.

7) Set up task groups on reproductive hazards in the workplace and screening of new projects.

8) Establish liaison with AIHC on genetic testing and consider need for task group on this subject.

1.0 Minutes of Last Meeting: January 9, 1980

The captioned minutes were approved as distributed.

2.0 Proposed New Task Groups

2.1 Reproductive Hazards In The Workplace

Dr. O'Connell described the action taken by the Executive Committee earlier in the week regarding the draft guidelines on Embryo-fetotoxins. This document, approved by the OSH Committee, had been distributed to the Executive Committee for information. The Executive Committee was concerned that the document could be construed as setting minimum standards for the industry, hence it recommended that the sections on controls and legal matters be omitted tentatively and the balance of the paper published in a scientific journal. They further suggested that the two sections in question be reviewed by the Chemical Regulation Advisory Committee and the General Counsel's Advisory Group and that this activity be coordinated with the American Industrial Health Council.

The OSH Committee expressed a deep sense of disappointment and frustration over this recommended procedure in view of the large amount of expert effort expended in the development of the guidelines and the long time required to bring them to the point of being ready for publication. The OSH Committee, reflecting the sentiments of the task group that developed these guidelines, felt strongly that the two sections cited were crucial to the proper presentation of this subject. Hence the OSH Committee believes the paper should be published as written including these two sections or not published at all. The Committee plans to request the opportunity to present this position to the Executive Committee after discussion of the key sections with the groups named.

Note was also taken of the timing of proposed guidelines on reproductive hazards in the workplace in the Federal Register February 1, 1980 as it relates to our draft document. Those guidelines were published jointly by the Equal Employment Opportunity Commission (EEOC) and the Department of Labor's (DOL) Office of Federal Contract Compliance. The OSH Committee also thought it appropriate to develop comments on the EEOC/DOL proposal.

The task group under Dr. Karrh that developed these CMA guidelines was disbanded at the last Committee meeting since it was thought their job was completed. Hence consideration was given to forming a new task group to address the broad issues on workplace reproductive hazards as well as to plan a series of workshops on the subject. The Chairman and Secretary will develop proposed charges for such a task group. (Note: Dr. Karrh has since agreed to shepherd the embryo-fetotoxin draft through the steps indicated in the interim. Also, in conjunction with other activities in this matter he will assist in preparing comments on the EEOC proposal).

2.2 Protecting Workers At Orphan Dumpsite Cleanups

A task group of the Hazardous Waste Response Center is preparing a manual on the captioned subject. The OSHC was asked to provide technical assistance regarding the section on protecting workers at orphan dumpsites and Mr. Christofano has agreed to do this.

2.3 New Projects

Tom Evans was suggested as advocate to form a task group for screening ideas proposed for projects requiring funding and to make appropriate recommendations to the Committee.

2.4 Development of Guidelines For The Preparation Of Material Safety Data Sheets

It was noted that the agencies may soon dictate just what should be included in MSDS's according to regulations currently under consideration. Nevertheless, Dr. Young was asked to prepare a report on the need for guidelines of this sort as well as an initial draft for such a document.

Dr. Ubel and Mr. Sheldon also pointed out the International implications of such an effort. Discussions are being conducted in a number of international forums on the desirability of standardizing on MSDS's.

2.5 Genetic Testing

Dr. Karrh has agreed to be CMA liaison with AIHC on this subject. Dr. Ubel, who is also involved in this AIHC project, reported that currently they are addressing only chromosomal testing. This matter has received considerable attention in the press recently but is not being worked on by any agency at the moment so far as we know. Nevertheless, the Committee felt the Officers and Secretary should generate a proposed charge and prepare to form an appropriate task group.

3.0 Labeling

Mr. Joyce reviewed the interaction of the Intercommittee Task Group on Hazard Communications with EPA and OSHA. Apparently these agencies plan to promulgate separate but compatible regulations on labeling in the next few months.

Mr. Sheldon reported that the task group reviewing ANSI Z129.1 had completed a draft revision they felt could be forwarded to this committee. However it was noted that this draft is undergoing legal review. The Committee felt it should have a copy of the draft revision of the Z129.1, at least for information even if a vote on it was thought to be premature. The Secretary was instructed to distribute this draft.

With regard to timing, the Committee was reminded that the current target for completion of the ANSI process for revising this standard is 1981. However it was learned from Mr. Di Giovanni of ANSI that approval for a one year delay could probably be obtained without difficulty. He further indicated that a formal request for delay should be submitted to ANSI before November 1980. (CMA is now preparing a formal extension request in view of the uncertainty over the Government's use of ANSI Z129.1)

Mr. Sheldon again stressed that the subject of standardizing labeling requirements was being widely discussed in international groups.

4.0 Proposed Legislation

4.1 Worker's Compensation

Hearings will be held in March and April, said Mr. Nolde, on HR5482, the Bill on the above subject introduced by Edward Beard (D-RI) Chairman of the House Subcommittee on Labor Standards. This presents CMA with an opportunity to comment on Section 5 which deals with the industrial exposure/illness relationship. The Insurance Committee also has comments which included objections to other sections of this bill. Mr. Nolde noted that while such a bill may not pass this session of Congress it appears likely that some legislation in this area will be enacted eventually. Inequities in current State worker's compensation programs are recognized. Hence, if we hope to influence the course of such legislation in the future it behooves us to participate in the hearings now.

The Committee thought a prudent way to proceed would be to inform key members of the Executive Committee of the thrust of our intended testimony at the hearing and if they concur to complete the preparation of a statement and present the CMA position.

4.2 OSHA Reform

Senator Schweiker's bill, S2153, would exempt from routine safety inspections those firms with good safety records and would require OSHA to give firms an opportunity to correct alleged violations before it acted. Mr. Nolde reported that industry in general and many sister organizations are supporting the bill since it would allow OSHA to adopt a more cooperative stance in place of its traditional punitive attitude toward industry. The task group on this matter, with Dr. Mayo Smith as advocate, will prepare a written statement to be submitted by mid-April following appropriate clearances.

4.3 Criminal Penalties - Miller Bill HR4973

Mr. Joyce reviewed revisions which are currently being proposed in the U.S. criminal code as well as provisions of the captioned bill. He further indicated that the U.S. Chamber of Commerce is taking the lead in this matter. Hence, no action is planned by CMA now except to follow this development closely.

5.0 OSHA Standards

5.1 Willful Violations

OSHA has toughened its stand on this matter as indicated in its news release of 10/18/79. Mr. Joyce stressed the importance of notifying corporate counsel immediately after a workplace fatality. Furthermore, since Miranda-type warnings are not required when OSHA compliance officers inspect the site of a workplace fatality the question arises as to whether employees should assert their Fifth Amendment rights against self incrimination.

Instances may arise in which the supervisory employee's interests are not identical with those of the corporation should a fatality occur. Hence such personnel should be advised that it may be desirable for them to get their own counsel rather than rely entirely on the company's legal assistance in such cases where the supervisor acted outside the scope of his employment.

5.2 Federal Cancer Policy

The Executive Committee approved the position recommended by the OSH Committee that CMA should undertake the role of participating in the administrative proceedings for precedent-setting cases when OSHA implements its Cancer Policy.

5.3 Proposed Access To Employee Records

Promulgation of a final rule has been delayed by OSHA several times because of the press of other matters. Hence predictions as to when it will be out are unreliable.

6.0 Training Private (Contract) Physicians

In discussions of OSHA personnel with Dr. Cox, the proposal was made to develop programs jointly on the captioned subject to be funded at least in part by the Agency. The opinion was expressed that the minimal assistance being given by the Agency to trade associations for training was merely an attempt to legitimize funneling the bulk of these funds to unions.

A MOTION was passed unanimously that the Committee had reservations about accepting OSHA money.

Furthermore, many felt that this type of educational task should be undertaken by an appropriate professional organization such as the American Occupational Medical Association or the American Academy of Occupational Medicine. Dr. Venable was asked to lead an investigation into the need

for such a program and how it might best be implemented.

7.0 Occupational Injury and Illness Reports

The Secretary indicated that all comments received on the draft revisions of OIIR instructions to member companies were considered carefully by the task group. Many were adopted.

The task group reaffirmed its recommendation that CMA include deaths in calculations involving lost workday cases. Mr. Kusnetz again stated that a name change was in order to avoid confusion whenever departures from Department of Labor procedures were adopted.

A MOTION was passed without dissent that in any calculation where deaths are included the title should be "Deaths Plus Lost Workday Cases".

The task group was unable to agree on a definition of company property for purposes of determining recordability of cases. Some companies include areas such as parking lots, cafeterias and sidewalks while others do not. The Committee felt it would be best to leave this decision to the member companies participating in the OIIR program.

8.0 Joint CMA/NIOSH Symposium on Control Technology

Space has been reserved for this function in Philadelphia on April 1 and 2, 1981, the Secretary reported. Major subtopics and a format have been agreed on. The next meeting of this task group with NIOSH personnel will be held on April 17 in Cincinnati.

9.0 Publications

Dr. Young was requested to determine the perceived need for Chemical Abstracts' proposal on safety data sheets outlined at the last Committee meeting.

10.0 Next Meeting

This is to be an open meeting on May 15, 1980 in the Washington, D.C. area.

The Meeting was Adjourned at 1:30 P.M.

Milton Freifeld
Milton Freifeld
Staff Executive
Occupational Safety & Health

Minutes Subject to Approval
April 4, 1980

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CMA 060555