Health & Safety



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## OSHA's Regulatory Agenda

The Occupational Safety and Health Administration (OSHA) published its semi-annual regulatory agenda in the *Federal Register* on April 27, 1998. Reprinted here are the agenda issues that may affect general industry. Pleaser refer to the *Federal Register* for the complete text.

I. OSHA Proposed Rule Stage Permissible Exposure Limits (PELs) for General Industries **OSHA's Permissible Exposure Limits** (PELs) for air contaminants were originally adopted in 1971 from existing ANSI and American Conference of Governmental Industrial Hygienists (ACGIH) standards. The Agency's attempt to update the PELs in 1989 was vacated in 1992 by the Eleventh Circuit of Appeals because OSHA: (1) failed to establish that the existing limits in the workplace presented significant risk of material health impairment or that new standards eliminated or substantially lessened the risk, and (2) OSHA did not meet its burden of establishing that its 428 new PELs were either economically or technically feasible.

OSHA continues to believe that updating the PELs would take a high priority. According to the Federal Register, OSHA, "will focus on a risk-based prioritization system to identify the air contaminants that present significant risk and for which technologically and economically feasible controls exist." The NPRM is now projected for September 1998.

The current candidates for the proposed air contaminants rulemaking are: Carbon disulfide, carbon monoxide, chloroform, dimethyl sulfate, epichlorohydrin, ethylene dichloride, gutaraldehyde, n-hexene, 2-hexanone, hydrogen sulfide, manganese and compounds, mercury and compounds, nitrogen dioxide, perchloroethylene, sulfur dioxides, toluene, toluene diisocyanate, trimellitic anhydride and vinyl bromide.

The specific hazards associated with the air contaminants preliminarily selected for regulation include cancer, neurotoxicity, respiratory sensitivity, etc.

During this rulemaking process, OSHA plans to meet with small business stakeholders to discuss their concerns. OSHA also plans to conduct an initial Regulatory Flexibility Screening Analysis to identify significant impacts on a substantial number of small business entities.

Flammable & Combustible Liquids This proposed rule is part of the "Reinventing Government" endeavor. The project responds to a Presidential initiative of March 1995 to revise confusing or overly detailed standards by rewriting them in plain language. With this project, OSHA is initiating rulemaking that will revise the regulations contained in 29 CFR 1910.106, addressing flammable and combustible liquid storage. The purpose of this rulemaking will be to solicit public participation in the revision of this standard into plain language. The latest schedule for NPRM was set for August 1998.

Requirement to Pay for Personal Protective Equipment Generally, OSHA standards require that personal protective equipment (PPE) be provided and used when necessary to protect employees from hazards which can cause them injury or physical harm. The Agency is proposing to revise its PPE standards to clarify who is required to pay for such PPE. The latest schedule for a NPRM was set to be in June, 1998.

II. OSHA Final Rule Stage Respiratory Protection In January 1998, OSHA published the final respiratory protection standard, except for the reserved provision on assigned protection factors (APFs), which are numbers that estimate the degree of performance of the various classes of respirators. OSHA has developed a statistical model for analyzing available data to be used to derive APFs. Accordingly, OSHA will request further public comment on the analyses conducted using that model, the ANSI Z88.2-1992 APFs, the NIOSH Respirator Decision Logic APFs and other relevant methodologies for deriving APFs, to make certain that public input is received and fully considered before final APFs are incorporated. OSHA expects to complete the rulemaking on APF by December 1998.

Powered Industrial Truck Operator Safety Training As stated in the *Federal Register*, operation of powered industrial trucks, such as forklifts, is the second leading cause of fatalities in the private sector, second only to highway vehicle fatalities. The present standard has proven to be ineffective in reducing the number of accidents involving powered industrial trucks. As a result, there has been strong Congressional interest that OSHA issue a new standard to effectively address this hazard. OSHA intends to revise the present standard to increase its effectiveness by requiring, in performance language, initial and refresher training as necessary. The frequency of the refresher training will be based upon the vehicle operator's knowledge, skills and abilities to perform the job safely. OSHA will also give guidance as to what information the instruction should include. There will also be other amendments to the standard to increase its effectiveness. This rule will apply to general industry, the maritime industries and construction. Final action on this rule is scheduled to be completed by September 1998.

## Permit-required

Confined Spaces OSHA issued a final standard governing employee entry into confined spaces in general industry on January 14, 1993 (58 FR 4462). The standard was challenged by an number of parties, including the United Steelworkers of America. OSHA reached a settlement agreement with the steelworkers in June 1994. As part of this agreement, OSHA issued a proposal on November 28, 1994 (59 FR 60735) to clarify paragraph (k) of the rule, Rescue and Emergency Services. OSHA also proposed to allow more flexibility in the point of retrieval line attachment and asked whether the standard should provide affected employees or their representatives with the opportunity to observe the evaluation of confined spaces, including atmospheric testing, and to have access to evaluation results. Hearings were held September 27-28, 1995. The post hearing comment period ended on December 20, 1995. In February, 1996, the record was closed. The final rule was expected to be issued in June 1998.

III. OSHA Long Term Actions Hazardous Waste Operations Training Programs The Superfund Amendments and Reauthorization Act (SARA) of 1986 (Public Law 99-499) established the criteria under which OSHA should develop and promulgate the Hazardous Waste Operations and Emergency Response standard. OSHA issued an interim final standard on December 19, 1986 (51 FR 45654) to comply

with the law's requirements. OSHA issued a permanent final rule for provisions on training to replace this interim rule on March 9, 1989 (29 CFR 1910.120). On December 22, 1987, as part of an omnibus budget reconciliation bill (PL 100-202), section 126(d)(3) of SARA was amended to include accreditation of training programs for hazardous waste operations. OSHA issued a proposal on January 26, 1990 (55 FR 2776) addressing the issue. OSHA held a public comment period following the issuance of the proposal and held a limited reopening of the public record in June 1992 to allow additional public comment on an effectiveness of training study conducted by OSHA. OSHA also developed nonmandatory guidelines to further address minimum training criteria. At this time, there is no scheduled Final Action date established by OSHA.

Occupational Exposure To Hexavalent Chromium In July 1993, OSHA was petitioned for an emergency temporary standard (ETS) to reduce the permissible exposure limit (PEL) for occupational exposures to hexavalent chromium. The Oil, Chemical, and Atomic Workers International Union (OCAW) and Public Citizen's Health Research Group (HRG) petitioned OSHA to promulgate an ETS to lower the PEL for chromium (CrVI) compounds to 0.5 micrograms per cubic meter of air (ug/m<sup>3</sup>) as an eighthr, time-weighted-average (TWA). This represents a significant reduction in the current PEL. The current PEL in general industries is found in 29 CFR 1910.1000, Table Z and is a ceiling value of 100 ug/m<sup>3</sup> for "Chromic acid and chromates as (CrO<sub>2</sub>)." The amount of chromium in the compound equates to a PEL of 52 ug/m3 of chromium (VI) measured and reported as chromium (VI). This ceiling limit applies to all forms of hexavalent chromium (VI) including chromic acid and chromates, lead chromate, and zinc chromate.

The major illnesses associated with occupational exposures to hexavalent chromium are lung cancer and dermatoses. OSHA estimates that approximately one million workers are exposed to hexavalent chromium on a regular basis in all industries. The major uses of hexevalent chromium are:as a structural and anticorrosive element in the production of stainless steel; ferrochromium, iron and steel; and in electroplating, welding, and painting. After reviewing the petition, OSHA denied the request for an ETS and initiated a section (6)(b) rulemaking. Work on a proposed rule continues, with a date for a NPRM of September 1999.

For more information on OSHA and its Unified Agenda, go to the OSHA website (http://www.oshaslc.gov). P&SF

About the Columnist John Stevenson, CEF, is director of process controls and safety, Anoplate Corp., Syracuse, NY. He holds an AAS in electroplating and metal finishing from Triton Community College, River Grove, IL, and a BS from Empire State College SUNY in managing in a technical environment. He is a member of the AESF OSHA Committee, an officer of the Syracuse Branch and an active member of the Safety Council of New York.