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OSHA Publishes Final Rule On Methylene Chloride Standard

On January 10, 1997, the Occupational Safety and Health Administration (OSHA) published its final rule on methylene chloride (29 CFR 1910.1052). The rule states that “employees exposed to methylene chloride are at increased risk of developing cancer, adverse effects on the heart, central nervous system and liver, and skin or eye irritation.”

Methylene chloride (MC) has been a versatile solvent used for many years in industrial applications, including polyurethane foam production, cleaning and degreasing, and paint stripping. The new MC standard not only affects general industry, but also the shipyard and construction industries. This article is a brief overview of the MC standard, and is not a substitute for the compliance advice provided in the standard itself.

What the Standard Specifies

Foremost, the standard reduces the eight-hr time-weighted-average (TWA) permissible exposure limit (PEL) from 500 ppm to 25 ppm. Other specifics of the final rule include the deletion of the ceiling limit of 1000 ppm, and the revision of the short-term exposure limit (STEL). The 2000 ppm STEL, measured over five min in any given two-hr period, was changed to 125 ppm, measured as a 15-min TWA. With few exceptions, the standard requires initial monitoring for exposure determination, and also establishes an “action level” of 12.5 ppm (8-hr TWA). As long as the exposure levels remain below this action level, the only provisions of the standard that apply are: (1) Record of initial exposure assessment, (2) information and training for exposed employees, and (3) protection from contact with liquid methylene chloride.

Exposure is defined in the MC standard as exposure that would occur

if the employee were not wearing respiratory protection. Simply issuing respirators will not get you out of doing your homework. When exposure levels meet or exceed the action level or the STEL, the following specific provisions of the methylene chloride standard are also triggered:

- Additional exposure monitoring
- Establishment of regulated areas
- Engineering/work practice controls
- Prohibition of work rotation
- Leak and spill detection
- Spill clean up
- Respiratory protection (air-supplied only, except for emergencies)
- Hygiene facilities
- Medical surveillance
- Recordkeeping

Timeline

The MC standard goes into effect this month—**April 10, 1997**. Initial monitoring should be complete by **August 8, 1997**. All requirements except engineering controls must be complete by **October 7, 1997**. Engineering controls should be in place by **April 10, 1998**.

The good news for small businesses is that companies with fewer than 20 employees have been given extended compliance dates: Initial monitoring to be completed by **February 4, 1998**. All other requirements except engineering controls should be implemented by **April 10, 1998**, and engineering controls should be implemented by **April 10, 2000**.

Standard Causes Controversy

The new MC standard is not without controversy. Of special interest to small businesses is the lawsuit filed against OSHA by the Halogenated Solvents Industry Alliance, Benco Sales Inc., Brock Woodcraft, and Masters Magic Products Inc. This suit petitions for a review of the MC

standard under the Small Business Regulatory Enforcement Fairness Act of 1996. The SBREFA, signed by President Clinton in March 1996, was designed to allow small businesses “more influence over the development of regulations; additional compliance assistance for federal rules; and new mechanisms for addressing enforcement actions by agencies.”

Under this law, major regulations must be submitted to Congress for review before they can be implemented. A major regulation is one that can have a \$100 million impact on the economy or a major impact on industry, government, consumers, competition, productivity or international trade. The estimated cost of compliance for the MC standard will be slightly more than \$100 million per year, according to OSHA.

Another suit, filed by the United Auto Workers (UAW), criticized OSHA for failing to provide medical removal protection in the standard. A press release by the UAW said the suit “seeks to strengthen the medical provisions of the newly issued [MC] standard” by ensuring that workers would not lose their jobs or their pay by reporting symptoms or health conditions to physicians or other licensed health care professionals.

OSHA recognized the issue of medical removal protection in its preamble to the MC standard. It also noted that there was no clear guidance it could provide to health care professionals to indicate when it is “appropriate to remove an employee temporarily from the workplace or what an appropriate trigger for return to work might be.”

OSHA will be paying close attention to the situation and has stated that it will “... determine whether any further action is warranted.” It’s clear that we haven’t heard the last word on methylene chloride. **P&SF**