

DRAFT

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General Public Advisory Meeting for the New Round of Development of Permissible Exposure Limits for Airborne Contaminants in the Workplace in California Code of Regulations Title 8 Section 5155

**June 19, 2007
Elihu Harris State Building
1515 Clay Street
Oakland, California**

Attendees

Juli	Broyles	California Advocates
Helen	Chen	Asian Law Caucus
Larry	Clark	EnviroTech
Richard	Cohen	Consultant
Mike	Cooper	Exponent
Angust	Crane	North American Insulation Manufacturers Assoc.
Gary	Davis	Amer Composites Mfgs Assoc
Marcia	Dunham	Pacific Gas & Electric Company
Judi	Freyman	Organization Resources Counselors
Diana	Graham	Keller and Heckman law firm
Wendy	Holt	Alliance of Motion Picture and Television Producers
Cindy	Kahout	Pacific Gas & Electric Company
Lynn	Knudtson	Polyurethane Foam Association
Artie	Lawyer	Technology Sciences Group
Dan	Leacox	Greenberg Traurig
Tina	Ling	Asian Law Caucus
Danielle	Lucido	WorkSafe
Landis	Marttila	IBEW 1245
Barbara	Materna	HESIS
Chuca	Meyer	Pillsbury Winthrop law firm
Don	Molenaar	Bayer Corp. and American Chemistry Council
Linda	Morse	Kaiser Permanente Occ Hlth
Patrick	Owens	Shell Martinez Refinery
Patty	Quinlan	UCSF Occupational Health Clinic
Julia	Quint	HESIS
Olivera	Radovanovic	Unmack Everett Environmental
John	Sacco	CalPASC, CCMCA, AGC of CA, MIA, CCNSIG
Fran	Schreiberg	WorkSafe
Craig	Smollin	UCSF
Howard	Spielman	Health Science Associates
Mark	Stelljes	SLR Intl
Elizabeth	Treanor	Phylmar Regulatory Roundtable
James	Unmack	Unmack Corporation
Vickie	Wells	San Francisco Dept. of Public Health

Cal/OSHA staff in attendance: Steve Smith (meeting chair), Tom Mitchell, Bob Barish, Bob Nakamura, Mike Horowitz

Meeting Summary

The meeting was called to order by Steve Smith at 1012. He said noted that the purpose of the meeting was to look at how best to prioritize the items on the list of substances that has been prepared by DOSH staff, in the Excel spread sheet among the handouts. He said the purpose of the meeting was to get advice on the list, then get a draft of prioritization based on the responses here. This includes how to rank them and where to place them in this next round of PEL revisions.

Steve Smith then reviewed the handouts, agenda, PEL project webpage, list of substances, and the draft Policy & Procedure document for the PEL advisory committee process. He said it is now a three step process consisting of: 1) Developing the list for the committee is the first stage, 2) Development of health-based PEL recommendations by the Health Expert Advisory Committee (HEAC), and 3) Evaluation of the feasibility of the PELs recommended by HEAC. The goal is to protect the greatest possible percentage of workers while taking feasibility into account. In addition to copies of the draft process document, another handout is the list of HEAC members. He noted the first HEAC meeting is scheduled for August 21 in Oakland. Attendees and Cal/OSHA staff introduced themselves.

Dr. Jonathan Frisch, on behalf of the Cal/OSHA Standards Board thanked attendees for taking the time and interest in the PEL development process. He said the range of viewpoints attending the meeting made him optimistic about the potential for the process to move ahead productively. He said that although he would not be attending HEAC meetings he would be paying attention to the minutes of their meetings as a means of keeping up with the PEL development project.

Steve Smith continued with the background of Cal/OSHA's PEL development process. The Cal/OSHA program is a state plan so it has to have standards that are at least as effective as Federal OSHA. The recent history of PELs in California is that since the 1980s they have been developed independently in California based on the science current at the time. An advisory committee has been convened every 3-4 years. Now, a formal procedure has been developed over the last couple of years and put into a Policy and Procedures document. As described in that document, today's initial meeting of the next round of the PEL project is to review the entire list of substances, hear and consider the expectations about the process for future meetings based on the information and comments that are provided at this meeting, and ultimately set priorities for work on individual substances by the HEAC. The Divisions PEL website will be the primary place for providing access to documents, agendas, minutes, etc.

Bob Barish added that the process for coming up with a list of substances to work on is not entirely dissimilar from the approach taken in preceding rounds of the project. The last group reviewed TLVs adopted by ACGIH from 1997 to 2001, so this one starts with adoptions from 2002, with some additions.

Bob Barish continued that there are yearly TLV updates published, and that TLVs are among the most recognized voluntary chemical exposure limits in the world. He noted that the list of substances for the day's meeting also included some substances from the WEEL list of the American Industrial Hygiene Association (AIHA). He then reviewed the draft prioritized list of substances. He pointed out that much of the basis for prioritization of substances in the list was based on the severity of their health effects. He noted that in the table, bolding of health effects and other items indicates they were factors in the priority established for the substance.

Dan Leacox asked to go back to priorities of the substances in the table. He asked if the substances in the table and their listed priorities were final, or if this was only an initial attempt at prioritization. Steve Smith responded that the table represented a tentative priority ranking of the substances listed. Vickie Wells asked if usage in California was considered for the list? Steve Smith said that such information for California was limited. Bob Barish said that the EPA Inventory Usage Reports (IUR) website provides information for some substances based on the level of their manufacture and importing nationally.

Bob Barish said staff looked at the TLV documents for the summary of the critical health effects for each substance that formed the basis for the TLV. Julia Quint said that the PEL process document calls for application of additional criteria for setting priorities. She also noted that over the past several years, HESIS had a set of recommended PELs that were to be provided to the Division pending a review of the items by OEEHA. These recommendations include data on toxicity, and she asked if that input been used, or will it be? Steve Smith said that any time another government agency provides information of that type, it will be considered.

Richard Cohen said that the level of usage of a material is one of the items to be used in prioritization according to the process document. Steve Smith said that was the reason for holding meeting, to discuss and solicit comments on the tentative prioritized list of substances for PEL development. Richard Cohen asked if there was any other

information to share now. Steve Smith said the list represented what was available for discussion at the meeting, reflecting very preliminary assessment of a large number of substances.

Fran Schreiber asked Bob Barish to clarify about the EPA usage data that he mentioned. Bob Barish said that manufacturers and importers are required under TSCA to report every 4 years. The information can be accessed from the website for EPA Inventory Update Reporting (IUR). The information is based on manufacturing above a threshold at individual locations, as well as imports. The information is general in nature but can provide some sense of the scope of production and importation levels. However, it does not directly provide information on exposure potential. For example some substances are chemical intermediates which may be present only in closed chemical manufacturing processes with risk primarily from upsets or unusual situations which nevertheless should not be entirely discounted in terms of need for exposure limits especially where they may be acute hazards.

Fran Schreiber said it would be helpful to have the national data on usage and any other information as to if a substance is used in a manner that exposes large numbers of workers. She said that substances used in an entirely closed system may not pose a real hazard, and should get a lower priority. Worksafe made a list of substances that are carcinogens and reproductive hazards that are not included and she said she would like to see them reviewed to be added to the list since they seem to be very important, more important than some other substances listed among priority 1 substances on the list distributed for the meeting.

Artie Lawyer agreed with other commenters that there is a need for California usage data. Steve Smith reiterated that the purpose of the meeting is to try to gather that kind of information. He said that the prioritized list of substances handed out at the beginning of the meeting is not cast in stone, that adjustments can be considered any time in the process. Artie Lawyer asked if some substances in the list were so low in priority that they were likely to be omitted from discussion all together. Steve Smith said that among the priority 4 substances there are a number of pesticides that are no longer registered for use in California.

Fran Schreiber asked if n-methyl pyrillidone, the subject of a HESIS advisory, isn't being used extensively? Steve Smith said that usage figures for California weren't available. Richard Cohen said that from his contact with electronics manufacturing n-methyl pyrillidone is being used extensively. Steve Smith said in light of that it sounds like it should be in the high priority list.

Fran Schreiber said that dichlorvos as a widely used pesticide should also be reevaluated for higher priority, and there are others that Worksafe will send in writing to DOSH.

Lynn Knudtson asked if workers compensation claims for chemical-related injuries were used as part of the basis for prioritization. He said he felt that some workers compensation claims may result from users mishandling hazardous materials, or using them outside of the workplace and then filing false claims for workers compensation. Steve Smith said that with workers compensation claims data not being accessible by the individual chemical substances involved in most cases, it is generally not possible to use such information for chemical risk assessment and it was as not used in prioritization of substances on the list handed out.

Patty Quinlan asked about the 14 substances left from the work of the last committee. Steve Smith said that it is the intent of DOSH to deal with those once the next round of PEL work is under way. Also, silica should be getting its own committee. Steve Smith said that there is also the subset of sensitizers that were considered after the last 5155 committee. Fran Schreiber expressed concern about silica and about refractory ceramic fiber in this group of unfinished PELs from the last round.

Julia Quint noted that two substances listed as priority 1, methoxyethanol and methoxyethanol acetate were considered by FedOSHA but dropped. She said this was due to low usage

Fran Schreiber said that maybe carcinogens could be considered as a group with a set of more generic requirements for handling, controls, etc. while PELs are being determined. Juli Broyles suggested that Proposition 65 already addresses carcinogens. Steve Smith said that Proposition 65 does not address airborne exposure limits. Fran Schreiber said that Prop 65 isn't that effective in the workplace for protection of employees.

Don Molenaar said that isocyanates are intensely and widely studied chemicals. He said that the American Chemistry Society has a committee that has considered whether there should be a standard based on total reactive isocyanate groups or "TRIG." Steve Smith said that the sensitizer committee that met in 2004-5 was put on hold pending the establishment of the HEAC, but that DOSH is looking at drafting a footnote for sensitizers in 5155. He said he intended to take the meeting's input on this and then submit it to HEAC for review and a possible decision.

Tina Ling (Asian Law Caucus) said that their group is concerned about dibutyl phthalate and toluene which are in products used in nail salons where there are some 65,000 workers in California. Steve Smith stated there is currently a PEL for dibutyl phthalate. Patty Quinlan found it in the TLV book at 5mg/M3 which Bob Barish noted is also the current PEL. Patty Quinlan noted that testicular damage was one of the effects listed in the TLV book for this substance. Tina Ling said that workers commonly suffer headaches and dizziness when working with this substance and they believe the levels they are exposed to are too high. Steve Smith said that may indicate there was a failure to comply with the existing PEL. Tina Ling said that a study had data showing that the levels are below the PEL. Steve asked for the data to be sent to him.

Don Molenaar returned to isocyanates and suggested these should be the subject of a special advisory committee rather than going through HEAC. Beth Treanor seconded the recommendation to have a separate committee for isocyanates. Steve Smith asked if there is a specific reason to have a special committee. Don Molenaar said that there are complexities in the sampling/analytical methods for total reactive isocyanate groups and in the interpretation of the health effects. He thought dealing with this would be very burdensome for the HEAC group. Richard Cohen agreed that isocyanates could overload the HEAC.

Julia Quint said that HESIS had done extensive reviews of the isocyanates with Bruce Wallace and Deborah Gold of DOSH for a TRIG standard, and thought it would be appropriate for the HEAC to consider their evidence and do a review. Julia Quint said that polyisocyanates cause asthma, based on cases evaluated by the DOSH medical unit. Lynn Knudtson said that much of the exposure problem with isocyanates stems from misuse by smaller employers, but that bigger employers had exposures well-controlled. Fran Schreiber was concerned that if isocyanates are assigned to a committee separate from HEAC it was likely that nothing would happen.

Vickie Wells asked about Western Red Cedar. She thought there could be a lot of California industries where there are exposures, and she recommended that it be given a priority 1. Fran Schreiber agreed.

Howard Spielman asked if silica is listed as a priority 2 substance because it will be reviewed separately? Steve Smith said there will probably be a separate committee for that. Fran Schreiber said silica should be a priority 1 item for HEAC. Dan Leacox said that with silica, the issue was the exposure from dry cutting, and DOSH was developing a regulation to address those exposures. Fran Schreiber said there should still be a revised PEL for silica developed as soon as possible.

Vickie Wells said that there are too many priority 1's and 2's on the list for the committee to complete. She asked how are they would be prioritized for work by HEAC. Steve Smith said that would probably be based on an internal review based on comments the Division receives in response to this meeting and list. In terms of the committee's workload, the Division plans to do more of the initial review and legwork of identifying and obtaining documents and making use of the committee primarily to review those. It is hoped that will decrease the workload burden on the committee for many or most substances.

Fran Schreiber said that Worksafe would propose elimination of some of the substances on the list based on low usage in California. She read the list. Steve Smith noted that some flavoring substances were on her list. Beth Treanor questioned removing benzaldehyde, as a flavoring also. From among those suggested for deletion Richard Cohen said that hydrochloric acid, hydrofluoric acid and arsine gas should stay on the list as substances widely used in California. John Sacco said it is important to verify low or no state usage before removing a substance from consideration. Vickie Wells agreed with John Sacco that care needs to be taken before deleting substances from consideration based on usage levels, which are difficult to know precisely, as an indicator of exposure level.

Julia Quint referred to section B of the PEL process policy & procedure document regarding seriousness of health effect as a factor in prioritization. Fran Schreiber said that DOSH needs to consider the main factors listed in the process document, and if a risk assessment has already been done, balance the factors. But she said that with the list presented in this meeting, carcinogens and reproductive hazards are conspicuously absent.

Dan Leacox suggested having a second round of inputs on this list. Steve Smith said that comments were welcome on the list both after this meeting and at any time in the process. He said he expected the list could change with time. But he said also that it was important to get the HEAC process started.

Mike Cooper suggested that industry, trade or professional groups might be a source for usage information to the committee. Juli Broyles said that she compiled some information about the priority 1 list including some use data, and she would provide it to DOSH. She asked that the Division share the list of suggested changes. Fran said the national usage data would be helpful too.

Patty Quinlan suggested positing available information on usage with the source identified. Linda Morse agreed with Patty. She also said that respiratory tract irritation should not be dismissed automatically as an effect of significant concern because of the growing number of asthmatics in California susceptible to having asthma triggered by many of them. Steve Smith said that HEAC may also recommend changes to the list. The first HEAC meeting in August will probably just get through administrative issues, and not get into reviews of specific substances.

Don Molenaar asked if the meetings of the HEAC would be open to the public to attend and participate. Steve Smith said that DOSH advisory meetings have always been open to the public and would continue to be so.

Steve Smith said that the final item on the agenda is introduction of members present from the HEAC. He welcomed and thanked all those who had agreed to be members of HEAC. Many people offered their time, too many to include all. He noted that four members of the HEAC had also been members of the PEL advisory committee for the last round of work. He said that August 21 is the first meeting of the HEAC, starting at 10 a.m. in Room 2 of this building. He said this is an ambitious project, and the Division intends to continue this process. Richard said that the last committee has published articles about the assessment process that they followed, and suggested the Division provide this to the new HEAC members. Steve Smith the Division would do that. Steve Smith said that part of the first meeting would be to brief new HEAC members on the past practices of the committee.

Don Molenaar asked about the timeline for the HEAC. Steve Smith said he expected that this group would meet through the end of 2008. As HEAC completes summaries, they will be reviewed by the feasibility committee, probably every 2 months or so. Beth Treanor asked if the feasibility committee would be substance specific or like the HEAC model? Steve Smith said it depends on the recommendations made by HEAC.

The meeting adjourned at 1210.