

OSHA Sets Limit on Workplace Chromium

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By Rick Weiss
Washington Post Staff Writer
Tuesday, February 28, 2006; A06

Capping more than a decade of legal wrangling, the government announced yesterday new and controversial limits on workplace exposures to airborne particles of hexavalent chromium, a cancer-causing metal.

The new "permissible exposure limit" -- five micrograms of the toxic dust per cubic meter of air, averaged over an eight-hour period -- is about one-tenth the level that has been permitted since the 1940s. But it will allow exposures five times as high as the Occupational Safety and Health Administration (OSHA) had initially proposed in 2004, and 20 times as high as the level that had been sought by activists who filed a lawsuit to force the agency to set a new standard.

More than half a million Americans are exposed to the metal at work, including steel workers, welders, chrome platers, and paint and pigment makers. By the agency's own estimates, 88 percent of them will receive no additional protection under the new standard because their workplaces already meet it.

The agency cited technical challenges to achieving lower exposures and effects on the industry's bottom line as the main reason for going with the five-microgram limit instead of the one-microgram limit it had initially proposed.

"After a careful analysis, we determined that . . . five is the lowest level that is feasible both technologically and economically," said Jonathan L. Snare, acting assistant secretary of labor for OSHA, speaking to reporters on a conference call.

Reaction was swift and critical from environmental activists, union officials and public health policy analysts.

"It's pathetic. The agency has gone to the dogs at this point," said Peter Lurie, deputy director of Public Citizen's Health Research Group, the Washington-based advocacy organization that, along with a labor union, had sued OSHA to set a new limit. "We'll see you back in court," Lurie said. "That's our reaction to this."

But some industry representatives also expressed dissatisfaction, saying that they, too, were at least considering suing OSHA -- for setting an unreasonably strict standard.

"This is going to cause significant upheaval within our industry," said Kate McMahon-Lohrer, a lawyer with Collier Shannon Scott, speaking for the stainless steel industry. She said OSHA vastly overestimated the percentage of companies already complying with the new standard and underestimated the rule's cost.

"This will cause a significant number of factory closures or outsourcing to foreign soils, and it will have a very real impact on import penetration in this country's steel markets," McMahon-Lohrer predicted.

OSHA officials said the new lower limit is a sensible balance between current reality and a perfect world. They acknowledged that the new limit will still allow 10 to 45 excess deaths from lung cancer for every 1,000 workers exposed to the metal over a 45-year period. But they said as many as 145 of the lung cancer deaths that occur annually as a result of today's actual exposures will be prevented under the new rule, which is to be phased in over the next four years.

Activists said OSHA's decision to back off its initial one-microgram proposal was especially disappointing given the length of time the agency studied the problem and the nine years it has been since the agency last set any standard for a hazardous workplace chemical.

"OSHA chemical standards are so rare it's like Halley's Comet," said David Michaels, a George Washington University professor of public policy who, with Lurie, led a recently published study indicating that industry-sponsored scientists had withheld and manipulated data about chromium's toxicity in an effort to influence OSHA's deliberations.

Mike Wright, director of health, safety and environment for the United Steelworkers, accused the industry of "playing fast and loose with the data on risk" and said "many dedicated public servants" at OSHA were increasingly being overruled by political appointees beholden to business.

"The consequence of OSHA's decision," Wright said, "will be that workers will die."

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