

LABOR SAFETY AND HEALTH INSTITUTE

381 Park Avenue South (27th Street)
New York, New York 10016
212-689-8959

*"To assure safe and
healthful working conditions
for working men and women..."*

Guide #7

FRANK GOLDSMITH, Director

OSHA STANDARDS CAN SAVE LIVES:

A GUIDE TO THEIR UNDERSTANDING

The purpose of this Labor Safety and Health Institute Guide is to acquaint union leaders and members with OSHA standards and to explain how to use them to save workers lives.

4 + 400 = Lives

OSHA safety and health standards are federal laws enforceable by the U.S. Labor Department's compliance officers. Since the passage of the 1970 Occupational Safety and Health Act, only four new health standards have been promulgated. These new standards cover asbestos; vinyl chloride; a group of fourteen cancer causing chemicals; and coke oven emissions. These standards cover workplace hazards that can cause cancer.

Upon passage of the OSHA Act, the Occupational Safety and Health Administration "referenced in" threshold limit values (TLVs) for about 400 toxic substances* and safety practices** regarding work hazards. These 400 substances are under review and tougher TLVs are being considered. The OSHA safety practices are also being revised. The four new OSHA health standards and the 400 TLVs and safety practices are legally enforceable by the Labor Department OSHA compliance officers. But until they are revised, workers and their unions must seek strong enforcement. For example, the TLV for vinyl chloride was 500 parts per million (PPM) until it was revised by the Labor Department to one PPM after its cancer causing effects were discovered.

Standards Not Enforced

Employers have not been voluntarily complying with OSHA standards except for those covering exposure to vinyl chloride. After business leaders first contended

* These standards were developed by the American Conference of Governmental Industrial Hygienists (ACGIH).

** These standards were developed by the American National Standards Institute (ANSI).

Affiliated with:



Consumer Commission on the
Accreditation of Health Services, Inc.

The Consumer Commission's Board of Directors

Donald Rubin, President
Edward Gluckmann, Exec. V.P.
Richard Asche, Secretary
T. Roland Berner
Lillian Bloom
Marshall England
Alice Fordyce
Florence Galkin
Frank Goldsmith
John Hoh
Herbert Hyman
Edgar Mandeville, M.D.

Hugh Pickett
Inder Persaud
Rosina Reilova
Lillian Roberts
Joan Saltzman
Bernard Shiffman
Sol Silverman
Joseph Tarantola
Milton Terris, M.D.
Eleanor Tilson
Benjamin Wainfeld, M.D.
Judy Wessler

that no one could comply with the strict vinyl chloride (PPM) standard, the plastics producers and major plastic fabricators now claim to be in compliance. (The Labor Department has not validated this claim.)

It is generally agreed that the current 2 fibers (fibers longer than 5 micrometers) per cubic centimeter (cm³) asbestos standard is not being complied with by companies using or manufacturing that substance. It has been alleged that the Labor Department is not conducting strict enforcement programs to ensure that the asbestos standard is not exceeded. Evidence has shown that workers get cancer from exposure to asbestos at the present standard level. Because of this finding the government has proposed a new standard for asbestos of 0.5 fibers/cm³. There is little discussion concerning the package of 14 cancer causing chemicals which each carry a "no detectable level" exposure level. But even improved standards are meaningless unless they are enforced.

Coke: Its the Real Thing.

The recently promulgated coke oven emissions standard is 150 micrograms per benzene soluble particulate air. The Labor Department does not claim that this standard will totally eliminate the cancer threat to coke oven workers. There has been strong criticism against OSHA for setting a standard which may not eliminate the risk of cancer caused by workplace hazards. Stricter enforcement must be coupled with an improved standard.

1,200 Inspectors Need You

Employers can not be expected to voluntarily comply with OSHA standards that save worker lives. OSHA standards are only enforced when the 1,200 nationwide OSHA compliance officers actually visit a workplace or when knowledgeable workers and their unions militantly seek enforcement. OSHA investigators are permitted by federal law to randomly inspect any workplace, but they are required to enter a workplace after a complaint is filed with the Regional OSHA Office.

The Threshold is the Limit...

Health standards established under the OSHA Act are supposed to be designed to completely protect workers from the health effects of toxic substances, excessive noise and other workplace hazards. (The use of protective equipment is entirely temporary.) These standards should incorporate a definition of the threshold limit value (TLV), or permissible exposure level to which workers can be exposed averaged over an eight hour day. The TLV is stated in numerical terms as a quantity of the substance or noise (i.e. X decibels or parts per million). Even though the allowable levels of a chemical are measured in parts per million, a small amount per million or "no detectable level" is often required when dealing with dangerous, cancer-causing substances.

Measurement Can Be Easy

OSHA standards also describe the method(s) of determining the amount of the chemicals in the air. Most of these monitoring methods are described in highly technical terms, thus often not easily understood by workers. However, equipment to measure air content has been developed which is easy to use. But in order to prove to an employer, OSHA, the courts or other union members that a danger exists any initial samples gathered by the union which indicate a dangerous level should be backed up by professional, scientific evidence. Workers and their unions can

request the employer to provide more sophisticated testing equipment and to test the air. The labor-management safety and health committee should be entitled by the union contract to validate the employer test results and confirm any suspicion of dangerous conditions through independent testing. Unions should consider the formulation of health and safety demands for inclusion in future contracts, while those with health and safety committees should consider demands to strengthen these union functions. (See LSHI Guide #5)

The workers and/or the union can request a "health hazard evaluation" by the National Institute for Occupational Safety and Health (NIOSH) to determine the extent of any hazardous condition. Tests by NIOSH are conducted at no cost to the employer or the union. No citation or penalty accompanies the test. When a dangerous situation is confirmed and workers or the union are not satisfied with the employer's corrective actions they can seek an OSHA citation by filing a complaint with the OSHA area office. The OSHA inspector then determines after an inspection, if a serious hazard exists and an OSHA standard is not met. If a violation is found, an OSHA citation is given to the employer and an abatement period (period of time to correct hazard) is established. The Regional OSHA Director can then assess a fine as a penalty. A new ruling curtails the impact of non-serious OSHA violations. This ruling states that a penalty can only be assessed when there are eleven or more citations made based on one OSHA inspection.

Compliance Methods Vary

There are specific methods of compliance with each OSHA standard. The OSHA Administration explicitly states how an OSHA health hazard is to be corrected. These methods of compliance are different for each standard. Each violation of OSHA standards must be corrected by modifying production techniques, providing adequate light, reducing noise levels, etc. For example: chemical vats must be properly enclosed and vented; asbestos production must take place without any fibers escaping into the air; and noisy machines must be reengineered to reduce the noise levels.

The use of personal protective equipment, (i.e., ear plugs and muffs, face masks and other breathing apparatuses) to protect workers from health hazards can only be used as a temporary remedy until the production method is corrected. The choice of corrective technique or equipment is usually left to the employer but they are suggested or specifically required by OSHA. The union should negotiate the right to use this equipment and to validate its performance and accuracy.

Hazard Posting is Assured; Medical Surveillance

The posting of hazards is another OSHA requirement. Posting is especially required when dealing with known cancer-causing substances as asbestos, vinyl chloride and coke oven emissions. All citations issued by OSHA must be posted for a required length of time. Each employer must also have a Labor Department notice posted which states that the OSHA laws are being observed. Posting is vital since it helps the union inform all workers of dangers. This often alerts workers of factual conditions while dispelling rumors and misunderstandings. OSHA health standards requires workers to be offered free annual medical examinations by their employers i.e., asbestos workers are required by law to have an annual exam. This medical surveillance requirement is probably the most weakly enforced OSHA regulation. Once workers are guaranteed, usually through the union contract or activity, that the results of workers' medical examinations will remain

confidential, worker support for this type of enforcement improves. An effective medical exam program (one which will provide incentives for worker participation) will include a salary or wage-rate retention guarantee. This provides workers with the security of knowing that a reassignment of work because of a job-related disease to a lower risk job does not mean less pay, loss of seniority or reduced benefits. In effect, a rate retention guarantee provides an incentive to high risk employees to participate in health exam programs. So far, only the OSHA asbestos standard contains a rate retention provision.

The storage of medical records for a defined period of time is associated with the medical examination program. The asbestos standard requires, in addition to the tests, that the medical records of workers be kept for 30 years. The vinyl chloride standard does not make this mandatory, but collective bargaining contracts can make it a union protected requirement. The stored medical records can be used for a variety of reasons including the documentation of actual morbidity (sickness) and mortality (deaths) of workers caused by working conditions.

OSHA Training Important

OSHA regulations are usually written in language which can be understood by a shop steward and safety and health committees who have received adequate OSHA education and training. Without proper training workers and union officials, as well as management personnel, can not be expected to understand many OSHA technical materials. Section 18 of the OSHA requires health and safety education and training programs.

Understanding Safety Standards

Safety standards used by OSHA are with few exceptions, generally taken from the American National Standards Institute (ANSI). OSHA safety standards refer to methods of guarding workers against the dangers of unsafe machinery; proper construction of scaffolding; and other safety measures to prevent accidents. Some safety standards are related to health hazards, but OSHA generally divides these areas into two groups - each with its own enforcement procedures. These standards are easy to understand and cost industry little. But, some important safety standards are difficult to understand or enforce. For example, the easiest and safest method to guard against the potential danger of most machines is to keep workers hands and bodies away from the dangerous parts of machines. One approach tried by OSHA in its regulations is known as the "No Hands In Dies". This simple meant no hands are to be placed in any machine where a cutting die is used. After the Labor Department promulgated this ruling an avalanch of industry reaction forced its revocation. In January, 1977 the Labor Department issued a large volume on approved methods of guarding workers against the dangers of power machinery. One method is the use of automatic eyes to indicate potential danger. The methods in this volume of regulations are difficult to understand and enforce. Workers and their unions can expect OSHA compliance officers to fully understand safety protection methods, however, and health and safety union representatives can learn safety principles and protection techniques from these officers, and through specially prepared educational and training programs.

Fail Safe Machines

A machine must be safe especially when a worker errs, because everyone can make a mistake, but few people can grow another hand, arm, leg or return from the dead. Machines must be made so safe that even an occasional unsafe action by a worker will not result in injury or death.

NIOSH "Criteria Documents"

The National Institute for Occupational Safety and Health (NIOSH) has the responsibility to develop "criteria documents" on job health hazards. These "criteria documents" become the major basis for promulgation of OSHA regulations. Workers and their unions can participate in the review and comment of these documents before submission to OSHAdm. The needs of workers and their unions must be incorporated into all OSHA standards. This can be accomplished by participation in the review and comment of "criteria documents". Each "criteria document" is prepared by staff experts under the guidance of an advisory committee. The names and addresses of the advisory committee members are listed in the front of each "criteria document". These advisors should be contacted so that broad worker opinions are available for consideration. At least one copy of each "criteria document" is available, free, on request from NIOSH, (see LSHI Guide #1).

OSHA Standards Proposed First

Before finalizing a federal OSHA standard, a "proposed standard" is issued by the Labor Department for consideration. Public hearings are held so that workers, unions, industry and the general public may comment before the appropriate government officials. (The Labor Department will occasionally establish Special Advisory Committees e.g., special coke oven emission advisory committee, to seek more information before final hearings and proposal of standards.) These proposed standards are organized into provisions similar to the final standard based on the format of the OSHA standards previously described.

One Step Forward, Two Back

Federal OSHA safety and health standards, however, are not solely promulgated for prevention, medical and safety reasons. While the law carefully states that standards must be feasible, the weight of the standards are assumed to be both technically and economically feasible.

The OSHA law was passed when U.S. engineering capability was seen at its apex (after the successful moon and other space shots). However, industry has repeatedly claimed it does not have the technical ability to achieve a safe and healthful standard at the workplace. OSHA officials have usually found industry claims of limited technology as unacceptable and forced improvements in safety. However, the recent coke oven emission standards may be a dangerous precedent. In this case, OSHAdm. accepted the steel industry's technical arguments that the correction costs and limited technology prevented reasonable safety standards. The OSHAdm. failed to aggressively demand information and action based on existing technology that would have made coke oven production safer for workers.

Ford Hadn't A Better Idea

The economic crisis of inflation and unemployment has brought the specter of economic feasibility into the limelight. The OSHA Act makes no mention of industry's ability to pay. However, Ford and Nixon by Executive Orders forced the Labor Department to prepare economic impact statements on each proposed OSHA standard. In the last two years of the Nixon/Ford administration Inflationary Impact Statements were also imposed. The requirement that Economic and Inflationary Impact Statements be made is now being challenged in court by the labor movement as illegal and not in keeping with the Act's mandate.

The current administration has indicated that the inflationary impact will not be a factor in establishing OSHA standards, but the economic impact would still play an important role in establishing standards.

Union Action Summarized

In summary unions and their members must:

- . seek tougher regulations;
- . participate in hearings on OSHA standards;
- . participate in the review and comment of NIOSH "criteria documents";
- . document workplace hazards that kill, or disable workers;
- . seek effective enforcement;
- . bargain in labor rights to safe and healthy working conditions;
- . demand better benefits for disabled workers;
- . support medical programs designed to detect illness caused by workplace conditions; with full rate retention rights and confidentiality guaranteed;
- . participate in joint labor-management health and safety committees.

Order Coupon

The Labor Safety and Health Institute Guides and Consumer Commission CCAHS Quarterlies are available upon request at \$1.00 per copy. The LSHI Workbook costs \$4.00.

Subscribers to the Labor Safety and Health Institute are entitled to future Guides at no extra charge. Membership is \$10 per year. Contributions are tax deductible. Use attached coupon.