October 9, 2015

OSHA Docket Office
Docket Number OSHA–2012–0023
U.S. Department of Labor
Room N–2625
200 Constitution Avenue, NW
Washington, DC 20210

Re: Request for Information (RFI), Chemical Management and Permissible Exposure Limits (PELs)

The American Federation of State, County and Municipal Employees (AFSCME) is pleased to provide these comments in response to OSHA's Request for Information (RFI). AFSCME is the nation's largest public service employees union with more than 1.6 million working and retired members. Our members in hundreds of different occupations provide vital public services in diverse workplaces presenting varied health and safety risks.

AFSCME Members and Chemical Exposures

A large number of AFSCME members work directly with, or are regularly exposed to, chemicals. Highway workers are exposed to asphalt, solvents, cutting agents, silica, diesel and more. Our health care workers are exposed to strong sterilizing, disinfecting and cleaning agents and, in some settings, hazardous drugs. Our water and wastewater treatment facility workers are exposed to a number of hazardous chemicals including methanol and chlorine gases. Transportation workers and mechanics are exposed to oils, greases and gasoline. Environmental and custodial workers in all settings are exposed to cleaning chemicals.

Single Substance Rulemaking

The current regulatory system for controlling chemicals in the workplace is dysfunctional. The process for setting a comprehensive 6(b) (5) safety and health standard is long and complicated and takes an average of 8-10 years. Past attempts to update the permissible exposure limits (PELs) were not successful. As a result, many chemicals have PELs set in the 1970s, while many newer hazardous chemicals are not regulated at all.

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A case in point is beryllium. Beryllium is a toxic material used in specialty alloys and ceramics. Workers who inhale beryllium particles are at risk of developing a serious, sometimes fatal beryllium-related lung disease called chronic beryllium disease (CBD). Airborne beryllium exposure also puts workers at risk for developing lung cancer. The first OSHA PELs for beryllium appeared in 1971. Although strong evidence shows that these 1971 beryllium PELs do not adequately protect workers, a notice of proposed rulemaking (NPRM) to change them was not published until August of this year.

Reliable Sources of Information

Other agencies, including NIOSH, EPA, ATSDR, as well as state OSHA plans, have valuable resources that OSHA should use to expedite the rulemaking process. Resources should not be devoted to research on a substance which has already been investigated by a reputable agency. These agencies publish information on risk assessment and feasibility. The risk assessment models produced by these agencies are widely accepted, although the models may need to be translated to occupational exposure.

If, for example, a state OSHA plan has lowered the PEL for a specific chemical through its own mechanism, federal OSHA should be able to adopt that lower PEL with a streamlined rule-making process.

Task-based Approach

Task-based approaches have the advantage of not being tied to any particular chemical or PEL. Rather, specific work tasks are categorized based on hazardous exposure potential and control actions. This approach is used in the ANSI A10.49 standard for the Control of Chemical Hazards in Construction and is useful where the hazardous work is dynamic, mobile or intermittent, regardless of industry.

Chemical Hazard Control – Use of Control-banding

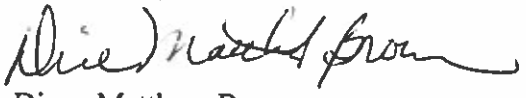
Hazard banding organizes chemicals based on the level of toxicity. Hazard banding would help prioritize which chemicals to take action on based on health risk. The Hazard Communication standard was updated in 2012 to be in compliance with the new Globally Harmonized System (GHS). The GHS classifies chemicals based on the type of health hazard, physical hazards and degree of hazardous effect. This could be a valuable system for hazard banding.

Control banding is used throughout the European Union. Employers must conduct a risk assessment to determine the best controls based on the hazards of the chemicals used and the process it is used in. It relies heavily on the hierarchy of controls and encourages employee monitoring and training. This approach has many advantages over the single substance regulatory mechanism. As industry and the economy become more and more global, this approach should not come as a surprise or undue burden to most employers.

Conclusion

Regardless of the approach OSHA determines it will take, it is clear that the current system does not serve the American workforce. Compliance with PELs from the 1970s, based on the scientific knowledge and working conditions of the 1950s and 1960s, provides a false sense of security for workers. Continuing to rely on outdated standards does not protect workers, but burdens their families and hurts the economy. It is necessary to review and update safety and health regulations to reflect current scientific knowledge. Our current and next generation of workers deserve nothing less.

Respectfully,



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