Dragon, Karen E. (CDC/NIOSH/EID)

From: Anna Fendley [afendley@usw.org]
Sent: Thursday, September 22, 2011 5:17 PM
To: NIOSH Docket Office (CDC)
Subject: Docket number NIOSH-240
Attachments: USW Docket NIOSH-240.pdf; USW Docket NIOSH-240.doc

Please see the attached comments from the United Steelworkers in response to Docket Number NIOSH-240.

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Anna Fendley
Health, Safety & Environment Dept
United Steelworkers
afendley@usw.org
412-562-2359

UNITED STEELWORKERS
UNITY AND STRENGTH FOR WORKERS

September 22, 2011

NIOSH Docket Office
Robert A. Taft Laboratories
MS-C34
4676 Columbia Parkway
Cincinnati, OH 45226

Submitted by email

RE: Docket Number NIOSH-240
Request for Information: Announcement of Carcinogen and Recommended Exposure Limit (REL) Policy Assessment

Dear Sir or Madam:

The United Steelworkers Union (USW) represents 850,000 workers in the United States and Canada in metals, manufacturing, paper and forestry products, chemical industry, health care, pharmaceuticals, public services, mining, energy, transportation and utilities. Our members work in a wide variety of industries, and many are exposed to carcinogens and suspected carcinogens the job. The USW and its predecessor unions have worked for decades to give workers the right to know the identity and true hazards of the substances they work with, based upon the best scientific knowledge available. We appreciate the opportunity to comment on revisions to NIOSH carcinogen and REL policy. Below is our response to the five questions posed by NIOSH:

(1) Should there explicitly be a carcinogen policy as opposed to a broader policy on toxicant identification and classification (e.g. carcinogens, reproductive hazards, neurotoxic agents)?

NIOSH currently has a carcinogen policy, and we believe there should continue to be a specific carcinogen policy that is consistently updated and maintained to reflect the current research. Occupational cancers are an important concern to workers in a variety of workplaces across industries. The USW does not believe that carcinogens should be part of a broader policy on toxicant identification and classification at this time. NIOSH should develop a broader toxicant policy in the future. However, development would require considerable resources and time to determine how best to protect workers. While this will be an important endeavor in the future, we believe that NIOSH should currently focus on revising the already existing carcinogen policy, potentially as a starting point for a broader toxicant policy to be developed later. We believe that the carcinogen policy needs updating in order to adequately protect workers, and this process would be possible with fewer resources and in a more reasonable time frame than creating a broader toxicant policy.

(2) What evidence should form the basis for determining that substances are carcinogens? How should these criteria correspond to nomenclature and categorizations (e.g. known, reasonably anticipated, etc.)?

There are a number of existing organizations that determine whether substances are carcinogens and place them in a categorization scheme. These include the National Toxicology Program within the Department of Health & Human Services, the International Agency for Research on Cancer, the Globally Harmonized System of Classification and Labeling of Chemicals, and the Environmental Protection Agency, among others. NIOSH should review their approaches and, if possible, harmonize with existing approaches.

NIOSH should use all available evidence to make the determination that a substance is a carcinogen. That evidence should include data from human and animal studies.

The current NIOSH cancer policy only has one category for classification: potential occupational carcinogen. The USW believes that this is inadequate and misleading in communicating the risk, given the body of scientific knowledge confirming some substances are indeed human carcinogens. We would again urge NIOSH to look at other existing carcinogen classification systems. Many of these have more than one carcinogen category, and the category determination is based upon the scientific information available on carcinogenic potential. There are varying degrees of strength of scientific evidence, and this should be reflected in the classification system in order to offer a distinction for worker safety and to drive further research.

(3) Should 1 in 1000 working lifetime risk (for persons occupationally exposed) be the target level for a recommended exposure limit (REL) for carcinogens or should lower targets be considered?

NIOSH should be performing risk assessment based upon the best science available, and it should not limit risk level to 1 in 1000. This target level comes out of a court decision regarding OSHA's regulatory efforts to set a PEL for benzene. While OSHA must be responsive to 1 in 1000, we believe that NIOSH has the responsibility to work without this constraint and other considerations of feasibility to develop RELs to adequately protect workers. Other organizations that determine whether substances are carcinogens do not limit identified risk to 1 in 1000 for the general public. NIOSH must follow their lead and make recommendations to protect workers to the greatest extent possible, not to an arbitrary level that to which it is not legally bound. NIOSH should strive for lower risk levels, even if technology for control to that level is not widely available at present.

(4) In establishing NIOSH RELs, how should the phrase "to the extent feasible" (defined in the 1995 NIOSH Recommended Exposure Limit Policy) be interpreted and applied?

NIOSH is an agency that provides research, information and training in the field. It is not a regulatory agency, and its RELs are not legally enforceable. We believe that NIOSH should not include the phrase "to the extent feasible" in its carcinogen policy. NIOSH should turn its attention to identifying, based upon scientific research, the actual cancer risk to workers.

"To the extent feasible" relates to control measures. While we do not think it should be used in developing a REL, NIOSH could review the literature, both practical and laboratory, to make some indication of what control measures currently exist and how effective they are in protecting workers to a newly issued REL. This strategy may promote further research in the field to

develop feasible control measures that are more effective than those that currently exist. In other words, NIOSH, as a research body and not regulatory body, has the opportunity to expand the field of knowledge to protect workers.

(5) In the absence of data, what uncertainties or assumptions are appropriate for use in the development of RELs? What is the utility of a standard "action level" (i.e., an exposure limit set below the REL typically used to trigger risk management actions) and how should it be set? How should NIOSH address worker exposure to complex mixtures?

The USW believes that, in the absence of data, NIOSH should set RELs for all of the categories it defines for classification, even if substances are not confirmed carcinogens. NIOSH should develop RELs to protect workers if there is scientific evidence that a substance is a suspected or probable carcinogen, even if that evidence is presently limited to animal studies.

An "action level" is an important concept that NIOSH should include in its REL policy. Often decisions in the workplace about controlling a hazard are based on a small number of samples. Action levels acknowledge the limitations of sampling and potential for fluctuations in exposures. An action level also recognizes that there may be some residual risk at both the exposure limit and lower levels of exposures, and initiating some control, like worker training, at a level below the REL will further reduce the risk to workers. Action levels are typically set at 50% of the exposure limit. However, we believe that this should be reconsidered by NIOSH because carcinogens are thought to act in a linear manner with higher exposures leading to higher risk of cancer. One strategy is a tiered system of action levels that could provide some protection for workers even at very low levels of exposure.

Mixtures of chemicals are very common in workplaces, and the interaction between more than one chemical and the human body must be acknowledged in discussions of risk. NIOSH should conduct research on the carcinogenic risks associated with mixtures. However, this could be a complicated and never-ending body of work. One potential approach for starting this research is identifying and researching common mixtures and exposures in industrial processes to determine the carcinogenic risk. NIOSH may want to look at the ACGIH TLV mixture formula, as it attempts to identify risk for a mixture of similar substances that have common target organs or systems.

Occupational cancer is a critically important issue to USW members and all workers. We believe that revising the NIOSH carcinogen and REL policy must increase protections for workers by reducing or eliminating exposures to carcinogens and suspected carcinogens. We thank you again for the opportunity to comment.

Respectfully submitted,

Anna Fendley
USW Health, Safety & Environment Department