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**HEALTH AND SAFETY COMMISSION
ADVISORY COMMITTEE ON TOXIC SUBSTANCES (ACTS)**

Current Developments

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1. 2nd European Commission Directive on Occupational Exposure Limit Values

In the Current Developments paper at the November ACTS meeting (ACTS/41/2003) we advised members that the European Commission's 2nd Directive on IOELVs was likely to be adopted before the end of 2003, with an implementation date of 30 June 2005. However, the draft Directive still awaits adoption. A revised draft was issued by the Commission on 5 March, and this is due to be discussed at a Technical Progress Committee of Member States' representatives to be held on 26 April. If Member States are in agreement, the draft Directive will go forward for adoption by the Commission.

As reported in November, the current text of the draft Directive contains indicative exposure limit values for 34 substances, following the removal of nine substances at a meeting of Member States' representatives held in September 2003. Following that meeting, the draft Directive passed to the stage of "inter-service consultation", where other Directorates General of the European Commission have the opportunity to comment on the text.

HSE believes that the delay in producing a final text for adoption has been due to concerns raised by other Directorates General over the proposed limit for nitrogen monoxide (NO). The European Commission, on the advice of its Scientific Committee on Occupational Exposure Limits (SCOEL), had originally proposed a limit of 0.2 ppm (0.25 mg.m⁻³) for NO, which a number of industries, in particular mining and tunnelling, and the production of agricultural fertilisers, claim is impossible to achieve. The previous UK limit, which was withdrawn in 2003, stood at 25 ppm (31 mg.m⁻³) although HSE recognised that this was not sufficiently protective of workplace health. The latest draft of the Directive has now amended the NO limit to 1 ppm (1.25 mg.m⁻³). The Commission's justification is to allow industry time to adapt its measurement methodologies to detect a lower exposure value. The UK will need to consider carefully the implications of this new limit, in particular the precedent it sets for future Directives. HSE will be writing to members separately to seek views.

In anticipation of the proposed limit for NO, HSE has already taken initial steps for the production of a Regulatory Impact Assessment (RIA). An internal meeting has been held with representatives of the HSE field force responsible for the industry sectors most closely affected. The findings of this RIA will determine the eventual UK limit for NO, which may differ from the limit proposed in the Directive.

Further compliance difficulties are also anticipated with the proposed limit value for chlorine (short-term limit of 0.5 ppm) and a similar RIA is planned for this substance also.

If the Directive is adopted in Spring 2004, we would want to secure an implementation date towards the end of 2005, however the current draft still shows implementation by 30 June 2004.

2. Proposals for the control of inhalable dust in coal mines: update report

ACTS discussed outline proposals for the control of inhalable dust in coal mines at the July 2000 meeting (paper [ACTS/23/2000](#)). At that meeting ACTS was asked to provide views, to the Deep Mined Coal Industry Advisory Committee (DMCIAC) working group on inhalable and respirable coal mine dust, on an appropriate limit for coal mine dust (the discussion is documented in the relevant minutes, [ACTS/MIN/2/2000](#), agenda item 11).

[Note: From February 2004, DMCIAC has been reconstituted as the Mining Industry Committee.]

ACTS supported the introduction of personal sampling and a strategy that a single excursion above a limit triggered an investigation and any subsequent excursions, corrective / remedial action. It also considered that fixed point sampling could be useful for monitoring the effectiveness of engineering controls and to provide a benchmark to the existing workplace sampling regime.

With a view to reduce the incidence of pneumoconiosis, ACTS considered that a level of 2 mg.m⁻³ was the ideal, but was not a practical reality at present. It considered that the figure should be no higher than 4 mg.m⁻³ but that the actual figure would depend upon a judgement as to practicability, which would be reached in the light of further discussion with the DMCIAC working group and comments on the subsequent HSE consultation document.

ACTS also supported the proposal to introduce a limit for respirable quartz for all mineworkers but was concerned that the new limit should be no higher than the COSHH MEL for other industries.

Progress has been slow because the quest for a reliable personal sampling instrument, suitable for use in UK coal mines, has been difficult. After a false dawn with one instrument, extensive and conclusive laboratory testing and field trials have been necessary to gain the industry's confidence in a suitable sampling instrument and sampling procedure.

Development of the proposals has now advanced sufficiently for a Consultation Document (CD194) to be published on 23 February 2004. The proposals in the CD, would improve existing legislation by introducing:

- a modern risk-based framework;
- time-weighted exposure limits;
- a single sample result exceeding an exposure limit to trigger an investigation and corrective action leading to a stop on operations if not effective;
- health surveillance for all persons with significant exposure to inhalable dust;
- an exposure limit for quartz applying throughout the mine; and
- sampling arrangements that focus on those at greatest risk of exposure above the exposure limits.

An exposure limit of 3mg.m⁻³ for respirable dust is proposed, along with an exposure limit of 0.3mg.m⁻³ for quartz. The limits are time-weighted over a reference period of a working week of 40 hours. The point 70m downstream of a mechanised longwall face will have a separate fixed point limit of 5.6 mg.m⁻³, which equates to the existing limit under the Coal Mines (Respirable Dust) Regulations 1975.

The DMCIAC working group has been kept abreast with developments aiming at lowering the respirable crystalline silica exposure limit for other industries. It recognised that any European limit would extend to coal mines and the industry needs to prepare for a further

reduction. It did not consider it practicable to introduce a lower limit with the current state of the art.

The full text of the Consultation Document (*Proposals for the control of inhalable dust in coal mines*, CD189) can be viewed and downloaded from the HSE website on the Internet <http://www.hse.gov.uk/consult/>. A paper copy of the CD has been sent to each ACTS member. Additional copies are available from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 2WA Tel: 01787 881165. Closing date for return of comments is 28 May 2004.

3. Progress on the strategy for occupational respiratory disease (excluding asthma)

The HSE Respiratory Disease Working Group has been developing the evidence-base on the scale of occupational respiratory disease in the UK. The emerging evidence points to the possibility that a significant amount of Chronic Obstructive Pulmonary Disease (COPD) in the general population has either been caused by, or made worse by occupational exposures to dusts, gases and fumes.

Chronic obstructive pulmonary disease (COPD) is a progressive disease that is not fully reversible. It can have both occupational and non-occupational causes. The disease usually encompasses chronic bronchitis and/or emphysema. The British Thoracic Society estimates that the annual treatment costs to the NHS amount to about £500 million and that there are 600,000 diagnosed cases in the UK, although there are likely to be many additional undiagnosed cases. COPD is given as the underlying cause of death on about 30,000 death certificates per year in the UK.

Cigarette smoking is the main cause of COPD. However, occupational exposure to dusts, gases and fumes can cause COPD independently of cigarette smoking, and can increase the risk of developing COPD in those who smoke. Given that COPD is so prevalent, if occupational exposures produce even a small increased risk of COPD, this could amount in absolute terms to large numbers of people with work-related COPD (i.e. COPD that has been caused or made worse by work).

The American Thoracic Society (ATS) has recently estimated that as much as 15% of all cases of COPD are work-related. This estimate is based on an analysis of ten large-scale general population studies conducted in the United States, France, Spain, Norway, the Netherlands, Northern Italy, China and New Zealand. HSE feels that the 15% estimate from the ATS is more likely than not to be broadly representative of the situation in the UK, particularly considering that much of the supporting evidence derives from studies in Northern European countries where the pattern of industrialisation is likely to be similar to that in the UK.

These considerations suggest that there could be at least 90,000 cases of work-related COPD in the UK. Given the long latency for the development of COPD (in the region of 15–20 years), this implies that the causal occupational exposures for these cases would have occurred around the 1960-1980s. It is uncertain whether or not patterns of industrialisation in the UK and workplace standards of control for airborne contaminants have changed over the last 20-30 years to an extent such that the fraction of work-related COPD might be expected to decline in the future.

From the large-scale studies available, the substances associated with the highest risks of work-related COPD include crystalline silica, glass fibre, sawdust, automobile exhaust, solvents, ammonia, nitrogen oxides, sulphur dioxide, metal fumes and anhydrides.

4. 29th Adaptation to Technical Progress (ATP) of the Dangerous Substances Directive

Members will recall earlier consideration of this matter. The 29th ATP continues to be a considerable embarrassment for the European Commission. It is clear that despite agreement by the CMR WG it is proving extremely difficult for the Commission to table a proposal. It seems that significant lobbying has taken place in relation to some important substances and that as a result certain Commission services have been unable to agree on draft proposals. We suspect that this matter will drag on for several months yet. Our position remains that we have consulted ACTS and HSC on the emerging draft proposals and have secured agreement from both that we can recommend acceptance to the Minister subject to some last minute checks on a few substances.

5. Workplace health and safety - a new strategy for Great Britain

In October 2003 members were encouraged to comment on the draft Strategy for Workplace Health and Safety in Great Britain to 2010 and beyond. This document followed the discussion paper Strategic Thinking – Work in Progress (which was brought to member's attention in July 2003).

The new strategy to improve future standards of workplace health and safety in Great Britain was launched on 23 February 2004 by Des Browne, Minister of State at the Department for Work and Pensions (DWP) and Bill Callaghan (Chair, HSC). A key emphasis of the strategy is on making progress with occupational health – helping people back to work after illness (rehabilitation) and preventing them getting ill in the first place.

Key features of the HSC strategy include:

- Focusing resources on poor performance to get best results;
- Promoting greater involvement of workers - the strategy recognises the people best placed to make workplaces safe are staff and managers;
- Making information readily accessible and providing clearer and simpler advice;
- Involving all stakeholders and forging close working relationships where everyone has a voice and can contribute.

It calls for new ways of working:

- Providing effective support free from the fear of enforcement – looking for ways to increase the understanding of health and safety and its paramount importance;
- Prioritising work - having the confidence to identify areas that are well controlled, and withdrawing from them; and
- Sharing the vision - making a step change in the way HSC/E communicates effectively.

'The Strategy for Workplace Health and Safety in Great Britain to 2010 and beyond' can be accessed on the HSE website, <http://www.hse.gov.uk/aboutus/hsc/strategy.htm>.

Copies are also available free from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 2WA (Tel: 01787-881165 or fax: 01787-313995).

6. WSA Challenge Fund

Getting workers involved in health and safety is a key part of the new HSC Strategy. This challenge has been recognised by the Government who has created this fund. The Worker Safety Adviser Challenge Fund will be inviting bids from stakeholders for awards at the end of March. The fund has been initially set up for three years with £1 million available for each year, for interested parties to bid. It has been established as a means of creating partnerships to drive improvements in occupational health and safety, focusing on SMEs, through the intervention of Workers' Safety Advisers.

7. Worker Involvement and Consultation

HSC's Statement on Worker Involvement and Consultation was launched on 3 March and is the first of the early deliverables in the Commission's Strategy. Its purpose is to make the case for worker involvement and consultation and highlight what a collaborative approach between partners can achieve. It sets the long-term agenda and describes the measures the Commission considers necessary to achieve our goal. The statement is based on the core principle that workers who have a voice and given the ability to influence health and safety are safer and healthier than those who do not. The statement can be found on HSE's website at: <http://www.hse.gov.uk/involvement/index.htm>

8. New European Chemical Strategy – REACH

The Internet consultation on the workability of the REACH scheme (July 03) received more than 6000 responses and resulted in some significant redrafting of the proposal by co-authors DG's Environment and Enterprise.

The revised proposal was formally published by the Commission on 29 October 03 and adopted on the 28 November 03 - COM 2003 0644(03). At the time of publication the EC also launched an extended impact assessment that estimates the direct costs to the chemicals industry of some € 2.3 billion over an 11 year period representing a cost saving of 82% when compared to the initial Internet draft. The assessment anticipates benefits to environment and human health are expected to be significant. An illustrative scenario put the health benefits in the order of magnitude of € 50 billion over a 30-year period. However, the assessment recognises the difficulties in estimating the occupational health benefits.

The Regulation has now been forwarded to the European Parliament (EP) and the EU's Council of Ministers for adoption under the co-decision procedure. The full proposal and the extended impact assessment is available from the following websites:

http://europe.eu.int/eur-lex/en/com/pdf/2003/com2003_0644en.html

<http://europa.eu.int/comm/enterprise/chemicals/chempol/bia/index.htm>

The Commission believe a fast track process could see adoption by the end of the UK presidency in 2005. However, this appears to be an extremely ambitious plan that is already subject to delay. The EP has not yet appointed a rapporteur - which almost certainly means a first reading deal in the EP cannot be secured before the MEP elections. A number of other factors are also likely to further delay the dossier progression including:

- The MEP elections;
- The new committee procedure(s) with the ten accession countries is likely to slow the negotiation process;
- The Environment committee currently lead on the dossier in the EP. However, there is increasing interest from the Competitiveness and Legal committees who may challenge this position.

Defra are the lead department on REACH. However there is progressively more DTI engagement on REACH, which mirrors the Competitiveness Council lead.

Defra are preparing a 12 week public electronic consultation on the Commission proposal. We expect them to launch the consultation around the end of March 04. The consultation (including a partial UK Regulatory Impact Assessment) will seek views on the proposed Regulation and on the Government's initial approach. Defra officials expect that this will in turn help inform the UK negotiating strategy.

9. Meeting the needs of Micro Firms

HSE has commissioned research to find out what tools micro businesses (i.e. those employing less than 10) need to reduce exposure to chemicals or harmful substances. The research will focus on 4 sectors, hairdressers, motor vehicle repair, small bakeries and carpenters.

The Marketing Works (TMW) Consultancy has been contracted to carryout this research and will report the findings to HSE by June 2004. At the moment TMW are identifying and inviting participants for one to one discussions. Following this, focus groups covering the 4 sectors will be asked for their views on what else HSE can do to help them protect themselves and those they employ from the risks of working with hazardous substances.

10. Update on the marketing and use of e-COSHH

Plans are also being made, to hold a series of events to promote the use of *e-COSHH Essentials* throughout England, Scotland and Wales during 2004-2005. Alongside this, an e-COSHH presenter's pack is being developed to support Trade Associations and Environmental Health Officers with promoting the use and understanding of *e-COSHH Essentials* amongst businesses. Once developed, the presenter's pack will be launched at the first event promoting the use of e-COSHH later this year. HSE will be looking to develop a network of partners to promote e-COSHH via this presenter's pack.

11. European Week Update

ACTS members have been invited to the European Week for Safety and Health at Work awards dinner at the Royal College of Physicians, London on 23 March. Des Browne, Minister of State for Work and Hans- Horst Konkolewsky, Director of the European Agency for Safety and Health at Work are the main speakers.

A national judging panel (comprising external stakeholders as well as HSE experts) met on 6 January 2004 to select the national award winners. During February, regional award ceremonies have taken place. HSE has commissioned an evaluation of European Week, which should be available by end May 2004.

This year there are 13 winners, including one from Northern Ireland and a special award for an SME, as well as two commended entries. There is also an overall winner (which will be announced on 23 March).