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DOL Cites Opposition from Public in Withdrawal of Risk Assessment Rule

FAIRFAX, VA (September 2, 2009) – Citing comments in opposition from worker advocacy organizations, labor unions, and risk assessment experts, the U.S. Department of Labor (DOL) has withdrawn a controversial risk assessment rule that critics charged would have unnecessarily delayed rulemaking to protect workers from toxic substances. The American Industrial Hygiene Association® (AIHA) opposed both the substance of the rule and the DOL’s determination to proceed without allowing additional public comment.

“AIHA® is pleased the DOL has decided to withdraw the proposed risk assessment rule,” said AIHA President Cathy L. Cole, CIH, CSP. “AIHA opposed this rule from the beginning because of our concern that the rule would extend the process needed to protect workers from exposure to workplace toxins. The fact that the DOL did not seek input from professionals who deal with workplace hazards on a daily basis led AIHA and many others to believe the rule had numerous flaws. While we understand why the DOL felt they needed such a rule, the process used was flawed.”

In August 2008, DOL published a notice of proposed rulemaking intended to codify the DOL’s risk assessment procedures for health standard rulemakings that address workplace exposure to toxic substances. The proposal would have required DOL agencies to (1) issue an advanced notice of proposed rulemaking (ANPR) for every health standard involving toxic substances or hazardous chemicals, apart from emergency temporary standards; (2) post documents related to a rulemaking on the Internet; and (3) discard the assumption of a 45-year working life per worker in favor of industry-by-industry exposure data.

Opponents contended that the ANPR requirement would delay rulemaking, that a 2002 law already required department agencies to post information related to rulemaking on the Internet, and that a reliance on industry-by-industry data would underestimate worker exposures.

The DOL declined requests from members of Congress to hold public hearings on the proposed rule and declined to extend the 30-day public comment period.

In extensive comments on the final rule, AIHA stated, “After review of the proposed rule by the AIHA Risk Assessment Committee, AIHA is concerned that the proposed approach will result in increased exposure to workplace toxins based on assumptions that do not accurately reflect workplace conditions or worker experience. AIHA is also concerned that the DOL has not solicited input from those individuals who have wide-ranging expertise in evaluating worker exposure from chemicals and toxins, including industrial hygienists.”

The rule was withdrawn on August 31, 2009.

“AIHA thanks the DOL for listening to the many concerns expressed about this proposal and offers our assistance to the DOL should they wish to proceed with new rulemaking,” Cole said.

For further information, please contact Aaron Trippler at (703) 846-0730 or atrippler@aiha.org.

Founded in 1939, the **American Industrial Hygiene Association (AIHA)** is the premier association of occupational and environmental health and safety professionals. AIHA’s 10,460 members play a crucial role on the front line of worker health and safety every day. Members represent a cross-section of industry, private business, labor, government, and academia. For more information, go to www.aiha.org.