

[proposed email from Keller and Heckman to Garrett Keating, Steve Smith, Bob Nakamura and Mike Horowitz of Cal-OSHA]

**Dear Garrett and Mike:**

We are following up some important points raised by the March 7, 2017 HEAC meeting and the minutes of that meeting that have important implications for the PELs update process and PVC dust.

First, as described below, there was a discussion of how the minutes should be written:

#### **Discussion of previous meeting minutes**

Michael Bates said the minutes read more like a transcript. Transcripts are good, but prefer more summarized minutes. Steve Smith agreed and indicated that we would try to shorten. Idea echoed by Will Forrest and Michael Cooper. Steve indicated that we would also try to indicate transition through agenda items to make minutes more useful.

Steve Smith said these pre-rulemaking meetings are more informal than during the formal rulemaking process, but these minutes are relied on as the basis of what is discussed, and the recommendations of the committee members and public commenters, and helps us develop a rulemaking proposal that should meet less resistance during the formal rulemaking.

According to the March 7 meeting minutes, Michael Bates apparently indicated that minutes from previous HEAC meetings read more like a transcript and he recommended a more summary style. The Division's response is unclear. Steve Smith apparently indicated that some changes could be made to shorten the minutes, but seemed to suggest that the minutes must be adequately detailed to explain the decisions made and the basis for those decisions. That information is essential. Headings that indicate the transition through agenda items are very helpful. A set of summary minutes, by itself, would be wholly inadequate. On the other hand, a transcript-type presentation of these informal proceedings that is not carefully prepared and annotated with conclusions and rationale has the potential to come across as a confusing series of disconnected fragments, as suggested by the minutes under the heading "**Revisions to the Priority List of Substances for consideration under Section 5155.**"

Diana Graham of our office attended the meeting and summarized the discussion on moving PVC dust from priority 1 to priority 2 as follows:

At the recommendation of the HEAC, Cal-OSHA determined that PVC dust would be removed from Priority 1 (which the Division apparently viewed as moving to Priority 2). The change in the priority for PVC dust was recommended by Linda Morse, MD (FACOEM, Kaiser Permanente Medical Center, retired, San Francisco, CA, Occupational Medicine). It was based primarily on a recognition that the potential adverse health effects of concern associated with PVC are due to some of the substances added to PVC and not the pure PVC. There was also a suggestion that there was a relatively limited group of employees exposed to PVC dust in California.

From our perspective, the minutes of the March 7 meeting are incomplete in that they do not document the decision to move PVC dust from Priority 1 to Priority 2, or provide the rationale for that decision.

Furthermore, we believe the rationale certainly calls into question why PVC dust is on the list in the first place.

Below we identify some ambiguities that may not be obvious to someone intimately involved in the process, and make some suggestions on the kinds of changes that would be appropriate to clarify the minutes.

Thank you for your consideration.

### Revisions to the Priority List of Substances for consideration under Section 5155

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Michael Cooper suggested housekeeping idea of grouping the \* items for clarity. And adding anything done by OARS TERA (replaced WEEL).

Dan Leacox asked about the pesticides and other things on the 3 & 4 list. Did the list disappear? Steve and Garrett indicated that the list still exists; we only printed P1 & P2 so as not to overwhelm the group.

Howard Spielman said Cobalt, Nickel & Chrome 3 are substantial components of metals that are ground & welded. *[What was he recommending with respect to prioritization?]*

Eric Brown said acetonitrile (P1 to P2), MEK, Naled pesticide widely used, Titanium dioxide (nano). *[The parenthetical "(P1 to P2)" is only for acetonitrile. What was he recommending for the others?]*

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Linda Morse ... **remove polyvinylchloride**, acetone in wide use should move up. *[We*

*believe the word "remove" should mean remove from all lists, not change priority, especially*

*since she used the words "move up" for acetone, which means she chose "remove" rather*

*than "move down" for PVC dust.]*

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Linda Morse suggested putting substances on the board and taking a vote, with top 12 staying priority 1. Garrett Keating said his intent was to take comments today and then revise the list accordingly. Steve indicated that there are sometimes other factors that go into this list and may need further discussion.

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Steve Smith, back to the priority 1 list, heard that there were three substances that **the HEAC recommended were suggested** to move down to priority 2: PVC dust, Acetonitrile, and pyridine. Bob Harrison indicated that thallium is not widely used, so possibly move it down as well. Steve said they would consider that as well, but will check CERS data first.

Steve Smith asked whether there were any suggestions to move chemicals up in priority. One was acetone. Based on volume of use. Howard Spielman indicated that there is no indication that it is other than an upper respiratory irritant. Maybe not worth moving up, Michael Cooper would prefer focusing on a substance with no PEL. Steve indicated that we would table that one for now.

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Steve Smith mentioned MEK, any interest in moving up? Still heavily used and a high ratio of ~~OEL to PEL~~ PEL to OEL. *[or a low ratio of OEL to PEL]* TLV of 10 and PEL of 200. Room was quiet, but sounded like the overall response was affirmative. *[This sentence seems inappropriate. We believe a quiet room (silence) should be interpreted to mean there was no response one way or the other. If you want to rely on HEAC input, you should ask the group for an expression as to consensus, poll each member or take a vote.]*