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“OSHA Listens”
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These comments are submitted by Public Employees for Environmental Protection (PEER), a non-profit service organization dedicated to working with public environmental employees at all levels of government to protect the environment and public health. Jeff Ruch is PEER’s Executive Director, Erica Rosenberg is PEER’s Policy Director, and Adam Finkel is a member of PEER’s Board of Directors, a faculty member at the University of Pennsylvania, and a former senior executive at OSHA.

We very much appreciate your holding the “OSHA Listens” session on March 4 and giving us and others the opportunity to add our views to the written record. On the day of the session, we submitted comments for the record on OSHA’s treatment of whistleblowers; these comments are additional to that earlier submission, and are informed by a close reading of the transcript from the 4th.

The listening session provided a much-needed forum for highlighting views of and experiences with the agency, especially the first-person accounts of what it means when employers fail their workers and OSHA fails to protect workers. These accounts can only be described accurately as heartbreaking, and the fact that OSHA apparently often adds to the pain and frustration the next-of-kin experience must rise to the top of the agenda for the new leadership.

We are also concerned, however, with victims whose stories were not recounted at the session—the vast majority of preventable workplace deaths that involve chronic disease. In the words of the hymn (*I Vow To Thee, My Country*), their ranks swell “soul by soul, and silently”—they may succumb in ways less unthinkable than what happened to Robert Fitch, Tim Wilson, Ray Gonzalez, Juan Pablo Morillo, Shawn Boone, and so many others, but their deaths are no less tragic if they were avoidable.

Clearly, the consensus was that there are a myriad of problems both with the OSH Act (“the Act”) and at the Agency that contribute to the OSHA’s disappointing performance. However, the nine hours were heavy on diagnosis and light on solutions—and many of the solutions offered are the same ones that have been put forth almost from the first year of OSHA’s founding. While repetition itself does not make an idea “tired” or unwise—and some of the most repeated ideas (e.g., raise the penalties, expand the Act to cover public-sector workers, hire more inspectors, improve outreach to immigrant workers) are simply correct and need at long last to be heeded. And one or two of the other ideas offered during

the day, such as appointing a next-of-kin representative as an SGE to help with fatality investigations, are creative and worth serious consideration.

Yet other oft-repeated ideas (e.g., make the Safety and Health Program Standard the top regulatory priority) may not be panaceas, and might even do more harm than good.¹ Still other ideas—for example, the various assertions that the VPP program is too important to think carefully and critically about, and the suggestion that OSHA take programmatic direction from a National Academy of Sciences review panel—strike us as dubious advice in light of the wealth of unfinished business at the core of OSHA’s mission.

But scarcely a word was uttered about worker health and chronic disease. Other than a few obligatory mentions of the broken PEL Update process (some from stakeholders who were invited in to negotiate with OSHA in the late 1990s on ground rules to restart the risk assessment and economic analysis process, and did not support this effort), that was it—not a word on any high-priority substance (beryllium, chromium, diacetyl, metalworking fluids, etc., etc.) other than one mention of silica and one of deicing aircraft with a glycol compound. Even the few mentions of agriculture, where pesticide exposures are a terrible problem, focused on heat stroke rather than chronic exposures. Asbestos was mentioned by one witness, but mostly in connection with asking DOL to support a global ban, which is a worthy idea but not relevant to OSHA’s responsibility to enforce its current standard, especially for workers dealing with asbestos that is already in use.

Our diagnosis of the worker-health problem and our dissection of OSHA’s response is summarized in the attached White Paper Dr. Finkel wrote at the invitation of the President’s Cancer Panel in 2008. Others before have made the same basic point that chronic disease takes the lives of roughly *ten times* as many workers as die in industrial accidents, but this white paper details how OSHA’s programs are allocated in exactly the opposite ratio, with more than 10 times the effort on safety as opposed to health. OSHA’s own figures hint at this disparity, but are incorrect on the major statistic: OSHA does *not*, as it claims, conduct about 15-20 percent of its inspections to probe into health hazards. This is apparently an artifact of the IMIS coding system, as OSHA estimated in Dr. Finkel’s FOIA litigation that it has only conducted 73,000 inspections in its entire history at which air, wipe, or bulk sampling for toxic substances were conducted. This amounts to less than *three percent* of all inspections.

¹ Both Dr. Michaels and Mr. Fairfax made reference during the listening session to the conflicting messages from the regulated community, which often calls for performance standards and then opposes them on the grounds they provide no specific guidance (this “Catch-22” is in part what doomed the 2000 ergonomics standard, after all). *More problematic is the sparse information evaluating whether management-based regulations such as the Safety and Health Program Standard actually deliver good results.* For example, Coglianese and Lazer (*Law and Society Review*, **37**: 691-730) caution that “management-based regulation requires a far more complex intertwining of public and private sectors than is typical of other forms of regulation, owing to regulators’ need to intervene at multiple stages of the production process as well as to the degree of ambiguity over what constitutes good management.” In particular, we urge OSHA to carefully review the experience of FDA and USDA with their ambitious management-based regulations under the “HACCP” (Hazard Analysis and Critical Control Points) food safety regime. We have attached to these comments a 2005 paper by Alberini et al., which concludes that “HACCP compliance does not improve compliance with [pre-existing] sanitation standards,” raising the worrisome possibility that emphasizing plant-specific management plans may yield less rather than more worker protection.

Rather than reiterate how we got to this point, our comments are intended to put forth innovative solutions that were either *not* mentioned or scarcely touched upon at the listening session. PEER represents the view that worker health is the “out of sight, out of mind” issue for OSHA and for its stakeholders, who unfortunately emphasized safety over health on March 4th in roughly the same 95:5 proportions the Agency does. Given the disparate impact of health hazards as compared to accidents in the workplace, we urge OSHA to shift its resources from safety to health in all aspects of agency activities: rulemaking, enforcement, outreach, budget, staffing, and public communication.

All of the proposals are aimed at improving the effectiveness of OSHA’s worker protection mission by shifting the focus from safety to health, and most can be effected without legislative changes. To this end, we propose six ideas:

1. “Just Do It”

For almost the entire 30 years since the Supreme Court *Benzene* and *Cotton Dust* opinions were issued, OSHA has been bemoaning the need to conduct detailed analysis of risks and costs, and using those requirements as explanations for the glacial pace of rulemaking. We believe that it plays into the hands of those who wrongly accuse OSHA of ignoring “good science” for the Agency to continue to seek relief from the analytic burdens of standard-setting—but more importantly, we emphasize that OSHA has shown in the past its ability to do risk and economic assessments *rapidly and well*.

In one 18-month period of activity (late 1996 to early 1998)—OSHA promulgated three major final health standards—those for 1,3-butadiene, methylene chloride, and generic respiratory protection—and defended them in Congressional oversight hearings and court challenges, without a single provision being substantively weakened following any of this scrutiny. During this period, the Health Standards staff also prepared quantitative risk assessment for six substances from the list of the 20 most important substances remaining from the unsuccessful PEL Update project, but were stymied by the non-production of parallel information from the regulatory analysis staff on cost and feasibility (see below).

We agree with the Center for Progressive Reform (page 144, Part I of the transcript) that the risk assessments can be made less exhaustive, but we emphasize that this should be accomplished by trimming the lengthy narratives about those studies and findings that are not influential to the risk calculations, but not by cutting corners in analyzing those studies that do determine the shape and parameters of the dose-response relationship.

Correctly viewed, the *Benzene* decision gives OSHA discretion and analytic latitude other agencies should envy; the Justices were thoughtful in signaling that the proper “currency” for determining significant risk is the probability of harm to any individual worker, rather than utilitarian (or utilitarian-sounding...) measures of the total number of lives expected to be saved via the regulation at hand. We hope it is also clear that OSHA must continue to move beyond the “first wave” of regulation based on the blunt tool of epidemiology, and continue (as it did in the methylene chloride and other rules) to follow

30 years of risk assessment progress and estimate human risks based on reliable animal bioassay data.

The transcript appears slightly garbled at this point, but if Dr. Michaels indeed asked (see p. 123 of Part I) the question “what should we do [for] ... a new chemical where we have animal [“toxicological”?] data but we don’t yet have human data?”, the answer is obvious and compelling: *use settled tools of quantitative risk assessment and do not wait for human data that may never come or that will come far too late.*

Critics of OSHA who do not understand risk assessment have answered this question differently, and we urge OSHA to reject this illogic, as Dr. Finkel wrote to the House Education and Labor Committee in response to testimony at a 2007 hearing (see pp. 64-69 of the report on the House Education and Labor hearing “Have OSHA Standards Kept Up with Workplace Hazards,” April 24, 2007).²

In addition to recommitting itself to using the tools and authority given to it by Congress and the Supreme Court, OSHA should make several administrative changes to jump-start its moribund health regulatory program:

- OSHA should re-establish separate Directorates for Health Standards and Safety Standards. These directorates were temporarily merged under the Clinton Administration, and permanently merged under the Bush Administration. OSHA hired an outside management consultant to evaluate the results of this reorganization, and the career staff was overwhelmingly negative about it. A typical response was this one from a health scientist: “Bravo! The agency’s political adversaries couldn’t have come up with a better plan for neutralizing standards development.”
- OSHA should initiate a search for a recognized expert in occupational health, preferably with knowledge of risk assessment (the tool OSHA has been required to

² These remarks use diacetyl as an example, but apply to dozens of substances awaiting risk assessment and regulation:

Mr. Fellner stated during questioning from Mr. Bishop that “there is no dose-response curve with respect to diacetyl,” and that “in the absence of a dose-response curve, ... as the Supreme Court indicated in the *Benzene* decision in 1980, that is insufficient to promulgate a standard at very low levels.” I believe these statements are misleading at best, both as a scientific and a legal matter. It would certainly be desirable to be able to know more about the *shape* of the dose-response function below the levels of diacetyl exposure that unambiguously can cause grave harm to those exposed—but it’s certainly not true that there is no such function. It may be steeper at high doses than at low ones, and it may even have a threshold, but while we await such refinement, there exists a wealth of information supporting the first-order assumption that (especially when extrapolating down by a factor of 100 or less) a linear function makes biological sense (see, e.g., Martha Crawford and Richard Wilson, “Low-Dose Linearity: The Rule or the Exception?” *Human and Ecological Risk Assessment*, 2, pp. 305-330, 1996)... In other words, OSHA does not have to know the precise shape of the diacetyl dose-response relationship if it wished to make the scientific and legal case (which I believe is, as they say, a “no-brainer”) that *uncontrolled* exposure to diacetyl poses a significant risk of material impairment of health.

use since the 1980 Supreme Court decision) to run the Directorate of Health Standards.

- OSHA should move to reverse the “brain drain” in Health Standards. In the late 1990s, there were 13 health standards-writers with doctoral-level training. Now only 2 or 3 remain. This dearth of qualified standard-setters obviously hinders the agency’s ability to assemble the best science and promulgate standards in a timely fashion. That the FY2011 budget request does not increase the number of FTE’s over the FY 2010 enactment (103) undermines the Administration’s assertion that it is ready to undertake an ambitious regulatory agenda.
- OSHA should also move the Office of Regulatory Analysis so that its staff report to the heads of Health and of Safety standards rather than to the Directorate of Evaluation and Analysis, and should hire trained economists to conduct cost and feasibility analyses.

Next, we offer two complementary ideas to fix the broken PEL process:

2. Promulgate New Technology-Based Health Standards for Industrial Processes

OSHA has set approximately 15 Permissible Exposure Limits (PELs) since 1970, and it can enforce approximately 410 other limits that have not been updated since 1968 or earlier—this out of over 70,000 chemicals in commerce (more than 3,000 of which are produced in quantities of more than 1 million pounds per year).

Aside from lack of internal will, incompetence, bad legal advice (the inexplicable decision to try to set 400 new PELs in 1988 without using any of the risk assessment methods the Supreme Court had said only eight years earlier were absolutely required), and benign neglect by external industry and union stakeholders, there are two additional and even more intractable problems with OSHA trying to set new PELs:

- While one scientist working alone can assess the risk of a chemical at a given concentration in roughly one person-month or less, it can take ten person-years or more to estimate the economic cost of meeting any given PEL in every applicable industry sector—and OSHA has had very few first-class economists in its ranks.
- Although Dr. Finkel and others (see, for example, S.F. Hansen et al., (2007), “Categorizing mistaken false positives in regulation of human and environmental health,” *Risk Analysis*, 27(1), 255–269) have written extensively about the many bogus claims that various regulations can create “risk-risk tradeoffs” and increase net risk, OSHA PELs are one area where real tradeoffs can easily occur when one substance at a time is regulated. In effect, setting a limit on a moderately toxic chemical can subject workers to higher risks from a more toxic substitute (e.g., 1-bromopropane substituting for methylene chloride and Perc; polymerized diacetyl and more exotic flavorings substituting for diacetyl).

We suggest OSHA resurrect the PELs in a practical and risk-decreasing way: by embarking upon a *“Clean Air Act” for the Workplace*:

In 1990, frustrated with the slow pace of Clean Air Act (CAA) standard-setting at EPA using risk assessment alone, Congress changed the Act to require EPA to regulate *industrial processes rather than chemicals*, and to do so via a two-phased approach beginning with Maximum Achievable Control Technology (MACT) determinations (and only after ten years of this program, switch to mopping up “residual risks” via risk-based concentration standards). EPA has issued several hundred MACTs since 1990.

OSHA could identify roughly 10-20 important industrial processes (e.g., dry cleaning, degreasing, metalworking, electroplating, food flavoring), and determine the MACT for each using a formula that would comport with the *Cotton Dust* and lead decisions (for example, technology that 10 percent of firms using the process have already used for X years). This would be an entirely new way to reduce exposures to PEL substances—by process rather than by substance, identifying the best available technology and doing risk assessments on several control options to ensure that the new rules would comport with *Benzene*—e.g., “best available technology to achieve 10^{-4} lifetime risk.” OSHA would still have to demonstrate significant risk reduction, and would have to estimate impacts on small businesses, but this would greatly reduce the cost problem and the adverse-substitution problems described above (a dry cleaning standard, for instance, would require certain controls no matter what chemical was used as the solvent, and could also ban certain solvents entirely on relative-risk grounds).

We believe that OSHA would need no new statutory authority to change the way it sets PELs. The risk-based floor, such that PELs do not go beyond what is needed for minimally tolerable risk just because the best firms can do (or already do) better, would ensure that the worst feature of technology-based standards (their theoretical potential for “overkill”) would not be a problem.

This “Clean Air Act §112” approach has considerable merit, not least because it allows OSHA to control the substance *and* the more toxic substitute(s) for at the same time. Some may argue that industry will fight strenuously to oppose technology-specification standards, but (1) the “process PELs” could, if desired, include a “performance track” that would allow individual firms to meet the risk-reduction performance of “MACT” by any alternative means they could show would do so; and (2) lest we forget, industry helped kill the 2000 ergonomics rule largely because they argued it did **not** contain specific technological prescriptions. Some also say that technology-based standards are not ambitious enough, because they don’t force the development of brand-new technologies, but we believe that just getting the bottom 95 percent to do what the top 5 percent are doing today would be better than virtually any standard OSHA has ever promulgated.

Although this approach would streamline economic feasibility analysis (by far the limiting step in the process, and what has kept the PELs from being updated for almost 40 years), there still would be substantial analytic work required to discern what is the “best” (or as EPA defines it, the average of the best-performing 12 percent of sources) technology for each industrial process resulting in worker exposure to each PEL substance (but nothing says that *every* process must be analyzed for each PEL)

Again, this would not be a pure technological-specification approach—it would be backstopped by careful risk assessment and would comport fully with *Benzene*. But various commentors at “OSHA Listens,” including OSHA officials, recognized the virtues of “generic standards” and of specifying the means of control.³ As Mr. Vaidya of the American Foundry Society stated: “To use the traffic safety analogy, OSHA could not be content just to be the sheriff enforcing speed limits and stop lights, OSHA can save many more lives by promoting the development of better highways.” It should start by promoting the *use* of “better highways” that many companies already travel on.

3. Develop “Risk-Based Exposure Goals” (RBEGs)

All but about 15 of the OSHA PELs are in fact Threshold Limit Values (TLVs) developed in 1968 or earlier by the American Conference of Governmental Industrial Hygienists. Although many of the TLVs for the roughly 400 other PEL substances have been updated one or more times in the past 40+ years, *the process of setting TLVs is science-based but not risk-based*.

So remarkably, there exists no set of occupational exposure limits (OELs) that would give workers the same fundamental information—what is the concentration corresponding to a given probability of harm?—that citizens have enjoyed from EPA in the environmental context for decades (through its IRIS database of cancer potency factors and Reference Concentrations).

We urge OSHA (with substantial participation from NIOSH, if it is willing and can agree to abandon its practice of setting zero or lowest-feasible numbers for carcinogens instead of risk-based OELs) to develop its own set of risk-based OELs. *We believe that “risk-based exposure goals” (RBEGs) for roughly 150 of the most important substances could be developed by a small group (fewer than 10) of trained OSHA staff, working part-time on this for no more than 3 years.* As a point of comparison, in 2007 the California EPA hired a single contractor who developed approximately 50 OELs for carcinogens, chronic toxicants, and developmental toxins, reportedly for less than \$50,000.

We agree that it is more urgent to fix the broken PEL process than to develop non-binding informational values, but it is highly short-sighted to see these complementary activities as either/or.

Risk assessors at OSHA and NIOSH are quite capable of adapting existing cancer potency factors (adjusted for the differences between continuous exposure for a 70-year lifetime and 40 hr./wk. occupational exposure for 45 working years) to derive concentrations that would increase individual cancer risk by 10^{-4} (we would provisionally suggest RBEGs for carcinogens be set at this level, even though this might be a stretch goal for some substances). Similarly, they could either derive reference concentrations (for the

³ See, for example, Schudtz, p. 145 of Part I: “By addressing multiple hazards in a single rule-making OSHA can make the best use of the limited resources devoted to standard setting”; Fairfax p. 120 “[employers] don’t like performance based standards.”

sake of argument, perhaps pegged to the No Observed Adverse Effect Level divided by 10), or, following the lead of the recent National Academy of Sciences recommendations, estimate risk for non-carcinogens probabilistically (**Science and Decisions: Advancing Risk Assessment**, Chapter 5). We recommend that OSHA engage stakeholders from labor, industry, and academia in an attempt to reach consensus on the appropriate *general science-policy principles* for conducting such analyses, but if those discussions break down (as they did in the late 1990s around the PEL process, when stakeholders resisted the overture to discuss such principles), to forge ahead.

Enforceable standards are better than advisories, but OSHA could produce 500 advisories, each of which could provide worker right-to-know information, help small businesses choose among a group of substitute chemicals based on risk, and encourage cost-effective voluntary controls to actually reduce exposures—all in the time it would take to set 2 or 3 new PELs. It should do both.

4. Conduct More Sampling and Targeted Health Inspections

OSHA needs to develop a targeting system to look for health hazards. It should start by examining its own database containing millions of exposure measurements (which it has never used for targeting purposes), as well as using EPA's data (TRI, etc.). It should work with physicians and health departments to find facilities where illnesses are occurring.

We heartily support Kathy Kirkland's testimony (transcript Part I, p. 100) asking OSHA to create a meaningful partnership with doctors and nurses around the country to report and refer cases that don't get captured by worker's comp. Rather than randomly sampling, or not sampling at all for health hazards, OSHA should proactively and systematically build a monitoring program OSHA should proactively and systematically embark on monitoring program for those hazards.

5. Establish Per-Day Penalties for Toxic-Substance Overexposures

Compared to those of other public health agencies, OSHA penalties are stunningly low. A 2007 report found that even in cases of willful violations that resulted in worker death, the median penalty was \$3,675; the average penalty for all serious violations consistently falls below \$1000 each year. In contrast, under the Clean Air Act, penalties can be \$25,000 per day per violation; in 1998, the average CAA administrative penalty was \$26,832 and the average judicial settlement was over \$600,000.

PEER supports raising statutory limits for penalties for OSH Act violations, such as those proposed in the March 9, 2010 discussion draft of H.R.2067, Protecting America's Workers Act (PAWA). But beyond this, PEER proposes not only higher statutory penalties

but a provision for per-day penalties for overexposures⁴.

Both DOE and EPA have per-day penalty authority and use a continuing violations theory in enforcement of its statutes. Under the "continuing violations" theory, a new claim accrues each day the violation is extant. *Hanover Shoe, Inc. v. United Shoe Machinery Corp.*, 392 U.S. 481, 502 n.15 (1968). The Environmental Appeals Board ("EAB" or "Board") has recognized the applicability of the continuing violations theory, first under the Resource Conservation and Recovery Act ("RCRA"), and subsequently under the Toxic Substances Control Act ("TSCA"). See In *Harmon Electronics, Inc.*, RCRA (3008) Appeal No. 94-4 (March 24, 1997); see also *Lazarus, Inc.*, TSCA Appeals No. 95-2 (September 30, 1997). OSHA should seek per day violation authority for health violations. It could seek similar authority for safety violations, but would face the reasonable counter-argument that in these cases, although past harm was violative, the non-compliance by definition ended up harming no one (or at least not until the actual date of a documented injury)—in other words, yesterday's unguarded machine presented risk but not harm. Health hazards, on the other hand, cause a greater harm the longer the hazard is present.

Although harm from overexposure may not manifest itself during the time of the overexposure, cumulative exposures to a given substance or substances cause chronic disease. Accordingly, a month of radiation or chemical exposure should be treated as 30 violations—a continuing and accumulating harm.

Armed with per-day violation penalty authority, OSHA could sample current exposure levels at a site and could establish how long overexposures were occurring, through, for example, employee interviews, exposure monitoring records for a few substances that current standards already require the employer to conduct and retain, etc. OSHA could therefore seek more appropriate penalties for ongoing illegal conduct related to health hazards. It would also have a much-needed new tool—both to correct and to deter—in its enforcement tool kit, one that helps redress the decades of asymmetry between health enforcement and safety enforcement and would send a powerful signal that OSHA recognizes it takes proportionately more effort to document an overexposure than a safety violation and yet the two are treated equally when penalties are computed.

6. Re-establish “Enforceable Partnerships” to Reduce Health Hazards

OSHA should address selected occupational health problems via the innovative mechanism of “enforceable partnerships” pioneered at OSHA in the late 1990s, although for this to work SOL must be given specific direction not to torpedo the concept. These

⁴ OSHA already has statutory authority to issue per-day penalties in failure-to-abate cases, although it rarely takes advantage of this (and as usual, does so much more often for safety than for health hazards); in FY 2008, for example, OSHA issued only 674 FTA citations (only 0.3% of all citations), and the average FTA penalty was about \$4,000—or roughly 4 days worth of per-day penalty using the average amount per serious violation as a benchmark). Given that follow-up rates on inspections that had uncovered violations are in the low single digits (a rate that should be increased steadily), this authority would instead afford the opportunity to greatly increase penalties at the time the violation is first discovered.

initiatives (OSHA established separate ones with the manufacturers and users of fiberglass, of styrene, and of refractory ceramic fibers) were originally conceived of as a way to make some progress on items in the Regulatory Agenda that were not on the “front burner”—but it occurred to Dr. Finkel and others in the former Health Standards directorate that sometimes, properly-crafted partnerships could actually achieve *more* risk reduction than the corresponding regulation ever could, even if it was promulgated in a stringent form.

For example, OSHA worked with all of the manufacturers of fiberglass insulation and the major associations of installing contractors, under which the manufacturers wrote a 100-page code of practice (the cornerstone of which was a reduced exposure limit) and provided protective equipment, training videos, industrial hygiene sampling, and other services to their customers to help them lower exposures in the field. While a new PEL or 6(b)(5) standard for fiberglass would have changed no behavior in the manufacturing sector (their exposures were already well below any likely PEL), it would have left the users (where all the high exposures were and are) without resources or information to reduce employee exposures, and would have put OSHA in the difficult position of “following the trucks” around residential neighborhoods looking for overexposures to employees of very small businesses. The fiberglass partnership⁵ produced tangible benefits, and should not be confused with the many meaningless partnerships and alliances established during the subsequent Administration.

However, the industries who proposed these partnerships intended for them to be accompanied by a statement that they acknowledged the terms of the code of practice as their General Duty under the OSH Act. Unfortunately, the Office of the Solicitor (SOL) refused to let the manufacturers and customers offer to come under the GDC—even though the overture was unilateral, and simply said that following the code of practice was feasible and necessary to protect employees from the recognized hazard caused by exposures above the new voluntary exposure limit (the elements of a GDC case).⁶

We note that Brush Wellman (Mark Kolanz) talked at OSHA Listens about product stewardship as a way for companies to promote occupational health in their own establishments and (more importantly) those of downstream customers—this is a way for OSHA to create product stewardship plans that it has a hand in crafting, and to make them more than pieces of paper and “photo opportunities” for those involved (win/win/win).

We encourage the new OSHA leadership to leverage scarce regulatory resources—but more importantly, to choose areas where product stewardship is simply superior to

⁵ Information on this expired partnership is still available at <http://www.naima.org/pages/benefits/hssp/hssp.html>, and in the article by Marchant et al. (2002). “A Synthetic Vitreous Fiber (SVF) Occupational Exposure Database: Implementing the SVF Health and Safety Partnership Program.” *Applied Occupational and Environmental Hygiene*, **17(4)**: 276-285.

⁶ Incredibly, when representatives of one of the other industries involved in an enforceable partnership came to OSHA and asked if the Agency could direct its inspectors to visit certain kinds of establishments to look for non-compliance with their code of practice and exposure limit, SOL told OSHA it was not interested in pursuing such cases.

any conceivable OSHA standard—to identify health hazards where motivated manufacturers could develop enforceable codes of practice in lieu of the lengthy and adversarial process of subjecting their materials to the traditional rulemaking gantlet.

Again, thank you for the opportunity to present these views. If you wish to discuss any of these ideas further, please contact Erica Rosenberg at (202) 265-7337 or erosenberg@peer.org.

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