

WEXLER - ~~COMMUNICATIONS~~
THE WEXLER GROUP

1317 F Street, N.W.
Suite 600
Washington D.C. 20004
202-638-2121
202-638-7045 Telecopy

R. Edward Ingle
Sr. Vice President

October 16, 1992

Memorandum

To: Jim Boland
From: Ed Ingle *ai*
Subject: BCIA Ocotober 8th Seminar Report

We wanted to give you a report on BCIA's seminar on "Indoor Air Quality in the Workplace" I attended last Thursday. We thought this would be helpful as a read-ahead since we plan on discussing the BCIA seminar at our meeting with you next week.

The bulk of the three-hour session was taken up by a panel discussion consisting of representatives from OSHA, EPA, DOE, AFL-CIO, and BOMA. Much of the discussion focused on OSHA's upcoming determination on whether or not the Agency was going to regulate indoor air in response to its request for information. OSHA said that they had not reached a decision on whether to regulate, but would do so by the end of this year.

The seminar was attended by about 50 people. Those present consisted of the usual suspects: chemical, flooring, asbestos, management and engineering consulting, building management, and a couple trade press types. For your information, I've attached a list of attendees as provided to me by BCIA.

Paul Cammer of BCIA hosted the seminar and moderated the panel discussion. His opening comments centered on what a regulation would probably look like if OSHA decides to regulate. He cited standards that address ventilation (e.g., ASHRAE), filtration, inspections, certification, performance criteria for HVAC and building commissioning (prior to occupancy). Interestingly enough, Cammer's comments were much more definitive on what an OSHA regulation would look like than OSHA's own comments.

Below I've attempted to highlight the panelists' remarks, in order of presentation, which give us some valuable insights on timing, posture, and related activities.

2046780602

- OSHA/John Martonik

Martonik was the first speaker on the panel. He quickly admitted that OSHA had not made up its mind yet on whether or not to regulate indoor air, but would do so by year's end. He did not get into what the shape of a regulation would look like if they did decide to regulate. Instead, he reviewed what the comments from OSHA's RFI looked like. In short, they received 1214 comments; seventeen percent technical in nature; while the remaining 83 percent were "soft" comments as he described, that is, simply offering opinions on whether or not to regulate. He said that 70 percent of comments called for some form of OSHA regulation of IAQ.

Martonik pointed out that OSHA is also on the hook to respond to three outstanding petitions involving IAQ -- two from ASH specifically on ETS (1987 and 1992), and one filed earlier this year by AFL-CIO on IAQ in general. He said whatever they do will be as cost-effective as possible, admitting that they are not required by law to consider cost-benefits. At one point, he also hinted that OSHA must decide between an ETS-only approach or a general IAQ rule, which includes coverage for ETS.

- EPA/Bob Axelrad.

Axelrad began by describing the growth of EPA's funding on indoor since 1983, program dollars, staff and research dollars. His office alone now has \$6 million and 20 staff. The research office has \$8 million for a agency-wide total of \$14 million. He pointed out that his office sees itself as encouraging voluntary actions and providing guidance to states, business, schools etc. on IAQ, but that OSHA has the authority to regulate IAQ in the workplace. He said that EPA (the Toxics and Pesticides Office) does have authority via TSCA and FIFRA to regulate chemicals in general.

In terms of solutions for improving IAQ, Axelrad cited what he called an EPA's "integrated" strategy of source management, ventilation and air cleaning. He said that for the future they plan to focus on filling known information gaps, such as low level and multiple chemical exposure issues. As far as programs and accomplishments, he cited, among others, the recent publication of the building guide on IAQ and the upcoming ETS risk assessment, which he said should be completed by the end of the year. ETS and carpets were the only pollutant sources that Axelrad mentioned directly during his presentation.

In general, Axelrad did not demonstrate any real zeal at taking over the IAQ regulatory issue, but stressed EPA's role in chipping away at the risk issues and promoting voluntary risk reductions.

- DOE/John Millhone

Millhone, who is Deputy Assistant Secretary for Building Technologies at DOE, led with the fact that the new energy legislation expands DOE's role somewhat in the IAQ arena. He proceeded to read from the McCain provision and then making the point that the relationship between building efficiency and IAQ are of importance to DOE. He cited what DOE considers to be key issues to the IAQ debate, including filtration, ventilation, and sick building. Millhone referenced ASHRAE as the type of HVAC standards that should be contemplated. In response to a building system approach vs. source-by-source, he said it will probably take some of both. He concluded by saying that more collaboration between government and industry is needed on IAQ.

- AFL-CIO/Lynn Rhinehart

She began by saying that IAQ was the number one issue in some unions, and she was happy to see government and business focusing on the issue. She stressed the need for practical, performance-based solutions now, rather than wait for the data for a source-by-source approach. Rhinehart made emphatic AFL-CIO's wish that OSHA be the lead agency on the indoor air issue. She cited the recent Supreme Court ruling which threw out OSHA's 428 PEL/toxic standard as an indicator that OSHA should regulate based on a systems approach, not a source-by-source. She mentioned the fact that AFL-CIO had petitioned OSHA earlier in the year to regulate indoor air in the workplace. Once the determination is made to regulate, AFL-CIO recommends that OSHA set up an advisory committee, composed of a cross-section of interested parties "much like those attending this seminar," to help develop the indoor air regulation. ←

In introducing Rhinehart, Cammer commented that BCIA and AFL-CIO had never been in the same room together, although he has seen "their foot-prints all over the Hill." After Rhinehart's presentation, Cammer agreed that AFL-CIO's approach in many ways is very much consistent with that of BCIA's.

- BOMA/Mike Jawer

BOMA was the only voice on the panel in favor of a non-regulatory approach to indoor air. This should come as no surprise. BOMA feels that voluntary guidance like EPA's building guide is all that is needed to address the IAQ workplace issue. Jawer said that they really hear two major IAQ issues from their tenants regarding IAQ, thermal comfort and ETS, and that these are fairly easy to address in buildings (i.e., adjust the thermostat and ban smoking). He also mentioned that they are finding increasing interest

regarding carpets and associated pollutants, and thinks the carpet issue deserves more attention. BOMA also supports more research in general.

State Legislative Activity

State laws

After the panel discussion, Steve Risotto of BCIA made a brief presentation on state legislative activities. In short, there are 46 bills in 22 states dealing with IAQ currently before state legislative bodies. Of the 46 bills: 11 deal with smoking; 11 with product contaminants, 9 set up commissions/studies; and 7 with ventilation. The majority of these bills are sitting idle in committee, while only six IAQ related bills have passed into law. Risotto pointed to New Jersey and Washington State as being out in front on IAQ. New Jersey is currently implementing an IAQ law to protect public employees, which is based in large part on adopting ASHRAE standards, in addition to some operating and maintenance related requirements. Washington State has a proposed program that is similar to New Jersey's, and uses carbon dioxide (less than 1000 ppm) as a HVAC performance standard.

Legal Analysis

Bruce Dickson of Paul, Hastings, Janofsky and Walker, counsel to BCIA, gave the final presentation on legal issues relevant to IAQ in the workplace. He cited the fact that the sheer number of 46 IAQ bills in the states indicate a growing concern over IAQ. Dickson also referenced the Supreme Court on OSHA's rulemaking as clearly questioning the legality of source-by-source. However, he followed up by saying that he felt that OSHA does have the explicit authority to regulate IAQ on a building systems approach.

Dickson was asked at one point to address the potential for EPA to take lead on the IAQ issue and turn it into a source-by-source regulation. He responded that the question was valid given EPA's historical tendency to want to turn "guidance" into major regulatory programs. However, he admitted that the potential for this occurring would be greatly reduced if OSHA does choose to take regulatory action by the end of the year.

OCTOBER 8 ATTENDEES

BCIA SEMINAR

Last Name	First	Company
Alsmeyer	Elmer	Quantum Chemical
Axelrad	Robert	EPA
Brian	Jim	Standard Chlorine of Delaware
Brown	David	Owens Corning
Bryan	Trudy	Dupont Company
Cammer	Paul	BCIA
Chiang	Grace	Amoco
Corso	Linda	International Union of Operating Engineers
Dalms	Janelle	3M
Densmore	Robert	Allegheny Engineering Company
Dickson	Bruce	Paul, Hastings, Janofsky, & Walker
Epstein	Carolyn	Allied Signal
Evans	Phil	Helmuts Obata & Kassabaum
Finney	Dean	Eastman Chemical Company
Fish	Doug	Certainteed
Graf	Joyce	Cosmetic Toiletry & Fragrance Association
Greenwald	Mark	Borden, Inc.
Groah	William	Hardwood Plywood Manufacturers Association
Hamilton	Joanna	Sparber and Associates
Hansen	Shirley	Hansen Associates
Hawkins	Neil	Dow Chemical Company
Hoag	Mike	NPA
Holm	Stewart	Georgia Pacific
Hopper	Ned	Carpet and Rug Institute
Ingle	Ed	Wexler Group
Jawer	Michael	Building Owners and Managers Association
King	William	Armstrong World Industries, Incorporated
Kohorst	Mark	Washington Technology Information Group
Langill	Marilyn	The Society of the Plastics Industry
Leep	Carolyn	Chemical Manufacturers Association
Lewis	Steve	Exxon Biomedical
Mann	Julie	American Furniture Manufacturers Associati
Martonik	John	OSHA
Melamed	Dennis	IAQ Publications, Inc.
Millhone	John	Department of Energy
Mitchell	Karey	Shaw Industries
Morris	David	AHAM
Parrot	Tom	Vulcan Chemicals
Pearson	Bill	Air Quality Services
Phelps	George	NAMA
Reutio	Allen	SBLMC
Rhinehart	Lynn	AFL-CIO
Risotto	Steve	BCIA
Rowland	Carol	Johnson Controls
Sandler	David	National Research Council
Schmidt	Derek	Office of Senator Kassebaum (KA)
Scott	Dean	BNA
Shiffman	Sevah	PFS Corporation
Spencer	Elizabeth	National Cotton Council
Sundholm	Michael	Embassy of Finland
Taylor	Jeff	Safe Buildings Alliance
Turner	Simon	Healthy Buildings International
Villa	Kay	American Textile Manufacturers Institute
William	Alex	National Energy Management Institute

2046780606