

OSHA Shifts Direction on Health Standards

The new director puts distance between the agency and its recent past

Thorne Auchter, the new director of the Occupational Safety and Health Administration (OSHA), is taking steps to ease or undo the bulk of the occupational health requirements enacted under the Carter Administration. Over the past 3 months, he has withdrawn a requirement for the labeling of toxic chemicals in the workplace. He has ordered a reconsideration of worker exposure limits for lead and cotton dust, and he has postponed a tighter limit on workplace noise. He has exempted the construction industry from a requirement that it provide medical records to its workers, and has delayed a requirement that the smelting industry comply with stiffer limits on permissible levels of lead in blood. A host of new health standards under preparation before the election have now been placed on the back burner.

Workers remain protected by less stringent regulations put into effect under Presidents Nixon and Ford. And Auchter, a former construction official, may yet conclude that the standards he has withdrawn for review are sound. In light of his remarks about them, however, Auchter shows every sign of becoming a leader in the deregulation effort promised to industry by the Administration. Whereas his predecessor, toxicologist Eula Bingham, deliberately pushed the agency into new and frequently hostile territory, Auchter says, "Our approach is one of intensive management. I think that's the reason I'm here. In fact, I know that's the reason I'm here. I'm a believer and a creator and an implementor of management systems. I don't feel that rules are a measure of success for the agency."

Auchter and James Miller, head of the deregulatory effort of the Office of Management and Budget (OMB), have said pointedly that review and revision of current OSHA standards is likely to get more attention than new initiatives. Consistent with Administration efforts in other environmental and health areas, they intend to return as much federal control over occupational health as possible to the states. And safety requirements, as distinct from health rules, will be given added emphasis. Auchter said in a recent interview. A major objective is to reduce work time lost to employers due to employee injury, which Auchter

says is safety-related, not disease-related, 97 percent of the time.

As to be expected, much of OSHA's natural constituency—the labor movement—is up in arms. Relations with the unions got off to a rocky start when Auchter quickly ordered the destruction of a booklet on brown lung disease that was written for textile workers. The cover photo, of a brown lung victim, was not appealing, he says. "The fact that it put the industry on the defensive is absolutely inappropriate." The entire budget for educational materials was drastically curtailed. "I'm appalled at the amount of money that's been spent in the past. It makes absolutely no sense whatsoever." Auchter insists that his efforts to alter the agency's direction have been supported by several union leaderships, but he declines to name them. "They have their own problems," he says.

Meanwhile, George Taylor, director of the occupational health department at the AFL-CIO, says, "The Reagan Administration promised to land running, and running they are—to undo all the hard-won gains in worker safety and health of the past 10 years." Taylor recently told member union officials that, "any of you who remember the pre-OSHA days know state enforcement often means no enforcement." A group of environmentalists and union members recently picketed the White House to protest Auchter's actions. Also, Representative Joseph Gaydos (D-Pa.), chairman of the House subcommittee on health and safety, has held a series of recent hearings in which he criticized the decision to withdraw the toxic chemical labeling requirement. In response, Auchter promised to rewrite it by 1 September. He urges union critics to "hold their judgment a little bit longer to see what the result of our actions are."

In the meantime, he draws confidence from close relations with regulatory relief officials at OMB, who are in turn well-tuned to a host of complaining industries. "It's really funny to sit back and see a lot of questions I get, like who's running the agency, and is Miller really the boss of all this," Auchter says. "Jim and I chat about it, we laugh about it when we get together. They don't tell me what to work on. If I have questions, I call them and tell what direction we're

headed in." To help in the deregulation effort, Auchter has appointed Mark Cowen, an attorney who formerly worked as a counsel to the House ethics committee and to the Central Intelligence Agency, as the agency's deputy director.

The lack of experience in health issues shared by Cowen and Auchter, as well as the shift in direction they are presiding over, have apparently lowered morale among the agency's technical and scientific experts. Several, who ask not to be identified, express concern that Auchter has been more interested in getting advice from trade association representatives than he has from them. "There has been little consultation and a lot of hip-shooting," says one. "Everyone in health standards is restudying old rules, and everyone else is just sitting idly by." Auchter says that initial apprehension has been diminished among staff members that he meets with frequently.

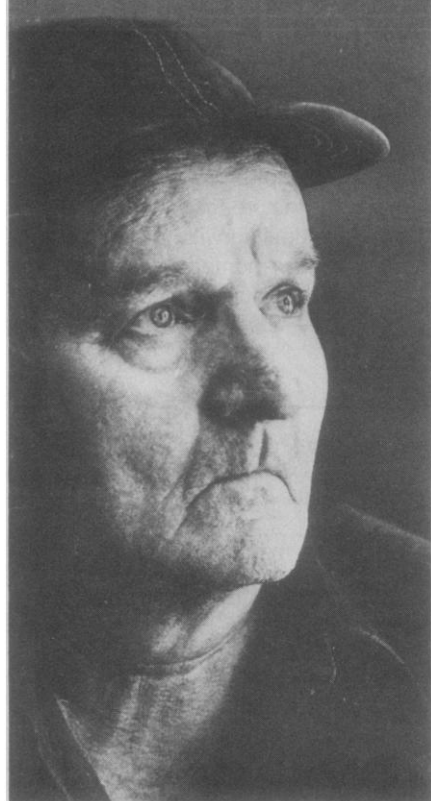
He acknowledges receiving a good deal of advice from Organization Resources Counselors, Inc., an industrial relations firm founded 60 years ago by John D. Rockefeller. "Any time we can get donated expertise, we're dadgum going to use it," he says. The firm's small Washington office is supported by 60 large corporations, including Du Pont, General Motors, IBM, AT&T, Exxon, Tenneco, and many others. "We try to help OSHA do a more accurate job of setting standards," says office manager Richard Boggs, an industrial engineer. The firm has conveyed its members' complaints about the lead standard, the noise standard, and the rule requiring worker access to medical records.

Potential revision of the cotton dust standard is expected to create the most heated controversy. The Carter Administration imposed the standard after an internal struggle in 1978, citing epidemiological studies linking exposure to byssinosis, a lung disease, in numerous workers. OSHA made little attempt then at comparing costs and benefits of compliance, requiring instead that the affected segments of industry control the dust to the lowest level feasible. Lower courts upheld the requirement in industry challenges, and the Supreme Court was set to rule on the cost-benefit issue when Auchter, responding to appeals from the

Cotton Dust: Worker Health Alert

U.S. Department of Labor
Occupational Safety and Health Administration
1980

OSHA 3065



Earl Dotter/American Labor Education Center
Auchter had all photos and quotations of workers excised from this booklet.

Chamber of Commerce and others, reversed OSHA's position, siding with the textile manufacturers and offering to do the analysis voluntarily.

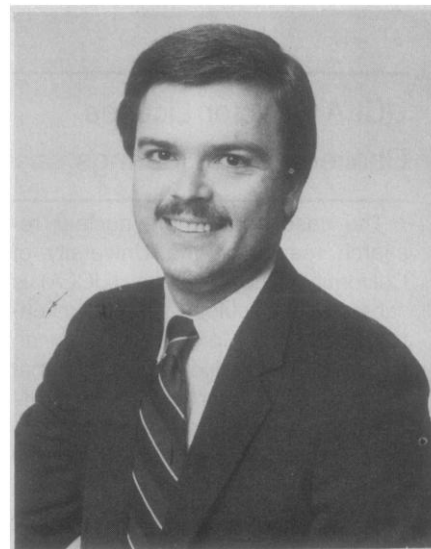
The textile unions are now concerned that the reanalysis will lead the agency to drop engineering and work practice requirements that were delayed until 1984, leaving in place only the existing rule that workers use respirators. Industry favors respirators because they are the cheapest way to reduce exposure, while the unions say they offer insufficient protection and are bulky and awkward for workers to wear. Auchter has stated that the discomfort to workers must be weighed against things employers are asked to do by the government "that are not always comfortable to them."

Debate over the new lead standard will also be acrimonious. Bingham imposed the standard in 1978 after collecting voluminous evidence that linked exposure with neurological problems, kidney impairment, and genetic effects. The rule

would lower maximum worker exposure to 50 micrograms per cubic meter, averaged over 8 hours, a level that is one-quarter of the existing limit. Auchter wants to reexamine the standard's feasibility, and the possibility of easing requirements in the smelting, telecommunications, and ship-loading industries. Part of the standard requires that workers with blood levels of more than 60 micrograms of lead per milliliter be removed from exposure until these levels drop by one-third. The requirement is based on studies linking lead levels above that amount with chromosome damage, reproductive effects, and various behavioral effects. The lead industry complains that the requirement will force it to lay off supervisory personnel at excessive cost.

Auchter has also postponed the effective date of a standard to limit workplace noise in all industries by 5 decibels below the current limit, because of studies indicating that one-fifth of those workers exposed at that level suffered some permanent hearing loss. Auchter says "the amount of detail in the requirement is mind-boggling, and the projected costs from my personal experience do not reflect the realities of setting up that sort of program if you have to start from scratch as a small or medium-size employer." Complaints have been received from the Iron and Steel Institute and other trade groups, and a final decision is to be made by 1 August.

Finally, there is the withdrawal of the requirement for labeling of toxic chemicals, one of Bingham's key initiatives. The rule would have required manufacturers to review data banks such as that maintained by the National Library of Medicine and determine if their chemical fits one of 17 hazardous characteristics; if so, precise labeling of the chemical's identity would be required. Withdrawal of the requirement was prompted largely by the Chemical Manufacturers Association, which complained to the White House and later to Labor Secretary Ray Donovan that the list of hazardous characteristics was too long. Thomas Evans, director of regulatory management for the Monsanto Company, says "it is just unnecessarily burdensome. Workers will ignore toxicity labels if they are plastered everywhere." Auchter also says he received complaints from the fragrance industry that the labels would reveal trade secrets. Asked if the rule safeguards against this, Auchter said, "the problem is that it is open to interpretation, and that people concerned about protecting their trade secrets read it completely the other way and say, holy



Thorne G. Auchter

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mackerel, this will put us out of business." He says, "it's true I didn't consult with the unions before withdrawing it. The record spoke for itself."

Review and redrafting of these rules leaves the health standards staff at OSHA time for little else. New standards on asbestos, formaldehyde, ethylene oxide, and cadmium, among others in partial stages of preparation, have been put aside. Auchter says that he is just now beginning work on a list of priority standards to be considered under the generic OSHA carcinogen policy, which is itself likely to be revised. He acknowledges that a planned reduction of 5 people in the 50-person health standards office will slow the regulatory process.

Auchter also says that in each deliberation on a hazardous workplace chemical, the agency will no longer act when the evidence is merely suggestive, as the courts have sometimes permitted it to do. While averring that he has yet to gain a feel for the complexities of toxicity testing, Auchter says "everything I've done in the past has been based on objective evidence, not potential evidence. If you have one study that says there is potential evidence and you have three studies that say there is no potential evidence, then the potential evidence study is in deep trouble." Epidemiologists at the Environmental Protection Agency, the Centers for Disease Control, and the National Cancer Institute have previously argued that negative studies should simply be discounted in the face of well-performed positive ones.

"I'll tell you this," Auchter says. "We're certainly not going to be rushed in what we do in the regulatory area—it's a very serious business."

—R. JEFFREY SMITH