

Inside The Fish Bowl

The Newsletter of NFFE Local 2050

EPA Professionals

March 1985

Vol. 1, No. 1

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ELECTION OF OFFICERS

Local 2050 will elect a full slate of officers during the May 2, 1985 membership meeting. The election will be Local 2050's first under its new constitution and by-laws, which will be up for ratification at the same meeting (related story below).

Nominations for president, president-elect, six vice-presidencies, secretary, treasurer and chief steward--all to serve one year terms-- will be accepted at the April 4, 1985 membership meeting.

The April 4 meeting is scheduled at noon in M-2409, and the May 2 meeting for noon in M-3908

Official notice of the election, including the list of candidates, will be mailed to all Local 2050 members' homes by April 17.

ASBESTOS VICTORY

Congratulations and thanks are in order for the 128 EPA professionals who signed the letter of protest (attached) and the Local 2050 people who wrote and circulated it last month. The administration has now halted its attempt to refer asbestos risks to OSHA and CPSC rather than regulate them under TSCA. The hue and cry over this issue, in which the Local 2050-sponsored letter played a major role, includes an investigation by Rep. Dingle into the circumstances surrounding

the aborted referral and introduction of a bill by Sen. Moynihan specifically overturning the referral. These Congressional actions are-- at least partly-- a result of one of the goals we told you Local 2050 is striving for--communication with the public and the Congress on issues that concern EPA workers.

Local 2050 took on the job of drafting and circulating the protest letter on asbestos regulatory changes that was delivered to Mr. Thomas on Feb. 19. We were asked by people who were directly involved in the rulemaking to do the job, and we did it because, as the letter states, it involved a working conditions issue at its core. It's as if a group of workers had just spent 2 years building a bridge, and the boss decides that, instead of a ribbon-cutting ceremony to celebrate the event, a detonation of TNT around each pier would be a nicer touch.

A few notes from those who circulated the letter: many people came to us to sign, even before they were solicited or had seen the letter; response was 80-90% affirmative during the solicitation; we could easily have gotten 200 signatures, but stopped because 100 was a reasonable plateau, and the Post had picked up the story and published it on the 19th.

Rep. Dingle's investigation is also looking at the implications of EPA's attempted referral of asbestos risks under section 9 of TSCA for the entire existing chemicals program under that law. It looks to us like OMB's try at undoing our existing chemicals program under TSCA. We understand that a meeting on this issue-- the possible death of the existing chemicals program--took place recently among OPTS AA Moore, Mr. Thomas, DA Barnes and OTS Director Don Clay, and Clay fought so hard against a knee-jerk section 9 policy that OGC staff who were in attendance later sent him flowers. We thank you too, Don.

We look forward to hearing a response to the staff from the administration on this matter.

NFFE RECOMMENDS SOLUTIONS TO CBI/PERFORMANCE CONFLICT

Representatives of NFFE met with OPTS management on March 5 to request action to improve confidential business information (CBI) handling procedures. Staffers in OPTS must handle large volumes of CBI in processing premanufacturing notices for new chemicals that are required of industry under section 5 of TSCA. NFFE pointed out that employees in OTS are often put in the position of either bending the rules on CBI or not meeting deadlines and performance requirements.

Bill Coniglio, president of Local 2050, Bob Carton, Otto

Guttenson and Lois Dicker, all of the Chemical Review and Evaluation Branch, met with Marcia Williams, Deputy Director of OPTS, Linda Travers, Acting Director of the Information Management Division, and Mary Lou Uehlig, Assistant to the Office Director. The NFFE representatives cited difficulties in handling CBI material, including lack of secured areas, inadequate copying facilities and lack of filing space. NFFE recommended that minor CBI violations be removed from personnel records and OPTS consider:

- o updating the existing CBI manual with employee input
- o providing secured areas and filing for all employees
- o providing a secured system for CBI, including receipts
- o providing appropriate photocopying facilities

The NFFE reps noted that Irv Baumel, Director of the Health and Environmental Review Division, has concurred with some of these recommendations.

Marcia Williams emphasizes that in case of conflicts, CBI regulations take precedence over deadlines, meetings, etc., and that managers should take this into account in performance evaluations.

Further discussions between the union and management on this issue are expected.

LOBBYING

Bill Coniglio and Bill Marcus joined NFFE reps from around the nation in this year's two-day visit to Congress. This year's focus was to campaign against the Administration's plans to make the Civil Service a less attractive career. Rep. Mary Rose Oaker told the NFFE people that "I've never seen a more concerted and vicious attack on the federal worker. There is little more they could put forward to hurt you more than this Administration's proposal does". Marcus and Coniglio report that Congressional resistance to Reagan's proposals looks solid.

NFFE National has put together a brochure on the union's position on issues dealing with the Civil Service that are now before Congress. If you would like a copy, contact Coniglio or Marcus.

A Note From The Field: Janette Lambert, NFFE Local 1205 president, representing non-professionals in Region VII, reported an example of intimidation that management perpetrated during attempts to organize professionals in that Regional Office. Division directors showed up at a meeting to which eligible professionals were invited and took down the names of those attending. (It looks like the Administration thinks it can get away with jerking our brothers and sisters around out

in the regions, out of sight of the national media. No dice!
We're all in this fish bowl together!)

CONTRACT AND BY-LAWS

We are on track with contract development. Our proposals, which are available for bargaining unit perusal, will go to the administration on March 28, and we expect to start negotiations during the first week of April.

When agreement is reached between the union and management on the contract, it will be presented to the membership for ratification. If you want a say in its content, join the union!

The Local's Constitution and By-laws will complete their first round of executive board review soon. A ratification vote will be held on the draft document at the April 4 meeting at noon in M-2409.

FISH BOWL FORUM

Dr. Sheldon Samuels of the Industrial Unions Department, AFL-CIO, will talk on his union's view of TSCA at noon on March 27 in M-3908. Dr. Samuels' presentation is titled "Rationalizing the Irrational--A View of TSCA", which hints of less than complete satisfaction with either the law itself or EPA's record of administering it, or both. It should be a yeasty and enlightening seminar!

We hope to be able to send a Local 2050 rep to address the AFL-CIO committee that is working on recommendations for changes in TSCA.

Former Congressman Bob Eckhardt and Dan Bishop, a Monsanto Co. rep, are two speakers who have agreed to participate in a Fish Bowl Forum on the implications of Bhopal for the chemical industry, the regulatory community and society at large. We're still working on filling out the panel with other speakers. A date for this Forum has yet to be set.

EDITOR'S NOTE

After a March 7 speech to EPA employees by Joshua Lederberg, Nobel Laureate, NAS Member and President of Rockefeller University, someone asked Dr. Lederberg if he thought that equal expertise in risk assessment resided at EPA and OMB. When the applause and cheers died down, he replied, and his reply was indicative of the unfortunate attitude that prevails in certain circles about EPA professionals. It was: "Well, both agencies certainly have access to equal expertise---".

Apparently in President Lederberg's opinion the only expertise in risk assessment that counts for anything lies outside EPA.

Give us a break, Josh!

Inside The Fish Bowl is the official newsletter of Local 2050, National Federation of Federal Employees. It is produced by the editorial board of the Local under the direction of the vice president for Public Information. The editorial board solicits articles and news items from the professional community of EPA.

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Local 2050



FEB 15 1985

An Open Letter to the Hon. Lee M. Thomas

The undersigned members of your staff are deeply concerned about the Agency's announcement on February 1, 1985 that we have changed course on regulating asbestos under the Toxic Substances Control Act (TSCA).

In 1973, before TSCA was enacted, EPA began its regulatory investigation of asbestos and by 1979 had published an Advanced Notice of Proposed Rulemaking announcing intent to remove asbestos from commerce under TSCA authority, where warranted. By early 1984, following updated analyses of risks associated with four asbestos products, two rules -- one to ban those products and one to gradually phase out asbestos production -- had been drafted. The rules contained an analysis of regulatory options --including use of other agencies' laws -- which showed that only section 6 of TSCA would adequately protect public health. Referral of asbestos risks to the Occupational Safety and Health Administration (OSHA) and the Consumer Product Safety Commission (CPSC) under section 9 of TSCA was expressly ruled out. All levels of EPA management concurred. The rules were sent to the Office of Management and Budget (OMB) for review in August 1984.

Then, under what can only be described as incredible circumstances, EPA announced that, contrary to all previous findings, section 9 of TSCA would be invoked. The implications of this invocation are serious -- if OSHA or CPSC publish even an Advanced Notice of Proposed Rulemaking, which could remain unacted upon indefinitely, EPA is prohibited from taking further action under TSCA.

These implications stir painful memories and raise the question whether the "Ship called EPA", that Bill Ruckelshaus and Al Alm attempted to right, is once again in danger.

We want you to know that our disappointment in this matter is not with you nor with Agency management, except insofar as EPA resistance to intrusions of the Office of Management and Budget (OMB) into the open, public notice-and-comment rulemaking process has apparently been ineffective. We want you to know that we are your allies in efforts to restore that process to its rightful status. Your response to employees' concerns that the EPA unions brought to your attention last year demonstrates your integrity and your concern for our working conditions.

This recent retreat on regulating asbestos is -- at its core -- a working conditions issue for us. We take our work in public health and environmental protection -- and our oath to faithfully serve the public interest -- very seriously. The retreat on asbestos makes a joke of our work and represents a threat to the public interest.

Our work becomes a hollow gesture of placating public anxiety about risks when it is subverted. Scientific and legal analyses of the risks from asbestos were carefully done, including analyses of the authorities of OSHA and CPSC to control those risks. The public needs to know as we at EPA do, that both OSHA and CPSC have had authority all along to regulate portions of the risks that are the subject of the two TSCA rules recently deferred, and communications among the three agencies led to a determination by all the parties that EPA's draft rules would be complementary to any action the other two might take. Furthermore, OSHA has already made clear that the level of risk control that would be applied short of a ban would still be inadequate to protect public health to an acceptable degree.

Thus, a great deal of first rate professional work by the EPA staff and management team, including an explicit analysis of the implications of section 9 of TSCA, which showed inadequate authority under other Agencies' statutes, has been declared invalid by the retreat. It is an outrage.

It is outrageous, especially, because no explanation worthy of the name has been given. The assertion made on February 1, 1985, that section 9 had just been discovered to apply in this case, is an insult to our intelligence and to the public's.

Failure to give a clear explanation of how this risk control decision was made leaves us demoralized and questioning the value of public service work in risk control, and it calls into question the feasibility of continuing "fish bowl" decisionmaking on risk control.

If all future decisions on risk control are to be made by OMB in private consultations with special interests who are not identified in the public record, what is the meaning of our work? What is the public getting for the money spent at EPA? Are we to be simply a preliminary screening group, whose task is to present options to OMB and its unknown clients, and then to await their decisions and execute them?

We did not come to work for EPA to do that, and neither, we think, did you.

Your faithful staff