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HEADLINE: Ohio popcorn plant workers say flavoring hurts lungs

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BODY:

Washington - Popcorn is a source of civic pride in Marion, Ohio, home of a yearly popcorn festival, a museum that claims the world's largest popcorn popper collection, and a factory that makes ACT II and Orville Redenbacher's microwave popcorn.

Marion's popcorn industry has also been a source of lawsuits when workplace inhalation of the powdery butter flavoring that coats microwave popcorn was linked to a potentially fatal lung disease called bronchiolitis obliterans, which inflames the lungs and results in severe, permanent shortness of breath. The first Ohio lawsuit was filed in 2003.

The disease hasn't killed anybody at Marion's ConAgra plant, but dozens of current and former employees who claim lung damage have sued makers of the butter flavoring, called **diacetyl**. Lawyers are interviewing more than 200 additional potential plaintiffs from the factory, which employs 250.

Allen Miller, 40, of Upper Sandusky is among those who sued. He says he quit working at the factory last year because he became sick after five years of inhaling buttery fumes.

"I hurt all the time," says Miller. "My breathing gets real heavy. I never used to have problems getting up and down flights of stairs, and now I do."

"There were days when I'd wake up and not be able to breathe for hours," Miller said.

Another plaintiff, Brent Stevens, 32, of Galion, still works at the Marion popcorn plant even though respiratory problems have forced him to give up playing basketball with his kids.

"I am one of the least severe cases - some of the others can barely breathe" says Stevens, who stays on because the factory pays relatively well. He says most workers make about \$10 an hour.

Stevens and Miller both worked at the plant before many of its flavor-handling precautions were implemented.

Hundreds of lawsuits being filed nationwide

Elsewhere in the country, more than 200 lawsuits have been filed by workers at other plants that use diacetyl. Plaintiffs won four of the five cases that went to trial, receiving damage awards that ranged from \$2.7 million to \$20 million. Other cases, including several filed by Marion's ConAgra workers, were settled for confidential amounts. The cases filed by Miller and Stevens are set for trial in May.

Among Marion's workers, problems seem worst for those who mixed flavors from open containers in the plant's slurry room, where a 2003 National Institute for Occupational Safety and Health investigation of the plant found high airborne concentrations of diacetyl.

A significant proportion of those who test-microwaved popcorn all day on the plant's quality control line also have difficulties, says Blake Dickson, a Cleveland-based attorney for Stevens, Miller, and more than a dozen other workers at the Ohio factory.

Upon learning of hazards associated with diacetyl, ConAgra installed a new ventilation system in the plant. It isolated the slurry room from the rest of the plant and now requires anyone who works with diacetyl to wear a respirator, says company spokeswoman Stephanie Childs.

"ConAgra has taken steps that go above and beyond NIOSH recommendations to protect employees' health," Childs said. She said diacetyl occurs naturally in butter and popcorn customers aren't exposed to it at harmful levels.

Scholar calls flavoring 'extremely dangerous'

But David Michaels, who heads the George Washington University School of Public Health's Project on Scientific Knowledge and Public Policy, calls diacetyl "extremely dangerous" and says it should be banned. He notes diacetyl was approved for food use based on studies that examined oral consumption, not inhalation.

"There is compelling evidence that it is dangerous in the workplace at low levels and there is no evidence that breathing diacetyl at home is safe," says Michaels, who has asked the Food and Drug Administration to revoke federal approval of diacetyl as a safe food ingredient and asked the Occupational Safety and Health Administration issue to emergency standards to protect workers who handle diacetyl. Both federal agencies are reviewing his requests.

Another federal agency with jurisdiction over diacetyl, the Environmental Protection Agency, has completed a study of airborne emissions from microwaved popcorn but won't release its results until next year, an agency spokeswoman said.

Jackie Nowell, who heads the United Food and Commercial Workers union's occupational safety and health office, agrees the substance should be banned. Because of its widespread use in food, she estimates tens of thousands of workers have been exposed. She fears they might not connect diacetyl to lung problems because the link hasn't been widely publicized. Her union does not represent the Marion workers.

None of the Marion lawsuits name ConAgra as a defendant. Instead, they seek damages from companies that sold the flavoring to ConAgra - Givaudan Flavors Corporation of Cincinnati and International Flavors and Fragrances Inc. of New York. The lawsuits argue those companies knew the dangers associated with the product and didn't alert ConAgra. Spokesmen for Givaudan and International Flavors and Fragrances declined comment on the lawsuits.

Diacetyl common, used for 50 years

However, Givaudan spokesman Jeff Peppet stressed that diacetyl is a common flavoring that has been used for more than 50 years in food products ranging from confectionery to spices, snacks and prepared foods. He said it occurs naturally in more than 100 different foods, like butter and cheese, several fruits and vegetables, and wine and beer.

FLAVORING, from A14

"Givaudan is not aware of any information that suggests diacetyl is unsafe for consumption," Peppet said.

John Hallagan, general counsel for the Flavor and Extract Manufacturers Association, says butter flavorings like diacetyl are easier to use in large-scale manufacturing than real butter, and that several companies sell diacetyl-free butter flavorings.

He said the flavor industry became the target for diacetyl-related lawsuits because many states ban employees from suing their employers if they've filed workman's compensation claims. He said flavor manufacturers learned of workplace safety issues involving diacetyl when NIOSH began investigating problems in 2001, and immediately instituted safety measures.

Diacetyl was linked to bronchiolitis obliterans after eight former workers at a Gilster-Mary Lee microwave popcorn factory in Jasper, Mo., developed the rare lung disease between 1992 and 2000. Federal officials from NIOSH found similar issues at other factories and recommended changes in how diacetyl should be handled.

Lawsuits have abounded at each facility where bronchiolitis obliterans was diagnosed. Missouri attorney Ken McClain handled many of the lawsuits that stemmed from the problems in Jasper, and is representing diacetyl plaintiffs in Missouri, Ohio, Iowa, Illinois, Maryland, Wisconsin and Minnesota.

He says several of the workers who handled diacetyl needed lung transplants, and a few have died. Exposure to the chemical causes eye and skin irritation, in addition to lung problems.

"Nobody has tested these flavors, except on the humans in these plants," said McClain. "A real tragedy is unfolding here."

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GRAPHIC: TOM E. PUSKAR ASSOCIATED PRESS Allen Miller, sitting in his Upper Sandusky home, is one of dozens of plaintiffs in a lawsuit filed against the maker of a butter flavor that the suit blames for a disabling lung disease suffered by some workers at ConAgra's popcorn plant in Marion, Ohio.

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