



7-12-OSHA
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Interoffice Communication

To C. W. Clower

From O. R. Barresi

Date April 16, 1981

Subject Occupational Safety and Health Administration, Subpart H,
Hazardous Materials Informal Public Meeting

The Occupational Safety and Health Administration is planning to revise its safety standards concerning hazardous materials which are contained in Subpart H of 29 CFR part 1910. The existing hazardous materials standard cover safety hazards associated with compressed gases, flammable and combustible liquids, including those used in spray finishing or dip tank operations, explosives and blasting agents, liquified petroleum gases, and anhydrous ammonia. On April 8th and 9th, I attended an Informal Public Fact Finding Meeting held at the U.S. Department of Labor Building, Washington D.C. The purpose of this meeting was to solicit information regarding the content, scope and format for the complete revision of Subpart H. It was an opportunity for the public to make an oral presentation and comment regarding the issues contained in OSHA's Advanced Notice for Proposed Rule-making (ANPR). Attached is the opening statement made at the meeting by Thomas H. Seymour, Director of the Office of Fire Protection Engineering and Systems Safety Standards. Mr. Seymour's statement provides a brief overview of OSHA's regulatory activity in light of Executive Order 12291 and the Regulatory Flexibility Act. It also defines the purpose and objective for a proposed revision to Subpart H. The following summarizes testimony presented during the two day meeting.

A total of twenty-three informal presentations were made by representatives of trade associations, manufacturers, public utilities and trade unions. Several manufacturers of specialty products used the opportunity to tout their own products. However, many of the major manufacturers, who would be directly impacted by any revised standard, directed their testimony to specific questions raised in the ANPR. OSHA's Advanced Notice for Proposed Rulemaking, which was published in the Federal Register, January 23, 1981, requested responses to questions relative to both "general" and "specific" issues for the proposed revision of Subpart H. Many of the questions were extremely complex and require a detailed study of individual operations, procedures and practices along with an extensive review of both consensus standards and existing OSHA regulations.

An item of primary concern, to both the refining and petrochemical industry, was question No. 14, under specific issues, which deals exclusively with oil refineries, gas, chemical and petrochemical plants. Representatives of Shell Oil Company, E. I. DuPont Co., The Chemical Manufacturers Association,

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Texas Chemical Council and the 3 M Company, each expressed their concern over the apparent attempt by OSHA to develop a "vertical standard" directed toward these industries. Safety statistics, published by the National Safety Council, E. I. DuPont, and the Chemical Manufacturers Association indicate the refining and petrochemical industries have historically recorded the lowest illness and injury frequency and incidence rate among major manufacturers in the United States. The statistics entered into the record by these organizations, does not justify or warrant any further effort by OSHA to develop a vertical standard directed toward these industries. Mr. Seymour was obviously concerned over what he called the apparent misinterpretation of the questions contained in the ANPR, and attempted to clarify OSHA's position with regard to a "horizontal" versus "vertical" standard for hazardous materials. Mr. Seymour, again, reiterated the Assistant Secretary of Labor had not as yet determined what course of action OSHA would take with regard to the revision of Subpart H. Due to the extremely favorable incidence and frequency rate, experienced within the refining and petrochemical industry, any improvement in safety statistics due to revision of Subpart H, would be negligible and the cost substantial.

Members of the United Steelworkers of America, were the only Union organization requesting an opportunity to present testimony. They were also the only group to speak against a revised standard in performance language. Their testimony contained numerous descriptive references of injuries and fatalities experienced by members of their union due to what they believe to be a lack of "specification" in many consensus standards. As a result they were in favor of and support a revised standard in "specification" language. An extensive listing of cases were entered into the record which vividly described employee fatalities resulting from exposure to molten metal and carbon monoxide asphyxiation.

It was apparent, from reviewing OSHA's Advanced Notice, that the subject of Petroleum Refinery Maintenance is still of interest to the agency. We had intended to submit into testimony (Shell Oil Co.) the recommendations contained in the Boeing Aerospace final report to NIOSH on this subject. I have reviewed a draft copy of the report which strongly discourages any further effort by OSHA or NIOSH to specifically promulgate a Refinery Maintenance regulation. During the two day hearings, OSHA representatives raised numerous questions concerning contractor injury statistics and safety training requirements for contractor employees. It was evident that little statistical data exists relative to injury statistics involving contractor personnel. OSHA, however, has reason to believe that, in general, these statistics are considerably higher than the manufacturing industry.

It was obvious from the testimony presented that OSHA has apparently misdirected its priorities in light of Executive Order 12291. OSHA received

several negative comments for its effort to revise Subpart H in deference to other higher priority safety and health standards, such as Lock-Out, Tag-Out, and procedures for insuring personnel safety in Confined Spaces. OSHA representatives also expressed an interest in industry use of Material Safety Data Sheets. Most major manufacturing representatives, testifying at the hearing, do make Material Safety Data Sheets readily available to personnel handling hazardous products.

OSHA also received several comments and suggestions relative to the concept of System Safety Analysis. Among the various concepts in use today are: Hazard Analysis, Failure Analysis, Failure Modes and Effects, and Fault Tree Analysis. The president of the System Safety Society provided testimony which indicated the concept, though extremely useful, was costly and required a high level of technical expertise to be effective. OSHA also received several comments questioning the use and reliability of personal and area monitoring equipment. Several examples were given of equipment failure due to environmental contamination and temperature extremes. OSHA apparently has an interest in requiring monitoring equipment for chlorine, carbon monoxide and large vapor cloud releases. Testimony indicated maintenance of this type of equipment has become extremely costly and in some cases prohibitive. Another major area of concern, expressed by Mr. Seymour, were plant expansions and modifications which apparently compromise adequate spacing requirements. The resulting congestion and infringement upon plant property lines (process equipment and tank farms) increase the potential risk to adjacent residential areas in the event of a vapor cloud release.

Due to the numerous requests received by OSHA it is likely the comment period will be extended approximately 30 days beyond the normal 180 day period. If OSHA does however elect to proceed with the revision of Subpart H, it must publish in the Federal Register a Notice of Proposed Rulemaking (NPR). If this occurs the Refining Department will prepare and submit appropriate responses to this action. OSHA will also be required to hold formal hearings and again accept testimony relative to the rulemaking procedure.


O. R. Barresi

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Attachments

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