

benefit. This system, the report said, does not warn the worker of all hazards because it does not assign graduated relative equivalent levels of risk and because it does not convey the warning of all hazards.

►The "Recommended System for the Identification of the Fire Hazards of Materials" developed by the National Fire Protection Association. The draft said that this system is limited in scope and lacks detailed format for data on specific hazardous materials. Although the NFPA system's attention to the effects of combustion or decomposition was not relevant to workers not exposed to combustion products, the document said, the concept of assigning relative ratings for relative risk was "a useful one" and was used in the NIOSH recommended standard.

►The "Labels and Precautionary Information" system developed by the Manufacturing Chemists' Association. This system, the draft said, recommends the use of precautionary labels, bearing such information as the product name, the degree of hazard, precautionary measures, and instructions for handling and storage. The document said that this system does not provide for the preparation of data sheets for products or a numerical rating system. However, worker-oriented statements contained in the LAPI system were "effective" and were used in the NIOSH recommended standard, according to the draft.

Placard and Label Wording

Drawing on appropriate features of some of these systems, the NIOSH recommended standard said that a placard may be large or small, depending on its intended area of effectiveness, and that it may contain a hazard symbol only, a hazard symbol and label statements, or only label statements.

A label, it said, should include the trade name of the product, or be positioned near the trade name, should be sized and separated so as to be readily identified as a warning, and should be as legible as any other printed material on the container, excepting the product name. The label should bear a hazard alert symbol, statements on the nature of the hazard, appropriate action statements, first aid statements if useful, unusual treatment for overexposure if required, clean-up statements, relative numerical ratings and associated key words, appropriate amplifying and precautionary statements, and a reference to the appropriate data sheet. If colored, the label should use the same color format as for a placard.

The measures detailed in the draft document would help in the education of employees and provide necessary data for employers to take proper action to safeguard employees, the draft said.

Appropriations

PRESIDENT FORD SIGNS LABOR-HEW APPROPRIATIONS; WILL SUBMIT DEFERRALS

The conference committee report on appropriations for fiscal 1975 for the Departments of Labor, and Health, Education, and Welfare was signed into law by President Gerald R. Ford on December 9.

The Senate and House approved the conference report on November 26 (Current Report, December 5, p. 781).

In his statement on signing the bill, the President noted "further review of mandatory public assistance spending will confirm the need for significantly higher spending than provided for in HR 15580. In the meantime, I will submit, as expected by the report of the conferees, deferrals to restrain spending for discretionary programs under this bill."

Health Hazards

NIOSH CLARIFIES REPORT ON MBK, MEK; REPORT REFERS TO SPECIFIC PLANT INVOLVED

Recommendations of the National Institute for Occupational Safety and Health on the use of methyl butyl ketone (MBK) and methyl ethyl ketone (MEK) were intended to pertain specifically to the Columbus Coated Fabrics plant in Columbus, Ohio, Dr. Bobby Craft, deputy associate director for Cincinnati operations, NIOSH, told OSHR.

Craft denied any interpretation of the report that would indicate NIOSH has taken the position that the cited substances should be banned (Current Report, November 21, p. 731).

As stated in the report, no cases of peripheral neuropathy have been reported at the plant since the use of MBK has been discontinued, Craft said. Initially it was recommended that serious consideration be given to discontinuance of MEK also. Although animal research is continuing, no evidence has yet implicated MEK as a peripheral neurotoxin. Until such evidence is available, NIOSH recommends that the federal standard of 200 ppm be maintained (Reference File 31:5301).

Chemicals

OCAW ASKS ENGINEERS IN INDUSTRY TO GIVE DATA SECRETLY TO UNION

Engineers working in industry were asked to give information surreptitiously to the Oil, Chemical, and Atomic Workers Union by OCAW citizenship-legislative director Anthony Mazzocchi on December 4.

Speaking to the American Institute of Chemical Engineers, Mazzocchi said that the union had been unable to obtain information from management on the materials to which workers are exposed and the hazards they may encounter.

"Those who know don't tell. Those who don't know, are victims," the OCAW official charged. He added that there are no monitoring devices in most cases, little regard is paid to the environment of the workplace, maintenance is secondary to productivity, and the situation therefore tends to deteriorate with time.

Because workers have been denied information such as the generic name of chemicals with which they work, Mazzocchi suggested that engineers should turn such information over to the union secretly. Doing it publicly might risk their jobs, he said.

Many hundreds of thousands of workers die each year as a result of occupational exposures, Mazzocchi said, contending that official figures, which indicate about 100,000 deaths, underestimate the situation.

Referring to the discovery of health hazards caused by long-term exposure to vinyl chloride, the union official said that prudence should have dictated not using vinyl chloride until all the facts were known about it. "All technology must be considered guilty until proven innocent" if people are to be protected, he said.

Predictive Testing

Myra Karstadt, a staff member of the Office of Technology Assessment, a recently organized congressional agency, reported that OTA is considering a study on the predictive testing of chemicals for their adverse health effects. The Senate Commerce Committee has requested such a study in connection with consideration of the proposed Toxic Substances Control Act (S 426). The study would con-

cern prediction of hazards such as carcinogenesis, mutagenesis, and teratogenesis.

The proposed study has not been accepted yet by the Technology Assessment Board, which considers which projects OTA can undertake with the staff and funds available. Karstadt said the proposed study is "a catch-up situation," in the sense that it should have been performed years ago. She said the results could be used to improve the proposed legislation, in the event it has not been enacted in the meantime, or to aid administration of the legislation by the Environmental Protection Agency. She expressed the hope that the bill will be enacted this year even though this Congress is drawing to a close.

Sidney Wolfe, of the Health Research Center, commented that the data indicating the need for technology assessment comes in most cases from workers, because they usually are more exposed to hazards than the general public or consumers of products.

He accused industry physicians of regarding the company as their clients rather than the workers who are patients. He also said that medical school training on occupational health "is miserable," which makes most doctors unable to diagnose the occupational causes of illnesses.

Noise

OSHA EXTENDS TIME FOR COMMENT ON PROPOSED WORKPLACE NOISE RULE

The time for comment on the occupational noise standard proposed by the Occupational Safety and Health Administration was extended from December 9 until January 22, 1975.

The standard proposed by OSHA would set a 90 dBA limit for an eight-hour time weighted average and would require audiometric testing (Current Report, October 24, p. 587). The proposed standard is coming under fire from several quarters. Organized labor and the Environmental Protection Agency both want the limit lowered to 85 dBA (Current Report, December 5, p. 779).

Of the first 40 comments received by OSHA on the proposed standard, 16 requested additional time to submit materials. The additional time requested ranged from 13 to 120 days. OSHA extended the time for comment "in view of the complexities of the issues raised and the breadth of application of the proposed standard."

Written comments and objections regarding the proposed standard should be submitted to the Docket Officer, Docket OSH-11, OSHA, Room 230, 1726 M St., NW, Washington, D.C. 20210. Such data, views, and arguments will be available for public inspection and copying at that address.

Coal Mines

UMW PACT WITH BCOA DOES NOT SATISFY ALL UNION SAFETY DEMANDS, TRBOVICH SAYS

The United Mine Workers of America is not completely satisfied with mine safety and health provisions of the new three-year pact between the union and the Bituminous Coal Operators Association signed on December 5, UMW Vice President Mike Trbovich told OSHR.

The agreement, approved by a 56 percent majority of the union's membership, calls for guaranteed access of UMW officials to coal mines and the guaranteed right of individual miners to withdraw from an unsafe workplace (Current Report, November 21, p. 741). Detailed provisions in the

agreement relating to mine safety and health are in the Full Text section of this report.

Specifically, Trbovich expressed dissatisfaction with section (p) of the health and safety article which requires arbitration of safety and health disputes with the mine operators. "Where safety issues are involved, we should be able to close the mines immediately without going through the 'mickey mouse' of arbitration," he stated.

While conceding that significant improvement in coal mine safety should result from the pact, Trbovich indicated that the union will continue to press for additional safety and health measures in years to come. Among the safety features which Trbovich would like are:

- A comprehensive safety education program at the minesite level.

- Safety inspectors paid by the union at every mine site.

According to Trbovich, the economic package of the agreement was a major factor in limiting the satisfaction of safety and health demands of the union.

There was no pressure from the Government to end the strike of UMW membership which began on November 12, he said. He denied that UMW President Arnold Miller issued an ultimatum to the union bargaining council to approve the proposed agreement and bring it to a vote of the full UMW membership.

"We were certainly aware, however, that some members of the council fought against the agreement 'tooth-and-nail' in the field," Trbovich said.

Day Appointment

The new pact in no way alters the union's violent objection to the confirmation of James M. Day as administrator of the Mining Enforcement and Safety Administration, Trbovich stated. Union opposition to Day was voiced last May when key members of the Senate Labor and Public Welfare Committee were notified by Miller that the proposed appointment was unacceptable to the UMW. (Current Report, May 16, p. 1593).

Day's nomination as MESA administrator was resubmitted to the Senate by President Ford last month.

While conceding that Day had made gains in coal mine safety, Trbovich stated that his lack of background in mine safety and "deviousness" make Day strongly distrusted by the union.

"There are plenty of men within the Bureau of Mines who could do an infinitely better job," Trbovich said.

The UMW would oppose any move to transfer MESA from the Department of the Interior to the Occupational Safety and Health Administration, he said.

Agriculture

STANDARDS ADVISORY COMMITTEE MAKES RECOMMENDATIONS FOR TOOLS, SANITATION

Recommendations for federal standards for field sanitation facilities and hand tools and hand-held power tools were made by the Standards Advisory Committee on Agriculture during a meeting in Dallas, Tex., on December 4-5.

If adopted, the field sanitation recommendations would require employers to provide drinking water and toilet and handwashing facilities for workers engaged in agricultural work in the field. For nine or fewer workers, facilities would not be required in close proximity to the work area, but should be "conveniently available."

Where 10 or more workers were concerned, the employer would be required to provide at least one toilet and

handwashing facility for each 40 workers or fraction thereof, located within a five-minute walk from the work area. If compliance were made impossible by geographical conditions, toilet and handwashing facilities could be located "at the point of vehicular access closest to the workers."

Toilet facilities, the committee recommended, could include fixed or portable units and could consist of waterflushed toilets, chemical toilets, or sanitary privies. Employers would be required to keep all toilets clean and in good working order. Water-flushed toilets should be constructed and maintained in accordance with Section 1910.141 (c) (1) (iii) and (v), (c) (2), and (c) (3), and portable toilets with Section 1910.143, according to the recommendations.

Recommendations for handwashing facilities included these: sufficient potable water, a cleansing agent, single-use hand towels, and disposal containers should be provided; waste water should be disposed of in a way not creating a health hazard; separate taps for washing and drinking water should be provided and marked; and handwashing facilities should be located in the immediate vicinity of the toilet facility.

Drinking water, the committee recommended, should be potable and safe for use. Water piping systems, containers, fountains, and single service cups should be maintained in a clean and sanitary condition. Any food dispensed in the field should be wholesome and free from contamination or spoilage.

Hand Tools

In regard to hand tools, the committee recommended that employees be made knowledgeable in the use and hazards of unfamiliar tools and that only tools which may be easily and securely gripped and controlled be used. Personal protective equipment, holsters for sharp tools, and safe storage facilities were recommended.

Hand-held power driven tools, according to the recommendations, should be stopped when not in use, have controls located to prevent accidental operation, and be grounded. Projections, blades, and abrasive wheels should be guarded.

The recommendations covered a variety of power driven tools, such as handsaws, grinders, impact tools, and staplers. Included also were internal combustion engine powered tools, which should be stopped while being fueled, should be equipped with mufflers, and should be free of leaks in the fuel system, the recommendations said.

Recommendations were made also for the inspection, servicing, and load-rating of jacks.

Other Discussions

Discussions of noise hazards, ladders, and airborne hazards were held also during the meeting. In connection with noise research, the committee toured the Callier Center for Communication Disorders while in Dallas.

Presentations were made by the Migrant Legal Action Program (field sanitation) and by Michigan Legal Services (ladders and airborne hazards).

The next meeting of the committee is scheduled tentatively for February 5-6 in Washington, D.C.

Vinyl Chloride

END-OF-SERVICE-LIFE INDICATORS WILL NOT BE REQUIRED UNTIL JUNE 30

Cartridge and canister-type respirators without end-of-service-life indicators will be accepted for certification by the National Institute for Occupational Safety and Health until June 30, 1975.

They will be certified for use only through December 1975, and must be adequate for 150 percent of the time specified.

If a respirator is to be used for four hours, it must, therefore, be adequate for use for six hours, according to a NIOSH spokesman. The spokesman said because of the unavailability of needed respirators with end-of-service-life indicators before January 1975, NIOSH will certify respirators without the indicators in order to make the standard enforceable.

Vinyl Chloride

SECRETARY WILL EXPEDITE APPLICATIONS FOR TEMPORARY VARIANCES FROM VC STANDARDS

The Secretary of Labor will address expeditiously all applications for a temporary variance from the vinyl chloride standard, the Justice Department, for the Department of Labor, said on December 9, in a brief in answer to various suits filed by industry against the standard.

The brief includes the Government's answer to arguments made against the standard by industry in the U.S. Court of Appeals for the Second Circuit (Current Report, November 7, p. 651).

The brief states also that with respect to the claimed unavailability of respirators, the Secretary will consider all applications for a temporary variance order on an expedited basis and will grant or deny interim orders to those who apply "in the shortest time consistent with reasoned decision."

The final vinyl chloride standard is justified fully by the facts of record, the Government stated. Referring to exposure limits, the brief said "it is also known that when establishing safe levels of human exposure to simply toxic but nonmalignant chemicals it is considered sensible and good practice to specify a safety factor of at least 100 times less than the concentration which did not cause any ill effects on laboratory animals. Some suggestions, including those advanced from industry, recommended that one take the lowest level at which any response occurs and divide that by roughly 5,000. With VC, a no-effect level has not yet even been demonstrated for laboratory animals, let alone for man," the brief stated.

Feasibility

The brief continued "the Secretary was under no false illusions as to the effort which would be required for industry to engineer down to 1 part per million. He correctly found on the record evidence that the effort especially for PVC manufacturers, might take years, and even then not every worker might be assured of adequate protection without the use of a respirator. But he was also aware of the fact, again amply supported by the record, that initial industry efforts by those most vigorous had resulted in substantial reductions in vinyl chloride exposure, indeed, for some job classifications the permissible exposure level had already been reached. That much could be done by way of technological innovation was apparent. But Congress had mandated that it be done, and industry had given a commitment to exert its fullest technological effort. The Secretary was free to take both at their word."

Respirators

The Government stated respiratory protection has "drawbacks." "But absent engineering and work practice advances there is nothing else to protect workers against vinyl chloride concentrations in excess of the permissible level, and thus no other adequate protection to counter vinyl chloride's carcinogenic hazard."

In addition, the brief said "few among the many hundreds of thousands of workers in fabrications, processing, and compounding of VC will need respiratory protection. Much of that segment of the industry is already below the one ppm permissible level. Its inclusion in the standard is justified since there have been two confirmed deaths from angiosarcoma of the liver among fabrication workers, not all of those plants are below the 1 ppm level." Also, "the universe of anticipated respiratory use is quite narrow," and at most a total of 6,500 workers will need this protection.

Again addressing feasibility, the Government stated "it comes as something of a surprise that industry should claim the Secretary has acted unconstitutionally in imposing as a requirement what industry committed itself to accomplish . . . the vinyl chloride standard contains the built-in escape hatch that industry is obligated to achieve only what its best efforts prove feasible of achievement. That is a criterion capable of enforcement . . . The constitutionality of the standard is beyond reproach."

IUD Intervention

George H. Cohen, Bredhoff, Cushman, Gottesman & Cohen, representing the Industrial Union Department, AFL-CIO intervention in the case (Current Report, October 31, p. 22) filed a brief in support of the standard. The brief stated "on the basis of the best available evidence, the Secretary exercised reasoned judgments in promulgating the instant standard," and Cohen recommended the standard be affirmed on review.

Oral argument in the case is scheduled for December 13. The Society of the Plastics Industry, Inc., heading industry's argument against the standard, filed petition for stay of the standard with the Second Circuit after receiving no response from OSHA on the same motion (Current Report, December 5, p. 784).

Variances

ALLIS-CHALMERS APPLIES FOR RULE VARIANCE, RECEIVES INTERIM ORDER

Allis-Chalmers Corporation, West Allis, Wis., received an interim order from the Occupational Safety and Health Administration on December 10, pending final action on the firm's application for a permanent variance.

The company is seeking a variance from the requirements in 1910.107 (b) (5) (i) concerning spray booths dry type overspray collectors.

The OSHA announcement of application for variance and grant of interim order appears in the Full Text of this report.

Variances

VESTAL MANUFACTURING RECEIVES OSHA VARIANCE FROM DIP TANK RULE

Vestal Manufacturing Company, Sweetwaters, Tenn., was granted a variance from the requirements in 1910.108 (c) (3) by the Occupational Safety and Health Administration on December 4.

The standard requires bottom drains in dip tanks of over 500 gallons liquid capacity. OSHA determined that the company's work procedure would provide a degree of safety equal to or greater than what would be achieved if the standard were complied with.

The variance will appear in a future supplement to the OSHR Reference File.

Litigation

COAL OPERATORS ASK HIGH COURT REVIEW OF SAFETY COMPLAINT CASE

The Kentucky Carbon Corporation and the Bituminous Coal Operators' Association are seeking review by the U.S. Supreme Court of a decision of the U.S. Court of Appeals for the District of Columbia Circuit that held the anti-retaliation provision of the Federal Coal Mine Health and Safety Act applicable to a coal miner's safety complaint to his foreman and the mine safety committee.

The case, listed on the High Court's docket as *Kentucky Carbon Corporation v. Interior Board of Mine Operations Appeals*, was filed November 21 and has been assigned docket number 74-623. The circuit court's decision was titled *Franklin Phillips v. Interior Board of Mine Operations Appeals* (2 OSHC 1017; Current Report, June 27, p. 89).

The petition for review asserted that the case "involves an important issue of first impression . . . which . . . affects thousands of persons in the coal industry as well as persons in other industries." The statutory provision in question, Section 110 (b) (1) of the Federal Coal Mine Health and Safety Act, prohibits retaliation against an employee for exercising his rights under the Act. Similar provisions appear in Section 11 (c) (1) of the Occupational Safety and Health Act, in the Fair Labor Standards Act, and the National Labor Relations Act, the petition notes. The circuit court's decision is not supported in the language of the statute or its legislative history, the petition continued, and is contrary to accepted principles of judicial review of administrative actions. Therefore, exercise of the High Court's supervisory power is appropriate, the petitioners argued.

The court will decide whether to accept the case for review after the Government and complainant Phillips have had an opportunity to respond to the petition.

Enforcement

INTER-AGENCY AGREEMENT DOES NOT INVALIDATE INSPECTION, OSAHRC RULES

The Labor Department's failure to follow an agreement with the Department of Transportation's Federal Railroad Administration (FRA) does not invalidate an inspection of a railroad yard by a DOL compliance officer, the Occupational Safety and Health Review Commission ruled.

The commission's 2-1 decision in *Union Pacific Railroad Company* (No. 1697, decided November 26) affirmed a ruling of Review Commission Judge Jerry W. Mitchell.

Following an inspection of its railroad yard office at Pocatello, Idaho, Union Pacific contested three alleged violations of fire extinguisher and egress standards. The railroad contended that the citation should be vacated because Section 4 (b) (1) of the Occupational Safety and Health Act exempts the railroad industry generally from the Act, and because the inspection was conducted without any participation by the FRA, allegedly in violation of the agreement with DOL.

Judge Mitchell rejected the railroad's claim to industry-wide exemption, finding that the statute requires exercise of the agency's authority, and that the FRA had no regulations governing the cited conditions. He also concluded that the conduct of the inspection was not affected by the inter-agency agreement because the Labor Department had jurisdiction over the working conditions involved, and, according to the memorandum, would have conducted the in-

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spection by itself in an event. The agreement was only for the purpose of coordinating activities of the two agencies, the judge said, and could not create any new rights or responsibilities for the employer, or alter the agencies' statutory authority.

Upon review by the full commission, the majority, speaking through Commissioner James F. Van Namee, affirmed the judge's decision in all respects. Judge Mitchell's ruling on the jurisdictional matter was affirmed on the basis of the commission's recent decision in *Southern Pacific Transportation Company* (2 OSHC 1313; Current Report, November 21, p. 731). Van Namee also specifically approved the judge's ruling on the inter-agency agreement. Chairman Robert D. Moran issued a dissenting opinion referring to his dissent in *Southern Pacific*.

Other Cases

The *Union Pacific* case and two others were consolidated with *Southern Pacific* for oral argument before the commission (Current Report, April 11, p. 1415) but later severed. Decisions have also been issued in *Seaboard Coast Line Railroad* (No. 2802, decided (November 18) and *Penn Central Transportation Company* (No. 738, decided November 29). In *Seaboard*, a judge's decision inconsistent with *Southern Pacific* was reversed, and the case remanded for a hearing on the merits. The judge's decision in *Penn Central* was consistent with the Commission's view, but was modified to reinstate a citation that had become final because it was not timely contested. There was no dispute on the remaining charges in that case. Chairman Moran dissented from the decisions in both *Seaboard* and *Penn Central*.

All of these cases will appear in future Decisions supplements.

Enforcement

INADEQUATELY-BRACED MASONRY WALL IS GENERAL DUTY VIOLATION, OSAHRC RULES

A construction firm's failure to adequately brace a masonry wall in order to resist the force of high winds constituted a violation of Section 5(a)(1) of the Occupational Safety and Health Act but not of a specific construction standard that applies only to the design and construction of equipment and materials used in masonry work.

This 2-1 ruling by the Occupational Safety and Health Review Commission, issued November 26, involved *Tolar Construction Company* (No. 1329), a company that principally builds warehouses and shopping centers.

Tolar was issued a citation alleging a violation of the Act's general duty clause following the collapse of a masonry wall that was exposed to high winds. At the hearing before Review Commission Judge John S. Patton, the Secretary moved to amend the complaint to include a charge of non-compliance with the standard published at 29 CFR 1926.700(a). Judge Patton denied the motion on the grounds that a complaint cannot contain charges not alleged in the citation upon which it is based.

The commission majority of Chairman Robert D. Moran and Commissioner James F. Van Namee found that the cited standard was not applicable to the facts of this case. According to the majority, Tolar's failure to properly shore the wall did not violate the standard which is restricted in its application to equipment and materials, specifically the design, construction, inspection, testing, maintenance and operations thereof. "It is a general provision designed to in-

sure the proper use and care of products approved for concrete construction," Moran stated for the majority. In contrast, affording the lateral strength of a wall against the forces of wind during construction is a construction process.

Since no specific occupational safety and health standard was applicable to the facts of this case, the citation alleging a violation of the general duty clause was proper. The majority also found that the evidence supported the judge's finding of a violation of Section 5(a)(1). The construction of the masonry wall without the use of pilasters or other means of lateral strength was known in the construction industry to be dangerous and preventable.

Commissioner Timothy F. Cleary concurred in the finding of a violation but believed the violation was of 29 CFR 1926.700(a), not of the general duty clause. The majority's interpretation of the standard, in Cleary's opinion, "limiting the application of the ANSI standard to 'products' rather than interpreting it so as to include 'processes' does not heed the congressional objective of accident prevention." Cleary believes the majority's interpretation leads to an unreasonable result.

This decision will appear in a future Decisions supplement.

Noise

LABOR, INDUSTRY ATTACK PROVISIONS IN OSHA OCCUPATIONAL NOISE PROPOSAL

The Bolt Beranek and Newman study on economic impact and technical feasibility problems incurred by industry in attempts to comply with a workplace noise standard is "superficial almost to the point of being casual," according to Vernon S. McDougall, research associate, United Paperworkers International Union, Flushing, N.Y.

In comments on the noise standard proposed by the Occupational Safety and Health Administration in October (Current Report, October 24, p. 587), McDougall said the BBN report, on which much of OSHA's economic analysis of the standard is based, ignores the positive aspects of noise control expenditures and leaves the question of technological feasibility "virtually untouched."

In addition, McDougall said the standard will require all employees exposed to a daily noise dose from 0.5 to 1.0 to wear personal protective equipment, resulting in the promotion of a dual standard. Engineering and administrative controls would bring the eight-hour exposure level to below 90 dBA while personal protective equipment will be used to reduce exposures to below 85 dBA. Requirements for hearing protectors also conflict with OSHA's stated preference for engineering and administrative controls to reduce noise.

McDougall also said employees should have access to written abatement plans called for in Section 1910.95(e)(2) and said provisions for access to other records, such as monitoring and audiometric testing, and "inadequate." Sections dealing with notice of monitoring to employees are also insufficient, he said.

Engineering Controls

Requirements for feasible engineering controls would continue the present "pettifogging" about what constitutes "feasible," according to Robert E. Burt, director, environmental quality, California Manufacturers Association, Sacramento, Calif.

These provisions do not give incentive for engineering innovation in the industrial noise control area, Burt said. OSHA should provide a list of significant noise control problems with provisions for a 100 percent tax writeoff in

each case for the full cost of the first feasible solution developed in a particular area. This incentive plan would push the discovery of practical controls and would avoid unproductive industry investments by encouraging a careful study of what is feasible.

Installation of the engineering controls should be mandatory in imminent hazard situations, with variances allowed only after extensive review of individual problems. In cases where there is no imminent hazard, partial engineering controls should not be required since they will be a waste of funds where personal protective equipment is still necessary.

The CMA said the inclusion of calculating exposures to 85 dBA and protecting sensitive employees would "provide a constructive answer to those who maintain that there is a need for a lower over-all level because of the sensitivity of a few". However, a calculations should be based on an average daily noise dose to eliminate testing each time an employee is exposed to a dose of 0.5 or above.

In addition, Burt said, the definition of significant threshold shift including test frequencies of 3,000 and 4,000 Hz will result in numerous retests for employees who have age-induced hearing loss and create difficulties for long-term employees. New baseline audiogram should be taken every five to 10 years with a limit of the shift permitted between successive baseline audiograms.

Unwarranted Changes

Revisions to the present noise standard are "unwarranted" because of a lack of supportive evidence, according to Joseph C. Caporossi, industrial hygiene safety specialist, American Cyanamid Company, Wayne, N.J.

Caporossi told OSHA that its contention that a 90 dBA standard should be kept until further information is available is in contradiction with the agency's position that employees should be monitored and a hearing conservation should be initiated at 85 dBA. Industry, therefore, will collect "experimental data for the Labor Department.

In addition, Caporossi estimated that costs for monitoring and audiometric testing would be high for the affected 10 percent of the company's 22,000 employees. Time required for monitoring each employee with only one test would require 35,000 man hours or 18 trained persons for one year. Instrumentation for monitoring would cost between \$15,000 and \$20,000.

The proposed monitoring requirements would cut into coverage of the company's industrial hygiene plant, developed for the "over-all well-being of employees," Caporossi said. The company has used a "traditional" statistical approach in monitoring certain sections of the plant and applying the results to the entire work force, freeing the industrial hygiene staff to work in other problem areas of the plant.

Monitoring for each change in employee exposure and three-day notification of employees when monitoring is to take place would be totally infeasible in a chemical plant operation. Employees often work at different production processes during several days within a week and the monitoring and notification process would be impossible, he said.

Provisions allowing employees to observe monitoring would create "complete disruption" in the workplace, he added. Caporossi said the proposal would allow a work stoppage in monitored sections of the plant. Access to monitoring records should be considered sufficient for informing the employee of his exposures.

Impulse Noise

W.L. Ryan, assistant general manager-industrial regulations, Inland Steel Company, East Chicago, Ind., suggest-

ed that provisions limiting the amount of impulse or impact noise should be deleted from the standard.

The provision is "administratively intolerable," Ryan said, because many employees move about the workplace and it would not be possible to determine the impact or impulse exposure.

Ryan also said the requirement for workplace noise monitoring "at least annually" is unjustified when an environment has not changed, but agreed that monitoring should take place within 30 days after processes have been changed.

Objecting to other monitoring provisions of the standard, Ryan agreed with most other comments that three-day notification of workplace noise monitoring and provisions for employee observation of that monitoring would be "restrictive" for the employer who would not be able to make noise measurements whenever necessary.

The proposal should be changed to provide for the installation of feasible engineering controls only if there are "commensurate" benefits in sound reduction for the cost incurred.

As to hearing conservation, there is no reason for testing at 85 dBA if the noise exposure noted as safe in the standard is 90 dBA, Ryan said, urging that testing be done in individual cases. Also, provisions for a 14-hour period of exposures limited to 80 dBA and under are unenforceable since noise exposure is not limited to the workplace.

Medical Surveillance

Deletion of medical surveillance provisions recommended by the Standards Advisory Committee on Noise "places the audiometric tester as the controlling element of the industrial noise hearing conservation program," Dr. Mansfield F. W. Smith, chairman, hearing committee, American Council of Otolaryngology, San Jose, Calif., told OSHA.

Smith noted that audiometric testers, including audiometrists, nurses, and audiologists, are not qualified to diagnose the medical significance of audiograms and removal of the medical supervision requirement excludes the major protective element of the exposed worker. Medical surveillance would provide early identification and diagnosis of hearing loss, with positive corrective medical action and prevent discrimination against "hearing handicapped" workers in loud noise environments, preventing injustices to workers with defective hearing not related to noise exposures.

Available Technology

Requirements for installation of feasible engineering controls cannot be met with technology currently available in the corn milling industry, Fred H. Mewhinney, executive director, American Corn Milling Federation, Washington, D.C., said.

Mewhinney said most known methods of noise control are not applicable in corn milling operations because most solutions would make the miller liable to violating the sanitation provisions of the Federal Food, Drug, and Cosmetic Act. For sanitation, the ideal ceiling, floor, and walls should be smooth and hard surfaces which are "notoriously poor" absorbers of sound. Isolating machinists can also be unsanitary.

In addition, Mewhinney said the employers should be given the choice of whether to install engineering controls or require employees to properly wear hearing protection. "The critical missing element is the lack of potential penalties for employees who refuse or are negligent in wearing the required personal protection," he said.

Continuous Noise

E.R. Turner, administrator, Division of Occupational Safety and Health, State of Hawaii Department of Labor and Industrial Relations, Honolulu, Hawaii, urged OSHA to consider noise continuous if the variations in level involve 1 second or less, rather than the proposed limit on impulses at intervals of less than one-half second. This is a drop in protection from the present standard, he said.

Provisions for impact noise levels should include a peak sound pressure level in the A-weighted scale, such as 115 dBA. Most equipment cannot measure impact over 140 dB while it is capable of measuring values above 115 dBA and therefore, cannot measure exposures over the allowable limit.

In requesting an extension of the comment period and urging that a hearing not be held before April 24, 1975, Wayne T. Brooks, director-occupational safety and health services, Organization Resources Counselors, Inc., Washington, D.C., said a task force of the ORC safety and health standards group will analyze various provisions of the standard and will meet December 17 to consider reports of various subcommittees formed to evaluate the proposal.

Standards

OSHA RECEIVES 117 ADEQUATE STANDARDS PETITIONS, CLOSES 92 PETITIONS FILES

Some 117 adequate petitions for promulgation, modification, or revocation of standards were received by the Occupational Safety and Health Administration as of October 31.

Of this number, 49 are pending rulemaking, and 68 are being processed by the technical center to determine acceptance or rejection.

Seven petitions were received, determined to be inadequate, and are awaiting further action by the petitioner.

Some 92 petitioners' files were closed for the following reasons: 27 concerned standards that were modified, four concerned standards that were revoked, 12 were handled as clarification, seven were not applicable to the standard cited, one petition was granted, 29 petitions were denied, and 12 petitioners failed to respond to a follow-up letter.

Three standards petitions were submitted to OSHA subsequent to the last list. Xandu, Ltd., Fort Worth, Tex., petitioned for a modification of the flammable and combustible liquids tank storage standard on August 29. Bureau of Work Accident Prevention, Department of Labor, San Juan, P.R., petitioned for promulgation of a new crane safety devices standard on August 23. On September 16, Snow Machine International, Ltd., Chester, N.Y., petitioned for modification of machinery and machine guarding standards.

General Policy

OMB "INSENSITIVE" TO NEEDS OF NIOSH. CONGRESSMAN OBEY TELLS SOEH CONFERENCE

The Office of Management and Budget is "insensitive" to the budgetary needs of the National Institute for Occupational Safety and Health, and is causing frustration and delays in research efforts, Congressman David R. Obey (D-Wis) told the Society for Occupational and Environmental Health in Washington, D.C. on December 4.

If the American people understood what untested industrial and environmental chemicals may be doing to

human health, the Administration would not dare attempt to cut back research on those chemicals, Obey said.

Once this is understood, "there would be no budget problem for the Environmental Protection Agency or NIOSH, there would be no hesitancy to enforce the health provisions of the Occupational Safety and Health Act, and Congress would not dare to permit industry lobbying and differences between the two houses to almost kill a toxic substances act guaranteeing pre-testing of the most potentially dangerous chemicals," he added.

Obey said that while new revelations have made chemical hazards more apparent in the scientific community, the medical and scientific research efforts on those hazards by the Federal Government have, in some cases, actually diminished. He noted the scientists in SOEH have "a special responsibility to make their findings known to the press, and the public and to explain the social and political implications of those findings."

Referring to inadequate facilities in the Cincinnati NIOSH operation, he said "the whole operation might be shut down if OSHA requirements were enforced at the facility," adding relief for the situation is "stalled in the upper echelons of HEW."

Not enough high level people understand the problems of the institutes of health, he said. He noted the need for more public awareness and the probability that there might be improvement when these problems become "a sexy political issue."

Toxic Substances

Louis S. Beliczky, industrial hygienist United Rubber Workers, said in the absence of legislation, some of the chemical industry is unlikely to perform adequate testing of substances. He referred to the resolution of the International Federation of Chemical and General Workers' Union (Current Report, November 14, p. 689), supporting pre-testing of industrial chemicals before their introduction into the work environment. He noted also "new" chemicals should be expanded in concept to include new applications and processes.

There is some question as to whether organized labor would endorse the present toxic substances bill as it now reads with administration of the program placed in EPA, Beliczky said. He indicated to OSHA such a program should be administered within the Department of Labor since it is a workplace problem. "The Federal Government has been lax, in fact derelict, in its responsibility for controlling new chemicals and processes," he said.

Latency Periods

John Sheehan, legislative director, United Steelworkers, said organized labor does not want to recognize the difference between long-term and short-term latency periods. Workers are unwilling to wait for the end of a long exposure to get necessary information on a substance. There are two problems in long-term experiments: establishing proof that there is damage taking place (animal data should be sufficient proof and margins of safety are important), and abatement efforts. Here, he said, economics of control may, unfortunately, be a real consideration. Sheehan said the longer the developmental period, the more relevant the economic considerations become in the minds of many.

The labor movement stresses zero exposure levels in standards because "we are not too sure your numbers are right," Sheehan said, referring to threshold limit values, noting the difficulty in establishing "safe levels."

"True there is delinquency in organized labor in the area of scientific ability, but not in pushing for standards in the workplace," he said, adding that this is the primary role of