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VISTA

OSHA

To: Safety Directors

Date 6/36

Enclosed is an article  
regarding a soon-to-be-  
published OSHA standard  
on confined space entry.

TAG

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the National Tooling & Machining Association estimates that costs to small businesses would be high (Current Report, June 3, p. 6). On that basis, the association, represented by Mark Greenbury, vice president of Arrowsmith Tool & Die in Michigan, told Bumpers it opposes S 79.

Also speaking in opposition to the Metzenbaum bill were representatives of the Small Business Administration, the Printing Industries of America, the National Association of Manufacturers, the American Textile Manufacturers Institute, and the American Insurance Association.

#### GAO Report Introduced

Speaking in support of the bill were AFL-CIO representatives David Mallino, director of legislation in the Industrial Union Department, and Margaret Seminario, safety and health specialist. Mallino told Bumpers that the AFL-CIO is interested in working with all concerned to draft an acceptable exemption for small businesses from certain provisions of Metzenbaum's bill that could prove to be burdensome.

He also cited a May report authored by the General Accounting Office that found S 79 and HR 162 to be feasible, based on reasonable scientific principles, not duplicative in relation to existing federal standards, but potentially costly to employers and the federal government in relation to the total number of workers notified (see related article in this issue).

Those in opposition to the legislation reiterated familiar criticisms: the bill is based on flawed scientific thinking, will create a new federal bureaucracy, will be unreasonably costly, duplicates existing OSHA standards, and will clog the courts with new tort cases and workers' compensation claims (Current Report, May 27, p. 1457).

Bumpers said the Senate Small Business Committee does not have jurisdiction over the legislation, but felt moved to assess the impact on small businesses after receiving numerous complaints from opponents of the measure.

The Senate Labor and Human Resources Committee is scheduled to take up the bill June 17. On the House side, HR 162 sponsored by Rep. Joseph Gaydos (D-Pa) is expected to come to the floor for a vote by July.

#### Confined Spaces

##### FINAL STANDARD BACK ON TRACK; PUBLICATION EXPECTED IN JULY, OSHA OFFICIAL TELLS AIHC

MONTREAL — (By a BNA Staff Correspondent) — A proposed standard for confined space entry is "back on schedule," and the Occupational Safety and Health Administration is "hoping that it will be in the *Federal Register* next month," Thomas Tomczak, the OSHA safety standards team leader for confined spaces, told the American Industrial Hygiene Conference June 2.

The rulemaking is back on track "despite a lot of internal dissension," Tomczak stated, adding that the agency has been aware of the confined space entry problem for a long time. OSHA sources told BNA in March that the agency was involved in an internal debate over whether confined space and other standards should be applied to all industry sectors, or just to sectors where regulation is most needed (Current Report, April 1, p. 1131).

Tomczak told the session that although most of the requirements that will be contained in the proposed rule are contained in six current OSHA standards, they are hard to find and are not cross-referenced. Consequently, compliance with the requirements is hampered, he said.

The conference session also was told that a large percent-

age of plants would be required to modify their procedures under a proposed confined space entry standard, according to a survey of industries that would be affected by such a standard.

#### Proposal Requirements

The rule that the agency will propose would require the employer to get a written permit from a competent person on site before assigning workers to enter most confined spaces, the session was told. The permit would require the employer to analyze the situation long before entry to determine what the potential hazards are and what controls need to be instituted to protect workers, according to Tomczak. The permit would have to include such information as when training was received and results of testing of conditions in the confined space, he said.

But, contrary to what some have suggested, no atmospheric analysis would be required at the time of entry. All testing would be performed prior to entry, Tomczak stated, and results of that testing would have to be checked with employers' lists of accepted environmental standards.

The proposal would authorize compliance with the numerical values only of required exposure limits and recommended threshold value limits, the OSHA official stated. That is, the agency will not permit exposure levels to be averaged over an eight-hour work day. If there is a 10 part per million exposure limit, exposures will not be permitted above that level, he explained.

The reason for keeping exposure levels to a minimum, according to Tomczak, is that if a substance is an irritant, it may interfere with a worker's ability to escape from a confined space.

#### Costs to be Incurred

Results of a survey conducted for OSHA by CONSAD Research Corp. were presented at the session by Allen Bernstein, project manager for confined space for the company. Bernstein predicted that employers that conduct confined space entries would incur capital costs, annual operating costs, and initial costs to comply with provisions of a new OSHA standard.

While most plants would have to revise their procedures under a new standard, CONSAD found that the chemical and petroleum refining industries for the most part currently are in compliance with provisions that will be contained in the proposed rule.

The company's analysis revealed that of 12 of the 15 major industrial groups, including petroleum refining, chemical, food, paper products, and transportation equipment, over half of the facilities within each performed entries into confined space. At the same time, the survey indicated that in the three other industries — rubber, leather tanning, and fabricated metal products — over half of the plants did not perform any confined space entries.

The number of confined space entries found in the survey ranged from one every 20 years to several thousand a year, the survey demonstrated. Average durations of visits to confined spaces ranged from three minutes — for example, to read a meter — to 360 hours — for example, to overhaul a boiler.

The greatest number of entries were found to take place in the utility service industry, with 4.7 million annual entries and 35 million person/hours. The smallest number of visits occurred in the leather tanning industry, with 600 entries and 1600 person/hours.

Over 75 percent of plants in six industries already are in compliance with at least half of the proposed standard, the

survey indicated. Control measures in use by this group include mechanical ventilation, air monitoring, and use of respiratory protection during work in confined spaces.

### **Methylene Chloride**

#### **ONE IN 100 HAIRDRESSERS TO DEVELOP CANCER, UNION ALLEGES IN CALL FOR REGULATORY ACTION**

One out of every 100 hairdressers will develop cancer from continued use of aerosol hair sprays that contain methylene chloride, the United Food and Commercial Workers International Union charged June 12 in a letter calling for "swift action" to protect workers in the barber and beauty trades.

An industry group representing manufacturers and distributors of chlorinated solvents, including methylene chloride, countered that the use of that statistic is not "appropriate or accurate" in view of information gathered since the Food and Drug Administration in 1985 made the risk estimate cited by the union, based on animal data.

The union urged Department of Labor Secretary William E. Brock to immediately extend provisions of the Occupational Safety and Health Administration's hazard communication standard to the non-manufacturing sector, including the barber and beauty trades. The standard currently is in effect for manufacturing sectors only. The U.S. Court of Appeals for the Third Circuit, however, ruled May 29 that the agency must issue a final rule expanding the standard within 60 days of that decision (see related article in this issue).

Regardless of the outcome of the litigation, beauticians and barbers will be covered by the standard, OSHA spokesman Terry Mikelson told BNA June 16. The two options under consideration by the agency are to expand the scope automatically within the 30-day time frame established by the appeals court, or to appeal the ruling and let the rulemaking continue its natural progress, according to Mikelson.

The union first asked the health and safety agency to extend coverage of the standard to barbers and beauticians in September 1985 (Current Report, Sept. 19, 1985, p. 329).

#### **Investigation Requested**

A similar letter also was sent to FDA Commissioner Frank E. Young requesting that FDA immediately investigate the safety of these cosmetic ingredients. The union termed "unconscionable" the 18-month delay that has taken place since FDA proposed to ban the use of methylene chloride in cosmetics.

While products sold to consumers must include a label listing all ingredients, no ingredient labeling is required for cosmetic products sold for use in salons, union President William H. Wynn reminded Brock. In addition, FDA has no authority to require cosmetic manufacturers to test their products or to provide information to the FDA so that it can perform testing, Wynn stated.

Without OSHA standards, barbers and cosmetologists "have no way of determining which products are safe or what precautions should be taken with any of the products," Wynn contended.

Recent studies indicate that workers in the barber and beauty trades, because of exposure to a variety of toxic chemicals, may be at a higher risk than the general population for certain health problems, including various cancers, miscarriages and premature deliveries, and dermatitis, the UFCW president said.

The letter to Brock also outlined other highly toxic chemicals such as formaldehyde, lead, 2-bromo-2-nitropropane-1, 3-diol, triethanolamine, ethyl methacrylate, ammonium thioglycolate, and calcium thioglycolate that are found in hair care products such as dyes, shampoos, conditioners, relaxers, and permanent wave solutions, as well as in artificial nail applications and nail polishes.

#### **New Data**

Because of epidemiological and biochemical studies conducted since the 1985 risk estimate was made by FDA, risks associated with methylene chloride have been downgraded, Paul Cammer, president of the Halogenated Solvents Industry Alliance, told BNA June 16.

The association does not believe that a chemical should be banned "unless it is clear that it causes a significant risk," according to Cammer. "We're just not there yet," he said.

In addition, he described the labeling of methylene chloride products as not necessarily the only or best way to communicate hazards to workers. Recommended by the HSLA official instead were the implementation of educational programs and the improvement of labeling systems.

Cammer suggested that agencies involved in the regulation of methylene chloride — OSHA, FDA, the Environmental Protection Agency, and the Consumer Product Safety Commission — get together and devise a labeling system that would consistently communicate the hazards of methylene chloride use to all types of users.

He also denied UFCW's charges that industry has pressured federal agencies to delay rulemaking, saying that 90 percent of the interaction between the association and the agencies has been "on a scientific level."

Robert P. Brady, executive vice president of the Cosmetic, Toiletry and Fragrance Association, told BNA that the group stands by earlier comments to the health and safety agency opposing the expansion of the hazard communication standard to cosmetology salons. Such an expansion would unnecessarily duplicate existing laws and programs and would impose costly burdens on salons, the group contends.

#### **Recordkeeping**

#### **UNION URGES STATE REVIEW OF IBP RECORDS; OSHA EXPANDS INVESTIGATION TO SECOND PLANT**

The United Food and Commercial Workers Union asked the Nebraska attorney general June 10 to investigate "deceptive" injury and illness recordkeeping practices at the troubled IBP Inc. meatpacking plant in Dakota City, Neb., to determine if the company is in criminal violation of state workers' compensation laws.

The UFCW told Nebraska Attorney General Robert M. Spire that the company has knowingly failed to report some worker injury cases to the state workers' compensation authority, and "grossly understated" the extent of injuries in other cases that were reported.

IBP, a major Midwestern meatpacking company and subsidiary of Occidental Petroleum, called the letter to Spire "a piece of trash." The company asserted that the union is making "wild charges" to win public sympathy for members of UFCW Local 222 on strike at the Dakota City facility.

In a related development, the Occupational Safety and Health Administration, which has been conducting its own investigation of recordkeeping practices at the Dakota City plant in response to an earlier UFCW complaint, said June 5