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May 26, 1976

Jerome H. Heckman, Esquire
Keller & Heckman
1150 17th Street, N.W.
Washington, DC 20036

Dear Jerry:

This letter will advise you regarding EPA's schedule for promulgation of the Vinyl Chloride Standard and review for the members some of the comments received by EPA on this proposed Standard.

Schedule

We continue to be advised that a Standard will not be promulgated in June. The date for promulgation is still uncertain and the best estimate is sometime in the early Fall.

Comments

Since my last letter to you we have reviewed all comments EPA has received relative to the proposed Vinyl Chloride Standard. To date, 49 comments have been received from industry, public interest groups, and federal, state, and local agencies. The last was sent in on March 23. A copy of the EPA index to these comments is enclosed. Most of the comments relate to technical aspects of the proposed Standard. Among the comments received which may be of special interest to the industry are the following.

The Center for Disease Control of the Public Health Service, HEW, Atlanta, wrote EPA on January 26, 1976. It enclosed a study by Dr. Infante conducted while he was at the Ohio Health Department and a report on a subsequent investigation performed by the Division of Cancer and Birth Defects of the Bureau of Epidemiology in Atlanta. CDC addressed only problems associated with VCM and not with Polyvinyl Chloride. The Center concluded that the carcinogenicity of VCM has been proven but that there is no conclusive data on teratogenicity or mutagenicity. There is enough data to cause concern as to both, however, CDC concluded.

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Dr. Infante wrote EPA on January 29 and forwarded several studies relating to carcinogenesis, mutagenesis, and teratogenesis.

The West Virginia Citizens Action Group wrote EPA that the proposed Standard was not stringent enough. It recommended no variances on deadlines for installation of best available controls; zero emission for "substitutable uses" of PVC after one year; and zero emission for all sources of VCM after three years.

In written comments supplementing its testimony, the Environmental Defense Fund submitted two documents. The first was dated February 23 and urged EPA to rely not only on best available technology but also to encourage continued advancements in controls by requiring "process" changes and "add on" devices. EDF reiterated its preference for a phase-out of "substitutable" VCM products. It asked that EPA require application of best available technology to existing sources but "better" technology to new sources; and it wants EPA to require companies to issue notices of intent to build new VCM plants or to undertake major expansions of existing plants so that there can be time for public comment. EDF further urged EPA to consider requiring recycling of in-process wastewater and sludge and requiring scrubbers on afterburners. It also asked the Agency to pledge that it will review the entire standard again after one year.

In a separate document filed on March 8, EDF cautioned EPA that the evidence developed on the causal relation between exposure to asbestos and mesothelioma was the best precedent for estimating the direction new information developed on angiosarcoma was likely to take. The result, concluded EDF, is that EPA should be very careful in attempting to place upper limits on the risk of exposure to vinyl chloride.

Dr. Sidney Wolfe of Ralph Nader's Public Citizen group restricted his comments to the forwarding of the Infante pregnancy study, and the warning that EPA was being "reckless" in basing its emission standard on a reduction of only 90 percent.

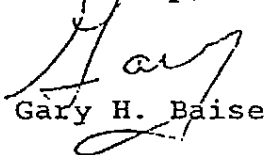
Finally, the Council on Wage and Price Stability, on March 19, called for greater cost-benefit balancing by EPA in drawing the standard, particularly in the areas of using a

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spare reactor as a gasholder and requiring zero emissions from EDVC relief valve discharges.

Anyone who wishes to review all 49 comments may do so by going to Room 2922, Waterside Mall, EPA, 4th and M Streets, S.W. If anyone wishes to receive a copy of a particular comment, please advise us and we will make appropriate arrangements for obtaining and forwarding it.

Sincerely,


Gary H. Baise

GHB/ap

C NO.	DATE	COMPAN	WRITER
	1/21/76	Hooker Ruco Division	Robert A. Fine
	1/20/76	Citizen	Constance Panchuck
	12/17/75	Citizen	Mr&Mrs F.B. Minnock
	1/27/76	Citizen	Marilyn E. Sadowski
	1/25/76	Citizen	Dr. Martin Wershba
	1/26/76	Dept. of Health, Education & Wel.	Dr. John F. Finklea
	1/31/76	Citizen	Susan Howard
	2/5/76	Citizen	Gayle & Herb Weaver
	1/29/76	Dept. of Health, Edu. & Welfare	Peter F. Infante
	1/22/76	Citizen	June Armstrong
	2/9/76	Georgia, Dept. of Natural Resources	Robert H. Collom, Jr.
	2/17/76	NY State Dept. of Environmental Conservation	Harry H. Hovey, Jr.
	2/16/76	The General Tire & Rubber Co.	R. W. Laundrie
	2/20/76	PPG Industries, Inc.	Robert E. Widing
	2/20/76	Covington & Burling	Allan J. Topol
	2/20/76	W.Va. Citizen Action Group	Ed Light
	2/14/76	Goodyear Tire & Rubber Co.	F. V. Prus
	2/18/76	Conoco Chemicals Div.	David A. Kuhn
	2/19/76	CONOCO Continental Oil Co.	Flynt Kennedy.
	2/18/76	Mich. Dept. of Natural Resources	Lee E. Jager
	2/16/76	Firestone Plastics Co.	W. W. Madden
	2/20/76	B.F. Goodrich Chemical Co.	W. C. Holbrook

COMPANY

WRITER

23	2/23/76	Environmental Defense Fund	Barry Castleman,
23A	3/8/76	Environmental Defense Fund (Barry Castleman)	Jacqueline Warren, & Joseph Highland
	2/23/76	Borden, Inc.	Harvey A. Rosenzweig
25	2/23/76	Union Carbide Corp.	R. N. Wheeler, Jr.
26	2/23/76	Allied Chemical	J. M. DeVoe
27	2/23/76	Shell Chemical Co.	R. E. VanIngen
28	2/20/76	Stauffer Chemical Co.	Gary L. Ford
29	2/23/76	The Society of the Plastics Industry, Inc.	Ralph L. Harding, Jr.
30	2/20/76	Dow Chemical U.S.A.	Earl R. Smith
31	2/23/76	Diamond Shamrock Corp.	Robert W. Hill
32	2/23/76	Air Products and Chemicals Inc.	Richard Fleming
33	2/23/76	Hooker Chemicals & Plastics Corp	R. A. Abramowitz & R. A. Fine
	2/23/76	Ethyl Corp.	Mitchell R. Zavon
35	2/23/76	EPA, Region VI	John C. White
36	2/23/76	The Pantasote Co., Inc. (N.Y.)	Jack Jaglom
37	2/24/76	West Virginia University	Benjamin Linsky
37A	2/25/76	West Virginia University	Benjamin Linsky
38	2/2/76	Public Citizen	Sidney M. Wolfe
39	2/23/76	Georgia-Pacific Corp.	Kip Howlett
40	2/26/76	Keysor-Century Corp.	
41	3/1/76	Virginia, Commonwealth of - State Air Pollution Control Board	John M. Daniel, Jr.

IC NO.	DATE	COMPANY	WRITER
12	2/23/76	Texas Air Control Board	Charles R. Barden
13	3/2/76	Vulcan Materials Co.	Thomas A. Robinson
	3/4/76	Maryland, State of Dept. of Health and Mental Hygiene	George P. Ferreri
15	3/8/76	Louisiana Air Control Commission	James F. Coerver
16	3/4/76	US Dept. of Commerce	Sidney R. Galler
17	3/19/76	Council on Wage and Price Stability	James C. Miller III
18	3/22/76	US Dept. of Labor	Stephen C. Urman
19	3/23/76	US Dept. of Interior	Stanley D. Doremus

WHY NOBODY WANTS TO LISTEN TO OSHA

The world's worst startup made everybody mad

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A story is making the rounds about inspectors from the Occupational Safety & Health Administration who closed down a tiny "mom and pop" grocery store in Iowa. Presidential contender Ronald Reagan uses it in a campaign speech: "The owner of a small business in one Western state," he said, "was told to install separate men's and women's rest rooms for his employees. He had only one employee—at home—in the same bed. It was his wife."

The story may be apocryphal, but it does strike to the heart of the complaints that have been heaped on OSHA by businessmen and legislators since the agency's inception in 1970. On Dec. 31 of that year, Congress passed OSHA's enabling legislation, with the stated purpose of assuring "so far as possible every working man and woman in the nation safe and healthful working conditions." The law set forth a complicated 22-step process for OSHA to follow in setting standards. And it authorized the agency to inspect companies for violations of those standards and fine them if violations are found.

Now OSHA faces charges from all sides that it has abused and misused its mandate, and that it has trivialized the whole concept of the standards. The U.S. Chamber of Commerce has heard from employers who were cited for "allowing ice to come into direct contact with water"—a standard that originally referred to water coolers but that has been abused. And Bert M. Concklin, OSHA's deputy administrator for operations, himself talks of the agency's "split toilet seat syndrome"—a reference to a past inspector who chose to enforce vehemently a standard calling for a U-shaped toilet seat in work-site washroom facilities. That standard has long been stripped from the books, but the negative image that its enforcement created still lingers in many minds.

Anti-OSHA grumblings are reaching a fever pitch in this election year. The White House has gone on record as saying that the agency should become effective within five years or be legislated out of existence. During a primary swing through New Hampshire, President Ford delighted his audience by saying, "I'm sure you'd all like to see OSHA dumped in the ocean." Presi-

dential economic adviser Paul W. MacAvoy says that "OSHA has gone too far while accomplishing too little," and suggests that the agency be replaced by a new insurance plan that would juggle industrial rates on the basis of safety records. Labor, meanwhile, says the opposite—that the agency has not gone far enough, and must move faster and issue stronger standards.

Against this backdrop stands Morton Corn, the 42-year-old industrial hygiene professor who has become OSHA's third administrator in five years. Since he took office in December, he has made a number of sweeping proposals that he believes will put the agency back on the right track. He wants to:

- Move vigorously into the area of health, without deemphasizing safety.
- Institute extensive training programs for his staff.
- Eliminate nitpicking standards and make those remaining more comprehensible.
- Change OSHA's enabling legislation so that the agency can move away from being an adversary to business and act as a consultant to industry.

Corn is certain that if he can do these things he will get to the root of all the criticisms leveled against his

agency. But he is finding that getting funding or new legislation from Congress, let alone overcoming the "myths" of the hapless grocery store and winning recognition as a viable agency, is an uphill fight. "We have a live down enough horror stories that really happened in the early days," he admits. But he asks, "How do you fight back when you're being killed by a myth?"

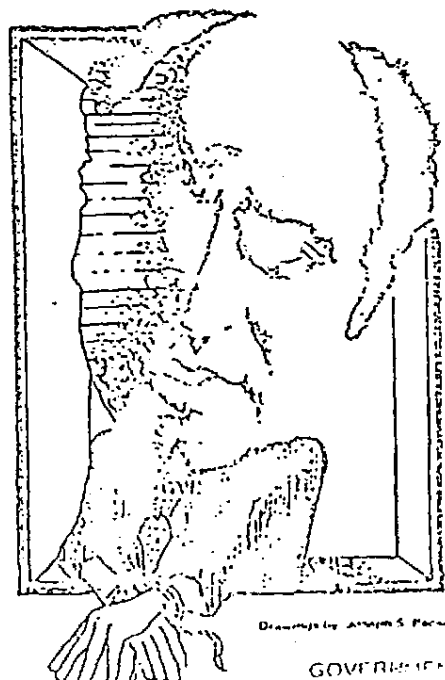
Cost of compliance

For the 4 million businesses affected by OSHA regulations, the cost of complying with the safety and health standards is no myth—in fact, it is astronomical. A McGraw-Hill survey shows that U.S. industry plans to invest about \$3.2 billion for employee safety and health this year—up 17% from 1975. Preliminary plans projected three years hence already total \$3.6 billion. At least 25% of total planned capital investment will be spent for worker protection in 1976 and 1979, and the bite for manufacturing companies will hit 33%.

Despite the costs, few argue that OSHA—or something like it—was not needed. The statistics are too chilling.

FOUR VIEWS OF OSHA AS SEEN BY

Morton Corn
Management
Labor
Politicians



Drawings by Joseph S. Perrella

GOVERNMENT

For example, during World War II, 292,000 U.S. servicemen were killed in battle—and 300,000 workers were killed in factory accidents. Some 53,000 workers lost major limbs, compared with 17,000 combatants who returned minus an arm or a leg. Still, businessmen say that the agency's dubious methods have cost millions of dollars and have produced thousands of problems—without yielding much improvement.

Few companies are willing to discuss for the record their experiences with OSHA inspectors. "It would be like sassing the policeman," says one top executive. But those who will talk are almost unanimous in their frustration with OSHA's performance. John J. Ahern, director of security for General Motors Corp., says: "There is no direct correlation between their regulations and the actual accidents that do occur." The safety manager for a large Boston-based consumer products company adds: "We've spent millions trying to cope with regulations, yet accident levels have not improved much."

Corn admits that OSHA has a history of emphasizing minor safety matters while overlooking major ones and, even more vital, failing to focus attention on health standards. But he says his proposed program would eliminate such wheel spinning. He has launched a multifaceted effort to define "serious" and "nonserious" hazards, and he plans to revise and standardize the system of penalties for each category.

But that may not satisfy some of the larger companies, which feel they are diligent enough about workplace

safety without OSHA hovering over their heads. Du Pont Co., for instance, boasts that it had only one disabling injury for each 4 million man-hours worked—about one-tenth the rate for the chemical industry and about 1/20 that of all industry. Du Pont executives point to their 60-year-old medical program and the work of their 41-year-old Haskell Laboratory for Toxicology & Industrial Medicine as signs that they are equally concerned about health. The lab is being expanded by 70% to handle carcinogenic studies. But even Du Pont, with its good record, was slapped with \$21,080 in fines in April, and Ned K. Walters, the company's safety manager, complains that none of the citations was related to injuries. In fact, 80% were for "improper placement" of guards on machines and for lack of handrails on stairways.

GM has the same beef. The company was inspected 614 times through last December and received 258 citations representing about 1,800 violations. Ahern claims that GM has invested \$79 million and the equivalent of 1,100 man-years to satisfy OSHA requirements in 1974 alone, but to no avail. "We had a good safety program going long before anybody ever heard of OSHA, and we haven't seen any effect from all the money that's been spent, so far as any reduction in our accident rate is concerned," he says.

Small businesses are even more bitter about OSHA. That \$21,080 in fines levied against Du Pont could be a hefty chunk of sales for small companies and they fear that capriciousness on OSHA's

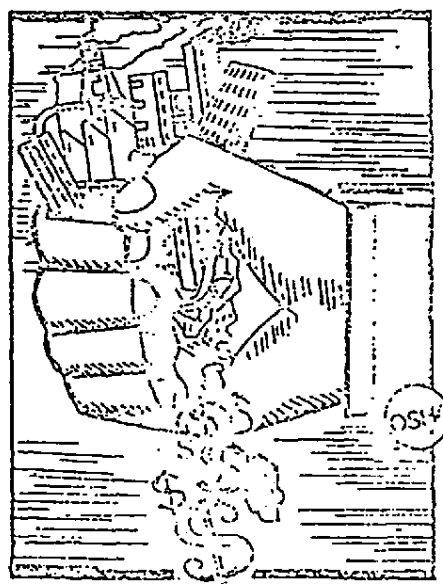
part will put them out of business. Small business is getting an increasingly sympathetic hearing in Congress.

Short on Inspectors

Ironically, while numerous citations—fair or not—do result from most OSHA inspections, the chance that an inspector will visit any given plant remains slim. OSHA's funding has always fallen far short of what would be needed to hire enough inspectors to visit every plant. And a plan to shift many of OSHA's duties to state agencies falls short of the mark because state governments are usually unwilling to accept the financial burden of enforcement or unable to come up with plans that satisfy OSHA's criteria. The result has been an overload situation. Says Robert S. Smith, a Cornell University industrial relations professor who published a study on OSHA: "The typical business establishment will see an OSHA inspector every 77 years, about as often as we see Halley's comet."

The prospect of an inspection is somewhat greater for companies in what Corn calls high-risk industries—those with above-average injury rates. Within a year, Corn plans to concentrate 30% of his inspection staff on such industries, which include aluminum, bronze, brass and copper casting, and metal stamping.

This will mean that the remaining 70% of inspectors must add to their work load those companies in nontargeted industries that would have been visited by the inspectors in the concen-



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tration program. Nonetheless, Corn and his officials remain adamant that the load should not be lightened by removing small businesses from their purview.

"Small is not safe in the work site," insists Karen Mann, OSHA's Congressional liaison. "Of the businesses covered by OSHA, 90% have 25 or fewer employees, yet these are responsible for 55% of industrial fatalities, 58% of serious violations, and 76% of employee-initiated complaints."

Much of the loathing small business

ment course, referred to inside the agency as "couth lessons," has started for all compliance officers.

This stress on tact is welcomed by many of OSHA's regional administrators. John V. Fiarone, acting administrator for the New England area, praises Corn for eliminating the "gangbusters image our inspectors got stuck with." Corn's "couth lessons" make compliance officers realize that they "must treat inspection subjects as clients," not as felons, he says.

The change has been noticed by a

plant will also be beefed up, along with its in-house acumen. He is pushing for research facilities and funds so the staffers can get "hands-on" experience developing technologies to meet proposed or existing standards. An effective laboratory operation, he maintains, could also cut days from public hearings on proposed standards.

Better understanding

It could also help squelch the oft-heard complaint that OSHA stresses

Striking at OSHA through the courts

While Morton Corn wages his private war with Congress to reform OSHA, several separate battles are being fought in the law courts. Their outcome may be years away, but they could have a greater impact on the agency's effectiveness than any Congressional action could produce.

Two of the current suits involve the permissible roadblocks that a company may place in the way of an OSHA inspector trying to get into its plant. The Supreme Court has agreed to review one suit, brought against OSHA by Gibson Products Inc., an East Texas discount store that refused to let an inspector in without a search warrant. A U.S. District Court ruled that Gibson was within its rights, and Corn fears that if the Supreme Court upholds that ruling, employers would be forewarned by an effort to seek a warrant and would have time to conceal violations.

The other suit questions whether an

employer whose plant is about to be inspected can put the inspector through as many paces as he wishes. Godfrey Brake & Supply Service Co. of Rapid City, S.D., declined to accept an inspector's official credentials as reason enough to let him wander through its plant. Instead, the company insisted that the inspector fill out a 29-part questionnaire. A lower court upheld the spirit of the action, although it did cite 18 of the 29 questions as "gratuitous." The ruling stated that "an employer may withhold consent to inspection until he or she has had an opportunity to prepare a contemporaneous written record of identification." OSHA has, of course, appealed the decision.

Noise standards. Several of OSHA's standards are being attacked through the Labor Dept.'s own judicial channels. Industry is closely watching the progress made by Continental Can Co. to overturn OSHA's noise standards. The

company is trying to get individual hearing protectors accepted as a method of meeting noise regulations while OSHA is arguing for "engineering controls"—machine enclosures and the like. An administrative judge in the Labor Dept.'s OSHA Review Commission has already ruled for Continental Can, and the full commission has reviewed the case, though the results of the review are not yet public.

Unions have also entered the judicial fray, and ironically, OSHA hopes labor will win at least one of these suits. Three months ago the Oil, Chemical & Atomic Workers International Union sued the agency, saying that it should cease considering inflationary impact in enforcing its standards. OSHA has tried unsuccessfully to be exempted from an executive order calling for all federal agencies to prepare inflationary impact statements for every standard. The requirement has caused interminable delays in issuing the health standards that Corn feels are so badly needed.

has for OSHA may stem from lack of communication, suggests Barry J. White, the agency's director of regional programs. "Employers say they want to make the work place safer, but that the standards can be worse than no help at all."

Corn's proposals will serve to remedy this situation. He is already holding hearings to discover business's specific objections to a sampling of standards, and he will use this information to either eliminate or to revise the rules. If these first hearings work, Corn says he will use the same technique to review many more of OSHA's standards. And he is asking for recommendations from the National Federation of Independent Businessmen and similar small-business groups.

Corn has also launched an all-out effort to make inspectors themselves more diplomatic in their dealings with the businessmen they visit. A comport-

few companies. Frank A. Noruk, director of safety and security for Milwaukee's Harnischfeger Corp., senses a new attitude at OSHA. "Instead of just looking for violations they are trying to seek solutions," he says.

But such favorable comments are still rare. Privately, OSHA officials concede that inspectors may use rudeness to cover up their lack of understanding of the standards. Plenty of businessmen agree. "They are sending in people who are not well-grounded in how a plant operates," complains John C. Wilson, manager of benefits and loss control at DiGiorgio Corp., a diversified San Francisco company.

Corn sees training as the answer here, too. He has instituted factual as well as social courses for inspectors, and he is seeking approval to send a number of inspectors to graduate school full time for one year.

If Corn gets his way, OSHA's physical

specific control technologies to solve safety and health problems without understanding what they entail. The experience of Kawecki Beryllio Industries Inc., a multimillion dollar Reading (Pa.) company, is a classic case. The company had been complying with beryllium standards for more than 20 years. But as soon as OSHA specified methods to deal with the existing standard, KBI started having problems.

In 1949 the Atomic Energy Commission set a standard for ambient beryllium of 2 micrograms per cubic meter of air. In 1969 the standard was modified to monitor only respirable particles that could enter the lungs. But in 1971, OSHA adopted the AEC's standard and eliminated the distinction between respirable and non-respirable particles. It also specified that lapel samplers—devices worn by the employee—be used instead of the high-volume general air samplers usu-

...the regulations, it finds that it simply cannot comply, says James P. Butler, assistant to the president. "KHI was charged with violation even though the generally accepted sampling method showed compliance."

DiGiorgio's Wilson is angry with OSHA for similar reasons. "We get noise citations at our sawmills, but everything in a sawmill makes noise," he says. "It's hopeless unless you build a plant run by computer."

If OSHA had better laboratory facilities, presumably it could try to develop noise-dampers that work in sawmills. And it could make sure that industry learned of such new developments. To do this, Corn is forming a Technical Data Center for Toxicological Information & Program Support. He envisions a route whereby a company could draw on the data bank to see how others found solutions to problems similar to its own.

Improved communications would extend to OSHA's relations with other government agencies. To date there has been an absence of liaison with any of them. Conflicts have even cropped up between OSHA and its own research arm, the National Institute for Occupational Safety & Health. NIOSH develops the criteria documents on which OSHA bases its standards, and in the past there has been no joint order of priorities. NIOSH, for example, conducted extensive studies to develop a criteria document on heat stress, only to discover the issue was so far down on OSHA's list of priorities that work has still not begun on the standard. Corn has already established monthly meetings between OSHA and its research arm to avoid such wasted efforts.

But most of these programs still depend on adequate funding and staffing. To bolster his new emphasis on health, Corn plans to freeze the number of safety compliance officers at 1,050 until it is matched by the roster of health inspectors. In fact, he wants to set up a special unit to respond to emergency situations, such as the infamous Kepone case in Hopewell, Va. A former employee of Life Science Product Co.'s Kepone plant alerted OSHA to health problems with the chemical long before the extent of workers' illnesses became known. But OSHA inspectors, more tuned to safety problems than health, originally gave the complaint low-priority status.

But even if Corn gets the money to enlarge the health payroll—which is by no means certain—he may find it impossible to recruit capable employees. OSHA has only 135 fully qualified industrial hygienists and an almost equal number in various stages of training. Both Corn and his regional administrators are having trouble filling even

able. "We've been recruiting hard, but there's a real scarcity of industrial health professionals," complains David J. Rhone, OSHA's Philadelphia regional inspector. "I would guess there are fewer than 4,000 people in the U.S. who are truly industrial hygienists."

Still, Corn is getting good response from his field people on the campaign to stress health. During the first quarter of this year, Rhone's inspectors found 2,818 workers who were being exposed to 31 different toxic substances. "We're headed in the direction Dr. Corn wants us to go," Rhone says.

OSHA's field staff also likes Corn's

a concept of the agency as a service group, with a consultation wing that is totally distinct from the inspection and citation functions. But to do this requires Congressional authorization, and this may be hard to get.

The problem is that OSHA's enabling legislation requires inspectors to issue citations for all serious violations, and warnings for all less serious infractions, on their first visit. Every year amendments to the law have been proposed to allow citation-free consultations, but none has passed.

Corn sees the ability to consult as vital to the agency's future. Otherwise, he maintains, there is just not enough

OSHA's Budget FY 1976		
	1975	1976
Operating Expenses	\$1,000,000	\$1,000,000
Capital Expenses	\$1,000,000	\$1,000,000
Grants	\$1,000,000	\$1,000,000
Interest	\$1,000,000	\$1,000,000
Debt Service	\$1,000,000	\$1,000,000
Other	\$1,000,000	\$1,000,000
Total	\$5,000,000	\$5,000,000

emphasis on real rather than trumped-up hazards. Fiarone, for example, points to the selective concentration programs as proof of OSHA's new effectiveness. He cites a sharp reduction in the number of construction workers killed in trench cave-ins. OSHA has always required that trenches in construction projects be adequately shored. Nonetheless, until 1973 Massachusetts alone had a 40-year average of five workers killed in trench accidents each year. Then OSHA selected this standard for concentrated enforcement. The result: only two fatalities in Massachusetts in more than 30 months.

A service group

Such efforts might help improve OSHA's image as an effective policeman, but the agency would remain a policeman nonetheless. Corn's idea calls for more radical change. He wants to build

money available for OSHA to do an effective job. "We need something more to stimulate businessmen to police themselves," he says. "The agency should be able to provide guidance to an employer, not just come at him after the fact with a stick."

Corn faces Congressional opposition on this issue from both supporters and detractors of the agency. The original sponsors of the act fear that once it is opened for one amendment, the agency's opponents will introduce additional, more limiting restrictions. A meager ray of light appeared this year, when the House approved the consultation operation. But the Senate is keeping obstacles to the revision in place.

To reach the Senate floor for a vote, the measure, known as the Taft amendment after its original sponsor, Robert A. Taft Jr. (R-Ohio), must first be brought up before the Committee on Labor & Public Welfare, chaired by

Harrison A. Williams (N.J.). Williams, a cosponsor of the original OSHA legislation, leads those reluctant to open the law up to destructive tampering. "To establish consultation in addition to inspection would be enough to create a bureaucracy of very considerable proportions," he maintains.

Williams' stand is backed by organized labor. Most union leaders support Corn, but that support stops short of consultation. "We realize that many of the steps he has taken are aimed at making OSHA more effective, but we

When Jerry Brown was elected governor in 1974, he says, "the mandate came down to go out and find violations." The aggressive attitude on the part of the state inspectors left industry with a sour taste. "We're supposed to be able to ask for help without fear of being cited, but we've never been able to believe that," Wilson says.

The seeds of industry's distrust have been amply sown throughout OSHA's five-year life. Even Corn agrees that the agency's history has elevated "getting off on the wrong foot to a near art

trivialization, so OSHA was splintered seven regions that became nearly autonomous at the outset."

The immediate result was that a set of inspectors set off in seven different directions, with no standard inspection procedure—and with a freedom to select those safety standards that each wanted to stress.

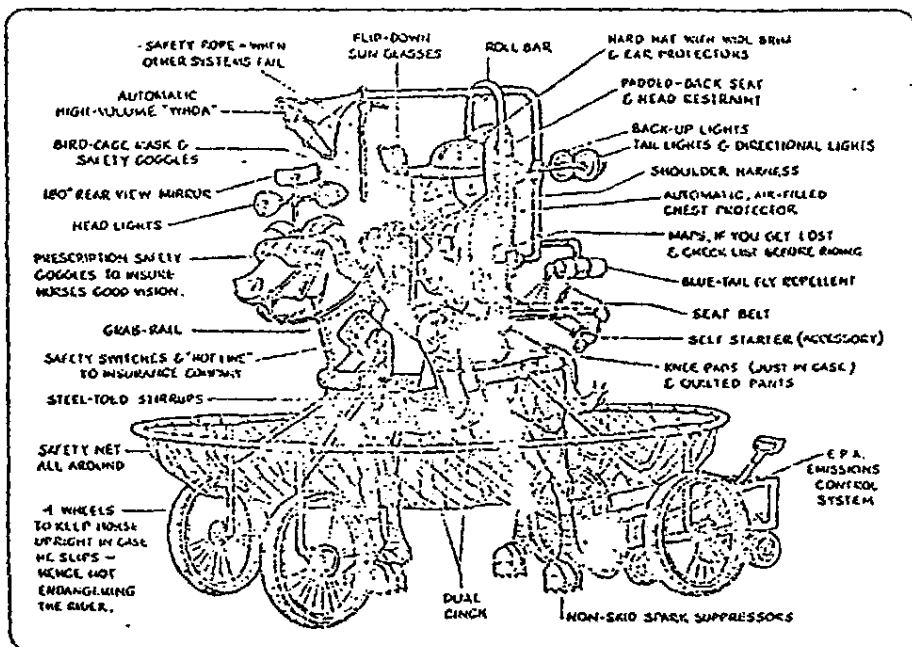
Some 4,000 existing industry standards were adopted wholesale at a time. George C. Guenther, OSHA's administrator, tapped the existing Walsh-Healy standards, as well as those formulated by the American National Standards Institute. Now Corn is left with the legacy of those hastily produced standards. "The reasons adopting them may have been good the time, but they have been loaded with time bombs," he says.

Replacing the 4,000 quickie standards with more workable, OSHA created ones may prove a formidable task. Only three of OSHA's health standards have made it into textbooks—those for asbestos, a group of carcinogens, and vinyl chloride. Standards development has traditionally been impeded by industry suits charging that they are too rigid, and lately by labor suits charging they are not rigid enough.

Labor supports Corn

At least some congressmen are trying to get a more objective view of OSHA's performance, and one that relies on statistics rather than politics. Freshman Representative Edward W. Pattison (D-N.Y.) recently sent a questionnaire to 2,000 employers in his district and divided the responses into two groups: those whose plants had been inspected by OSHA and those whose plants had not. Of the first group, 83% said that compliance with OSHA standards did not cause them undue economic hardship, and 94% of the second group agreed. And although 45% of those who had never been inspected agreed with a questionnaire statement that "imposition of OSHA standards serves the purpose of protecting the safety of workers," the agreement figure jumped to 78% for employers who had been inspected.

The survey, which was published in April, indicates that there may be a sizable "silent majority" in industry that is ready to throw its support to OSHA. One labor leader believes that the overwhelming vote of confidence registered in Pattison's survey "probably shows a strong liberal tendency among the responding industries. It is the anti-OSHA conservatives who are vocal in their condemnation of OSHA," he says, "while



"Cowboy after OSHA": Reflecting business impatience with the agency's nitpicking.

can't go along on this one," says George Taylor, the OSHA specialist at the AFL-CIO. "It smacks too much of the weaknesses that caused state attempts at OSHA-type programs to fail."

Business is distrustful

Ironically, even if the consultation amendment were put into law, Corn might find that his biggest hurdle remains in the private sector. Many businessmen simply do not trust OSHA enough to use agency employees for consultation. For example, in some 20 states, federal OSHA programs have been supplanted by state programs which, under OSHA's enabling legislation, are funded half by the states and half by the federal agency.

Some of these states have set up consulting services for business, but clients are often sorely lacking. California, for one, has a state-level consulting program, and DiGiorgio's Wilson explains why it often goes unused.

Worker well-being was an issue in the U.S. long before OSHA. Child labor laws were passed; the Walsh-Healy Act went into effect, specifying health and safety practices to be followed by companies doing business with the government; a sprinkling of exposure standards were passed for isolated industries, such as beryllium processing. But it still took until 1970 for the government to pass the truly comprehensive Occupational Safety & Health Act. Almost immediately the infant law was buffeted by political winds.

OSHA first came to life midway in President Nixon's first term, and became a victim of Nixon's push for decentralization of government. The whole concept of a national drive for worker safety and health was fragmented from the outset. "The Administration was not committed to enforcement," recalls Daniel H. Krivit, the House labor subcommittee counsel who worked on passage of the original OSHA act. "It was committed to decen-



Corn: Pressing for changes to "stimulate businessmen to police themselves."

those who support it have grown tired of fighting and are usually unheard."

Pattison aides see it a bit differently. One of them says: "The businessmen in our district were visited by competent, helpful inspectors, and now they feel they can relax. They look on OSIA now in the light of the problems it was created to deal with."

But Corn does not seem able to use

the favorable results to his advantage. Last month, for example, he briefly described his proposals for simplifying safety standards to a meeting of Senate legislative aides. He threw the session open for questions, only to find that each aide wanted to dwell on constituents' complaints about OSIA. Corn, his voice tinged with exasperation, told BUSINESS WEEK, "There are 100,000 inspections every year [out of 4 million existing businesses]. In 1% the inspector may get high-handed or make a silly but possibly well-intended misjudgment. Yet it is this 1% that continues to distort our whole program and the good that is being accomplished."

Appointed federal officials, rather than elected ones, are sympathizing with Corn's plight. "Politicians tend to get a lot of applause when they pick on OSIA," says Stanley E. Morris, deputy associate director of the Office of Management & Budget and an active member of the President's Regulatory Reform Task Force. But economic adviser MacAvoy says the problem goes far deeper than that. He says: "There has been an inability to demonstrate the impact of OSIA on the basis of reduced accident rates. My only concern is



Williams: Afraid that proposed changes create a "very considerable" bureaucracy.

whether OSIA can be made effective and at less cost."

For his part, Corn maintains that no matter how much time, money, and effort it takes to make OSIA an optimum performer, it would still be more efficient to revamp the agency than to eliminate it. As he sums it up: "It would be foolish to scrap what we have just to try something else."

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