



HIGHLIGHTS OF CURRENT REPORT

A PROVISION TO EXEMPT small businesses with better than average lost workday rates from routine safety inspections is approved by the Senate. The provision, attached to a bill to amend the *Employee Retirement Income Security Act*, would exempt businesses having 10 or fewer employees and a lost workday case rate less than the national average, except for situations involving fatalities and other specified circumstances. House action is expected on the bill following the August recess (p. 261).

THE APPROPRIATIONS BILL for the Departments of Labor and Health and Human Services clears House subcommittee markup, but an embargo is placed on the proceedings pending full committee action. Reportedly, the subcommittee agrees to remove restrictions on Occupational Safety and Health Administration safety inspection authority imposed under the fiscal 1980 funding measure (p. 261).

BRAIN CANCER CASES found at a Dow Chemical Company petrochemical plant in Texas will be examined in closer detail by medical investigators from OSHA and the National Institute for Occupational Safety and Health, and a more general study of overall cancer incidence at the plant will be made as well. Dow disputes any claims of a "cancer epidemic" at the facility, saying results of current Dow studies show "no increased risk to employees," but Texas Representative Bob Eckhardt says he will hold an investigation and possibly introduce legislation to help OSHA in regulating hazardous environments (p. 262).

THE RECORDS ACCESS RULE issued by OSHA is "plainly unlawful" because the agency failed to meet requirements of significant risk set by the Supreme Court in the benzene decision, the Louisiana Chemical Association asserts in challenging the access regulation in the U.S. District Court for the Western District of Louisiana (p. 263).

A SLOWDOWN IN ISSUANCE of standards may result from the Supreme Court benzene ruling, though the standards-setting process will not be halted, OSHA Health Standards Director Bailus Walker tells an environmental health meeting. Irving Selikoff, Mt. Sinai School of Medicine, tells the meeting that the Court should not be faulted for refusing to uphold the standard, because occupational medicine "simply foisted its own statistical uncertainties on the courts" (p. 263).

THE SUPREME COURT is asked by the Secretary of Labor to deny petitions for review of an appellate court decision that upheld the validity of the workplace cotton dust standard. The issues on which two of the petitions focus — the meaning of feasibility as used in OSHA's enabling statute and the question of costs and benefits — are presented in two coke oven standard cases already granted certiorari by the Court, the Secretary argues (p. 264).

REFERRAL INSPECTIONS conducted by member agencies of the Interagency Regulatory Liaison Group will be reexamined by an IRLG subgroup in light of public comments questioning the legal basis for such investigations. Under the program, inspectors for one agency are directed to refer possible violations of other agencies' standards to the other agencies, using guidelines set forth in an IRLG manual (p. 264). . . . Text of excerpts from the manual involving conditions to be referred to OSHA (p. 279).

A HEALTH HAZARD ALERT on benzidine-based dyes is given strong support by the Amalgamated Clothing and Textile Workers Union, in response to strong objections by industry to the alert. The union terms the bulletin "the very least that can be done to improve the safety and health of textile workers" (p. 265).

CALIFORNIA PLAN SUPPLEMENTS involving health centers and a computer data base on hazards are approved by OSHA (p. 265). . . . Text of OSHA notice of approval (p. 281).

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Current Report

Legislation

SENATE APPROVES PROVISION TO EXEMPT SOME SMALL FIRMS FROM SAFETY VISITS

The Senate July 29 approved a proposed amendment to the Occupational Safety and Health Act that generally would exempt small businesses with better than average lost workday rates from routine Occupational Safety and Health Administration safety inspections.

This provision, attached to a bill (HR 3904) to amend the Employee Retirement Income Security Act, drew sharp criticism from the Carter Administration, as did another amendment to transfer jurisdiction over stone, sand, and gravel surface mining operations from the Mine Safety and Health Administration to OSHA.

At a July 30 press conference Labor Secretary Ray Marshall expressed "deep concern" over the amendments, asserting, "These actions should serve as a warning to American workers that the rights they have fought for during the past 50 years are in great jeopardy."

Marshall said the nongermane measures added to the ERISA bill "establish dangerous precedents." The Carter Administration "will not sit idly by and permit the antiworker forces in this country to weaken workplace standards which we deem essential for the protection of the American worker," he asserted.

The OSHA amendment, offered by Senator David Boren (D-Okla.), passed by a vote of 48 to 36 after a motion to table failed by a vote of 53 to 36.

The Boren amendment differs slightly from the restriction under which OSHA currently operates pursuant to a continuing resolution for the present fiscal year. OSHA now is restricted from routine safety inspections of small businesses with 10 or fewer employees and an occupational illness and injury incidence rate of less than seven per 100 employees as published by the Bureau of Labor Statistics (Current Report, November 22, 1979, p. 587).

The Boren amendment shifts the criteria to lost workday rates. Exempted would be firms employing 10 or fewer workers that are in industrial categories having a lost workday case rate less than the national average of four worker injuries per 100 workers. The senator said this change would bring the law into line with OSHA policy, which he said does not target for inspection any business with a rate of less than four per 100.

Boren said the net effect of his amendment would be to bring an additional one million small companies under the exemption adopted a year ago. The total of small businesses exempted from scheduled inspections would be about 2.5 million, he added.

Boren explained that his amendment retains the current provisions to the small business exemption allowing the Secretary of Labor to investigate on his own motion in cases of suspected hazards, where accidents involve a fatality or hospitalization of one or more employee, where worker complaints include retaliation for exercising rights under the Occupational Safety and Health Act, or where an employee complaint covers a health or safety hazard.

Boren Amendment Opposed

Senator Harrison Williams (D-NJ), in opposing Boren's proposal, said it would create "uncertainty and confusion in the minds of 3.4 million small businessmen and women in

order to avoid, probably, a very small number of inspections."

"It hardly seems like a good bargain for the small entrepreneurs of the nation," Williams added. "It hardly seems to be the kind of thing they will in the end thank us for. And it hardly seems like the kind of saving which warrants a fundamental shift in the basic concept of how our OSHA law is to be enforced."

The amendment shifting from MSHA to OSHA sand, gravel, and stone mining operations was offered by Senator Malcolm Wallop (R-Wyo) and passed by a vote of 52 to 37. Wallop objected to the provisions of the 1977 amendments to the Federal Mine Safety and Health Act combining all mining, coal and noncoal, under a single set of rules. He said the MSHA rules are too burdensome and costly to noncoal operators who sometimes are dealing only with eight-foot gravel pits.

House Fails to Act

The Senate version of the House-passed bill with its germane and nongermane amendments was not received in the House until July 31, where attempts to bring the measure to the House floor were thwarted both that afternoon and the following morning. The House then adjourned for the August work period and the Democratic convention, barring further action until it reconvenes on August 18.

The nongermane riders affecting OSHA and MSHA, and a third provision on equal employment opportunity, also were opposed by Senator Jacob Javits (R-NY), who argued that attaching the nongermane amendments could impede passage by the House because they involve touchy subjects for House members, all of whom are up for reelection in November.

The failure of the House to act by an August 1 deadline for ERISA prompted the Labor Secretary to again chide what he termed the "group of antiworker elements in the House who are insisting on retaining a series of Senate-added amendments which are unrelated to this critical legislation" and which could "seriously jeopardize workers' rights to health, safety, and equal opportunity on the job."

Marshall noted that the pension bill has received broad support from both labor and management, adding that the failure of Congressional approval "has created a crisis for the 8 million workers and their families covered by those plans."

The Secretary called on Congress to "speedily enact this bill, without trying to attach antiworker nongermane amendments."

During House debate on the unsuccessful attempt to gain unanimous approval for consideration of HR 3904, Representative Frank Thompson, Jr. (D-NJ) said that it was his intention as well as those of his "colleagues on the ERISA task force immediately upon our return following the recess, to seek a rule and to proceed with the earliest possible disposition of this legislation."

Appropriations

OSHA APPROPRIATIONS BILL CLEARS LABOR-HEW SUBCOMMITTEE MARK UP

The House Appropriations Subcommittee on Labor, Health, Education and Welfare met in closed session July 30

to markup the fiscal 1981 budget request for the Occupational Safety and Health Administration.

Reportedly, the group agreed to remove restrictions on OSHA safety inspection authority imposed under the fiscal 1980 funding measure.

Following last year's practice, subcommittee members responded to a standing-room-only crowd by excluding the press and public from the day-long session and placing an embargo on the proceedings until the subcommittee's activities are acted on by the full House Appropriations Committee.

Congress has adjourned for the August work period and the Democratic convention and is scheduled to reconvene August 18. Subcommittee staff officials anticipate that the full committee will take up the Labor-HEW appropriation measure in late August or early September.

Although subcommittee staff members declined comment, labor officials told OSHR that subcommittee members had agreed to remove the restriction included in the fiscal 1980 continuing resolution prohibiting OSHA from conducting routine safety inspections in any workplace having 10 or fewer employees and a low injury and illness rate as published in the 1977 Bureau of Labor Statistics annual report (Current Report, August 2, 1979, p. 211). This amendment was introduced last July by Senator Richard S. Schweiker (R-Pa.).

The Carter Administration's fiscal 1981 budget request for OSHA is \$211.9 million, an increase of about \$24.9 million over the agency's final estimated fiscal 1980 appropriation (Current Report, January 31, p. 803).

Health Hazards

OSHA, NIOSH, DOW SET PLANS FOR STUDY OF BRAIN CANCERS AT PETROCHEMICAL PLANT

Medical investigators plan to look in closer detail at 25 brain cancer cases at a Dow Chemical Company petrochemical plant in Freeport, Texas, and also plan a more general study of overall cancer incidence at the plant, federal and Dow officials reported August 5.

While parts of the brain cancer study already are complete, officials from the National Institute for Occupational Safety and Health and the Occupational Safety and Health Administration worked out details for a more extensive study at a meeting with Dow officials August 4. The three groups also reached general agreement, but without specific details, on an overall study of cancer at the plant.

The 25 cases were discovered as part of an ongoing investigation at a Union Carbide Company chemicals and plastics plant in Texas City (Current Report, July 31, p. 237). A total of 45 fatal brain cancers were found between the two plants, a rate twice that found in the general population, officials said.

Although officials from all three groups told OSHR that the investigation was proceeding with cooperation from all parties, Dow officials, in a statement released August 6, disputed claims of a "cancer epidemic" at the plant and said that death rates actually may prove to be lower than expected.

"Preliminary results from Dow studies currently in progress show no increased risk to employees, and the number of employee deaths due to brain cancer may well be somewhat lower than predicted from a comparable sample of the population at large," according to Ercyl Blair, Dow vice president for health and environmental sciences.

"We are confident that when Government scientists have completed their independent investigation, their conclusions

will confirm our findings," Blair said. The company also noted there have been no cancer deaths among company employees since 1977, and restated its belief that there is no correlation between the deaths and any process or chemical used at the plant.

At the Dow plant, NIOSH and OSHA officials plan to draw a 5 percent sample from the approximately 40,000 workers employed between January 1, 1940 and January 1, 1980. Demographic and work history information will be compiled from company records, and a case/control study will be conducted in an attempt to determine common exposures between those with cancer and the control group.

The overall cancer incidence rates will be determined through a study of the entire 5 percent sample, officials said.

Congressional Investigation

The discovery of the Dow cases prompted a pledge from Representative Bob Eckhardt (D-Texas) to investigate, and possibly to introduce legislation to help OSHA in regulating hazardous environments, as well as specific chemicals. Eckhardt met with OSHA and NIOSH officials on August 1 and offered assistance in the federal agency's investigations, a NIOSH official said.

Eckhardt described the discovery of the cases as "further evidence that cancer in the Texas Gulf Coast region has reached epidemic levels." He added that "the problem is of 'national concern,' affecting not only workers but residents in communities near chemical plants.

Eckhardt noted that OSHA and NIOSH may be unable to locate specific chemicals, if any, responsible for the cancers. He also noted that the Supreme Court ruling in OSHA's benzene case (8 OSHC 1586) indicates that agencies may not be able to regulate specific chemicals unless studies demonstrate that the chemical poses a significant risk to human health that would be alleviated by a regulation.

He said he would change this, to reflect what he called the intent of the Occupational Safety and Health Act, so that an environment known to subject workers to unreasonable risk could be the subject of OSHA control regardless of whether a specific substance can be identified.

"If the Court does not read the law that way, we will make it clear that that is what is intended," he said.

Eckhardt, chairman of the House Commerce subcommittee on oversight and investigations, is likely to hold oversight hearings this fall, focusing on the questions raised by the Supreme Court decision, and the need for Congress to define "significant risk."

Union Carbide Results

The study of brain cancer cases at the Union Carbide plant, begun in early 1979 (Current Report, March 8, 1979, p. 1521), found a three-fold risk of brain cancer for workers employed at the plant for more than 20 years, federal officials reported.

A brief report of the Texas City investigation was published in the August 1 edition of the Center for Disease Control publication, "Morbidity and Mortality Weekly Report."

According to that account, 11.2 cases would have been expected at the plant. A total of 17 cases were studied, amounting to an overall increased risk of 1-1/2. The risk increased with length of employment, officials found, with those employed 20 years or more suffering a three-fold risk.

Officials also reported that the preliminary review of the work records for the cases revealed "no obvious common exposure factor within the plant," and that determining a "causative agent" awaits further study.

Litigation**ACCESS TO RECORDS RULE DOES NOT MEET SUPREME COURT TEST, CHEMICAL GROUP SAYS**

The Occupational Safety and Health Administration's rule on access to medical and exposure records is "plainly unlawful" because OSHA failed to meet requirements of significant risk set by the Supreme Court, a chemical association told the U.S. District Court for the Western District of Louisiana.

The Louisiana Chemical Association's July 29 complaint was the second action that group has taken in regard to OSHA's May 21 rule on access to records (Current Report, May 29, p. 1203) and the first action taken in a U.S. District Court. The industry group also petitioned the U.S. Court of Appeals for the Fifth Circuit to review the rule (Current Report, July 24, p. 221).

The association contended that the OSHA regulation is not a "standard" as defined in the Occupational Safety and Health Act of 1970 because it does not prescribe safe working conditions, but only requires preservation and access of records, and therefore should be reviewed by a district court.

The industry group further claimed that even if the regulation is considered a standard, "as OSHA has asserted," it is unlawful in light of the Supreme Court's July 2 ruling on OSHA's benzene standard (8 OSHC 1586) "because OSHA has failed to make requisite findings that the regulations are necessary to remedy a significant health risk."

In its brief to the district court, the association continued that the rule "exceeds OSHA's authority to set standards" because OSHA "did not and could not make the threshold finding required by the Supreme Court."

The access rule, according to the association, "applies to substances or agents simply because they come within the OSHA's expansive definition of 'toxic substance or harmful physical agent,' without regard to the exposure level or risk from any particular substance."

"Such a basis for a standard was found wanting by the Supreme Court" in the benzene case "even in the case of a known carcinogen," the court was told.

Health Programs Would Decline

The association contended that its members and their employees would suffer "grievous and irreparable injury" if the regulations are not set aside, because occupational health programs will become "significantly less effective." The association said doctors will decline to work as independent contractors for companies because of a lack of assurance of confidentiality between patient and doctor, and that working doctors will record less information and conduct fewer studies.

Increased costs, disclosure of trade secret information, disruption of collective bargaining agreements, loss of Fourth Amendment protection against unreasonable and unwarranted searches, and the possibility of widespread litigation from disclosure of confidential employee information were other reasons cited by the association for opposing the rule.

OSHA's regulation governing the agency's internal procedures for seeking access to employer records "contains broad standards, and open-ended exceptions, rendering it inadequate to safeguard the privacy of medical records," the industry group charged.

According to Stephen A. Bokot, of the National Chamber Litigation Center, Inc., acting as co-counsel to the association, the district court was petitioned because of the question

that the regulation is not a standard and thus not reviewable in an appeals court.

A similar question was raised by the American Industrial Health Council, which complained to a district court in Texas about OSHA's cancer policy. In that case, AIHC contended the policy was not a standard and therefore was reviewable in a district court (Current Report, January 31, p. 805). The U.S. District Court for the Southern District of Texas has yet issued no ruling in that case, according to OSHA attorneys.

Health Hazards**SLOWDOWN IN RATE OF OSHA STANDARDS SEEN RESULT OF SUPREME COURT RULING**

MILWAUKEE — (By a BNA staff correspondent) — The Supreme Court's decision in the benzene case will not halt the Occupational Safety and Health Administration's standards-setting process, but it may result in a slowdown in the issuance of regulations, OSHA Health Standards Director Bailus Walker stated July 28.

Addressing a National Environmental Health Association educational conference, Walker said it would be a "mistake" to conclude that the benzene ruling (8 OSHC 1586) "put OSHA on 'hold' or in fact completely destroyed the OSHA standard-setting process and related efforts to protect the American workforce."

The rate at which standards are issued may be slowed, however, since a considerable portion of the agency's resources will have to be diverted to meet the court's expectations, he predicted.

Walker asserted that the decision is simply another impediment in the already "difficult, slow, and contentious" process of standard-setting. In addition, he said, "the court did not reject the Secretary's conclusion that there is no known safe level of exposure to a carcinogen, that benzene causes leukemia, or that benefits may be derived from reducing exposure to benzene."

"The Court did indicate that those conclusions standing alone may not be adequate to support regulation," he said.

Walker called for additional public health professionals to aid in the enormous data-gathering required, and for full acceptance of environmental health personnel in the community health profession. Full acceptance is essential, he said, because "80 to 90 percent of the illnesses recognized and dealt with by private and public health services are environmentally or occupationally related."

'Statistical Uncertainties' Seen

The Supreme Court should not be blamed for refusing to uphold the benzene standard, because occupational medicine "simply foisted its own statistical uncertainties on the courts," according to Irving Selikoff, Mt. Sinai School of Medicine.

"The court was grappling with the same insecurities we are," Selikoff said. "If we were dealing with absolute certainty, the case would never have gotten to the Supreme Court."

At the same time, Selikoff declared the numerical standards required by the Supreme Court "cannot be acquired" at the present time, and will never be acquired unless industry provides worker exposure data to occupational health researchers. "We simply will never determine carcinogenicity without data which only industry has," he said. Selikoff said he does not believe there is such a thing as a total or absolute threshold level for exposure to cancer-causing agents, but there are certainly practical thresholds

"How much residual risk we accept for others depends on ethics and morality," he said. When asked about cost-benefit analysis being applied to occupational exposure levels, he said the "costs should accrue to the same person who will enjoy the benefits," and "a worker should not have to put his life on the line."

In reviewing his research on asbestos exposure, Selikoff noted that there never will be developed any valid dose-response relationships for low level exposure and family-contact disease, because "nobody does dust counts on shaking out father's clothes after work, or even on such groups as ship repair workers. The data are not there."

Selikoff reported the results of a soon-to-be-published study of 282 ship repair workers done by Mt. Sinai Hospital, which showed that 30 years after presumably low-level exposure to asbestos, approximately 85 percent have abnormal chest X-rays. He noted that if mesothelioma were not such a rare disease in the general population, its connection with asbestos would probably never have been noticed.

There is also a great dearth of data on possible reversal of risk for occupationally exposed workers, he said. It is possible that, by removing workers from benzene exposure when certain benign blood changes occur, their risk of leukemia is lessened, in the same way that quitting smoking eventually reverses lung cancer risk, he said, but added this is an almost unexplored field.

Litigation

SECRETARY OF LABOR ASKS HIGH COURT TO DENY REVIEW OF COTTON DUST DECISION

The Secretary of Labor requested the U.S. Supreme Court to deny review of a decision of the U.S. Court of Appeals for the District of Columbia Circuit which upheld the validity of the Occupational Safety and Health Administration's cotton dust standard.

This request was made in a brief filed in response to petitions for certiorari in *American Textile Manufacturers Institute, Inc. v. Marshall* (No. 79-1429), *National Cotton Council of America v. Marshall* (No. 79-1583), and *Cotton Warehouse Association v. Marshall* (No. 79-1789).

All three petitions for certiorari seek review of the decision in *AFL-CIO v. Marshall* (7 OSHC 1775) with the textile manufacturers having filed their petition on March 14 (Current Report, March 27, p. 996), the Cotton Council on April 9 (Current Report, April 17, p. 1071), and the Warehouse Association May 9 (Current Report, May 22, p. 1183).

According to the Secretary's brief, the textile manufacturers and the Cotton Council are seeking review in this case in order to get the Court to consider the meaning of the term "feasible" as it is used in OSHA's enabling statute, and for a determination as to whether the Secretary must establish that the costs of the cotton dust standard bear a "substantial relationship" to its benefits. The Secretary's brief maintained that those issues are presented in the coke oven emissions cases which were recently granted certiorari by the Court (Current Report, July 10, p. 149).

Accordingly, the Secretary urged that the textile manufacturers' and Cotton Council's petitions for certiorari be held pending disposition of the coke oven cases.

The Secretary's brief also maintained that there is no need for the Court to consider the warehouse group's contention that there is insufficient evidence to support the Secretary's determination that employees exposed to cotton dust in cotton warehouses and cotton classing officers may suffer

material impairment of health. According to the brief, the Secretary decided to reexamine that issue in light of the Court's recent ruling in the benzene standard case (8 OSHC 1586), and has suspended the standard for those industries pending this reexamination (Current Report, July 31, p. 237).

Accordingly, the Secretary's brief urged that certiorari be granted in that portion of the case challenging application of the standard to cotton warehouses and cotton classing offices in order that the issue be remanded to the appellate court so that the record may be returned to OSHA for further consideration.

Enforcement

LEGALITY OF INTERAGENCY REFERRAL BEING EVALUATED BY IRLG SUBGROUP

A subgroup within the Interagency Regulatory Liaison Group is taking a second look at the legality of an inspection referral program announced earlier this year.

The legal review was requested in a July 17 memorandum from the subgroup chairman, Food and Drug Administration Associate Commissioner Joseph P. Hile, who said the program should be reviewed in light of several "eloquently written" public comments challenging its legal basis.

In a March notice, IRLG announced the program as a way of making more effective use of "limited" inspection resources. Under the program, an inspector for one agency is expected to make a referral if, during a routine authorized inspection, he observes "in plain view" a possible violation of another agency's regulations (Current Report, April 10, p. 1055).

Stephen Mallinger, Occupational Safety and Health Administration office of field coordination, told OSHA August 4 that his agency is not making referrals under the program. OSHA has not yet reviewed the program with union representatives for its field personnel to determine how the program would affect contract provisions on the duties for inspectors, he said.

However, OSHA "is actively accepting referrals from the other agencies," Mallinger noted.

Hile acknowledged that he was requesting the review even though legal counsel for the member agencies reviewed and approved the program before it was initiated. The reviewing subgroup, known officially as the compliance and enforcement counterpart group in the IRLG, can make recommendations on compliance to the head of each member agency.

The FDA official asked in his memorandum if individual agency inspection officials would be "jeopardized" by a lawsuit against IRLG referrals, and if such a lawsuit would be likely.

He also listed four arguments made in the comments that he said should be reconsidered:

- ▶ The Administrative Procedures Act would require rulemaking for such a "formal" procedure;
- ▶ Training inspectors to recognize violations over which they have no enforcement jurisdiction "exceeds the mandate of Congress";
- ▶ The "plain view" doctrine, which holds that inspectors will not perform any duties outside their ordinary authority but will refer possible violations that are in plain view, "is not applicable because of the manuals, training, and referral procedures involved in the program;" and
- Inspectors who do not state that one of their functions is to look for violations of other agency laws are "engaged in unreasonable searches prohibited by the Fourth Amendment" to the Constitution.

The memorandum asked for a response from compliance and enforcement subgroup members by August 15.

Referral Manual

Hazardous conditions involving electrical equipment, walking and working surfaces, trenches, machine guarding, and materials handling and storage are among the conditions that should be referred to OSHA by inspectors from other agencies, according to a manual developed for the interagency program.

Other violations that should be noted are those concerning protective equipment, flammable and combustible liquids, ventilations, and noise, the manual reported.

According to IRLG, results of inspections made pursuant to referrals will be evaluated on a quarterly basis to determine the effectiveness of the program.

Specific conditions that should be reported to OSHA are listed in the manual. In the area of electrical hazards, for example, inspectors from other agencies should note lack of grounding for equipment and appliances, exposed wires, lack of covering for junction boxes and switches, substitution of flexible cords and cables for fixed wiring, splices and tape on wiring, flexible cords hung from ceilings and walls and across floors, and lack of identification for breaker switches.

Agencies participating in the referral program are FDA, the Environmental Protection Agency, the Consumer Product Safety Commission, and the Food Safety and Quality Service of the Department of Agriculture.

Excerpts from the IRLG manual regarding conditions to be referred to OSHA appear in the Full Text section of this Current Report.

Health Hazards

TEXTILE UNION ASKS CONGRESS TO SUPPORT DYES ALERT OVER INDUSTRY OBJECTIONS

The Amalgamated Clothing and Textile Workers Union voiced strong support of an Occupational Safety and Health Administration health hazard alert on benzidine-based dyes, objections to which have been carried to Congress.

In letters to Senator Harrison Williams (D-NJ), and Representative Joseph M. Gaydos (D-Pa), the union called the alert "prudent" and "the very least that can be done to improve the safety and health of textile workers."

The health hazard alert, released by OSHA and the National Institute for Occupational Safety and Health in May, came under fire from the Dyes Environmental and Toxicology Organization, which charged that the alert caused a drastic decline in sales of certain dyes (Current Report, June 26, p. 91).

DETO wrote Williams, chairman of the Senate Labor and Human Resources Committee, and Gaydos, chairman of the House Education and Labor Subcommittee on Health and Safety, to ask for congressional intervention. Specifically, the industry group sought an amendment to the Occupational Safety and Health Act of 1970 prohibiting OSHA from issuing health hazard alerts, which DETO termed "de facto regulation," without first seeking public comment.

However, ACTWU told Williams and Gaydos that the health hazard alert is the "absolute minimum level of action" OSHA must take until it can write specific regulations for benzidine-based dyes. The union said it had petitioned OSHA for specific regulations in 1978, and that the agency responded that regulations might be written under OSHA's generic cancer policy, but that the alert would provide information in the interim period.

"The Health Hazard Alert is crucial because it gives workers, employers, physicians, and others a way to identify

which dyes need to be treated with care," ACTWU said. "In the absence of the Alert, workers would have no way to get beyond the trade names of the hundreds of dyes that might be kept in an average dye shop," the union declared.

The union also contended that the large concentration of dyehouse workers in the New Jersey contributes to a high rate of bladder cancer in the state.

OSHA Reviewing Data

OSHA still is reviewing the scientific information DETO presented as the basis for some of its objections to the health hazard alert, and is considering the need for modifications in the document, according to an OSHA health standards official.

The health hazard alert is not a legally binding document, however, that can be used in citing employers for health violations, Peter Infante, director of OSHA's office of carcinogen identification and classification, stressed. He added that the alert was written to inform industry and employees of the health hazards of certain kinds of dyes.

A July 11 OSHA directive (OSHA Notice CPL 2-2) also stressed that the alert is intended only "to assist employers, employees, and physicians to work together to reduce potential health hazards that could result from excessive exposure to these dyes." According to OSHA Instruction CPL 2-2.27, employers can be cited for violation of the general duty clause only for employee exposure to three particular benzidine, o-tolidine, or o-dianisidine-based dyes (Reference File, 21:9163).

California

OSHA APPROVES STATE UTILIZATION OF HEALTH CENTERS, HAZARD DATA BASE

Inclusion into the California state plan of University of California occupational health centers established by the state legislature and a workplace hazard computer data base, also set by the legislature, was approved July 25 by the Occupational Safety and Health Administration, OSHA announced August 5.

The first supplement provides that the California state plan (Cal/OSHA) will purchase research, clinical and laboratory services from the occupational health centers the notice said (45 FR 51775). The services, which are to be those beyond the capability of Cal/OSHA, include training and education, consultative, clinical and analytical and applied study, the announcement noted.

The supplement calls for one epidemiologist, two industrial hygienists, and a clerical position, to be designated the technical development group within the Research and Standards Development Unit, the notice elaborated.

The supplement was submitted as a plan change March 11.

Hazard Alert

The second supplement describes the Hazard Alert System (HALTS), a data repository on toxic materials and harmful physical agents in use or potentially in use in workplaces. OSHA stated. Jointly administered by the California Departments of Industrial Relations and Health Services and located in Berkeley, Calif., the system was developed by specialists in toxicology, epidemiology, medicine, administration, data processing, and information services according to the announcement.

Under the supplement, a technical position in the California Division of Occupational Safety and Health will provide liaison between Cal/OSHA and the HALTS system. The supplement was submitted as a plan change January 11.

Further information may be obtained from Patricia O. Horn, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Ave. NW., Washington, D.C. 20210; tel: (202) 523-8045.

OSHA's notice of approval appears in the Full Text section of this Current Report, and will be reflected in a future Reference File Supplement.

Enforcement

OSHA REFERS LOUISIANA FATALITY CASE TO JUSTICE DEPARTMENT FOR EVALUATION

The Occupational Safety and Health Administration announced August 6 that it is referring a case involving the death of a marine-services company employee to the Justice Department for possible criminal prosecution.

Leroy Moore of Erwinville, La., an employee of Port Allen Marine Services, Inc., died August 20, 1979, when he fell from an unguarded drydock into the water and drowned, OSHA stated. Moore was not wearing a life jacket, the announcement said.

The Occupational Safety and Health Act of 1970 provides that, "Any employer who willfully violates any standard . . . promulgated (under) this Act, and that violation caused death to any employee, shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than six months, or by both" (Reference File 71:1101).

No further details of the case can be disclosed pending Justice Department review, according to OSHA.

Certification

SOLE NIOSH AUTHORITY FOR TESTING SUPPORTED BY FIREFIGHTERS' UNION

The National Institute for Occupational Safety and Health should be the sole agency authorized to test and certify respiratory protective equipment, according to the International Association of Fire Fighters.

IAFF comments supporting NIOSH's role in testing and certification were presented by Richard M. Duffy, the association's occupational health and safety coordinator, at a July 29 NIOSH hearing.

The hearing was held as a follow-up to a consultants' report on current testing and certification procedures followed under 30 CFR Part 11 by NIOSH and the Mine Safety and Health Administration. The consultants found a need for a major reconstruction of the certification program (Current Report, June 26, p. 92).

Industry representatives urged at the opening session of the hearing July 28 that equipment manufacturers be permitted to establish their own testing programs using equipment performance criteria developed by NIOSH (Current Report, July 31, p. 238).

According to IAFF, the authority to conduct testing and certification should remain with the institute. Placing this authority with private certification laboratories, as suggested by some parties, would not be a "viable alternative," the labor union argued.

Transferring certification authority to independent laboratories would result in IAFF members having "less trust in the integrity of the product" tested, Duffy maintained. Also, it would result in a loss of NIOSH expertise, which in turn would "delay any stop-sales/recall procedure if engineering defects or unapproved changes were uncovered in the field," he added.

Consistency in testing among different laboratories would be "marginal" at best, according to IAFF. Experience indicates that testing performed at different locations is not consistent, even where specific common criteria are followed, the union maintained. This is due, IAFF commented, to use of different types of testing equipment, differences in geographic location and altitude, and other variables.

The union argued that MSHA should not be given an active role in respirator testing and certification. In the past, MSHA has played a "relatively passive role" in the program, and giving it more responsibility would result in "potential jurisdictional disputes, bureaucratic entanglements, and duplication of effort," the union declared.

Other agencies such as the U.S. Fire Administration would not be qualified or have the resources or "credibility" to perform testing and certification, IAFF added.

Duffy reported that a resolution supporting a preeminent role for NIOSH in testing and certification will be submitted for membership vote at the 35th IAFF convention later this month.

Firefighter Needs

Performance criteria for respirators should be "upgraded" to take into account the "hostile environment" faced by firefighters, Duffy urged. Some factors that should be addressed, he said, include:

- ▶ Heat and flame resistance.
- ▶ Corrosion and moisture resistance.
- ▶ Cold temperatures.
- ▶ Thermal shock.
- ▶ Durability and dependability of respirators.
- ▶ More audible and more effective low-pressure warning devices.

▶ Inclusion of communications equipment and buddy-breathing capability in respirators.

IAFF agreed with the institute that data from actual tests should be published. The information also could be summarized to ensure that the user understands the results, it added.

Duffy said his union is "sure there will be disagreement by the manufacturers on this issue." However, much of this information already is available through the Freedom of Information Act, he asserted.

3M Testimony

Einar D. Horne, representing the occupational health and safety products division of the Minnesota Mining and Manufacturing Company, argued that NIOSH's current system for certification forces manufacturers to "submit products that will pass tests that may or may not guarantee protection to the user."

Tests employed by the institute are not accurate, not reproducible or adequately defined, and designed for equipment from the 1930s and 1940s, according to the company. These procedures may "do more harm than good based on the fact that the tests have little, if any, correlation to actual field conditions," it stated.

Horne called for NIOSH to adopt performance criteria rather than design specifications as the basis for its certification program. Such a procedure, he commented, would "specify the problems to be solved and not the detailed prescription for solving them."

This approach would permit manufacturers to search, with "minimum restraint," for innovative solutions to respirator problems, he explained.

The 3M representative criticized NIOSH for failing to notify manufacturers promptly of the status of approval tests. In the past 10 months, NIOSH has been doing a "poorer job" than ever before in communicating with

manufacturers, he said, adding that 3M recently experienced a four-month delay between the testing of a product and receipt of the NIOSH letter of certification.

NIOSH testing should be "audited," Horne recommended, stating that the institute could establish ground rules for "what a witness to the test can and cannot do." The technician performing the test should not feel pressured by an outside witness "if things are done correctly," he added.

Federal Agencies

FACOSH URGES OCTOBER 1 DEADLINE FOR COMPLIANCE WITH SAFETY/HEALTH RULES

Members of the Federal Advisory Council on Occupational Safety and Health adopted a motion August 5 in favor of complying with the October 1 deadline for implementation of safety and health requirements for federal employees.

Last month, President Carter delayed the effective date of Executive Order 12196, which requires federal agencies to comply with the same safety and health requirements as private sector employers, from July 1 to October 1, 1980. At that time the President said the extension was necessary "to provide sufficient time for the development of adequate implementing instructions" for putting the new requirements into effect (Current Report, July 10, p. 153).

Gilbert Omenn, associate director for human resources, veterans and labor, Office of Management and Budget, outlined for the advisory council the status of the revised draft of the Occupational Safety and Health Administration's regulations concerning basic program elements for federal employee safety and health programs, 29 CFR 1960. (Current Report, June 12, p. 51).

Under the executive order, OMB is responsible for coordinating the basic program elements between the Department of Labor and the other federal agencies (Current Report, February 28, p. 901).

Of the 17 federal agencies receiving the draft regulation, Omenn reported that roughly half have submitted comments and that the others have until August 8 to file their views with OMB so that the agency can get on with its task of reconciling the differences in the various responses and preparing the final draft for possible publication in the Federal Register.

OMB Under Tight Deadline

Council members expressed concern over OMB's ability to have the regulations in place by the October 1 deadline. Omenn admitted that the agency was under a "very tough timetable" but he emphasized the agency's objective is to issue the regulations "by October 1, or as soon thereafter as possible."

John McCart, executive director, Public Employee Department, AFL-CIO, told Omenn that he "sympathized with the difficult job" faced by OMB but that he personally favored publication of the rules in the Federal Register.

But if publication in the Federal Register "could result in deferral of the regulations," McCart said that he "would be willing to forego" this step, using the time instead for an extensive review of agency comments in order to comply with the October 1, deadline, making sure at the same time that all legal responsibilities in terms of union consultation rights are complied with.

Because the safety and health requirements are considered an internal Government document, John Hynan of the Solicitor's Office, DOL, said that it was not necessary to follow the requirements of the Administrative Procedure Act and publish the proposed regulations in the Federal Register.

Interim Regulations Proposed

However, Anthony F. Ingrassia, assistant director, labor-management, relations, Office of Personnel Management, cautioned if the regulations are not put in the Federal Register for public comment, agencies could be faced with unfair labor practice charges from government unions holding national level consultation who wish to comment on the Government-wide regulation are not members of the advisory council.

To avoid costly and time consuming unfair labor practice proceedings, Ingrassia suggested that "interim regulations" could be issued which would give the unions, agencies other than the 17 initially contacted, and the public, an opportunity to comment on the revised provisions.

Robert Crum, international representative, International Brotherhood of Electrical Workers, AFL-CIO, proposed the motion that the advisory council recommend to OMB and DOL that the program elements be published in the Federal Register after August 8 and that the agencies go forward with the necessary review as swiftly as possible in order to meet the October 1 deadline.

This provision was unanimously approved by the council after first rejecting an amendment which would have placed an August 20 cut-off for publication in the Register.

The advisory council is scheduled to meet again in November.

General Policy

MARSHALL ATTACKS REPUBLICAN PLANK ON PURE 'CONSULTATION' ROLE FOR OSHA

The Republican Party platform plank on job safety and health proposes to "gut" federal protection for workers. Labor Secretary Ray Marshall charged.

Speaking at a July 30 press conference, Marshall stated that the platform "would make [the Occupational Safety and Health Administration] a simple consultation program and leave the health and safety of workers up to the business community."

However, OSHA and the Mine Safety and Health Administration were created as the result of the "failure of such a system," he added.

In its safety and health plank, approved July 10, the platform committee said OSHA should concentrate its efforts on encouraging voluntary compliance by employers, and should exempt employers with good safety records from safety inspections (Current Report, July 17, p. 198).

Republican Presidential candidate Ronald Reagan "suggests that OSHA serve as a laboratory, a consultation agency," Marshall asserted. "Well, Mr. Reagan may not know it, but OSHA already provides consultation, and it already has a lab, a very fine one in Utah."

The Government is not about to "turn America's workplaces into labs, or America's workers into mice," the Labor Secretary declared. "The safety and health of workers must not begin with a body count."

He charged that, "measured by any progressive or humane standard," the "Reagan Republicans are anti-government and anti-worker."

Training

LABOR DEPARTMENT AWARDS \$3.5 MILLION IN TRAINING-GRANT PROGRAM SECOND YEAR

The Occupational Safety and Health Administration announced August 4 that it has awarded a second round of training and education grants totaling \$3.5 million.

Recipients were 66 business, employee, and educational organizations, OSHA said. The new awards complete the second year of the agency's "New Directions" program, which funded 82 continuing grants totaling \$11.2 million in fiscal 1979, the agency noted.

The National Cancer Institute provided \$2.3 million in fiscal 1979 and \$810,000 for the current grants, the announcement said. NCI grants are directed at problems of cancer in the workplace, OSHA noted.

OSHA explained that planning grants, funded for one year, were awarded to groups that "demonstrate potential to provide important workplace information but need to focus goals and assess needs before their programs can fully serve the intended audiences."

Developmental grants, funded for up to five years, support established programs that require further development to become "self-sufficient resource centers," OSHA said.

Pool of 232

OSHA selected the grant recipients from an application pool of 232 following announcement of competition August 13, 1979 (Current Report, August 16, 1979, p. 252). Applications also were reviewed by 29 consultants from labor, business, and the academic community, the agency said.

OSHA noted that two grantees will use funds to assist labor and management in instituting joint labor-management safety and health committees. They are the American Center for the Quality of Work Life, Washington, D.C., and the Massachusetts Labor-Management Center, Inc., Boston, Mass.

The grants are divided among labor organizations and field branches (Category I); employer associations and groups serving small business (Category II); educational institutions (Category III); and nonprofit organizations (Category IV).

Organizations that received the grants, listed according to the categories to which they belonged, follow.

Category I Groups

Grant recipients in Category I were:

Public Employee Department, AFL-CIO, Washington, D.C. 20006, \$50,000.

International Association of Fire Fighters, Washington, D.C. 20006, \$100,000.

Utility Workers Union of America, AFL-CIO, National Union, Washington, D.C. 20006, \$50,000.

AFSCME Career Development, Inc., Washington, D.C. 20036, \$60,000.

United Paperworkers International Union, Flushing, New York 11365, \$100,000.

International Union of Bricklayers and Allied Craftsmen, Washington, D.C. 20005, \$60,000.

United Cement, Lime and Gypsum Workers International Union, Chicago, Illinois 60656, \$41,500.

American Federation of Government Employees, Washington, D.C. 20005, \$75,000.

International Union of Electrical Workers, AFL-CIO, Washington, D.C. 20036, \$60,000.

Montana State AFL-CIO, Helena, Montana 59601, \$50,000.

International Ladies' Garment Workers' Union, New York, New York 10019, \$80,000.

International Union of Operating Engineers, Washington, D.C. 20036, \$100,000.

District 1199 of the National Union of Hospital and Health Care Employees, RWDSU/AFL-CIO, New York, New York 10036, \$50,000.

Colorado Building and Construction Trades Council, Denver, Colorado 80218, \$40,000.

Phoenix Building and Construction Trades Council, Phoenix, Arizona 85004, \$40,000.

St. Louis Labor Council, AFL-CIO, St. Louis, Missouri 63139, \$50,000.

AFL-CIO Great Lakes Regional Council, Lansing, Michigan 48933, \$50,000.

United Food and Commercial Workers, Washington, D.C. 20006, \$50,000.

Teamsters Local 2707, Los Angeles, California 90045, \$30,000.

United Furniture Workers of America, AFL-CIO, International Union, Nashville, Tennessee 37210, \$50,000.

United Brotherhood of Carpenters and Joiners of America, Washington, D.C. 20001, \$70,000.

AFL-CIO Appalachian Council, Charleston, West Virginia 25301, \$50,000.

United Electrical, Radio and Machine Workers of America, New York, New York 10022, \$68,835.

Category II Groups

Recipients in Category II were:

SAFE Committee, Construction Advancement Foundation, Hammond, Indiana 46324, \$50,000.

American Public Works Association, Chicago, Illinois 60637, \$49,200.

Rubber Manufacturers Association, Inc., Washington, D.C. 20006, \$43,500.

National Constructors Association, Washington, D.C. 20005, \$49,900.

American Association of Minority Enterprise Small Business Investment Companies, Washington, D.C. 20005, \$50,000.

American Paper Institute, New York, New York 10016, \$48,300.

American Waterways Operators, Inc., America Waterways Shipyard Conference Safety and Health Committee, Arlington, Virginia 22209, \$50,000.

Associated Industries of Alabama, Inc., Birmingham, Alabama 35222, \$50,000.

Engraved Stationery Manufacturers Association, Inc., Chicago, Illinois 60611, \$25,000.

The Food Processors Institute, Washington, D.C. 20036, \$30,700.

The Grain Elevator and Processing Society, Minneapolis, Minnesota 55415, \$49,000.

Council of Smaller Enterprises, Division of Greater Cleveland Growth Association, Cleveland, Ohio 44115, \$50,000.

International Lead Zinc Research Organization, Inc./Lead Industries Association, Inc., Environmental Health Department, New York, New York 10017, \$75,000.

National Maritime Safety Association, Inc., Philadelphia, Pennsylvania 19102, \$75,000.

National Small Business Association, Washington, D.C. 20006, \$50,000.

Society of Plastics Industry, Inc., New York, New York 10017, \$75,000.

Truck Body and Equipment Association, Inc., Washington, D.C. 20015, \$54,400.

Category III Groups

Academic groups receiving grants were:

West Virginia Institute of Technology, Montgomery, West Virginia 25136, \$50,000.

West Virginia University, Morgantown, West Virginia 26506, \$45,700.

Langston University, Langston, Oklahoma 73050, \$50,000.

Coppin State College, Baltimore, Maryland 21216, \$50,000.

University of Oklahoma, Norman, Oklahoma 73019, \$49,900.

Category IV Organizations

Grants were awarded to these nonprofit groups:

Rhode Island Committee on Occupational Safety and Health, Providence, Rhode Island 02909, \$25,000.

Maryland Committee on Occupational Safety and Health, Baltimore, Maryland 21217, \$25,000.

Maine Labor Group on Health, Augusta, Maine 04330, \$25,000.

Eastern New York Construction Employers, Inc., Albany, New York 12205, \$29,700.

Workers' Institute for Safety and Health, Washington, D.C. 20036, \$120,000.

Western New York Council on Occupational Safety and Health, Buffalo, New York 14201, \$25,000.

Labor Council for Latin American Advancement, Washington, D.C. 20006, \$50,000.

The East Los Angeles Community Union, Los Angeles, California 90032, \$25,000.

Massachusetts Labor-Management Center, Inc., Boston, Massachusetts 02108 \$100,000.

American Center for the Quality of Work Life, Inc., Washington, D.C. 20016, \$180,000.

Comite de Trabajadores para Ayudar al Consumidor, Inc., Puerto Rico 00922, \$30,000.

National Urban League, New York, New York 10021, \$50,000.

A. Philip Randolph Educational Fund, New York, New York 10010, \$49,900.

Coalition of Labor Union Women, Washington, D.C. 20036, \$50,000.

Working Women, National Association of Office Workers, Cleveland, Ohio 44115, \$37,300.

Metro Area OSHA Training Consortium, Omaha, Nebraska 68102, \$25,000.

American Chemical Society, Washington, D.C. 20036, \$30,000.

INFORM, Inc., New York, New York 10004, \$80,000.

New Hampshire Safety Council, Concord, New Hampshire 03301, \$25,000.

North Carolina Occupational Safety and Health Project, Durham, North Carolina 27705, \$25,000.

Occupational Safety and Health Education Fund of New Jersey, Linden, New Jersey 07036, \$25,000.

Respirators**INTERNATIONAL WORKSHOP ON RESEARCH TO BE HELD BY NIOSH SEPTEMBER 9-11**

An international workshop on respirator research will be held September 9-11 in Morgantown, W. Va., by the National Institute for Occupational Safety and Health.

Included in the workshop are sessions on research involving air-purifying respirators, physiology and psychology of respirator use, atmosphere-supplying and miscellaneous respirators, and quantitative respirator fit testing.

NIOSH Deputy Director John R. Froines will deliver the opening presentation, "Respirator Research, Where It Needs To Go," and Assistant Labor Secretary Eula Bingham will be the September 9 dinner speaker, according to the preliminary agenda.

Also featured will be a panel discussion on areas where respirator research should be directed. Panel members include Mary-Win O'Brien, United Steelworkers of America; William Burgess, Harvard University; Morton Corn, Johns Hopkins School of Hygiene and Public Health; Darrel D. Douglas, Oregon Workers' Compensation Department; Bruce Held, Lawrence Livermore Laboratory; Peter Raven,

Texas College of Osteopathic Medicine, and William H. Revoir, American Society for Testing and Materials.

The workshop will be held at the Ramada Inn in Morgantown. For further information, contact Robert H. Schutz, assistant to the director, NIOSH division of safety research, telephone (304) 599-7595.

Health Hazards**IRLG REPORT CITES SIX SUBSTANCES FOR COORDINATED RULEMAKING IN 1980**

The Interagency Regulatory Liaison Group formally reorganized its regulatory coordination efforts by granting priority status to six chemical substances, changing the focus for 13 others, and ending regulatory efforts on nine.

The reorganization is detailed in the latest edition of the group's "Regulatory Reporter," dated July 1980.

As planned, the group is shifting its regulatory coordination efforts during 1980 to six substances, called Category I chemicals: asbestos, benzene, benzidine congener dyes, chlorofluorocarbons, formaldehyde, and polychlorinated biphenyls.

A lesser priority is given to 13 substances, designated as Category II. They are: acrylonitrile, cadmium, chlorinated dioxins, chloroform and chlorinated solvents, chromates, ethylene oxide and its residues, lead, mercury, nitrosamines, noise, radiation, vinyl chloride and polyvinyl chloride, and waste utilization and disposal on food chain land.

In addition, the group decided to suspend its regulatory efforts on nine substances because the need for control has passed or controls already are in place. The substances in this Category III are: arsenic, beryllium, coke oven emissions, dibromochloropropane, diethylstilbestrol, ethylene dibromide, ozone, polybrominated biphenyls, and sulfur dioxide.

The 28 substances listed in the latest report increase by four the original 24 substances targeted for regulatory coordination when the group was formed in 1978. The four additional substances are the benzidine dyes, chlorinated dioxins, formaldehyde, and noise.

Agencies involved in the IRLG are the Occupational Safety and Health Administration, Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, and Food Safety and Quality Service of the Department of Agriculture.

Coordination Urged

The report noted that information gathering or other activities focusing on the six priority substances should be integrated and coordinated. Economic analyses should be sponsored jointly when possible, or at least should be consistent in their assumptions and methods of analysis.

In addition, the report noted, any proposed rules should be coordinated with the other IRLG agencies and issued jointly where possible.

According to the report, the group will try to develop a single risk assessment for formaldehyde and to determine the feasibility for coordinated risk assessments for asbestos and benzidine dyes.

In addition, the report said, the regulatory development workgroup of the IRLG will:

- Develop retrospective and possibly prospective control options analyses for lead;

- Develop a mechanism for identifying emerging chemicals which might be subjects of later coordination efforts by the agencies; and

► Assess the confidential business information/trade secrets constraints to joint regulatory development.

Comments on the report should be addressed to the Regulatory Development Work Group, EPA (TS-793), 401 M. St., Washington, D.C. 20460.

Copies of the report are available from the Office of Pesticides and Toxic Substances, Industry Assistance Office, at the above address, or at (800) 424-9065 or 554-1404 in Washington, D.C.

Research

SAFETY, HEALTH STUDY SECTION RENEWAL FOR TWO YEARS ANNOUNCED BY DEPARTMENT

Renewal of the Center for Disease Control's Safety and Occupational Health Study Section was announced July 31 by the Department of Health and Human Services (45 FR 50937).

The announcement noted that the section makes recommendations to the department on scientific, research, and training areas related to occupational safety and health, which are in need of special emphasis. It also reports on the competency available to meet these needs.

Further, the section reviews the scientific and technical merit of all research and training grant and fellowship applications, and recommends to the appropriate national advisory councils those applications that merit support, the notice added.

Authority for the section will expire June 30, 1982, unless the Secretary of Health and Human Services determines that continuance is in the public interest, the notice stated.

California

CAL/OSHA STANDARDS BOARD REVISES RULES FOR FIREFIGHTERS PROTECTION

SAN FRANCISCO — (By an OSHR staff correspondent) — A revision of the state's standards for personal protective clothing and equipment used by firefighters was adopted unanimously on July 31 by the California Occupational Safety and Health Standards Board.

In a related action, the board also amended other standards governing maintenance and sanitation of respiratory protective devices.

The standard for firefighting gear mandates that all such gear meet its requirements by March 31, 1983. In the meantime, protective clothing and equipment meeting recognized safety standards may continue to be used. The rule lists the National Fire Protection Association, the American National Standards Institute, and the National Bureau of Standards as examples of organizations that issue recognized safety standards.

Some of the revisions in the new standard include a 30-ounce limit on helmet weight and thermal insulation specifications for protective gloves. The rule also includes provisions for wildland firefighters.

In other action, the board unanimously adopted a revision to its inorganic arsenic standard that permits retail sale of ant control devices that contain arsenic as an ingredient. Under the revision, retailers, distributors, and users of such devices need not report their activities to the Division of Occupational Safety and Health.

The state rule for diving was amended to bring underwater photography for motion picture production within the scope of the term "technical diving."

Finally, sanitation standards for general industry and agricultural operations were amended and clarified to end their conflict with the state Health and Safety Code. The discrepancy between the code and the board's standards was the subject of a lawsuit.

Variances and Petitions

In a variance decision, the board granted the request of *Diamond International Corporation* (Docket No. 80-V-008) for a variance from section 6264(a) of the Logging and Sawmill Safety Orders relating to front end loaders. The rule requires such loaders to be equipped with log gripping or retaining devices. At a plywood mill, Diamond International uses a front-end loader equipped with forks to transport logs within a restricted area. In granting the variance the board allowed the practice to continue so long as the company limits access to the area and uses the loader only in the restricted area.

Two petitions from Federated Firefighters of California were granted and the board ordered advisory committees convened to study the issues involved. One petition asked the board to add a requirement for fire shelter devices to protect wildland firefighters. The other suggested that personal alarm devices be required for all firefighting activities involving use of self-contained breathing apparatus.

Health hazards associated with exposure to polychlorinated biphenyls and trichloroethylene will be studied by advisory committees under two other petitions granted by the board. The International Brotherhood of Electrical Workers, Local 1245, asked the board to add PCBs to its list of carcinogenic substances. Nine other petitions sought a reduction of the TCE exposure limit, or an outright ban on its use.

Washington

COMPLIANCE INSPECTIONS INCREASE FOR FOURTH CONSECUTIVE QUARTER

For the fourth consecutive quarter, Washington job safety and health inspectors made more inspections than in the previous quarter, the state reported to the Occupational Safety and Health Administration.

For the period from April 1 through June 30, Washington inspectors made 3,804 total inspections, 268 more than in the first quarter.

Over three-fourths, or 2,942, of the inspections were listed as general schedule. 351 were in response to complaints, and 70 were accident investigations. Followup inspections accounted for 441 of the total. Excluding the followups, Washington inspectors found 32 percent of employers inspected in the second quarter in compliance with state standards.

Washington's 84 inspectors cited 632 alleged serious violations for which they proposed \$113,210 in civil penalties. They also cited 7,145 alleged nonserious infractions which carried proposed fines totaling \$57,106.

California

CAL/OSHA REPORTS SECOND QUARTER INCREASE IN COMPLIANCE INSPECTIONS

SAN FRANCISCO — (By an OSHR staff correspondent) — Compliance inspections made under California's job safety and health program (Cal/OSHA) in the second quarter jumped by more than 1,000 over the previous quarter, the

state reported to the Occupational Safety and Health Administration.

The total inspection tally for the second quarter was 4,821, compared with 3,740 in the first period (Current Report, May 8, p. 1150). The rate of employer compliance also increased slightly from 26.6 percent in the first quarter to 28 percent in the second.

A breakdown of the second quarter figures shows that Cal OSHA made 494 accident inspections, 1,665 investigations of complaints, 1,993 general schedule inspections, and 669 followups. However, only 313 of the inspections, or 6.5 percent, involved occupational health.

Cal OSHA inspectors cited 1,372 alleged serious violations during the second quarter and 10,998 alleged nonserious infractions. For these citations they proposed a total of \$370,584 in civil penalties. Manufacturing and construction accounted for over 70 percent of the inspections and over 80 percent of the citations and fines.

Besides enforcement, Cal OSHA reported that its consultation service provided 913 free consultations to employers and employees in the period between April 1 and June 30, 104 more than the previous quarter. Occupational health accounted for 27 percent of the consultations.

Oregon

ENFORCEMENT, EMPLOYER COMPLIANCE CONTINUE DECLINE, REPORT TO OSHA SAYS

Enforcement activity and the employer compliance rate in Oregon both declined in the second quarter compared with figures recorded last year, according to a report submitted to the Occupational Safety and Health Administration.

Second quarter inspections numbered 1,665, about 500 fewer than the average for a three-month period in 1979, and the employer compliance rate was only 20 percent.

Figures for the period from April 1 through June 30 show that 1,057 general schedule inspections were made, 293 were listed as complaint inspections, and 26 were in response to accident reports. Follow-up inspections numbered 289. Occupational health accounted for 7.6 percent of all inspections.

Oregon's 55 job safety and health inspectors found only 20 percent of employers in compliance with state standards, more than a 10 percent drop over the average for last year. They cited 803 alleged serious violations and 3,497 alleged nonserious infractions, for which they proposed \$241,929 in civil penalties.

Publications

NIOSH INVESTIGATION SUMMARIES, OSHA PUBLICATIONS LIST ARE AVAILABLE

A compilation of summarized health hazard evaluations of 25 workplaces, designed to familiarize readers with hazards encountered and approaches used in recent investigations, is available from the National Institute for Occupational Safety and Health.

The summaries list in brief the hazards found, the methodology employed to discover them, and recommended control procedures. A key-word index lists chemicals or processes which may interest a particular reader, and the table of contents includes report numbers and National Technical Information Service stock numbers to assist readers seeking copies of full reports from which the summaries are taken. An NTIS order form also is included.

The compilation is a NIOSH pilot effort, according to a notice contained in the volume. The notice encouraged

readers to submit comments or suggestions for the publication's improvement to NIOSH.

To obtain the publication, titled *NIOSH Health Hazard Evaluation Summaries*, April, 1980, interested persons may contact NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Labor Department Publications

A listing of 110 Labor Department publications concerning safety and health is included in a general listing available from the DOL Information Office. Also included is a list of 19 publications concerning workers' compensation.

The safety and health publications include the Occupational Safety and Health Administration's Job Health Hazard Series, Safe Work Practices Series, Programs and Policies Series, and a group of manuals on principles and practices of occupational safety and health. Statistical breakdowns by the Bureau of Labor Statistics also are included.

The workers' compensation publications include booklets describing available benefits, as well as the most recent volumes of Employees' Compensation Appeals Board decisions.

The subject listing covers the period from January 1975 to December 1979.

Information concerning the listing and the publications listed may be obtained from the Office of Information, Publications, and Reports, U.S. Department of Labor, Washington, D.C. 20210.

Publications

NIOSH STUDIES ON AZO DYESTUFFS, RADIATION-CAUSED CATARACTS AVAILABLE

A research report on cataracts produced by exposure to infrared radiation and a technical report on carcinogenicity of azo dyes derived from benzidine are available from the National Institute for Occupational Safety and Health.

The report on radiation-produced cataracts (DHHS NIOSH No. 80-121) was authored by Donald G. Pitts, Anthony P. Cullen, and Pierrette Dayhaw-Barker of the College of Optometry, University of Houston.

It reports research undertaken to establish ocular threshold exposure values for infrared radiation necessary to produce cataracts in the crystalline lenses of experimental animals relevant to man, to identify effects observed in other ocular structures, and to recommend valid criteria for safety standards against ocular exposure to infrared radiation, according to the report's abstract.

Azo Dyes

The report on carcinogenicity of azo dyes (DHHS-NIOSH No. 80-119) was authored by Mark Boeninger and prepared by the NIOSH Division of Surveillance, Hazard Evaluations, and Field Studies.

The study presents a comprehensive review of the literature on the sites of carcinogenic action of benzidine in man and experimental animals, on the metabolism of benzidine, on the metabolism of azo compounds, and on the epidemiological experience of industries using azo dyestuffs, according to its abstract.

Based on its findings that the origin of urinary benzidine among some workers exposed to benzidine-derived dyes may have resulted from the metabolism of azo dyes, the researchers recommended "that the manufacture and use of benzidine-derived dyes be handled as if they are potential carcinogens and that safe dyes be substituted when available."

The study identifies some jobs that may involve exposure to dyestuffs and other known carcinogenic agents, the abstract added.

Copies of the two publications may be obtained from NIOSH Publications, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Publications

REVISED 'ALL ABOUT OSHA' DESCRIBES POLICIES, PROCEDURES, ACT PROVISIONS

An updated edition of "All About OSHA," a 47-page publication giving information on provisions of the Occupational Safety and Health Act of 1970 and general policies and procedures of the Occupational Safety and Health Administration, is available from OSHA at no charge.

Revisions announced by OSHA July 7 include added information about provisions for federal employees, on-site consultation, and the appeals process, as well as a new section, "11(c) Rights: Protection for Using Rights."

OSHA said the revision is part of its efforts "to keep workers and employers informed about developments in the occupational safety and health field affecting them."

Single, free copies are available at OSHA area and regional offices, and the OSHA Publications Office, Room S-1212, Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20210; telephone (202) 523-6138.

Publications

COMPREHENSIVE LASER SAFETY VOLUME TAKES INTERDISCIPLINARY PERSPECTIVE

Safety with Lasers and Other Optical Sources: A Comprehensive Handbook, by David Sliney and Myron Wolbarsht, was announced by Plenum Press of New York and London.

The 1,035-page volume treats such aspects of laser safety as biological effects, safety standards, radiometric measurements, and general background in optics and biology.

Individual chapters discuss eye and skin protection, general hazard analysis, and laser safety in laboratories and medical facilities, construction, manufacturing, consumer and office products, and outdoor applications.

A chapter by James Smith of International Business Machines Corporation concerns safety programs and formal training.

The book is intended for broad, interdisciplinary use, the authors said. Material on anatomy and physiology is oriented toward the engineer or physical scientist, while material on basic optical physics is designed to be understood by physicians and life scientists, they explained.

The work is designed for classroom use or for self-study, the authors noted.

Sliney is affiliated with the U.S. Army Environmental Hygiene Agency, Aberdeen Proving Ground, Md., and Wolbarsht with Duke University Medical Center, Durham, N.C.

The book, published by Plenum Publishing Corp., 227 West 17th St., New York, N.Y. 10011, is available for \$49.50.

Publications

ARTS, CRAFTS HEALTH HAZARDS TREATED IN CONFERENCE PROCEEDINGS PUBLICATION

Health Hazards in the Arts and Crafts, published proceedings of a scientific conference on health hazards of such fields as ceramics, jewelrymaking, sculpture, and stained-glass manufacture, is available from the Society for Occupational and Environmental Health.

The volume, edited by Michael McCann, Center for Occupational Hazards, Inc., and Gail Barazini, University of Illinois School of Public Health, contains more than 20 presentations made at an SOEH-sponsored conference in October 1978. The Center for Occupational Hazards co-sponsored the publication.

Conference participants included scientists, health professionals, and arts and crafts professionals involved in policymaking or scientific research.

The paperback book is available for \$16 including postage and handling from SOEH, 1341 G St., N.W., #308, Washington, D.C. 20005. SOEH specified that payment must accompany all orders except those from libraries and institutions.

Publications

NIOSH-OSHA PAMPHLET DESCRIBES HEALTH HAZARDS OF HOT ENVIRONMENTS

A pamphlet describing the health hazards of working in hot environments was published by the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health.

"Hot Environments" is intended to give employers and employees a general idea of the health hazards of working in a hot environment and some of the precautions that should be taken to avoid stressful conditions. The pamphlet explains special considerations to be taken during longer heat spells of more than three days and lists sources for additional information.

Copies of the pamphlet, DHHS (NIOSH) Publication No. 80-132, can be obtained from NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Copies of court opinions reported in Occupational Safety & Health Reporter and not yet published in OSHR Decisions are available on loan to subscribers by contacting BNA's Opinions Clerk, (202) 452-4202. Review Commission rulings and other documents may be obtained by contacting BNA's Research and Special Projects Division, (202) 452-4324.



Review Commission Activity

ACTIVITY OF OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

This Section includes —

Review Commission Final Orders: Judges' reports which have become final, with date of finality.
Judges' Reports Ordered Reviewed: Date ordered reviewed, judge's report, and issues on review.
Notices of Contest: Notices of contest to Labor Department citations.
Abatement Petitions: Contested petitions for extensions of abatement dates.

REVIEW COMMISSION FINAL ORDERS

Cedar Brook Rustic Company, 7/23/80 — citations for serious violations of 1910.213(c)(1) and (c)(3) for failing to adequately guard ripaws and provide ripaws with antikickback devices, 1910.213(g)(1) and (g)(3) for failing to adequately guard swing cutoff saws and provide saws with limit chains, and 1910.213(h)(1) for failing to adequately guard radial saws, are affirmed with total penalty of \$125 assessed; evidence established that saws used in employer's plant were inadequately guarded or lacked guards, and that ripaws lacked swing cutoff devices and swing cutoff saws lacked limit chains; accordingly, existence of violative conditions was established; employer's argument, that compliance with guarding standard would be infeasible due to need for employees to observe their work, which vision would be obstructed by guarding, and due to reduction in production capabilities, is rejected; employer has failed to meet burden of proving affirmative defense of impossibility of compliance since it has failed to demonstrate that operation of saws with guarding would be functionally impossible or that alternative means of employee protection were unavailable; employer's argument, that its employees' familiarity with present working conditions precluded necessity to provide better guarding devices, is rejected; Commission decisions have established that employer cannot rely on human behavior as alternative to compliance with machine guarding standards; employer's further contention, that guard on cut-off saw would not prevent injury if hands were placed in direct path of saw, is rejected; standard is not designed to prevent accidental injuries to hands when they are placed directly in front of saws; due to potential for amputation and laceration to hands from contact with saws, violations are classified as serious (Fier, Judge; No. 79-6583).

Fort Pitt Bridge Works, 7/23/80 — citation for serious violation of 5(a)(1) of Occupational Safety and Health Act, in that load attachment chain sling was disconnected from steel beam, being placed between similar beams, before it was secured to prevent toppling, is vacated; there was no evidence to support contention that employer had actual knowledge of potential hazard or that there was any general industry recognition of hazard; serious citation for violation of 1910.179(n)(3)(ix), in that no responsible person was in charge of operation when two or more cranes lifted load, is affirmed as nonserious with no penalty assessed; evidence established that no one instructed personnel in proper rigging procedures or was in area to supervise operation; there was no evidence that violation could have caused death or serious physical injury; citation for serious violation of

5(a)(1) of OSH Act, in that employees, other than qualified crane operators, were permitted to operate electric overhead traveling cranes, is vacated; though it was established that employer had no training program for crane operators, Secretary failed to show that hazard was causing or likely to cause death or serious physical harm (McQuade, Judge; No. 79-4603).

Hercules, Inc., and Local 884, United Paperworkers International Union 7/18/80 — citation for violation of 1910.132(a), in that employees were not required to wear protective footwear in employer's plant where hazards were encountered capable of causing injury, is affirmed with \$100 penalty assessed therefor; employer's argument, that employees were not exposed to hazard as there had been only six "recordable" toe injuries in Spinning Department in past eight years, is rejected; evidence established that in addition to six "recordable" injuries, 32 employees had been involved in accidents which would have resulted in foot injuries but for wearing of safety shoes; employer's argument, that employee exposure to hazardous conditions in other two areas of plant would be minimized if employees adhered to safe working practices, is rejected; evidence of record clearly indicated that foot hazards are inherent in employer's operation; issue of industry custom and practice was not addressed as employer had actual knowledge of hazard (Brennan, Judge; No. 79-2765).

Standard Service, Inc., 7/21/80 — citation for serious violation of 1926.451(g)(3), in that outrigger scaffold was not designed by registered professional engineer, was not constructed and erected in accordance with standard, and distance between outriggers exceeded six feet, is vacated; employer was not bound by requirements of cited standard since subsection (g) of section related to outrigger scaffolds and scaffold in question was swinging two point scaffold; citation for serious violation of 1926.451(i)(1), in that two-point suspension scaffold platform was not securely fastened to hangers by U-bolts or the equivalent, is vacated; employer's argument that use of nylon rope constituted permissible alternative means of compliance, is accepted; Secretary's contention that nylon rope could chafe against building causing abrasion of rope is rejected; evidence established that rope was exposed on underside of scaffold but no portion touched building during scaffolding operation; citation for serious violation of 1926.451(i)(4), in that tiebacks on two-point suspension scaffolds were not installed at right angles to face of building nor secured to structurally sound portion of building, is affirmed with penalty of \$320 assessed; since outrigger beam on left end of scaffold fell from building, it must be concluded that tiebacks were not

connected to reliable portion of building and that their method of attachment was faulty (McQuade Judge: No. 79-4021).

Super Excavators, Inc., 7/24/80 — citation for violation of 1926.652(b), for failure to slope or support trench excavated for sewer line in accordance with standard, is affirmed; employer and Secretary both presented expert testimony on consistency of soil and required angle of slope for trench walls, employer's expert took photographs and soil samples, but relied on photographs for his opinion since soil samples were taken 75 to 100 feet away from area cited; soil samples indicated sandy consistency which supported Secretary's case, and Secretary argued relevance of samples within 100 feet of cited area; testimony of Secretary's expert is more credible than employer's witness since expert opinion which totally rejects relevance of soil sample must be viewed askance (Maxwell, Judge: No. 79-2471).

JUDGES' REPORTS ORDERED REVIEWED

Jonas Haies & Company, Inc., 6/24/80 — citation for violations of 1910.1001(g)(1)(i), for failing to post caution signs at location where airborne concentration of asbestos fibers may be in excess of prescribed exposure limits, 1910.1001(g)(2)(i), for failing to affix caution labels to asbestos material and scrap to protect against release of asbestos fibers in concentrations which exceed prescribed exposure limits during any reasonably foreseeable use of materials, and 1910.1001(h), for failing to place asbestos material and scrap in closed impermeable containers in order to prevent release of asbestos fibers in concentrations which exceed prescribed limits during any reasonably foreseeable use of materials, are vacated; evidence established that room of employer's plant in which asbestos rope is manufactured contained stored asbestos, asbestos waste, and scrap material; Secretary's witness testified that no caution signs were present at entrance to spinning and braiding room, no caution labels were affixed to asbestos material and scrap, and that sealed off waste containers were not utilized to contain these materials; however, testing of room's atmospheric conditions during rope-making operation, taken by Secretary's representative on inspection date and by employer prior to inspection, showed that airborne concentrations of asbestos fibers were below prescribed limits; employer satisfied his duty of determining whether reasonably foreseeable use and handling of asbestos materials might or would cause release of airborne concentrations of asbestos fibers above exposure limits by testing atmospheric conditions and finding that concentrations fell below limits; furthermore, evidence established that rope manufacturing operation was conducted only "sporadically"; record fails, therefore, to support finding necessary to sustain affirmance of violations (Ditore, Judge).

Issues on review: whether judge erred in vacating citation alleging noncompliance with asbestos standards 1910.1001(h)(1)(i), (g)(2)(i) and (h) on grounds that "(t)here is no evidence that the reasonably foreseeable use and handling of asbestos materials during Respondent's sporadic asbestos rope operation may or will cause the release of airborne concentrations of asbestos fibers in excess of prescribed limits"; whether judge erred in assigning to Secretary burden of proving that employee exposure to asbestos fibers may exceed permissible exposure limit, rather than requiring employer to prove that excessive exposures cannot occur; if judge properly assigned burden of proof, whether Secretary satisfied burden of proving violations (No. 79-6918).

Reda Pump Company, Division of TRW, Inc., 7/17/80 — citation for violation of 1910.132(a), for failure to require engineers witnessing assembly or disassembly of oil and water pumps to wear safety shoes while on plant floor, is affirmed; citation for violation of 1910.133(a)(1), for failing to require inspection and electrical department employees to wear safety glasses, is affirmed; citation for violation of 1910.22(b), for failure to mark as an aisleway the area between disassembly department and electrical department, is affirmed; evidence established that tools and parts fall to floor during disassembly of pumps, and engineers spend 15 minutes to an hour on plant floor observing assembly or dismantling of pumps once or twice a week to six times a week; evidence also established that inspection department employees do not wear safety glasses while performing routine duties within four feet of employees engaged in disassembly operations, and that electrical department employees do not wear safety glasses when passing these operations on the way to water fountain or lunch; areas between disassembly and electrical departments through which employees pass to go to lunch or take breaks was not marked as an aisleway (LaVecchia, Judge).

Issue on review: whether judge erred in affirming citation for serious violation alleging noncompliance with personal protective equipment standard at 29 CFR 1910.132(a), on grounds that employees failed to wear safety shoes while on plant floor observing assembly and disassembly of pumps (No. 79-3691).

Vak-Pak, Inc., 7/3/80 — citation for serious violation of 1910.1000(b)(1), in that fiberglass lay-up operators were exposed to styrene vapor in excess of eight-hour time weighted average limit during lay-up process, is affirmed as non-serious; employer's argument, that findings of analyst who was not present to testify should not have been admitted, is rejected; hearsay is admissible in administrative proceedings and can be used as probative evidence; citation for serious violation of 1910.1000(e), in that feasible administrative or engineering controls were not implemented to reduce employee exposure to styrene vapor, is affirmed as nonserious; no controls were implemented as employer erroneously believed there was no need to reduce level of styrene vapor; increased local ventilation was deemed to be feasible; citation for serious violation of 1910.134(a)(2), in that respiratory protection program was not established for employees exposed to styrene vapor, is affirmed as non-serious; lay-up operators used no form of respiratory protection nor was a respiratory protection program maintained; citation for serious violations of 1910.134(b)(1) and (b)(11), in that minimal acceptable respiratory protective program was not maintained, is dismissed; violation of 1910.134(a)(2) necessarily included any allegations of non-compliance with minimal acceptable programs.

Citation for violation of 1910.107(g)(2) and (g)(7), in that resin residue, and pieces of cloth containing fiberglass were allowed to accumulate on floor in lay-up area, and there were no "no smoking" signs in areas where flammable chemicals were used and stored, is vacated; floor was cleaned and trash cans were emptied at completion of each work day; standard requires keeping areas as free from accumulations as practicable with cleaning conducted daily if necessary; employer's testimony that "no smoking" signs were posted, was accepted; citation for violation of 1910.133(a)(1), in that eye and face equipment was not worn by employee, is affirmed; chemicals which employee was mixing could splash in employee's face, similarly, grinding operation could result in particles entering eye; citation for

violation of 1910.134(f)(3) and (f)(5)(i), in that routinely used respirators were not cleaned and disinfected as necessary to ensure proper protection to wearer, is affirmed; respirator had no exhalation valve and had paint deposits on both inside and outside, and stored dust masks were exposed to spray from gel coat, resin, and dust; citation for violation of 1910.132(a), in that protective gloves were not provided to employees working with fiberglass MEKP-resin mixture, and acetone was used to cleanse resin from their hands, is vacated; employer's practice was not shown to be hazardous within purview of standard; citation for violation of 1910.151(c), in that suitable facilities for quick drenching or flushing of eyes and body were not provided in area where employees were exposed to gel overspray, resin, and MEKP, is affirmed; citation for violation of 1910.141(g)(2), for allowing employees to consume food or beverages in area exposed to toxic material, is vacated; employees were separated from lay-up area, no work was performed with toxic materials where employees were located, and there is a difference in being exposed to toxic material and being in vicinity where such materials are used; total penalty of \$150 is assessed for violations (Brady, Judge).

Issues on review: whether judge erred in concluding that the employer was engaged in business "affecting commerce"; whether the allegations of violation of 29 CFR 1910.1000(b)(1), 1910.1000(e), and 1910.134(a)(2) should be vacated as Secretary's sample analyses were erroneously admitted into evidence or otherwise erroneously accorded probative weight (No. 79-1569).

NOTICES OF CONTEST

Accu-Cor, Inc., Flushing, N.Y., is contesting an \$80 penalty for 1926.400(h)(1) for failure to use an assured equipment grounding conductor program for temporary wiring (No. 80-3161).

Acme Industrial Company, subsidiary of Jergens Inc., Carpentersville, Ill., is contesting a serious citation and a \$280 penalty for 1910.219(d)(1) for failure to guard pulleys adequately (No. 80-3399).

Adams Van and Storage, Caribou, Maine, is contesting a serious citation and a \$460 penalty for 1910.178(m)(9) for failure to equip industrial trucks with overhead guards, 1910.213(h)(1) for failure to equip a radial arm saw with a lower blade guard, 1910.309(a) for failure to guard live parts of electrical equipment from accidental contact, and 1910.309(a) for failure to ground plug- and cord-connected equipment (No. 80-3359).

Adco Chemical Company, Newark, N.J., is contesting a repeated citation and a \$1,280 penalty for 1910.134(b)(5) for failure to ensure that respirators were regularly cleaned and disinfected.

The company also is contesting a \$2,400 penalty for a repeated citation for 1910.1012(c)(4)(v) for failure to ensure that employees removed and placed in impervious containers protective clothing upon exit from regulated areas, and 1910.1012(d)(4)(ii) for failure to protect nonregulated areas from contamination by equipment or material from regulated areas.

The company also is contesting a willful citation and a \$3,200 penalty for 1910.1012(c)(4)(ii) for failure to ventilate regulated areas as required.

The company also is contesting a serious citation and a \$1,920 penalty for 1910.134(a)(2) for failure to establish and maintain a respiratory protection program,

1910.1012(d)(4)(i) for failure to maintain negative air pressure in regulated areas, and Section 5(a)(1) for failure to ensure that employees were not exposed to ethyleneimine while attaching respirator hoses.

The company also is contesting a \$640 penalty for a serious citation for 1910.1012(c) for failure to establish a regulated area for ethyleneimine.

The company also is contesting a nonserious citation for 1910.1012(e)(5)(i) for failure to train employees in the requirements of 1910.1012(e)(5) before authorization to enter a regulated area (No. 80-3157).

Advanced Roofing & Sheet Metal Company, Wallington, N.J., is contesting a serious citation and a \$210 penalty for 1926.252(a) for failure to ensure employees' use of an enclosed shaft for dropping materials.

The company also is contesting a \$180 penalty for a serious citation for 1910.219(d)(1) for failure to guard pulleys as required (No. 80-2359).

Astro Air Corporation, Jacksonville, Tex., is contesting a serious citation and a \$750 penalty for 1910.213(h)(1) for failure to guard the lower exposed portion of a radial-saw blade, 1910.213(i)(1) for failure to guard nonworking portions of a bandsaw blade, and 1910.309(m) for failure to ground plug- and cord-connected equipment (No. 80-3507).

Badaracco Bros. & Co., Hoboken, N.J., is contesting a serious citation and a \$720 penalty for 1926.100(a) for failure to ensure employees' use of protective helmets and 1926.500(b)(1) for failure to guard floor openings (No. 80-3166).

Best Way Mechanical Contracting Company, Zanesville, Ohio, is contesting a \$770 penalty for a serious citation for 1926.28(a) for failure to ensure employees' use of personal protective equipment and 1926.652(c) for failure to shore trench sides adequately (No. 80-3286).

Brookside Corporation, McCordsville, Ind., is contesting a serious citation and a \$1,000 penalty for 1910.95(b)(1) for failure to reduce noise (No. 80-2865).

Brown & Root, Inc., Petro-Chemical Division, Vallant, Okla., is contesting a willful citation and an \$18,200 penalty for Section 5(a)(1) for failure to protect employees from inhalation and absorption of hydrogen sulfide and other toxic chemicals, 1910.28(a)(1) for failure to provide a scaffold to employees working in an elevated location, and 1910.132(a) for failure to ensure employees use of protective equipment (No. 80-3389).

Brown & Root, Inc., Power Plant Division, Houston, Tex., is contesting a nonserious citation for 1910.1001(c)(2) for failure to ensure that employees used an air-supplied respirator while removing asbestos insulation (No. 80-3200).

Breyer Molding Company, Chicago, Ill., is contesting a serious citation and a \$1,020 penalty for 1910.212(a)(1) for failure to guard machinery points of operation, 1910.212(a)(1) for failure to guard a bandsaw blade, 1910.219(d)(1) for failure to guard pulleys, and 1910.309(a) for failure to guard live parts of electrical equipment against accidental contact.

The company also is contesting a nonserious citation for 1910.23(c)(1) for failure to guard an open-sided platform and 1910.23(d)(1)(ii) for failure to equip a stair with a railing (No. 80-3423).

Chromalloy American Corporation, Federal Castings Division, West Allis, Wis., is contesting a serious citation and a \$2,000 penalty for 1910.95(a) for failure to protect employees against the effects of noise and 1910.134(a)(1) for failure to establish and maintain a respiratory protection program,

for failure to provide respirators to employees where required (No. 80-3379).

Frank T. Cody Company, Inc., West Lebanon, N.H., is contesting a serious citation and a \$900 penalty for failure to ensure that employees did not work in proximity to unguarded electrical power circuits.

The company also is contesting a repeated citation and a \$200 penalty for 1926.401(j)(2) for failure to equip temporary lights with heavy-duty electric cords (No. 80-3360).

Combustion Engineering, Windsor, Conn., is contesting a serious citation and a \$1,500 penalty for 1926.55(a) for failure to ensure that employees were not overexposed to respirable dust, 1926.350(a)(9) for failure to secure compressed gas cylinders in an upright position, and 1926.451(a)(13) for failure to provide safe access to a scaffold and a ground hole.

The company also is contesting a nonserious citation for 1926.25(a) for failure to keep a work area clear of debris, 1926.52(b) for failure to reduce noise, and 1926.402(a)(5) for failure to ensure that flexible cords were not spliced (No. 80-3383).

Consolidated Edison Company of New York, Inc., New York, N.Y., is contesting 15 items of an 18-item serious citation and a \$5,520 penalty, including Section 5(a)(1) for failure to provide a complete enclosure of a tunnel shaft hoistway, 1926.800(e)(1)(i) for failure to comply with fire prevention requirements in tunnel and shaft operations, and 1926.800(m)(9) for failure to equip an elevator door with a positive locking device.

The company also is contesting a nonserious citation for 1910.151(c) for failure to provide suitable quick drenching facilities for employees exposed to corrosive materials (No. 80-3052).

Consolidated Edison Company of New York, Inc., New York, N.Y., is contesting a serious citation and an \$800 penalty for 1926.800(b)(2) for failure to provide emergency hoisting facilities for a shaft.

The company also is contesting a willful citation and a \$9,000 penalty for 1926.552(d) for failure to ensure that permanent elevators complied with ANSI standards.

The company also is contesting a nonserious citation for 1910.27(d)(3) for failure to ensure that rungs were not omitted from ladder extensions (No. 80-3099).

County Sheetmetal Construction and Developmental Corporation, Laurelton, N.Y., is contesting a \$120 penalty for a serious citation for 1926.28(a) for failure to provide employees with safety belts where required (No. 80-3170).

Davis Construction Corporation, Hicksville, N.Y., is contesting a serious citation and a \$720 penalty for Section 5(a)(1) for failure to protect employees assisting in the handling of loads suspended from an excavator crawler from electrocution (No. 80-3032).

Didier-Taylor Refractories Corporation, Cincinnati, Ohio, is contesting an eight-item serious citation and a \$1,980 penalty, including Section 5(a)(1) for failure to equip kiln furnaces with safety interlocks, 1910.28(a)(3) for failure to guard an open-sided platform, and 1910.212(a)(1) for failure to guard machinery pinch points.

The company also is contesting a nonserious citation for 1910.22(b)(2) for failure to mark aiseways and 1910.309(a) for failure to ensure that tension was not transmitted from flexible cords to terminal screws (No. 80-3284).

Evans Packing Company, Dade City, Fla., is contesting a serious citation and a \$630 penalty for 1910.212(a)(1) for failure to guard machinery nip points adequately, 1910.215(a)(2) for failure to equip an abrasive wheel with

safety guarding, and 1910.219(e)(1)(i) for failure to enclose horizontal belts.

The company also is contesting a repeated citation and a \$980 penalty for 1910.134(f)(3) for failure to clean and disinfect respirators after use, 1910.219(d)(1) for failure to guard pulleys, 1910.252(a)(2)(iv)(c) for failure to separate stored oxygen cylinders from fuel-gas cylinders, and 1910.309(a) for failure to guard live parts of electrical equipment from accidental contact.

The company also is contesting a 20-item nonserious citation and a \$140 penalty, including 1910.36(b)(4) for failure to maintain exits free of obstruction, 1910.106(e)(2)(iv)(d) for failure to ensure safe transfer of flammable or combustible liquids, and 1910.106(e)(8)(i) for failure to take adequate precautions against the ignition of flammable vapors (No. 80-2646).

FCI Inc., Cleveland, Ohio, is contesting eight items of a nine-item serious citation and a \$1,450 penalty, including 1910.212(a)(3)(ii) for failure to guard machinery points of operation, 1910.213(c)(1) for failure to guard a circular hand-fed rip saw, and 1910.213(n)(3) for failure to guard the in-running rolls of planing machine feed rolls.

The company also is contesting a nonserious citation for 1910.213(c)(3) for failure to equip a hand-fed rip saw with a nonkickback finger or dog (No. 80-3287).

FWA Drilling Company, Inc., Wichita Falls, Tex., is contesting a serious citation and a \$910 penalty for 1910.23(c)(3) for failure to guard open-sided floors, 1910.133(a)(1) for failure to provide suitable eye protection equipment where required, and 1910.242(a) for failure to maintain equipment in a safe condition (No. 80-3385).

Fibercrafters of Edinburg, Inc., Edinburg, Tex., is contesting a \$420 additional penalty for failure to correct a serious violation of 1910.107(c)(6) for failure to equip a spraying area with approved wiring (No. 80-3392).

Fire Protection Industries, t/a General Automatic Sprinkler Company, Hagerstown, Md., is contesting a serious citation and a \$900 penalty for 1926.400(h)(1) for failure to use an assured equipment grounding conductor program for temporary wiring and 1926.400(a) for failure to ground cord connectors (No. 80-2652).

Fouger-Pratt Construction, Inc., Gaithersburg, Md., is contesting a \$650 penalty for a serious citation for 1926.400(h)(1) for failure to use an assured equipment grounding conductor program for temporary wiring and 1926.451(a)(1) for failure to ground plug- and cord-connected equipment (No. 80-3434).

Gaido-Lingle Company, Inc., Houston, Tex., is contesting a serious citation and a \$400 penalty for 1910.134(a)(2) for failure to provide respirators to employees where required (No. 80-3509).

General Motors Corporation, Delco Electronics Division, Detroit, Mich., is contesting a serious citation and a \$400 penalty for 1910.212(a)(1) for failure to guard machinery ingoing nip points (No. 80-3424).

Gregory Construction Company, Inc., Hurst, Tex., is contesting a \$700 penalty for a serious citation for 1926.500(d)(1) for failure to guard an open-sided floor (No. 80-3198).

Groves-Brown & Lambrecht-Denton Joint Venture, Minneapolis, Minn., is contesting a serious citation and a \$1,260 penalty for 1926.550(a)(15)(i) for failure to ensure that equipment was not operated within 10 feet of unguarded power lines and 1926.500(a)(15)(iv) for failure to designate an observer to observe clearance and warn operators of proximity to a power line (No. 80-3371).

H.R. Products, Inc., South Bend, Ind., is contesting a five-item serious citation and a \$1,440 penalty, including 1910.215(a)(4) for failure to ensure that workrests on a grinder were adjusted closely to the wheel, 1910.309(a) for failure to guard live parts of electrical equipment against accidental contact, and 1910.309(b) for failure to ground lamps attached to conducting surfaces.

The company also is contesting a five-item nonserious citation, including 1903.2(a)(1) for failure to post a notice informing employees of their rights and responsibilities under the Occupational Safety and Health Act, 1910.217(c)(5)-(i) for failure to provide a hand-fed power press equipped with two-hand controls with a brake monitor, and 1910.217(c)(1)(i) for failure to maintain records of power press inspection and maintenance (No. 80-3370).

Halliburton Services, Duncan, Okla., is contesting a serious citation and a \$630 penalty for 1910.176(f) for failure to provide derail or bumper blocks on spur railroad tracks to prevent cars from rolling free (No. 80-3393).

Hoffman Construction Company, Bangor, Wash., is contesting a willful citation and an \$11,200 penalty for 1926.451(a)(4) for failure to guard an open-sided platform and 1926.500(b)(1) for failure to guard floor openings.

The company also is contesting a repeated citation and a \$1,400 penalty for 1926.500(d)(1) for failure to guard an open-sided floor (No. 80-3402).

Johns-Manville Sales Corporation, Denver, Colo., is contesting a serious citation and a \$280 penalty for 1910.213(g)(1) for failure to guard swing cutoff saws adequately.

The company also is contesting a nonserious citation for 1910.132(a) for failure to ensure employees' use of personal protective equipment (No. 80-3102).

S.J. Kuhnel Supplies, Karnes City, Tex., is contesting a serious citation and a \$140 penalty for 1910.309(a) for failure to ground plug- and cord-connected equipment (No. 80-3510).

Law Company, Inc., Wichita, Kansas, is contesting a serious citation and a \$560 penalty for 1926.451(y)(11) for failure to guard a scaffold (No. 80-3282).

Lenhart & Bennett, Inc., Sapulpa, Okla., is contesting a serious citation and a \$1,450 penalty for Section 5(a)(1) for failure to protect employees from falls, for failure to protect employees from the hazard of a gas and oil fire due to an improperly secured blowout preventer, and for failure to protect employees from being struck by breakout tongs (No. 80-3508).

Lindsay Manufacturing Company, Amarillo, Tex., is contesting a serious citation and a \$1,160 penalty for 1910.134(e)(4) for failure to make available certificates of proof tests for alloy steel chain slings, 1910.132(a) for failure to ensure employees' use of protective equipment, and 1910.217(c)(1)(i) for failure to guard machinery points of operation.

The company also is contesting a nonserious citation for 1910.252(e)(2)(iii) for failure to require workers adjacent to welding areas to wear face and eye protection (No. 80-3081).

C.L. Maddox, Inc., Harrisburg, Ill., is contesting a serious citation and a \$650 penalty for 1910.212(a)(3)(ii) for failure to guard machinery points of operation and 1910.309(a) for failure to guard live parts of electrical equipment against accidental contact.

The company also is contesting three items of a 12-item nonserious citation, for 1910.157(a)(3) for failure to conspicuously indicate fire extinguishers, 1910.184(e)(1) for failure to affix durable identification to alloy steel slings,

and 1910.219(e)(3)(i) for failure to guard a vertical belt (No. 80-3422).

Menasha Corporation, Neenah, Wis., is contesting a serious citation and a \$420 penalty for 1910.95(b)(1) for failure to reduce noise (No. 80-3378).

Mid-Continent Builders, Inc., St. Paul, Minn., is contesting a serious citation and a \$350 penalty for 1926.500(b)(8) for failure to guard floor holes (No. 80-2940).

Miles Interiors, Inc., Bridgeton, Mo., is contesting a \$780 penalty for a serious citation for 1926.451(a)(2) for failure to ensure that unstable objects were not used to support a scaffold and 1926.451(a)(4) for failure to guard a scaffold adequately (No. 80-3103).

NL Well Service, Houston, Tex., is contesting a serious citation and a \$320 penalty for Section 5(a)(1) for failure to protect employees from the hazard of wire failure (No. 80-3190).

Nickles Drywall Inc., Geneva, Ill., is contesting a repeated citation and a \$1,260 penalty for 1903.2(a)(1) for failure to post a notice informing employees of their rights and responsibilities under the Occupational Safety and Health Act and 1926.400(h)(1) for failure to provide an assured equipment grounding conductor program for temporary wiring.

The company also is contesting a serious citation and an \$840 penalty for 1926.100(a) for failure to ensure employees' use of protective helmets and 1926.401(c) for failure to ensure a permanent, continuous grounding path from equipment (No. 80-2999).

Psaty-Horn Corporation, New York, N.Y., is contesting a \$280 penalty for a serious citation for 1926.100(a) for failure to ensure employees' use of protective helmets, 1926.451(i)(8) for failure to ensure employees' use of safety belt lines, and 1926.451(i)(11) for failure to guard scaffolds adequately (No. 80-3152).

Roadway Express, Inc., Akron, Ohio, is contesting a willful citation and a \$6,000 penalty for Section 5(a)(1) for failure to ensure that employees were not permitted or required to position multiple carts on a dragline conveyor system designed for single carts (No. 80-3367).

Isadore Rosen & Sons, Inc., Yonkers, N.Y., is contesting a serious citation and a \$980 penalty for 1926.500(b)(1) for failure to guard floor openings and 1926.500(d)(1) for failure to guard an open-sided platform adequately (No. 80-3147).

Royal Steam Heater Company, Gardner, Mass., is contesting a nonserious citation for 1926.25(a) for failure to keep a work area clear of lumber and debris with protruding nails and 1926.400(c)(2) for failure to post warning signs where contact with electrical power circuits could be made (No. 80-3365).

S & M Plumbing Company, Inc., Bronx, N.Y., is contesting a serious citation and a \$960 penalty for 1926.500(b)(1) for failure to guard floor openings adequately and 1926.500(d)(1) for failure to guard open-sided platforms adequately (No. 80-3149).

Charles G.G. Schmidt & Company, Inc., Montvale, N.J., is contesting a serious citation and a \$120 penalty for 1910.213(h)(1) for failure to guard the sides of the lower exposed portion of the blade of a radial saw.

The company also is contesting a \$90 penalty for a serious citation for 1910.212(a)(1) for failure to guard rotating non-working parts of saw blades (No. 80-2388).

Sheridan Electric, Port Washington, N.Y., is contesting a serious citation and a \$240 penalty for 1926.500(b)(1) for failure to guard floor openings and 1926.500(d)(2) for failure to guard open-sided runways.

The company also is contesting a nonserious citation for 1926.25(a) for failure to keep work areas clear of debris, 1926.450(a)(9) for failure to ensure adequate ladder side-rail extension above a landing, and 1926.450(b)(12) for failure to use filler blocks on rails between cleats of a job-made ladder (No. 80-2640).

Southern Fasteners Company, Greenville, Miss., is contesting an \$8,100 additional penalty for failure to correct a serious violation of 1910.95(b)(1) for failure to reduce noise (No. 80-3180).

Stepper Enterprises, Corpus Christi, Tex., is contesting a serious citation and a \$360 penalty for Section 5(a)(1) for failure to equip a load hoisting mechanism to ensure safe operation (No. 80-3391).

Sterling Organics, division of Sterling Drug, Inc., Rensselaer, N.Y., is contesting a nonserious citation for 1910.1000(a)(1) for failure to ensure that employees were not overexposed to iodine (No. 80-3172).

Stroble Air Corporation, Trenton, N.J., is contesting a serious citation and a \$640 penalty for 1910.212(a)(3)(ii) for failure to guard points of operation in a forming roll, 1910.213(g)(1) for failure to guard a swing cutoff saw adequately, 1910.213(i)(1) for failure to guard nonworking portions of a bandsaw blade, and 1910.219(f)(3) for failure to guard sprocket wheels and chains.

The company also is contesting a six-item nonserious citation, including 1910.23(d)(1)(iv) for failure to equip stairways with handrails, 1910.178(p)(1) for failure to withdraw defective industrial trucks from service, and 1910.212(b) for failure to anchor a machine designed for fixed location (No. 80-3168).

Texana Tank Car & Manufacturing Company, Nash, Tex., is contesting a \$6,570 penalty for an 11-item serious citation, including Section 5(a)(1) for failure to ensure that portable electric lighting used inside metal tank cars did not exceed 12 volts, 1910.104(b)(8)(vi) for failure to protect bulk liquid oxygen storage containers and equipment from physical damage, and 1910.309(a) for failure to ensure that flexible cords were not used in a prohibited manner (No. 80-3506).

Torson Construction Company, Inc., Columbia, Mo., is contesting a serious citation and a \$1,260 penalty for 1926.100(a) for failure to ensure employees' use of protective helmets, 1926.402(c)(4) for failure to ensure that boxes and disconnecting means were waterproof, and 1926.652(b) for failure to ensure adequate means of exit from a trench more than four feet deep.

The company also is contesting a nonserious citation for 1903.2(a)(1) for failure to post a notice informing employees of their rights and responsibilities under the Occupational Safety and Health Act and 1926.152(g)(11) for failure to provide fire extinguishers where required (No. 80-2938).

Townes Sandblasting & Painting Company, Garland, Tex., is contesting a serious citation and a \$120 penalty for 1910.244(b) for failure to equip abrasive blast-cleaning nozzles with an operating valve requiring manual activation (No. 80-3384).

Tyler Elevator Products, Inc., Cleveland, Ohio, is contesting a serious citation and a \$400 penalty for 1910.212(a)(3)(ii) for failure to guard machinery points of operation (No. 80-2854).

United States Steel Corporation, Fairless Works, Pittsburgh, Pa., is contesting a serious citation and a \$2,000

penalty for 1918.21(c) for failure to ensure that a gangway did not hang partially over the water, 1918.25(a) for failure to provide at least one safe and accessible ladder for each gang working in a hatch, and 1918.32(b) for failure to provide a safety net where required (No. 80-3430).

United States Steel Corporation, Fairless Works, Pittsburgh, Pa., is contesting a serious citation and a \$1,120 penalty for 1910.23(c)(1) for failure to guard an open-sided floor and 1910.212(a)(1) for failure to guard machinery ingoing nip points.

The company also is contesting a nonserious citation for 1910.37(q)(1) for failure to mark exits and access to exits (No. 80-3431).

United States Steel Corporation, Fairless Works, Pittsburgh, Pa., is contesting a willful citation and a \$10,000 penalty for Section 5(a)(1) for failure to ensure that employees did not mount and cross the couplers of charging buggies.

The company also is contesting a serious citation and a \$400 penalty for 1910.24(h) for failure to provide an open-sided stairway with handrails.

The company also is contesting a nonserious citation for 1910.178(g) for failure to cover a pit (No. 80-3432).

United Terminals, Inc., Bayonne, N.J., is contesting a \$600 penalty for a serious citation for 1918.53(a)(6) for failure to ensure that a winch driver did not make use of temporary seating (No. 80-3173).

Victor Industries Corporation, Newport, Ark., is contesting a serious citation and a \$1,400 penalty for 1910.106(e)(2)(iv)(d) for failure to ensure safe transfer of flammable or combustible liquids, 1910.107(e)(3) for failure to use an approved system for bringing flammable or combustible liquids into spray-finishing rooms, and 1910.108(e)(1)(ii) for failure to ensure that unapproved electrical equipment was not used in proximity to readily ignitable residues and explosive vapors.

The company also is contesting a \$2,200 penalty for a serious citation for 1910.106(e)(2)(iv)(c) for failure to ensure that flammable liquids were not used where sources of ignition were present within the possible path of vapor travel, 1910.106(e)(1)(i) for failure to ensure that ignition sources were not located in dip tank vapor areas, and 1910.212(a)(1) for failure to guard a machinery moving parts (No. 80-3511).

Whillock Manufacturing Company, Inc., Springdale, Ark., is contesting a \$1,000 penalty for a serious citation for 1910.213(b)(3) for failure to equip machinery with automatic restart devices, 1910.213(g)(1) for failure to guard a swing cutoff saw adequately, 1910.213(i)(1) for failure to guard the unused portion of a bandsaw blade, and 1910.309(a) for failure to ground plug- and cord-connected equipment (No. 80-3201).

ABATEMENT PETITIONS

Crown Cork & Seal Company, Inc., Philadelphia, Pa., is requesting an extension of abatement from June 1, 1980, to June 1, 1981, to reduce noise (No. 80-4065).

Maysteel Corporation, Cabinetry Division, Allentown, Wis., is requesting an extension of abatement from May 28, 1980, to September 28, 1980, to provide approved respirators where required (No. 80-4060).



Full Text

EXCERPTS FROM INTERAGENCY REFERRAL MANUAL ON CONDITIONS TO BE REFERRED TO THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

ELECTRICAL REQUIREMENTS

More fires are associated with electrical installations and equipment than any other cause. Standards pertaining to electrical equipment and its use in all industries have been cited as violations more frequently than any others.

The purpose of the electrical standard is the practical safeguarding of persons and buildings and their contents from electrical hazards.

Inspectors should note:

- Lack of grounding for:
 - Metal fixed electrical equipment;
 - Appliances such as vacuumers, polishers, etc.; and
 - Portable hand tools.
- Exposed wires, frayed cord, and deteriorated insulation;
- Lack of coverings on junction boxes, switches, and fittings;
- The substitution of flexible cords and cables for fixed wiring;
- Splices and tape on flexible cords and wiring;
- Flexible cords and cables hung from walls, ceilings, or across the floor;
- Lack of identification of breaker switches.

WALKING AND WORKING SURFACES

Falls are a leading cause of injuries in all industries. Some of the causes of falls include:

- Floors, passageways, and working places that are wet, slippery or have protruding nails, splinters, or loose boards;
- Unguarded floor openings, runways, and stairways;
- Improperly constructed scaffolds or lack of guardrails;
- Unsafe ladders; and
- Unsafe stairs/stairways.

Inspectors should note the following major violations:

Housekeeping

- Lack of clean and sanitary floors. For wet processes, false floors, platforms, mats, or other dry surfaces must be provided;
- Tripping hazards such as nails, loose boards, splinters, holes, sharp corners, and projections; and
- Inadequate clearance in aisles and passages.

Guards for Floor and Wall Openings and Holes

- Lack of railings and toe boards for openings whose least dimension exceeds 12 inches;
- Lack of a railing or floor cover for a hole less than 12 but more than 1 inch; and
- Lack of railings and toe boards for platforms, runways, etc., that are 4 or more feet off the ground.

Scaffolding

- Lack of footing that is sound and rigid;
- Lack of guardrails and toe boards on all open sides of platforms more than 10 feet high;
- Scaffold planks extending over their support more than 18 inches or less than 6 inches; and
- Lack of overhead protection for workers on a scaffold exposed to overhead hazards.

Stairs

- Lack of standard guardrails/handrails on stairways with four or more risers;
- Stairways less than 22 inches wide;
- Stairs with less than 7-foot overhead clearance; and
- Stairs with an angle more than 50° and less than 30°.

Portable Ladders

- Presence of ladders with broken rungs or side rails not tagged DANGEROUS, DO NOT USE; and
- The use of the top of step ladder as a step.

Fixed Ladders

- Lack of a 3½-foot extension at the top of the landing;
- Distance between the back of ladder and the nearest permanent object less than 7 inches; and
- Pitch not between 75° and 90°.

Powered Platforms

- Lack of safety belts, attached by lifelines to the working platform or the building structure on men working on platforms suspended by two (versus four) wire ropes.

Cranes

- Hoisting, lowering, or traveling while an employee is on the load or hook;
- Carrying of loads over people;
- Lack of secure fastenings on outside cranes; and
- Worn, corroded, cracked, or bent wires.

TRENCHES

Trench cave-ins account for a large number of serious and often fatal accidents each year. Inspectors should note the following violations:

- Water in the trench;
- Lack of shoring or sloping in trenches 5 or more feet deep;
- Cracks in the earth from changing weather conditions in unshored trenches;
- Employees working without hardhats;
- Use of heavy or vibrating equipment around trenches that have no shoring; and
- Unfilled spaces between shoring and excavation walls in shored trenches.

MACHINE GUARDING

One or more methods of machine guarding must be provided to protect the operator and other employees from hazards from cutting blades, rotating parts, flying chips, and sparks. The guard must prevent the operator from having any part of the body in the danger zone while the machine is operating.

Inspectors should note:

- Lack of guards on belts, pulleys, rotating shafts, chains, sprockets, gears, and nip points;
- Lack of protective collars or recessing for all rotating parts;
- Lack of enclosures for sprockets or V-belt drives that are within reach of platforms or passageways or within 7 feet of the floor;
- Lack of guards on cutting machines, such as circular saws; and
- Lack of guards with openings of less than 1/4 inch on fans less than 7 feet above the floor.

MATERIALS MOVING AND STORAGE

The storage of materials must not, in itself, create a hazard. The handling of materials, especially by fork-lift trucks, must not pose a hazard to the operator or the other employees.

Inspectors should note:

General Materials Handling

- Lack of clearance for equipment through aisles and doorways;
- Insecure and unstable materials storage;
- Overloading of racks and platforms beyond their capacity;
- Lack of posting of maximum load limits for floors and platforms (except slabs with no basements); and
- Tripping hazards in storage areas.

Mechanized Forklifts

- Lack of protective overhead guards.

PROTECTIVE EQUIPMENT

OSHA requires personal protective equipment whenever

there are hazards that can do bodily harm through absorption, inhalation, or physical contact. This equipment includes protective devices for the eyes, face, head, and extremities, protective clothing, and respiratory protection.

Inspectors should note:

Eye and Face Protection

- Lack of goggles and/or face shields where there is danger of injury from flying particles, chips, sparks, and splashes.

Head Protection

- Lack of hard hat where workers may be struck on the head by falling or flying objects.

Gloves

- Lack of appropriate gloves for employees handling hazardous liquids, resins, acids, or other hazardous materials.

Respirators

- Lack of respirators where air is contaminated by harmful dusts, fumes, mists, or vapors.

FLAMMABLE AND COMBUSTIBLE LIQUIDS

Flammable and combustible liquids are identified by how easily they ignite (the flash point). Flammable liquids ignite more readily than combustible ones. Examples of flammables are gasoline, acetone, and lacquer thinner. Examples of combustibles are kerosene, fuel oil, and Stoddard solvent.

Inspectors should note:

Containers

- Open containers of flammable and combustible liquids when not in use;
- Spills of these liquids;
- Storage of waste material (oily rags, etc.) and open containers;
- Storage of these liquids in unapproved, non-fire-resistant safety containers;
- Lack of grounding and bonding of bulk drums of these liquids during dispensing (grounding and bonding prevent sparks from the accumulation of static charge because of the transfer process);
- Lack of NO SMOKING signs where materials are used or stored.

Storage Cabinets

- Lack of label FLAMMABLE--KEEP FIRE AWAY on cabinet;
- Lack of sturdy, lockable cabinets for storage;
- Lack of NO SMOKING sign both inside and outside storage areas; and
- Lack of fire extinguisher within 10 feet of storage cabinet.

Oxygen

Oxygen must be considered as a potentially hazardous element because materials burn much faster in an oxygen-enriched atmosphere. Investigators should note:

- Storage of oxygen inside a building; and
- Lack of safety devices on oxygen containers.

VENTILATION

Adequate ventilation is important for employees in areas with gases, dusts, vapors, mists, and fumes.

Investigators should note:

- Lack of mechanical ventilation in spraying areas adequate to remove vapors, mists, or dusts; and
- Lack of an independent exhaust duct system in each spray booth discharging to the exterior of the building.

NOISE

Excessive noise can cause permanent ear damage, yet the noise standard is commonly violated. The current standard is 90 decibels for an 8-hour exposure. If the noise level increases, the exposure time must be decreased.

Inspectors should note:

- Lack of hearing protection devices in high noise areas.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION ANNOUNCEMENT OF APPROVAL FOR CALIFORNIA STATE PLAN SUPPLEMENTS

[45 FR 51775, August 5, 1980]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to California State Plan

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: The State of California has made two changes (supplements) to its occupational safety and health program, which were submitted to the Occupational Safety and Health Administration (OSHA) for approval. California operates its program pursuant to approval by federal OSHA. OSHA must also approve any substantive changes to the State's program. This notice announces the approval of the changes. The first change involves changes to the California program to allow it to interface with two Occupational Health Centers established by the University of California. That supplement also outlines the related purposes for which grant funds will be used. The other describes a new project called the Hazard Alert System (HALTS). HALTS is a computer data base of toxicologic and epidemiologic information that is being developed as an early warning system to alert employers, employees, employee representatives, and others to hazards or potential hazards of substances that may be used in the workplace.

EFFECTIVE DATE: July 23, 1980.

FOR FURTHER INFORMATION CONTACT: Patricia O. Horn, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200

Constitution Avenue, N.W., Washington, D.C. 20210 (202) 523-8045.

SUPPLEMENTARY INFORMATION:

Background

The California Occupational Safety and Health Plan was approved under Sec. 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter called the Act) and part 1902 of this Chapter on April 24, 1973 (38 FR 10710). Part 1953 of this Chapter provides procedures for the review and approval of State plan change supplements by the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary).

Descriptions of the Supplements

A. Occupational Health Centers

During the 1978 session of the California Legislature, a bill was passed to establish occupational health centers affiliated with regional schools of medicine and public health. This supplement describes the ways in which Cal/OSHA will interface with these centers.

Cal/OSHA will purchase from the centers research, clinical, and laboratory services which are beyond the capability of the Cal/OSHA program. Four categories of services that will be contracted to the centers are:

1. Training/Education—for training industrial hygiene staff.
2. Consultative Services—for dealing with and following up on emergency situations and for help in designing studies of occupational exposures.
3. Clinical and Analytical Services—for providing medical assessment of specific occupational exposures and analytical tests beyond the scope of current DOSH staff.
4. Applied Study Services—for conducting special testing for exposure

investigation to determine health effects.

This supplement calls for one epidemiologist and two industrial hygienists, plus one clerical position, for liaison activities to apply the research and investigative operations of the faculty of the centers to Cal/OSHA functions in evaluating health risks and in developing occupational health standards. Their primary function of liaison with the occupational health centers includes providing technical expertise enabling DOSH to deal more effectively with problems of determining health risks, administering arrangements for services purchased from the centers, and monitoring the centers' activities in relation to purchased services. As a result of this function, these positions are expected to strengthen the research and compliance operations of Cal/OSHA. By maintaining technical competence on information developed by the centers, they will have the capability for assessing and documenting health hazards as a means for developing new or revised health standards; for developing criteria for and performing health hazard research geared to the program's specific standards and enforcement responsibilities; and for providing internal technical consultation to the Cal/OSHA program. Organizationally these positions will form the technical development group within the Research and Standards Development Unit. This supplement was submitted as a plan change on March 17, 1980.

B. Hazard Alert System (HALTS)

The second supplement, which was also established by legislation passed by the 1978 legislature, describes the Hazard Alert System (HALTS), a repository of current data on toxic materials and harmful physical agents in use or potentially in use in places of employment.

Located in Berkeley, the system is administered jointly by the Departments of Industrial Relations and Health Services to reinforce the administration of the State's OSH Act and to create the capability for recommending the development of occupational health standards. An interagency agreement outlines the separate responsibilities of the two agencies as well as their mutual responsibilities and relationships. It calls for one technical position in the Department of Industrial Relations' Division of Occupational Safety and Health. Through this position, the Cal/OSHA program will have liaison with the Hazard Alert System. This technical linkage will assure effective use of the repository's findings in Cal/OSHA compliance and standard development activities, as well as assessment of the need for special studies and investigation of problems unrelated to specific enforcement actions.

HALTS is being developed as a multidisciplinary program (composed of specialists from such fields as toxicology, epidemiology, medicine, health administration, data processing, and information science) for collecting and organizing toxicologic and epidemiologic information on hazardous substances in California workplaces and channeling this information to workers, employers, and policy makers. Policies and procedures are being developed to assure that the repository uses and does not duplicate the resources of the Federal government and other States.

This supplement was submitted as a plan change on January 23, 1980.

Location of the Plan and its Supplements for Inspection and Copying

A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations:

Office of the Directorate of Federal Compliance and State Programs, Room N-3619, 200 Constitution Avenue, N.W., Washington, D.C. 20210

Office of the Regional Administrator, OSHA, 450 Golden Gate Avenue, Room 11349, San Francisco, California 94102

California Occupational Safety and Health Administration, 455 Golden Gate Avenue, San Francisco, California 94102

Public Participation

Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Occupational Health Centers and the Hazard Alert System were established by the California legislature in accordance with the procedural requirements of the State legislative process which included public hearings. In addition, the Assistant Secretary finds that these projects are consistent with the standards-setting, training and

education, voluntary compliance and research functions contained in the approved plan which were previously made available for public comment. Good cause is therefore found for approval of the supplements without public comment and notice.

Decision

After careful consideration, the California plan supplements described above are hereby approved under Part 1953 of this Chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

In accordance with this decision, Subpart K of 29 CFR 1952 is amended by adding new paragraphs (d) and (e) as follows:

§ 1952.176 Changes to approved plans.

(d) In accordance with Subpart E of Part 1953 of this Chapter, California's liaison with the Occupational Health Centers, implemented on April 25, 1979, was approved by the Assistant Secretary on July 25, 1980.

(e) In accordance with Subpart E of Part 1953 of this Chapter, the California Hazard Alert System, implemented in July, 1979, was approved by the Assistant Secretary on July 25, 1980.

(Sec. 16, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C., this 21st day of July, 1980.

Eula Bingham,

Assistant Secretary of Labor.



Journal

MEETINGS SCHEDULED

August 18-19 — Toxic Chemical Safety, Wayne, N.J. (Registrar, Starson Corp., NHC Div., P.O. Box 133, Stanton, N.J. 08885; tel: (215) 258-7045).

The course also will be held September 11-12 in Cleveland, Ohio, and September 15-16 in Pittsburgh, Pa.

August 18-19 — Hazardous Chemical Safety, Seattle, Wash. (Carol Morris, J.T. Baker Chemical Company, Phillipsburg, N.J. 08865; tel: (201) 454-2500).

The course also will be held August 21-22 in San Francisco, Calif., September 8-9 in Boston, Mass., and September 11-13 in Saddle Brook, N.J.

August 18-21 — Hazardous Chemical Safety Management, Minneapolis, Minn. (Short Course Registrar, Eastek Corp., 3543 Baldwin Drive, Easton, Pa. 18042; tel: (215) 252-1737).

The course also will be held September 15-18 in Williamsburg, Va.

August 18-22 — Fundamentals of Modern Safety Management, Sacramento, Calif. (International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; tel: 404 466-2208).

August 18-22 — Development and Growth of a Modern Safety Program, Sacramento, Calif. (Ernest Chaney, International Loss Control Institute, P.O. Box 345, Loganville, Ga. 30249; tel: (209) 485-3720).

August 19 — Occupational Health Data Base Management Systems, Cincinnati, Ohio (J.S. Ferguson, Univ. of Cincinnati, 3223 Eden Ave., Cincinnati, Ohio 45267; tel: 513 872-5733).

The course also will be held October 15.

August 19-21 — Recognition, Evaluation, and Control of Occupational Health Hazards, Monroeville, Pa. (Marshall Russak, Industrial Health Foundation, 5231 Center Ave, Pittsburgh, Pa. 15232; tel: (412) 687-2100).