

November 24, 2003

Mr. John Henshaw
Assistant Secretary for Occupational Safety and Health
U.S. Department of Labor
Occupational Safety and Health Administration
200 Constitution Avenue, NW
Washington, DC 20210

Dear Mr. Henshaw:

The Small Business Advocacy Review Panel (Panel), established in accordance with the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), is transmitting to you this report on the Occupational Safety and Health Administration's draft proposal for Confined Spaces in Construction.

The Panel consisted of representatives of the Occupational Safety and Health Administration (OSHA), the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB), and the Office of Advocacy (OA) within the U.S. Small Business Administration (SBA), and was chaired by Robert Burt, Director of the Office of Regulatory Analysis within OSHA. The Panel members and staff representatives included Robert Burt (OSHA/Chair), George Henschel (DOL/Office of the Solicitor (SOL)), Noah Connell (OSHA/Directorate of Construction (DOC)), Charles Maresca (SBA/OA), Dominic Mancini (OMB/OIRA), Garvin Branch (OSHA/DOC), Brian Eagle (OSHA DOC), Robert Biersner (DOL/SOL), Joseph Johnson (SBA/OA/Economist), Jens Svenson (OSHA/Economist), and Kathleen Martinez (OSHA/SBREFA Coordinator).

On September 26, 2003 the Panel was officially convened. On October 9th and 10th the Panel members, along with the Small Entity Representatives (SERs), participated in a conference call, providing the opportunity for an open discussion regarding the draft proposal. In addition to the conference call, the SERs provided the Panel with their written comments.

The complete Panel Report is attached, including major findings and recommendations of the Panel, a listing of the participating SERs, and copies of their written comments. SBREFA requires that this Panel Report and its attachments become part of the rulemaking record and be made available to the public through the OSHA docket office.

In closing, the Panel wishes to thank the SERs for their participation in the early stages of the rulemaking process. The Panel particularly appreciates that the SERs took

time from their busy schedules to provide the Panel with comments. Subsequent steps in the rulemaking process will afford additional opportunities for public participation and input.

Sincerely,

Robert E. Burt
Chairperson
Small Business Advocacy Review Panel
Occupational Safety and Health Administration
U.S. Department of Labor

Thomas M. Sullivan
Chief Counsel for Advocacy
Office of Advocacy
U.S. Small Business Administration

John D. Graham
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