

July 2, 2009

Mr. Jordan Barab.
Deputy Assistant Secretary for Occupational Safety and Health and Acting 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. Barab:

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 Occupational Exposure to Diacetyl and Food Flavorings Containing Diacetyl.

The Panel consisted of representatives of the Occupational Safety and Health Administration (OSHA), Department of Labor Office of the Solicitor (SOL), 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). The Panel was chaired by Robert Burt, Director of the Office of Regulatory Analysis (ORA) within OSHA. Staff from the Agencies and SOL who participated in development of the Panel's report include: Bruce Lundegren (SBA/OA), Charles Maresca (SBA/OA), Radwan Saade (SBA/OA), John Kraemer (OMB/OIRA), David O'Connor (OSHA Division of Standards and Guidance (DSG)), Amanda Edens (DSG), Val Schaeffer (DSG), Jason Capriotti (DSG), Robin Ackerman (DSG), Sarah Shortall (SOL), Tom Mockler (ORA), Robert Stone (ORA), and Kathleen Martinez (OSHA/ORA/SBREFA Coordinator).

On May 5th, the Panel was officially convened. On May 19th and 20th the Panel members, along with the Small Entity Representatives (SERs), participated in conference calls providing the opportunity for an open discussion regarding the draft proposal. In addition to the conference calls, the SERs provided the Panel with their written comments.

The Panel Report is attached, which includes the Panel's major findings and recommendations. Also included as appendices to that report are a listing of participating SERs, the SERs' written comments, and the basic documents provided to the SERs—the Preliminary Initial Regulatory Flexibility Analysis and the draft proposed rule. SBREFA requires that this Panel Report and its attachments become part of the rulemaking record, which Mr. Burt will arrange by posting the report in the docket at <http://www.regulations.gov>, the federal eRulemaking portal.

The Panel wishes again to thank the SERs for their participation in the early stages of the rulemaking process. The Panel particularly appreciates the time that the SERs took from their busy schedules to read the considerable SBREFA materials sent to them and provide the Panel with comments.

Sincerely,

/s/

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

/s/

Shawne C. McGibbon
Acting Chief Counsel for Advocacy
Office of Advocacy
U.S. Small Business Administration

/s/

Kevin Neyland
Acting Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget

/s/

Dorothy Dougherty
Director
Directorate of Standards and Guidance
Occupational Safety and Health Administration
U.S. Department of Labor

/s/

Ian Moar
Counsel for Health Standards
Office of the Solicitor
U.S. Department of Labor