

## NASSCO Obtains Favorable OSHA

by Jeff Griffin ■ Senior Editor



The Occupational Safety & Health Administration (OSHA) has given verbal assurance to NASSCO that it will continue to consider the

sewer rehabilitation work typically performed by its members as "maintenance" rather than "construction" as had been proposed in a rule change to OSHA's confined space standard, reports Irv Gemora, executive director of NASSCO.

NASSCO opposed inclusion of rehabilitation in the "construction" category because it would substantially increase the costs to companies engaged in rehabilitation projects.

OSHA's verbal assurance was given at a

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public hearing Sept. 22-23, at OSHA headquarters in Washington, DC, Gemora informed NASSCO members soon after the hearing.

"Mission accomplished," said Gemora, who with his staff and NASSCO members has worked for months gathering data to support information to oppose the proposed rule change – Confined Spaces in Construction; Proposed Rule - 72:67351-67425 – which was published in the *Federal Register* in November 2007.

Shortly before expiration of the three-month period for comment, NASSCO requested that OSHA schedule a public hearing on the proposal.

### Critical step

Granting the hearing was an important step in NASSCO's opposition to the proposed

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rule change. At the time of the request, an OSHA spokesman said the agency did not normally conduct hearings on rule proposals.

"Prior to the hearings," said Gemora, "NASSCO members were polled to learn more about their confined spaces involvement and safety records in order to present an honest and compelling view of the infrastructure rehabilitation industry as we know it from experience. After we completed our homework, we retained the services of a Washington law firm with a proven record of providing expert counsel in OSHA matters."

Kathy Romans, chairperson of NASSCO'S health and safety committee, presented the association's case at the OSHA hearing in September.

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work as maintenance," said Gemora. "Our next goal is to have new rules include a preamble that clearly states that as OSHA policy and practice."

Immediately after the September hearing, Gemora submitted a letter to OSHA for inclusion in its record about the proposed rule change. The document supports the agency's decision not to include rehabilitation in the "construction" category of confined space rules, provides additional documentation supporting NASSCO's position on the proposed rule change, and expressed concern about the possibility of confusion about applicability of OSHA general industry standards to sewer maintenance and rehabilitation work.

NASSCO has more than 350 members in North America representing rehabilitation industry manufacturers and suppliers, municipalities and utility districts, engineers and contracting firms, employing approxi-

mately 34,000 people. NASSCO publications and guidelines are referenced in municipal sewer and drainage bid documents, and the U.S. Environmental Protection Agency and others often reference NASSCO guidelines in judicial consent decrees and orders, said Gemora.

"An important lesson to be learned from this issue is that NASSCO is looking out for the interests of the industry we represent," he concluded. "Opposition to the proposed rule change and other efforts on behalf of the industry is costly; we need the support, including financial support, of industry members to continue to provide effective changes that represent the interests of the industry."

**FOR MORE INFORMATION:**

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