

7-11-77
**PLAINTIFF'S
EXHIBIT**

FOS-836

April 27, 1977

Mr. John H. Williams
Foseco Steel Mills International Ltd.
255 Long Acre, Natchelle
Birmingham, England B7 5JW

Dear Mr. Williams:

Re: Asbestos

Mary Shepard has referred your request for current information on asbestos to me. As I do not know specifically what information or report you are seeking, enclosed you will find all asbestos related releases from our Occupational Safety and Health Reporter. This service provides an appraisal of the latest developments in federal occupational safety and health.

You will note that major activity since August of 1976 has involved the classification of Talc processed by the R. I. Vanderbilt Company, Inc. I am also enclosing a letter from that company dated April 1, 1977 in which they indicate that Vanderbilt's Talc is no longer classified as asbestos bearing material.

If this is not the information you seek or if I may be of any further assistance, please do not hesitate to contact me.

Very truly yours,

FOSECO MISSEP INC.

DEJ
D. E. Woodbury
Corporate Manager, Employee Relations

DEW:ms

cc: Mr. H. Shephard

bcc: D. Adams

2555

FOS-00-0000001763

**PLAINTIFF'S
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FOS 746

The study was conducted by the Health Research Group and a major conclusion cited was that labor's push for occupational health remains hampered by a severe shortage of union health experts, and by low health budgets.

The HRG surveyed 15 major unions representing more than seven million workers prone to chemical health hazards because of the particular industry. The unions surveyed included:

- ▶ Communications Workers of America.
- ▶ International Association of Machinists and Aerospace Workers
- ▶ International Union of Electricians
- ▶ International Brotherhood of Painters
- ▶ United Auto Workers
- ▶ Oil, Chemical and Atomic Workers.
- ▶ International Chemical Workers.
- ▶ United Electrical Radio and Machine Workers.
- ▶ United Mine Workers.
- ▶ United Paperworkers
- ▶ Textile Workers.
- ▶ United Rubberworkers.
- ▶ American Federation of Government Employees.
- ▶ American Federation of State, County, and Municipal Employees.

The survey found only one full-time and four part-time medical doctors employed in occupational health in all 15 unions. "Compared with management's health personnel, the unions' forces are tiny. A 1969 study of more than 2,000 physician members of the Industrial Medical Association showed almost all employed by industry, and virtually no doctors employed by unions aside from 28 doctors in union clinics doing general health care delivery, not specifically occupational health," the study said.

The 15 unions reported 11 full-time and 25 part-time non-health professionals working on international staffs, and in addition, the UAW listed 320 and the Steelworkers listed 800 field health representatives among rank and file. The OCAW noted two health representatives for each of its nine districts, the report showed. The survey also noted that staff expansion plans for the future "seemed minimal."

Despite the unions' shortage of medical personnel and money, the survey questionnaire recorded widespread union awareness of activity concerning health.

Education and Monitoring

Worker education appeared to be the most pervasive union health project, the survey showed. Several of the unions do workplace and employee monitoring, health surveys, and mortality or follow-up studies. Some 300 UAW plant representatives are trained to measure factory noise, carbon monoxide airflow, and the Autoworkers have inspected gray iron foundries, lead-acid battery plants and 200 other plants, the study showed. The Painters Union has a mobile unit to give physical examinations to members, arranged through a contract with the National Institute for Occupational Safety and Health, the American Cancer Society, and the Mount Sinai School of Medicine. The UE reported "uncovering hazards in several shops" and took steps to force correction. Several other unions said worker identification of hazards is encouraged.

Ten of the 15 unions surveyed have run mortality surveys, including: medical examinations of 300 General Electric workers for exposure and effects of PCBs (polychlorinated biphenyls) at GE's Fort Edward and Hudson Falls plants in New York and checks of appliance plant workers for asbestos exposure (UE with Dr. Irving Selikoff's Mt. Sinai laboratory); mortality or morbidity studies of asbestos textile workers in Paterson, N.J., cotton textile workers in

Columbia, S.C., and dye and finishing workers in New York (Textile Workers Union); noise and hearing loss tests on late Paperworkers; mortality studies of painters; mortality studies of Rubberworkers exposed to styrene-butadiene; morbidity studies in the railroad industry (IAM); exposure studies of Steelworkers to coke oven pollution; to vinyl chloride at Dow's Midland, Mich. plant; and tentatively to lead and arsenic (Steelworkers). Also unspecified studies by the UAW and OCAW are being conducted, the survey found.

Other Findings

The survey also showed increasing union activity in bargaining for safety and health improvements. Most unions covered by OSHA were found to participate in Review Commission proceedings on violations. Some unions, including the Steelworkers and the OCAW, are very active, but three unions — the IUE, the UE, and the Communications Workers — have taken no part in proceedings.

The survey concluded that "our findings, however, are disturbing" because worker health is not a top priority with many unions. "With wide variation from union to union, the impression is that occupational health is getting more attention today than it did a few years ago, but not enough," the study said, recommending that "a major union effort should go toward publicizing health problems and training members to spot and report problems to the union and to OSHA. Unfortunately, some unions seem to make little or no use of OSHA. . . . The exclusive concentration on workers' compensation which has marked some unions' health efforts is a backward-looking policy," the survey said.

Enforcement

OSAHRC REQUESTS SUPPLEMENTAL BRIEFS ON ASBESTOS RULES IN CONSTRUCTION WORK

The Occupational Safety and Health Review Commission requested supplemental briefs on whether the monitoring and medical examination provisions of the asbestos standard are feasible as applied to construction work.

This action was taken in *Research Cottrell, Inc.* (No. 11736), which was directed for review by the commission on September 15, 1975.

Review Commission Judge William J. Risteau affirmed citations for violations of 29 CFR 1910.1001 (b) (1) and (1) (1), holding that the standards requiring monitoring and medical examinations apply to any workplace where asbestos fibers are released. The employer had argued that the standards were not applicable to construction projects like the worksite in question, because the employees' exposure to asbestos was minimal and of relatively brief duration.

The commission's order requesting supplemental briefs noted that Secretary of Labor's publication on October 9, 1975, of a proposed asbestos standard applicable to general industry but not to the construction industry (Current Report, October 9, p. 372). In the explanation accompanying the proposal the secretary indicated an intention to develop a separate asbestos standard for the construction industry and noted the uniqueness of that industry and the special compliance problems involved. The commission order directed the parties to brief the question of "whether the Secretary's statements of October 9, 1975, may be construed as recognizing that the existing standard is infeasible and contrary to the requirements of [Sec. 6 (b) (5) of the Occupational Safety and Health Act] when applied to the construction industry and consequently should not be enforced as to such industry."

briefing also was requested on whether the provisions of 29 CFR 1910.1001 (f) (1) expired on December 7, 1972, in view of the standard's language requiring initial monitoring within six months of the publication of this section."

Commissioner Timothy F. Cleary dissented from the commission's order, criticizing the majority for raising issues not presented by the parties.

General Policy

APPOINTMENT OF THREE NEW MEMBERS TO ADVISORY COMMITTEE IS ANNOUNCED

The appointment of three new members to the National Advisory Committee on Occupational Safety and Health was announced on September 7.

The new members are Nicholas Ashford, Center for Policy Alternatives, Massachusetts Institute of Technology, representing the public sector; Eugene Fowinkle, Commissioner of Public Health, state of Tennessee, also representing the public; and Ralph J. Vernon, department of industrial engineering, Texas A&M University, representing the safety sector.

Three current members were reappointed to the committee. These members are Roger Wingate, senior vice president, Liberty Mutual Insurance Company; Paul Kotin, senior vice president for health, safety, and the environment, Johns-Manville Corporation; and John J. Sheehan, legislative director, United Steelworkers of America.

These members will serve a two-year term expiring June 30, 1978. Roger Wingate will serve during that period as committee chairman.

Discrimination

MEDICAL CLINIC AGREES TO SETTLEMENT IN JOB SAFETY DISCRIMINATION DISPUTE

The Occupational Safety and Health Administration announced September 3 that it has reached agreement with the Arkansas Orthopedic Clinic, Little Rock, Ark., in a job safety and health discrimination case involving an employee of the clinic.

The voluntary settlement resolved a discrimination complaint which alleged that an employee was discharged from her job because she filed a safety and health complaint with OSHA about job hazards in her place of employment.

As part of the settlement, the clinic agreed to post a notice to employees for at least 60 consecutive days affirming the company's agreement to refrain from discrimination against workers who exercise their rights under the Occupational Safety and Health Act. The clinic also agreed to comply with terms and provisions of the notice, including notification in writing of actions taken to comply for the OSHA Operations Review Office-West.

Procurement

NIOSH TO ADD MUTAGENESIS STUDIES TO REGISTRY OF TOXIC SUBSTANCES

Mutagenesis studies and data will be added to the Registry of Toxic Effects of Chemical Substances, according to a National Institute for Occupational Safety and Health request for proposal.

The 1976 toxic substances list contains 19,218 chemical compounds of which only 34 are mutagens.

The list includes chemicals with mutagenic effects in humans and/or experimental animals, but most mutagenicity studies use microbial or host-mediated assay procedures. Neither of these procedures falls under the whole animal selection criteria.

"It is essential to re-examine the selection criteria for mutagenesis and to include the sub-mammalian assay system tested chemicals," NIOSH said in its RFP.

The contractor chosen by NIOSH will be required to identify, evaluate, develop selection criteria, and provide input of mutagenesis studies and data to the Registry of Toxic Effects of Chemical Substances file."

NIOSH will use the list of mutagens not only for the registry, but also for the priority list, criteria documents, and assistance in determining occupational research needs, according to the RFP.

Persons wishing copies of the RFP should contact the Contracting Officer, NIOSH, Parklawn Building, Rm. 1-58, 2000 Fishers Lane, Rockville, Md. 20852.

The RFP due date is September 16.

Kepons

ALLIED EMPLOYEES ACQUITTED; JUDGE FINDS "REASONABLE DOUBT"

Two Allied Chemical Corporation employees were acquitted September 2 of a federal charge that they conspired to cover up the discharge of Kepone into the James River at Hopewell, Va.

"I simply am not satisfied beyond a reasonable doubt," U.S. District Judge Robert R. Merhige, Jr., said. He heard the case without a jury.

The charge involved the manufacture of Kepone by Allied at its Hopewell plant between 1966 and 1974 (Current Report, September 2, p. 405).

The defendants, the manager of Allied's Hopewell plant and a technical supervisor, were the only remaining defendants in a conspiracy indictment handed up by a grand jury in May.

Two other Allied employees pleaded guilty to reduced charges and testified for the Government during the trial.

Allied faces trial September 27 on a single misdemeanor count of conspiracy and 153 counts of aiding Life Science Products, Inc., in violation of federal water pollution laws, according to U.S. Attorney William B. Cummings.

Procurement

DEPARTMENT OF LABOR SEEKS STUDY OF JOINT CANCER INFORMATION PROGRAM

A study to evaluate the Occupational Safety and Health Administration and the National Cancer Institute's joint occupational cancer information and alert program is the subject of a U.S. Department of Labor request for proposal.

The overall objective of the program was to provide for a review of scientific information on occupationally related cancer and the development of a plan for incorporating that information into an educational program aimed at reducing the risk of cancer.

Requests for copies of RFP L/A 76-69 should be sent to the U. S. Department of Labor, Office of Administrative Ser-

- Physiology as it relates to diving
- Diving equipment
- Additional recommendations adopted by the committee would require employers to be responsible for:
 - Developing, maintaining, and complying with a safe practices manual.
 - Providing necessary tools, equipment, and systems as outlined in the standard.
 - Recording and reporting job-related fatalities and serious illnesses, injuries, and accidents and making records available to the Assistant Secretary for Occupational Safety and Health.
 - Following safe and healthful operational procedures as outlined in the standard.

Litigation

TESTS, INSTALLATION OF EQUIPMENT SHOW "REASONABLE DILIGENCE," COURT SAYS

An employer which retained an independent laboratory to test its plant atmosphere for airborne asbestos and installed and maintained safety equipment as a result of the tests exercised "reasonable diligence" in attempting to furnish a safe workplace.

This 21-page opinion issued August 26 by the U.S. Court of Appeals for the Sixth Circuit in *Dugan v. Rockwell International Corp.* (No. 75-1072), affirmed an order of the Occupational Safety and Health Review Commission reported at 2 OSHC 1719.

Rockwell operates a plant at Ashland, Ohio, where it produces brake shoes. Its production operation requires grinding of the brake lining material which contains asbestos. A Labor Department inspection of the facility resulted in the issuance of a citation for serious violation of 29 CFR 1910.1001 and 29 CFR 1910.134(a)(2). The cited standards delineate the allowable number of asbestos fibers in an employee's breathing zone at peak periods and during an eight-hour workday and require that respirators be provided, respectively.

Rockwell contended that, by installing safety equipment, and by regularly maintaining and periodically checking that equipment, it exercised reasonable diligence and did not know that excessive and unhealthy amounts of asbestos fibers were in the breathing zone of the grinding machine operator. The commission ruled that Rockwell had been diligent by retaining an independent laboratory to test the atmosphere in the plant for airborne pollutants. In addition, the commission found that the test results indicated that on all three test dates, the company's exhaust system was functioning properly and the level of asbestos fibers in the air posed no health hazard. There was substantial evidence of record supporting these findings, the court majority of Circuit Judge Anthony J. Celebrezze and Senior Judge Thomas F. McAllister, Jr., found.

The majority also refused to find a nonserious violation of the standard, citing the Ninth Circuit Court's conclusion that knowledge is an element of a nonserious violation (2 OSHC 1648).

Circuit Judge George Clifton Edwards, Jr. filed a dissenting opinion in which he stated that the administrative law judge and the two commissioners who made up the commission majority totally ignored much additional relevant evidence which the secretary offered at the hearing. According to the dissenting judge, the commission's total disregard of employer testimony was arbitrary, capricious, and

an abuse of discretion. He stated that the secretary's employer testimony would require a finding of substantial violation. Accordingly, he would remand this case to the commission for reconsideration on the basis of all rather than part of the record.

This decision will appear in a future Decisions supplement.

Litigation

CLEARING LAND FOR GROWING GRAPES AFFECTS COMMERCE, NINTH CIRCUIT SAYS

A firm that was clearing land in California's Napa Valley with the intent of using the land to grow grapes was engaged in a business affecting interstate commerce, the U.S. Court of Appeals for the Ninth Circuit ruled.

This unanimous decision in *Richard Godwin v. OSHRC* (No. 75-2126, decided August 15) reversed a ruling of the Occupational Safety and Health Review Commission. *Les Mares Enterprises, Inc.* (3 OSHC 1015). The appeal to the circuit court was taken by an employee of Les Mares who lost three fingers in an accident that resulted from the hazard cited by the Secretary of Labor.

Employees of Les Mares were using a guillotine-like log splitter to cut up trees that were being cleared from the land. Despite repeated employee complaints and accidents, the employer's superintendent required the workers to put more than one log in the splitter at once, which increased the hazard to the worker holding the logs, because he had to place his hands close to the blade of the splitter. The secretary charged Les Mares with a violation of Section 3 (a) (1) of the Occupational Safety and Health Act, the general duty clause, and proposed a penalty of \$600.

The employer contended that it was not "engaged in a business affecting commerce" and therefore was not subject to the Act, as provided in Section 3 (5) of the Act. Review Commission Judge Robert N. Burchmore rejected this jurisdictional defense, but on review the full commission held Les Mares exempt and vacated the citation, with one commissioner dissenting. Employee Godwin's appeal followed.

The court, speaking through Circuit Judge James M. Carter, first noted that Congress' use of the phrase "affecting commerce" indicates an intent to exercise its power over commerce to the maximum extent. "Clearing land is an integral part of the manufacturing of wine, and therefore commerce is affected by the activity," Judge Carter said. *Hodgson v. Ewing* (451 F.2d 326), a Fair Labor Standards Act case, held that clearing brush for improvement of agricultural land could be regulated by Congress, he noted. The fact that grapevines had not been planted is not significant, according to Carter. "Les Mares activity, taken together with land clearing by others, would surely affect commerce if unsafe working conditions were utilized," he added, citing the 1975 Supreme Court ruling in *Fip v. United States* (421 US 542).

U.S. District Judge James M. Burns joined in Judge Carter's opinion. Circuit Judge Walter Ely "reluctantly" concurred, stating that "to me it is virtually unthinkable that the Founding Fathers could have foreseen the extent to which an increasingly expansive interpretation of the Commerce Clause could so infringe local authority." However, the court's decision is compelled by precedent. Ely concurred.

This ruling will appear in a future Decisions supplement.

...action and Imbus said. However, in the case of very large reported violations involving a multi-establishment company, OSHA should be able to cite for repeated violations on a nationwide basis, he said. Thus OSHA could cite as a repeated violation excessive lead exposure occurring at one company plant and base that citation on prior violations which occurred at another plant of the same company.

Otherwise, this last part of the plant would be reserved for subsequent cases, Imbus explained. The approach gives OSHA a flexibility, he said.

Deck said he originally preferred the Imbus proposal but in studying it further, he said it is "an administrative nightmare."

Because the subcommittee was unable to agree, the issue will be discussed by the entire committee at the next NACOSH meeting tentatively set for November 18 and 19 in Washington, D.C.

NEP Update

There will be a National Emphasis Program, Bruce Hillenbrand, assistant director of the program, declared in opening his report to NACOSH. Training for some 500 area directors, state supervisors, state and Section 7(c)(1) consultants, federal and state plans officers, and monitors was scheduled to get underway on September 14, he said.

In preparing to launch NEP, Hillenbrand said OSHA has identified all hazards in the foundry industry and has classified them as serious or nonserious. For additional guidance to compliance officers, OSHA has suggested abatement times for the violations as well.

About 60 percent of the foundries targeted for the NEP effort are small in size, Hillenbrand noted, and OSHA recognizes that abatement times for these foundries may have to be longer for some violations than the abatement period given to larger foundries. OSHA will be seeking engineering control of hazards, but it admits that these will not always be economically feasible. "We are compromising on compliance," Hillenbrand concluded.

Other Business

In other business, NACOSH Chairman Roger Wingate, Liberty Mutual Insurance Company, combined the policy and budget subgroups into one unit chaired by John J. Sheehan, legislative director, United Steelworkers. Other members of the new policy and budget subgroup are: Miles Colwell, Aluminum Company of America; George H. R. Taylor, AFL-CIO Standing Committee on occupational safety and health; Eugene Fowinkle, Tennessee Commissioner of Public Health; and attorney Barry C. Brown.

Colwell was named chairman of the standards subgroup. Other members are Sheehan, Deck, Mary Amdur, Harvard University Department of Physiology, and Ralph J. Vernon, Texas A & M University Department of Industrial Engineering.

The compliance subgroup will be headed by Deck. Other members are Taylor, Imbus, Paul Kotin, Johns-Manville Corporation, and Nicholas Ashford, Massachusetts Institute of Technology, Center for Policy Alternatives.

General Policy

O'BRECHT SAYS BUSINESS COMMUNITY DEALING "POORLY" WITH OVERREGULATION

The problem of the business community is not unnecessary legislation, but "misdirected efforts to cure legitimate wrongs," Richard O'Brecht, director of labor law, U.S.

Chamber of Commerce, told the Asbestos Information Association industry-government conference in Washington, D.C., held on September 9 and 10.

The business community is facing "overregulation" by the Occupational Safety and Health Administration and other agencies "because of its own failings," he said, citing the necessity for placing the "problem in perspective."

O'Brecht compared the "social phenomenon" of the labor movement to business problems with regulatory agencies. He said the labor movement began because of "abominable working conditions," with 12-year olds being killed in the mines and working 12-to 16 hour days for \$1. The movement was not accepted immediately by society or business and was called a "communist" plot, he said. The movement eventually gained acceptance and, in fact, became the "darling" of the press. O'Brecht said, adding that labor brought to light genuine social abuses and the movement was placed in the role of correcting those abuses.

The success of the labor movement has leveled off, he explained, because "they are making up causes to go after," the purpose has been achieved, and the movement is becoming excessive in its demands.

He compared the growth of regulatory agencies, like OSHA, to the labor movement. These became the "fourth branch of the Government" and were "picked up by Nader-type groups" and also became the "darling" of the press. "Now these agencies have become excessive and, hopefully, will level off," he said.

After placing the situation "in perspective," he emphasized that the business community is dealing with the problems of overregulation "very poorly" at regulatory inception. Business' approach is disunited, often on an industry-by-industry basis, sometimes company-by-company, he said. The approach is "very seldom positive, or anticipatory," and is reactionary and antagonistic. The worst problem is that business is not challenging the regulators enough in public forums to point up deficiencies, he said.

Proper Approach

Business should work with regulators, mid-level policy-making bureaucrats, to provide information needed; challenges should be made both in administrative hearings and in court to use rulings to "restrict ways they can act" or maintain the status quo, he said. Business should predict or correct regulations before they become a "cause celebre."

O'Brecht said the business community should identify the key person on any Senate committee in Congress with jurisdiction over a certain issue and concentrate on that Senate committee to make use of "the pinnacle of political clout" since these committees "have confirmation power."

Asbestos Standard

OSHA still is considering inclusion of the construction industry in a revised standard for asbestos exposure, Grover Wrenn, OSHA Office of Standard Development, told the group.

The construction industry was excluded from the initial revision last fall due to time constraints, Wrenn said. However, OSHA has not made a final determination to include the construction industry. According to Wrenn, some 70 to 80 percent of all asbestos products are used in construction activities.

The revised asbestos rule, proposed by OSHA in October 1975, would reduce the permissible exposure limit to an eight-hour time weighted average of 0.5 fibers per cubic centimeter of air. Permissible exposure levels for the construction industry would remain at 10 fibers per cubic centimeter.

according to the proposal (Current Report, October 9, 1975, p. 172).

Wrenn told the conference that OSHA recently contracted with the Research Triangle Institute to develop alternatives for handling asbestos in the construction industry. The project is expected to last four to six months, he said.

Tetrachloroethylene

NIOSH RECOMMENDS CEILING LIMIT OF 100 PPM FOR SUBSTANCE EXPOSURE

A ceiling limit of 100 parts per million, as determined by a 15-minute sampling period, was recommended for occupational exposure to tetrachloroethylene by the National Institute for Occupational Safety and Health.

The institute made its recommendations in a criteria document submitted July 2 to the Occupational Safety and Health Administration (Current Report, July 8, p. 188).

The NIOSH recommendations appear in the Full Text section of this Current Report.

Logging

WORK PLACE STANDARDS RECOMMENDED BY INSTITUTE IN CRITERIA DOCUMENT

Safety for logging should be promoted through adherence to safe work practices, employee training, medical services, posting of logging areas, and use of personal protective equipment, according to recommendations by the National Institute for Occupational Safety and Health.

NIOSH made its recommendations for logging safety in a criteria document submitted July 1 to the Occupational Safety and Health Administration (Current Report, July 8, p. 190).

The NIOSH recommendations appear in the Full Text section of this Current Report.

Arsenic

ERRORS IN IMPACT STATEMENT CITED BY INDUSTRY SPOKESMEN AT HEARING

The Occupational Safety and Health Administration's inflation impact statement on its proposed inorganic arsenic standard seriously underestimates the standard's possible economic effect on industry, a team of witnesses for ASARCO, Inc., told a hearing on the impact statement in Washington, D.C., on September 12.

The impact statement, prepared for OSHA by Arthur Young and Company, estimated that adoption of the proposed standard would result in an impact of approximately \$273 million in capital costs and approximately \$36 million in annual operating and maintenance costs (Current Report, June 10, p. 37).

In addition, the statement estimated that employment would decline by about 3,000 workers if the proposed exposure limit of 0.004 milligrams were adopted. The number would increase to 3,700 if ASARCO's plant in Tacoma, Wash., were forced to close.

Ravindra M. Nadkarni, Arthur D. Little, Inc., testifying on behalf of ASARCO, told the hearing that the econometric model on which Arthur Young based its findings contains erroneous assumptions about ASARCO's Tacoma operation

and about the world arsenic market. The model ignores the fact that Tacoma is a copper smelter, and considers it only as an arsenic producer, who will deliberately vary the smelting rate to reap maximum profits from the sale of arsenic trioxide. From this assumption, the impact statement concludes that the smelter would choose to operate at about half its rated capacity as a result of cost of compliance with the OSHA standard.

In reality, any smelter has to operate close to rated capacity to minimize operating costs, Nadkarni said. Tacoma would not be able to recover its costs if it decreased its production to 50 percent of its capacity.

Arthur Young's calculations also ignore the fact that the Tacoma operation is the only domestic producer of arsenic, assuming instead that there are numerous domestic small sellers, none of which can directly control the price of arsenic, Nadkarni said. His assumption that the world market also is composed of numerous small sellers, none of which can control arsenic prices, similarly is incorrect.

In considering the cost of meeting the proposed standard, the impact statement considers only labor costs, which would increase by only 3 percent, Nadkarni said. It ignores unit fixed costs, which would increase by 64 percent.

The impact statement's estimation of the unemployment that would be generated by adoption of the standard ignores significant indirect impacts, Nadkarni said. For example, any production cutbacks resulting from adoption of the standard likewise would affect industries furnishing ASARCO with materials. In turn, this would affect companies supplying ASARCO's suppliers. Reduced consumption spending by the unemployed also would have an effect on the economy.

Based on this "domino effect," total unemployment resulting from adoption of the standard more likely would be 13,500 to 14,800, rather than 3,700 as Arthur Young estimated, Nadkarni said.

HEA Testimony

Other "severe errors in input" in the Arthur Young impact statement were cited by Knowlton J. Caplan, president of Industrial Health Engineering Associates, Inc. Caplan criticized Arthur Young's assumptions that:

- Current exposures at ASARCO plants exceed the current exposure limit of 0.5 milligrams of arsenic "in many instances."

- The use of "clean rooms" in smelters would reduce exposure to arsenic.

- Figures from two studies (one by HEA, another by D. B. Associates) could be combined to estimate costs of compliance reliably in the Tacoma plant's roaster operation.

Even if the use of an econometric model by Arthur Young is appropriate, results of the impact statement are so "highly in error" that the only method of correcting these results is to redo the entire task, Caplan said.

Tacoma Plant

ASARCO might be forced to consider closing down its Tacoma smelter if the proposed standard is adopted. Simon D. Strauss, executive vice president of ASARCO, told the hearing.

Each of ASARCO's facilities must "be judged on its own to constitute an economically viable unit," Strauss said. Continuing the Tacoma operation when massive expenditures for controls make this course of action unprofitable "is contrary to this vitally important policy."

Already, ASARCO is faced with an expenditure of \$90 million for sulfur oxide emissions control, and \$6.9 million for arsenic emissions control, for future compliance with local pollution control regulations, Strauss said. These costs

in the following programs involving radioactive substances. This guidance is limited to respiratory protection, and does not include information on absorption, swallowing, or the use of head, eye, or skin protective equipment.

The manual may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161, for \$6.00 in paper copy or for \$3.00 in microform. Orders should include the NTIS publication number PB-253 052 OGA.

Publications

MANUFACTURING CHEMISTS GROUP REORGANIZES TECHNICAL PUBLICATIONS

The Manufacturing Chemists Association announced a reorganization of its technical publications program to reflect current developments in safety and health, including the suspension of circulation of some chemical safety data sheets.

Chemical safety data sheets on styrene monomer (SD-37) and toluene (SD-63) were withdrawn from circulation for a revision of first aid recommendations, and data sheets for benzene (SD-21), carbon tetrachloride (SD-31), and chloroform (SD-89) were withdrawn to undergo major revisions.

The association also announced a price increase for several technical publications. As of January 1, 1977, chemical safety data sheets will cost \$3.00 per copy, and Cargo Information Cards and Chem-Cards will be priced at \$9.25 each.

Further information on the association's publications may be obtained by writing to the Manufacturing Chemists Association, 1925 Connecticut Ave., N.W., Washington, D.C. 20009.

Publications

NORTH CAROLINA EMPLOYERS' GUIDE IS AVAILABLE FROM INFORMATION SERVICE

The "Occupational Health Program Guide for North Carolina Employers" is among currently available publications from the National Technical Information Service of the Department of Commerce.

The 26-page guide outlines the scope and objectives of an occupational health program, and gives attention to such facets of a program as job placement, health evaluations, recognition of hazards, evaluation of hazards, and control methods. A discussion of protective equipment is included, as are the most frequently cited standards violations. Summaries of OSHA standards and registry numbers of several carcinogenic substances are presented, and listings of occupational health services and information conclude the booklet.

The document, which contains some illegible portions, is available for \$4.00 in paper copy only from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161. Orders should include the NTIS publication number HRP-0005971/7GA.

Radiation Exposure

"Occupational Radiation Exposure at Light Water Cooled Power Reactors, 1969-1975" also is available from NTIS. The 25-page report is a compendium of occupational radia-

tion exposures at commercial power reactors cooled by water. The period covered is from 1969 through 1975. The document may be obtained from NTIS for \$2.00 in paper copy or for \$1.00 in microform. Orders should include the NTIS publication number PB-257 051 7GA.

Alaska

STATE STANDARDS APPROVED FOR SAWMILLS, PULPWOOD LOGGING

The Occupational Safety and Health Administration approved Alaska's safety and health standards for sawmills and pulpwood logging on December 28.

Notice of the approval was published in the Federal Register. The notice stated that the state standards were identical to the federal standards for wood production, with the exceptions of grammatical improvements and additional state original standards.

The standards supplement and the approved state plan may be inspected and copied during normal business hours at the following locations:

- Office of the Regional Administrator, OSHA, Room 6048, Federal Office Bldg., 909 First Ave., Seattle, Wash. 98174.
- State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801.
- Technical Data Center, OSHA, New Department of Labor Bldg., Room N3620, 200 Constitution Ave., N.W., Washington, D.C. 20210.

Virginia

OSHA DISMISSES REJECTION PROCEEDINGS AGAINST STATE SAFETY AND HEALTH PLAN

The Occupational Safety and Health Administration and the Virginia Commissioner of Labor and Industry reached agreement that proceedings to reject Virginia's state occupational safety and health plan should be dismissed, and Administrative Law Judge Rhea M. Burrow granted the motion to dismiss on October 26.

Virginia took steps to amend its proposed plan after OSHA announced its intention to reject the state plan in 1974. The Assistant Secretary of Labor for OSHA approved the amended plan on September 28, 1976.

Both parties moved for dismissal because the rejection proceedings were moot. The action was made official on December 28.

Asbestos

SLIDE SHOW ON DANGERS OF ASBESTOS SOLD BY OIL, CHEMICAL AND ATOMIC WORKERS

A portable slide-and-tape show on occupational use of asbestos and what workers can do to protect themselves is being sold by the Oil, Chemical, and Atomic Workers Union.

The 30-minute, audiovisual presentation, "Asbestos: Fighting a Killer," is for sale for \$125.

In it, workers, physicians, and union representatives describe the medical consequences of exposure to fibrous asbestos and explain the federal regulation designed to protect workers. Interested persons should write OCAW, 1126 16th St., NW, Washington, D.C. 20036.

Caterpillar refused to comment on the cases. Indications are it will fight the claims in court if necessary, rather than make any immediate settlement that could cost the firm millions of dollars, according to spokesmen from both the company and the union.

An effort was begun in September by United Auto Workers Local 974 to provide the first significant challenge under the Illinois workers' compensation law, which was changed in July 1973 to allow monetary awards for only partial hearing loss. Since there is no specific criterion in the law defining hearing impairment, the arbitrator must make a decision based on a physician's testimony that the hearing loss is occupationally related.

The union in September hired consultants who performed audiometric tests on 244 workers from Caterpillar's plants in Morrisville, East Peoria, and its Mapleton foundry. More than 90 percent of those workers registered some hearing loss, and 10 employees had losses serious enough to cause them to be considered as working in "hazardous" conditions, according to Dave Law, union local chairman for publicity and education. The testers referred 174 workers for further medical attention, Law said.

The essential point is whether the workers will get medical opinion to support their claims, according to Albert Probus, a commission arbitrator who is scheduled to begin hearing the cases in March.

Law said the union offered to "negotiate" a settlement with the company, when the offer was refused, the workers filed the claims. Caterpillar is increasing noise monitoring and worker protection measures, according to Law, who estimated that more than 75 percent of the cases came from the foundry.

Following this change in the state law, the union began to "educate" the members about their increased rights, Law confirmed.

If the arbitrator's settlement opinion is challenged by either side, it may be reviewed by the Industrial Commission and eventually appealed in court.

Asbestos

FORMER BOAT YARD WORKERS SOUGHT TO CHECK FOR POSSIBLE LUNG DISEASE

Union leaders at the Electric Boat Division (EB) of General Dynamics in Groton, Conn., agreed to start an effort to locate former employees who may be suffering from asbestosis as a result of past occupational exposure.

The effort follows a study performed on 1,200 EB employees by the Mt. Sinai School of Medicine which found approximately half the workers to be suffering from asbestos-related lung abnormalities.

A company spokesman, meanwhile, said EB was taking no action on the matter but would wait for the final report from Irving Selikoff and a team of researchers from Mt. Sinai. According to the company spokesman, S. J. Wornom, the company discontinued using asbestos for pipe insulation in its ship building and substituted fiberglass in late 1974.

EB was cited last September by the Occupational Safety and Health Administration for violation of the asbestos exposure standard but contested the citation and was upheld in its appeal by Administrative Law Judge David Knight of Boston in December, Wornom said.

The OSHA report said EB employees were removing asbestos insulation from pipes aboard a submarine without wearing Type C air respirators or special clothing providing body coverage.

Officials of the Metal Trades Council and other union organizations at EB, which commissioned the study by Mt.

Sinai, were to meet to plan a campaign of notifying former employees at EB who may have been exposed to asbestos and urging them to get X-rays. There are approximately 20,000 employees of the General Dynamics shipbuilding division at present, but the number of former employees is believed to exceed 100,000.

The results of the medical tests were said to reflect working conditions of the past, since those tested by the Mt. Sinai team had an average of 15 years' seniority, most of them working with or near asbestos. Two years ago Local 690 of the pipefitters union protested the use of asbestos on the grounds that a high number of workers had died from asbestos-related diseases. The company switched to using fiberglass.

Combine Research Support

Recently, announcement was made by the Johns-Manville Corporation and the International asbestos workers' union that each was contributing \$250,000 toward research to find a cure for mesothelioma, occupationally caused cancer. The research will be performed by Selikoff and his staff at Mt. Sinai.

The research is expected to get additional support from the National Insulation Manufacturers Association, the National Cancer Institute, and the American Cancer Society.

Mesothelioma is responsible for 7 percent of the deaths of asbestos workers, is attributed to exposure to asbestos in 85 percent of all cases, and thus far invariably proves fatal soon after detection, Selikoff said. He expressed hope of developing a means of detecting the cancer early and treating it effectively.

NIOSH Recommends Lowering

Revising an earlier recommendation, the National Institute for Occupational Safety and Health in December said the asbestos exposure standard should be reduced to 100,000 fibers per cubic meter of air (Current Report, December 23, p. 921).

NIOSH added that all evidence confirmed that asbestos in every form is carcinogenic and should be replaced with a substitute material whenever feasible. The recommendation to lower the exposure level from the present 2,000,000 fibers per cubic meter to 100,000 was made because that is the lowest concentration at which the substance can be monitored reliably, NIOSH said.

Health Hazards

GROUP STUDIES ACRYLONITRILE MONOMER, RELEASES STATUS REPORT ON LAB WORK

Acrylonitrile monomer (AN), used in the manufacture of fiber, film, and other plastics, has caused weight loss and the growth of subcutaneous masses around the mammary glands of laboratory rats, researchers told the Government.

In a status report to several U.S. agencies on a toxicity study of AN, the researchers for the Manufacturing Chemists Association said the rats received concentrations of zero, 35, 100, or 300 parts per million of AN in drinking water.

"Administration of AN at the two higher concentrations under the conditions of this study has significantly lowered body weight, produced pathologic changes in the gastric epithelium, increased the incidence of masses of the ear duct and produced proliferative lesions in the central nervous system of rats," the scientists stated.

"The significance of the higher incidence of subcutaneous masses in the mammary region of the rats is less clear, and its resolution will have to await further progress of the study," they continued.

The two-year study being conducted at the Dow Chemical U.S.A. Toxicology Research Laboratory is approximately half finished. The status report on the findings thus far was given to the Occupational Safety and Health Administration, the National Institute for Occupational Safety and Health, and four other agencies.

The study is one of a series being funded by American Cyanamid Company, Borg-Warner Chemicals, E. I. du Pont de Nemours & Company, Gulf Oil Corporation, Monsanto Company, Tennessee Eastman Company, UNIOYAL Chemical Company, Vistron Corporation, and Dow.

Litigation

COURT UPHOLDS OSAHRC RULING, ASSESSES COSTS AGAINST EMPLOYER

A federal appeals court ordered an employer to pay costs incurred by the Government in opposing the employer's unsuccessful appeal of a ruling of the Occupational Safety and Health Review Commission.

The U. S. Court of Appeals for the Third Circuit on November 8 denied without opinion the employer's petition for review (No. 76-1041) of the commission's decision in *United Engineers & Constructors, Inc.* (3 OSHC 1636). The divided Review Commission had held that workers who are exposed to any amount of asbestos must be given the medical examinations required by 29 CFR 1910.1001(j).

The court's order, issued four days after it heard oral argument in the case, requires the petitioning employer to pay the Government \$236 to cover the cost of the Government's brief.

Another appeal from the same commission ruling, filed by GAF Corporation, the other employer in the consolidated case, is pending before the District of Columbia Circuit Court (No. 76-1023).

Litigation

COURT REVERSES REVIEW COMMISSION, RULES FUEL TANK IS NOT SERVICE STATION

A 250-gallon above-ground gasoline tank used for refueling fork lift trucks at an employer's petroleum refining plant is not a "service station," the U.S. Court of Appeals for the Seventh Circuit ruled December 27 in an unpublished order.

The three-judge court's unanimous decision in *Amoco Oil Company v. OSAHRC* (No. 76-1220) set aside a ruling of the Occupational Safety and Health Review Commission reported at 3 OSHC 1985.

Amoco operates a refinery at Whiting, Ind., at which employees use gasoline-powered fork lifts. To enable employees, on a self-service basis, to refuel their fork lifts, Amoco maintains the above-ground fuel tank. The tank is not used by, or accessible to, the public. Nevertheless, in the commission's opinion, the tank constituted a violation of the safety standard at 29 CFR 1910.106(g)(1)(ii)(A), which requires that liquids be stored in underground tanks not exceeding 60 gallons capacity. Subsection (g) pertains to "service stations."

Under the facts presented in this case, the court refused to hold that a solitary tank located on the firm's premises and used only by Amoco's employees for the company's purposes is a service station.

Senior Circuit Judges John S. Hastings and Leonard P. Moore and Circuit Judge Robert A. Sprecher participated in the decision.

Coal Mines

IMPROVED PROFICIENCY EXAM IS AVAILABLE FOR READERS OF CHEST ROENTGENOGRAMS

The National Institute for Occupational Safety and Health is offering physicians the opportunity to take an improved proficiency examination for those who regularly interpret chest roentgenograms for pneumoconiosis under the authority of the Federal Coal Mine Health and Safety Act of 1969 (42 FR 3030, January 14, 1977).

Section 37.30 of the Act provides that only physicians who regularly read chest roentgenograms and who have demonstrated proficiency in applying the ILO-U.C. 1971 International Classification of Radiographs of the Pneumoconioses shall be permitted to participate in the program.

The improved examination was developed for NIOSH by The Johns Hopkins University, which also will grade it.

NIOSH said it is developing proposed amendments to 42 CFR Part 37 which are expected to require recertification of all Final or "B" readers, which is how the standard refers to those who take and pass the proficiency examination, using the improved examination. But NIOSH now is offering physicians the opportunity to take the new examination prior to its being required by the regulations.

NIOSH said those who pass will be placed on a list of interpreters of chest roentgenograms who have successfully completed the examination. The list will be made available to coal mine operators and others on request.

Physicians who wish to participate should contact the Receiving Center Section of the Appalachian Laboratory for Occupational Safety and Health, P.O. Box 4258, Morgantown, W. Va. 26505; tel. (304) 559-7201. They should request a copy of the application form (CDC NIOSH-M-2-12) and a copy of the "Instructions to Accompany Roentgenographic Interpreter Proficiency Examination."

The Receiving Center will schedule the time and place for the examination, which, NIOSH stated, generally requires a working day to complete.

Meetings

PUBLIC HEARING SCHEDULED TO CONSIDER AMENDMENTS TO STANDARDS FOR RESPIRATORS

An informal public hearing on amendments to regulations concerning single-use gas and vapor chemical-cartridge respirators will be conducted February 14 by the National Institute for Occupational Safety and Health.

The Mining Enforcement and Safety Administration and the Occupational Safety and Health Administration also will participate in the hearing, which begins at 9:30 a.m. in Conference Room G of the Department of Health, Education, and Welfare's Parklawn Building, 5600 Fishers Lane, Rockville, Md.

NIOSH and MESA determined a need for the hearing to gain additional information on the regulations proposed in October (Current Report October 21, p. 593). They specifically want information on the following subjects:

- The proposed definition of "single-use respirator."
- The proposed performance requirements for the approval of single-use gas and vapor chemical-cartridge respirators.
- The proposed requirements for vinyl chloride chemical cartridge respirators.
- The proposed performance requirements for single-use vinyl chloride respirators.

Mazzochi said that because health claim forms often are processed by an employer, a company is aware of every medical problem both of the employee and their family members. "The information then is often used to discriminate against the employee," he added.

According to Mazzochi, information gathered by company medical departments, while available to whomever the company wants, is denied to the employee. The collection of epidemiological data on employees and its submission to trade associations for studies without ever telling the affected employee is another common practice in industry, he said.

Advisory Committees

PRESIDENT FORD ISSUES EXECUTIVE ORDER CONTINUING FEDERAL ADVISORY COUNCIL

President Gerald Ford issued Executive Order 11948 on December 20 under authority in the Federal Advisory Committee Act, continuing until December 31, 1978, the Federal Advisory Council on Occupational Safety and Health.

The order also continued other advisory councils subject to future Presidential executive orders.

FACOSH was created by Executive Order 11807 (Reference File: 71-9501) issued September 23, 1974.

Asbestos

NIOSH RECOMMENDS REDUCTION OF LEVEL TO 100,000 FIBERS PER CUBIC METER

Airborne asbestos exposure in the workplace should be limited to 100,000 fibers per cubic meter of air, the National Institute for Occupational Safety and Health said in recommending a reduction of the present effective exposure level.

The present permissible exposure level was cited incorrectly in OSHA's (Current Report, December 23, p. 921). The previous permissible exposure level of five fibers per cubic centimeter became two fibers longer than five micrometers per cubic centimeter of air on July 1, 1976.

Review Commission

SEATTLE, LOS ANGELES OFFICES CLOSED; NEW OFFICE WILL OPEN IN SAN FRANCISCO

The Occupational Safety and Health Review Commission intends to close its Los Angeles regional office by December 31, according to an announcement by Commission Chairman Frank R. Barnako. The Seattle regional office was closed recently.

Barnako explained that these offices are being closed because of the commission's decreasing case volume as the states have increased their role in workplace safety and health enforcement. The offices in regions nine and 10 were responsible for cases from Washington, Oregon, California, Nevada, Alaska, and Hawaii.

Barnako is assigning two administrative law judges to a new office in San Francisco that will serve maritime cases arising in Hawaii and along the coast from Alaska to Southern California because such cases remain under federal jurisdiction.

The Review Commission now will have nine regional offices located in Atlanta, Boston, Chicago, Dallas, Denver, New York City, St. Louis, San Francisco, and Hyattsville, Md.

Toxic Substances

CHEMICAL INDUSTRY INSTITUTE TO BUILD TOXICOLOGY LABORATORY

The Chemical Industry Institute of Toxicology plans to begin in mid-1977 the construction of a 57,000 square foot laboratory in Research Triangle Park, N.C., to conduct testing, research, and training programs.

The institute's goal is "to become one of the most respected and productive toxicological institutes in the world, providing technical information and data upon which policy makers can base sound decisions." Leon Goldberg, CIIT president, said.

Until the building is finished, CIIT will carry out research work in a 27,000 square foot laboratory building in Raleigh, N.C., leased from Corning Glass Works. These temporary facilities are not adequate for conducting long-term inhalation studies, Goldberg explained, but they will allow CIIT to begin research programs and short-term studies upon which long-term work can be based.

The institute has long-term tests of ethylene and toluene under way at an independent testing laboratory and preliminary tests on aniline and dinitrotoluene are scheduled to begin soon.

The new laboratory will contain animal testing and handling areas as well as laboratories, administrative office, conference rooms, a library, and an information handling facility.

Air handling systems in the building will be zoned and some zones are designed for off-hour slowdown or shutdown to conserve energy whenever possible. Discharged air will comply with or exceed Environmental Protection Agency standards, the institute said.

General Policy

STANDARDS INSTITUTE REQUESTS COMMENTS ON PROPOSED REQUIREMENTS

Comments are invited by the American National Standards Institute for its proposed standards for the safety requirements for abrasive wheels, industrial sewing machines, and automated sewing systems.

Comments must be sent by January 21 to the Board of Standards Review, American National Standards Institute, 1430 Broadway, New York, N.Y. 10018.

BSR B7.1-1970 covers the use, care, and protection of abrasive wheels, including safety guards, flanges, chucks, proper storage, handling, and mounting. Copies of the proposed standard may be ordered for \$10 each from the Grinding Wheel Institute, Attn: Allen P. Wherry, 1230 Keith Building, Cleveland, Ohio 44115.

Safety requirements for the design, construction, and use of industrial sewing machines and automated sewing systems that are specifically intended for use in industries producing sewn articles, such as the garment industry, are provided in BSR B203.1. Single copies of the proposed standard are available for \$1.50 each from the Sewing Machine Trade Association, Attn: C. A. Williams, Jr., 30 Rockefeller Plaza, 58th Floor, New York, N.Y. 10020.

Mine Safety

BUREAU OF MINES TO ESTABLISH MINING RESEARCH CENTER IN ILLINOIS

The Bureau of Mines of the Interior Department has taken the first step in the establishment of a major mining research center with the purchase of a two-and-one-half acre site near Carbondale, Ill.

where workers may have been exposed to the chemical. I would also like to know if the Department has yet developed a system in conjunction with EPA to identify and inspect all pesticide producers and processors, whether or not they market their product in this country.

"I am anxious to hear what action your Department has taken to deal with the possibility that there exist many more worker pesticide poisonings such as those which have been brought to public attention."

Leptophos Study

Toxic effects of leptophos were indicated to Velsicol in 1970, two years before the company began production of the pesticide, according to a study noted by Congressman David Obey (D-Wis.). The study, performed at Velsicol's request by Industrial Bio-Test Laboratories, Inc., Northbrook, Ill., indicated that "toxic effects were observed" in hens given leptophos orally.

Six hens given the heaviest dose of the pesticide showed effects such as weakness, unsteadiness, and change of comb color after a second dose of the substance. Four of the hens died within 14 days after the second dose.

According to the National Institute for Occupational Safety and Health, leptophos can inhibit the production of cholinesterase, a substance needed for proper transmission of nerve impulses. Experiments also have shown that the pesticide can cause destruction of sheathing for nerve tissue, though this effect was not found in the test conducted by Industrial Bio-Test Laboratories.

If the evaluations in the test are correct, "it is simply incredible that after seeing the test results Velsicol opened a plant and literally had human beings shovelling the pesticide," Obey said.

Mine Safety

SUBCOMMITTEE REPORT FAULTS MESA IN SECOND MINE EXPLOSION

A House subcommittee report released December 6 blames the deaths of a work crew in the second of two fatal coal mine explosions on a "fateful decision" made by officials of the Mining Enforcement and Safety Administration.

A total of 26 men perished in separate explosions on March 9 and March 11 of this year at the Scotia Coal Mine near Owen Fork, Ky. Blue Diamond Coal Company of Knoxville, Tenn., is owner of the mine.

In its report, the House Education and Labor subcommittee on labor standards accused Scotia of ignoring the mine safety law in the first explosion, which killed 15 miners. It also charged that MESA sent a 13-man work crew back into the mine two days later "without due regard for the possible hazards involved."

Congressman John H. Dent (D-Pa), subcommittee chairman, said in releasing the report that "the Scotia tragedy presents the Congress with the most compelling reasons for enacting legislation to transfer all mine safety and health enforcement responsibilities out of the Interior Department and place them in the Department of Labor."

The congressional report, based on interviews and examination of testimony and mine inspection reports, stated that Scotia had been ordered closed 110 times for health and safety violations between 1970 and 1976. The great majority of closure orders, however, were lifted the same day by MESA "thus having a minimal effect on production," the report said.

Although the source of the ignition of the explosion remains unknown, the report reached these conclusions:

- A MESA inspection the day before the first explosion failed to include the area of the mine where the blast occurred.

- A required preshift examination of the blast area, 2 Southeast main, did not take place before two locomotives entered 2 Southeast main. The explosion occurred minutes after the entry of the locomotives, one of which was carrying what was believed to be a faulty spark-producing air compressor.

- A change in production off 2 Southeast main about a month earlier violated Scotia's approved ventilation plan and may have interrupted the ventilation system.

- A methane gas feeder was known to exist near the face of 2 Southeast main.

- Ventilation problems were discovered in 1975 before the explosion and mine officials engaged in questionable practices in an effort to correct the ventilation problems.

It also was found that six of the 15 miners died from suffocation after an equipment failure and probably could have walked out of the mine after the explosion to save themselves. The subcommittee investigators heard testimony that no one, including the company's safety director, could remember the last time an evacuation drill had been held at the mine.

Before sending in the recovery team on March 11, MESA was aware of certain conditions at the explosion site, including a buildup of methane gas, ventilation problems, and the existence of the compressor which turned on and off automatically, the report said. "Yet the fateful decision was made with little or no thought given to these factors, and the work crew was sent into the mine without any instructions as to the possible hazards involved."

In the summary, the subcommittee investigators concluded that the explosions "had their roots in the past practices of the Scotia Coal Company" and occurred "because MESA failed to effectively enforce the law."

Asbestos

OSHA ACCUSED OF "ILLEGALLY" EXEMPTING TALC COMPANY FROM STANDARD

A private citizens' group accused the Occupational Safety and Health Administration December 13 of bowing to political and other pressures and illegally exempting a major supplier of talc from the OSHA asbestos standard.

The Health Research Group (HRG) charged in a 31-page report December 13 that the R.T. Vanderbilt Company of Norwalk, Conn., succeeded in persuading OSHA to change its definition of asbestos fibers so that it would not cover the talc mined by Vanderbilt in St. Lawrence County, N.Y.

The talc, which HRG said is composed of 70 percent of the mineral tremolite, is used in paint and related products, ceramic tile, tile glaze and flux, electrical insulators, and pottery. It also is found in home-repair products sold to consumers, such as spackling compound.

The report was accompanied by letters from HRG to Assistant Labor Secretary Morton Corn and the heads of the National Institute for Occupational Safety and Health and the Consumer Product Safety Commission, urging them to correct what it calls "Vanderbilt's special arrangement."

An official of the company, Allan Harvey, said he had not seen the report, but he denied that any tremolite distributed by Vanderbilt was the asbestos form. Harvey told OSHA

asbestos tremolite was very rare and not found in Vanderbilt's New York mines. Another asbestos substance is mined there and used in spackling compound, but Harvey explained those packages are labeled as containing asbestos.

He said HRC "must be taking the NIOSH attitude," and added that "they have their own definition and are alone of all the groups in defining what is and is not asbestos." He said the other "groups" which did not consider the Vanderbilt talc as containing asbestos were, in addition to OSHA, the Bureau of Mines, the Mining Enforcement and Safety Administration, and the Environmental Protection Agency.

The HRC report contended that Corn's predecessor as head of OSHA, John Stender, allowed the company to avoid having to comply with the standard by certifying "without providing scientific evidence" that the talc is free of asbestos. It contends further that Vanderbilt later influenced the agency to revise its standard by field memorandum and remove tremolite from the list of asbestos minerals. HRC called the process "illegal."

Vanderbilt brought pressure on OSHA through five members of Congress and gave three of them — Senators James Buckley (R-NY) and Lowell Weicker (R-Conn) and Congressman Robert McEwen (R-NY) — campaign contributions of \$500 each from the company's president, the report said.

It added that one former official at NIOSH objected to the redefinition and the continued distribution of the talc without asbestos warning but that nothing was said publicly. NIOSH and the National Bureau of Standards were directed by Corn to analyze the Vanderbilt talc.

In the meantime, the report said, nearly 200 workers in Vanderbilt mines, an undetermined number of workers in plants which use Vanderbilt talc, and the public which buys products containing Vanderbilt talc are exposed to asbestos.

OSHA is being urged by HRC to retract its field memorandum (14-92) redefining the substance as nonasbestos, disallow Vanderbilt from certifying that its talc is free of asbestos, warn manufacturers of the possible dangers, and investigate the personnel and the procedures which allowed such an "illegal series of events to occur and persist for so long."

Methyl Parathion

NIOSH RECOMMENDS EXPOSURE LIMIT OF 0.2 MILLIGRAMS, OTHER MEASURES

An exposure limit should be established for methyl parathion of no more than 0.2 milligrams per cubic meter of air as a time-weighted average for up to a 10-hour workday, 40-hour workweek, according to the National Institute for Occupational Safety and Health.

NIOSH transmitted the recommendations on September 27 to the Occupational Safety and Health Administration (Current Report, October 7, p. 532).

The NIOSH recommendations and the first two appendices appear in the Full Text section of this Current Report.

Health Hazards

CHEMICAL WORKERS INHALING FUMES SHOW HIGHER CANCER RISKS, STUDY SHOWS

Inhaling fumes on the job can increase a chemical worker's chances of developing stomach cancer by as much as 27 times and a leather worker's chances of getting

bladder cancer 24 times. Biostatisticians at an upstate New York cancer institute have found.

Employees in the leather industry also have greater chances of developing cancer of the larynx — 22 times more than average — from fume inhalation, the study showed.

Records of 12,000 male patients at the Roswell Park Memorial Institute, a cancer center of the New York Department of Health in Buffalo, were analyzed for cancer type and patient's occupation. They were compared with a control group of clerks whose work did not expose them to suspected cancer-producing agents.

The study, "Cancer Experience of Men Exposed to Inhalation of Chemicals or to Combustion Products," also included data on workers such as bus and taxi drivers, mechanics, and kitchen employees exposed to smoke or engine exhaust. Compared with workers who breathe chemical fumes, the combustion-exhaust workers did not show significantly higher risks of contracting cancer.

Enrico Vidiana, one of the study's authors, told OSHA the figures obtained in the study can be used "as a first step to search for the causes" of the increased cancer occurrences in the industries surveyed. He said the findings have been turned over to the National Institute for Occupational Safety and Health.

Seventeen forms of cancer were identified in the study, and relative risks were assigned to 13 occupations. Other statistical breakdowns covered employees over 50 years of age and under 60, and those who were at their jobs over five years and under five years.

The highest risk of stomach cancer, 27 times greater than average, was discovered in chemical workers over 60 who had been at their jobs at least five years. Workers of all ages at the job less than five years had four times the risk of getting stomach cancer.

Other cancer risk findings:

► Larynx: 22 among barbers (60-5+), 6.8 among chemical workers (60-5+), 22 among leather workers (60-5+).

► Stomach: 27 among chemical workers (60-5+), 11 (60-5-), 12 among painters (60-5-), 12 (60-5-).

► Mouth and pharynx: 18 among leather workers (60-5-), 8 (60-5-).

► Bladder: 24 among leather workers (60-5-), 9.7 (60-5-).

Among occupations involving inhalation of combustion products, it was found that a 2.3 risk of cancer of the mouth and pharynx existed among bus, taxi, and truck drivers over 60 with less than five years at the job, 1.9 risk over 60 with more than five years, and 2.2 risk of cancer of the prostate among mechanics and repairmen over 60 with less than five years.

Health Hazards

LEUKEMIA, LUNG CANCER ARE HIGHER AMONG ALUMINUM SMELTER WORKERS

Workers at aluminum primary smelters are more prone to leukemia, motor vehicle accidents, lung cancer, and certain types of hypertensive disease, according to initial findings of a health study of The Aluminum Association.

The association said the study was based on 23,000 workers, which includes virtually all those in the United States employed at least five years in an aluminum smelter that had been in operation for at least 20 years during the period 1946-1973.

The study also found that the workers are less prone to a number of specific diseases than the general population.

General Policy**CALIFANO SWORN IN AS HEW SECRETARY.
SENATE APPROVES MARSHALL'S NOMINATION**

Joseph Califano was sworn in as Secretary of Health, Education, and Welfare on January 25. His nomination was confirmed by the Senate January 24 by a vote of 93 to one. Senator Bob Packwood (R-Ore.), citing Califano's professional stand against abortion, cast the dissenting vote.

President Carter's nominee for Secretary of Labor F. Ray Marshall was approved January 26 by the Senate by a vote of 73 to 20 (Current Report, January 20, p. 1075).

Both Califano and Marshall, although they had not been sworn in as Cabinet members, attended Carter's first Cabinet meeting January 24.

General Policy**MARSHALL AGREES WITH INTENT OF RIDER
ON MONEY BILL LIMITING OSHA ENFORCEMENT**

Newly confirmed Secretary of Labor F. Ray Marshall told the Senate Labor and Public Welfare Committee he is in "basic agreement with the intent of the rider that limits Occupational Safety and Health Administration enforcement efforts to larger farms."

He referred to the prohibition of inspections on farms with 10 or fewer employees attached to the fiscal 1977 appropriations bill applicable to OSHA. Marshall stated his views on various issues in answers to written questions from the committee.

He stated concern for the apparent lack of confidence in OSHA by "many client groups," and said that if he were confirmed, he would undertake a "comprehensive review of the operations" of the agency in order to isolate the main problems with the agency and the sources of those problems.

The National Institute for Occupational Safety and Health must somehow be made more responsive to the legitimate data needs of OSHA, he said. Also, Marshall noted, although economic analysis can assist in OSHA's decisionmaking, such analysis should not be allowed to cause extensive delays in standards. He said he plans to investigate reasons for these problems and "act quickly to ameliorate them."

Marshall stated that there has been a relative misallocation of resources within OSHA away from health standards and toward safety standards. "One of the apparent reasons for this problem has been the difficulty the agency has experienced in recruiting and keeping trained specialists in the field of industrial health. I hope to effect some reallocations of the agency's resources toward standard setting and enforcement in the health area, without compromising important elements of the standard setting and enforcement in the safety area," he said.

He stated also that OSHA must have the right to make unannounced site visits in order to carry out effective enforcement of its standards, and added he would consider further the matter of filing an amicus curiae brief in the appeal of the Idaho court ruling prohibiting inspections under OSHA.

Marshall said he supported generally the recommendations of the National Commission on State Workmen's Compensation laws which identified 19 essential standards for state programs. "It seems to me essential that we set such minimum standards for state programs, while leaving the general responsibility for administering the programs at the state level," he said. "The issue of coverage for occupational disease is somewhat more difficult, as we have

discovered in the process of trying to set occupational health standards through OSHA. The review I plan to undertake with respect to OSHA standard setting may provide some insights into how occupational disease standards can be set effectively for workers' compensation programs."

Enforcement**OSHA ISSUES NOVEMBER FIGURES
ON JOB SAFETY, HEALTH INSPECTIONS**

The Occupational Safety and Health Administration inspected 4,392 establishments during November 1976, according to the Labor Department.

OSHA officials said that, as a result of the inspections, the agency issued 3,503 citations alleging 16,844 violations of job safety and health standards. Proposed penalties for these violations totaled \$392,310.

From its inception on April 28, 1971, OSHA has conducted 352,443 inspections resulting in the issuance of 267,121 citations alleging 1,328,391 violations, for which penalties of \$37,584,402 were proposed.

A chart showing November inspection activity and cumulative data appears in the Full Text section of this Current Report.

Asbestos**GOVERNMENT STUDIES ON TALC QUESTION,
INCLUDING NBS REPORT, ARE ON SCHEDULE**

Government studies bearing on a controversy over asbestos between the Occupational Safety and Health Administration and an industrial talc firm are proceeding on schedule, and one of them should be completed within two weeks.

John Dement, assistant chief, industrial hygiene section of the National Institute for Occupational Safety and Health, said a final report of an environmental study should be ready to present to the R. T. Vanderbilt Company and the United Steelworkers in two weeks. A companion effort by NIOSH on mortality and morbidity among talc mine workers also is nearing completion, he said.

In addition, an analysis by the National Bureau of Standards of 80 talc samples from Vanderbilt and other talc producers and users, commissioned by OSHA, is "on time" and should be finished in March, according to Cary Gravatt, deputy chief, analytical chemistry division of the bureau.

OSHA requested NBS to determine the asbestos content of the talc samples last fall. A dispute had arisen involving Vanderbilt's talc, with the company maintaining that it is free of asbestos, and officials at NIOSH arguing that miners and millers at Vanderbilt are exposed to excess asbestos levels (Current Report, December 23, 1976, p. 920).

A Ralph Nader organization, the Health Research Group, said in a report in December that OSHA had exempted Vanderbilt illegally from the asbestos standard by permitting the company to certify its product as asbestos-free.

Dement said the final environmental report "fills in some super-analytical data" to complete an earlier industrial hygiene survey done by NIOSH and released in May. He said the added data do not change the conclusion of the earlier study, which was that "excessive asbestos exposure" exists in Vanderbilt's No. 1 mine in St. Lawrence County, N.Y.

The mortality phase of the NIOSH project, Dement explained, is intended to examine mortality patterns to determine if there is an excess number of deaths due to

respiratory cancer. All data have been collected in that study, which covers 300 to 400 miners and millers and 75 to 80 deaths," he added.

Gravatt said he and his staff at NBS will meet with OSHA next week to discuss the format for reporting their research on the 80 tale samples. "We are to arbitrate the controversy," Gravatt said in describing the National Bureau of Standards' role. "We are using the currently approved technique and will report the numbers. We will be more definitive in our report," than commercial labs and others which have analyzed the tale and found differing results, he added.

Gravatt confirmed that NBS officials had met with officials from Vanderbilt to discuss the study. "We insist that that is the way we work. We are not a regulator," he said. "It is our feeling that the best way to find out things is to talk to as many people as possible." He added that discussions also were held with persons from other companies as well as representatives from the Mining Enforcement and Safety Administration, Bureau of Mines, and the Environmental Protection Agency.

Allan Harvey, manager of technology development at Vanderbilt, said the company wanted "to make sure they sought competent technical help" in reporting the contents of the samples. "The problem with NIOSH or OSHA is a refusal to consult with the experts," Harvey said.

The company's position, according to Harvey, is that a new method for defining an asbestos fiber should be designed to replace the current "inadequate" method. But he said OSHA "is not waiting for a definition of what is an asbestos fiber and is going right ahead with an inadequate methodology on fibers."

Mine Safety

MESA REINSTATES GROUND CHECKS; SCHEDULES FIVE TECHNICAL SEMINARS

The Department of Interior's Mining Enforcement and Safety Administration reinstated requirements for ground check circuits for three-phase alternating current low- and medium-voltage-resistance grounded circuits, according to an announcement on January 25 (42 FR 4550).

MESA also scheduled a series of five technical seminars in order to acquaint the coal mining industry with the availability, technology, and current state of the art of ground check monitoring.

The original requirement for the monitoring equipment was suspended on March 23, 1971, due to the discovery that technology available at the time possibly could produce incendive arcing in the presence of methane, creating an explosion hazard. According to the announcement, the incendive arcing problem has been solved, and current equipment will limit conductor energy to less-than-incendive levels.

MESA announced that its inspection personnel would begin issuing safeguard notices to coal mine operators not in compliance on April 1. Notices of violation will be issued to operators not in compliance by December 31, subject to projected availability of the ground check circuits by their manufacturers.

The technical seminars scheduled by MESA will apprise coal mine operators of the availability of MESA-approved equipment and the state of the art of ground check circuitry. The one-day meetings will commence at 9 a.m. and adjourn at 5 p.m. Agenda topics include an appraisal of design parameters, technical support evaluation and acceptance of the circuitry, industry test and evaluation programs, development problems, manufacturers' presentations, monitor test procedures, and panel discussion.

The seminars will be conducted on the following dates at the corresponding locations:

- March 8 at the National Mine Health and Safety Academy, Beckley, W. Va.
- March 11 at the Holiday Inn-Airport, 5600 10th Ave., North, Birmingham, Ala.
- March 13 at the Bureau of Mines Building, 4800 Forbes Ave., Pittsburgh, Pa.
- March 22 at the Holiday Inn-Airport, 4040 Quebec Blvd., Denver, Colo.
- March 24 at the Holiday Inn-North, 4345 N. Lindbergh Bridgeport (St. Louis) Mo.

Persons who wish to attend a seminar should notify the Mining Enforcement and Safety Administration, Technical Support, 2520 S. Kurawha St., Beckley, W. Va. 25801, telephone (304) 253-1581.

Coke Oven Emissions

HEALTH PROGRAMS DIRECTOR WARNS STANDARD WILL BE VIGOROUSLY ENFORCED

TORONTO, Ont. — (By an OSHR staff correspondent) — The Occupational Safety and Health Administration intends to pursue "a vigorous course of enforcement" with its standard for workplace exposure to coke oven emissions, according to Grover Wrenn, OSHA's acting director of health standards programs.

Wrenn made his remarks January 20 at the United Steelworkers of America's Fourth International Coke Oven Conference. (See related articles in this issue.)

Six or seven of OSHA's industrial hygienists with the most experience in coke oven inspections are being trained so that they each may become the core of an inspection team of hygienists, Wrenn explained. OSHA, Wrenn said, will first inspect the 12 coke ovens in various areas of the nation that, to the best of the agency's information, are in the worst condition.

These teams will be deployed fairly soon to conduct "wall-to-wall" inspections, Wrenn noted. He added that these inspections, which will involve every aspect of the OSHA standard, will take weeks to complete. He also said that OSHA intends to followup abatement actions.

Wrenn emphasized that this is an "enormous undertaking for OSHA," but the agency must do this "to set the tone for the health standards to follow."

OSHA will not be able to enforce the four parts of the standard included in the interim stay issued by the U.S. Court of Appeals for the Third Circuit. Those parts involve monitoring and measurement, respiratory protection, protective clothing, and hygiene facilities (Current Report, January 20, p. 1077).

Wrenn expressed disappointment that the court granted the stay, but said that it should not be interpreted "to mean that the standard is in trouble." He explained that the granting of the stay motion does not affect the court's final decision and that OSHA will be "vigorously challenging this action."

OSHA knew that it would have to defend the standard in court and it, therefore, put together a record that would make a strong case for the standard's defense, Wrenn explained. The agency is willing to consider any administrative action, according to Wrenn, if it can be shown that it has misunderstood any part of the record.

Wrenn noted that OSHA is an agency for decisionmaking and as such it is dependent upon outside parties to bring to it the information necessary to make an informed decision.

The Circuit Court held that the Review Commission's application of the standards to Bechtel was correct. Though the company's employees performed no construction work, they were responsible for the administration and coordination of the entire construction project. Thus, according to the court, the company was "engaged in construction work" within the meaning of 29 CFR 1910.12(a) of the Act. The court also noted that administration of the construction site's safety program was among the company's managerial duties. Because the company possessed this power to protect its employees it did not come within the *Anning-Johnson* exclusion for those employers at multi-employer construction sites who are unable to exercise any control over the violative conditions.

The undersigned opinion of the court, consisting of Circuit Judges Donald P. Lay, Donald H. Ross, and William H. Webster, will appear in a future Decisions supplement.

Noise

RECORD EXTENDED TO FEBRUARY 28. MAY INCLUDE INTER-INDUSTRY STUDY RESULTS

The Occupational Safety and Health Administration announced January 24 that the public record on the hearing on the economic impact of the workplace noise standard will be reopened for limited comment from January 28 to February 28.

Limited comment should be directed to the post-hearing comments prepared by Bolt Beranek and Newman, Inc., defending the consulting firm's economic analysis report on the cost of the proposed workplace noise standard according to the OSHA announcement (Current Report, January 20, p. 11078).

OSHA is "not speculating" on just when it will issue a final rule on the noise standard. Acting Assistant Secretary Bert Conklin told OSHR at the January 24 press briefing. Grover Wrenn, director of the OSHA office of health standards, added that, from a legal standpoint, the agency can issue the standard any time after February 28.

Wrenn did not rule out that the extension of time for comments until February 28 may open the door for submission of the results of the Inter-Industry Noise Study. Wrenn said that, while the record officially is reopened only for "limited" comments, the agency would not refuse "any evidence" submitted prior to February 28.

The Inter-Industry Noise Study Steering Committee recently asked outgoing Assistant Secretary Morton Corn to hold the hearing record open until February 20 so that the study's results could be considered in rulemaking. Corn replied January 10 that the agency could not open the post-hearing comment period specifically for that purpose.

Steering Committee Chairman Raymond Yerg told OSHR he does not anticipate any difficulty in meeting a February 28 deadline. If the computer analyses continue at the present rate, the steering committee will know by February 15 whether its data show a clear relationship between hearing impairment and exposure to noise between 82-92 dBA, Yerg said.

The last status report on the study indicated that the final results will involve some 440 experimental noise-exposed subjects and some 256 control group subjects.

Copies of the Bolt Beranek and Newman post-hearing comments are available for inspection and copying from the Technical Data Center (Docket No. OSHA-11A), Room N3620, OSHA, Department of Labor, Third St. and Constitution Ave., N.W., Washington, D.C. 20210.

Asbestos

COMPANY MAY NO LONGER CERTIFY ITS TALC PRODUCTS ASBESTOS-FREE

The Occupational Safety and Health Administration reversing a position it took more than two years ago, announced January 28 that it has rescinded permission for the R.T. Vanderbilt Company to certify that its talc products were free of asbestos.

The action came in a letter to the Norwalk, Conn., firm from former Assistant Secretary Morton Corn on January 19, Corn's final day in office.

Vanderbilt, one of the top two or three companies mining talc in the country, responded by asking Labor Secretary P. Ray Marshall to cancel Corn's decision, which the company said was based on "totally inconclusive" considerations.

The company had been given permission to use its discretion to certify talc products as asbestos-free in October 1974 by Corn's predecessor, former Assistant Secretary John Stender.

In addition to nullifying Stender's action, Corn sent a memorandum to OSHA regional administrators and area directors canceling Field Information Memorandum #74-92, which was issued November 21, 1974 elaborating on Stender's decision.

Corn directed compliance officers to evaluate fibrous tremolytic talc in accordance with OSHA's sampling data sheet for asbestos and said bulk samples of talc substances should be obtained. If laboratory tests indicate the presence of asbestos fibers in any amount, the caution labeling requirement at 29 CFR 1910.1001(g)(2) should be enforced, the OSHA announcement said.

The Health Research Group accused OSHA of illegally exempting Vanderbilt from the asbestos standard by continuing the policy initiated by Stender. It asked in a December report that "Vanderbilt's special arrangement" be moved.

Reacting to the OSHA announcement, HRG staff associate Peter Greene called it "a disgrace that it took so long and took further medical evidence than OSHA already had."

Greene added that HRG wanted the agency to request from Vanderbilt a list of its talc customers and to notify the customers that the talc contains asbestos. "We think Vanderbilt has the responsibility to give OSHA the list," he said.

Allan Harvey, a Vanderbilt official, said the request to the new Labor Secretary asked for a decision from him within 30 days. At the end of that time the company would have to "conclude that we have exhausted all administrative resources." Harvey said there was a possibility then of seeking "legal remedies."

Vanderbilt has maintained throughout the controversy over its tremolytic talc that the current method used by OSHA and the National Institute for Occupational Safety and Health for determining the presence of asbestos in substances is inadequate and has called for the development of new methodology.

Quoting from the company's letter to Marshall, Harvey said "no medical data by NIOSH can be relevant to wholly mineralogical questions, such as what constitutes an asbestos fiber."

OSHA said the 1974 letter was rescinded on the basis of information received from NIOSH, which has been studying possible health hazards to Vanderbilt employees due to exposure to the company's talcs.

A final report has not been released, but OSHA said the investigation has found significant exposures to airborne dusts, including fibers, among the millers and miners. It also

found that X-rays of workers demonstrated lung changes and that the number of former Vanderbilt employees who died from respiratory disease and lung cancers was significantly greater than the number normally expected.

Enforcement

IDAHO CASE BRINGS NO INCREASE IN NUMBER OF CHALLENGES, OSHA SAYS

Following an Idaho federal court's ruling against inspections by the Occupational Safety and Health Administration, officials at the agency reported that an expected rise in the number of employers resisting inspections never materialized.

"At first I thought there would be an influx of employers who would refuse OSHA inspectors," Donald E. MacKenzie, acting director of field coordination, told OSIFR. "But there hasn't been."

MacKenzie and others at OSHA said the expected rate of employers who refuse entry — "about two or three a week" — has continued the same during the past month. On December 30 the U.S. District Court for Idaho in Barlow's, Inc. v. OSHA enjoined the Labor Department from conducting OSHA inspections, but a partial stay issued last week by Supreme Court Justice William H. Rehnquist permits inspections outside Idaho (Current Report, January 27, p. 1107).

A warrant is sought when an employer refuses to cooperate in an inspection, MacKenzie said. "In those cases, we have been following the usual procedure of turning them over to the solicitor's office. They're usually ready to open up by the time the solicitor's office calls them," MacKenzie explained.

No inspections have been made in Idaho since the three-judge panel's ruling, and the OSHA Idaho staff "has been catching up on their paperwork," MacKenzie said. "We will have to make a hard and fast decision on what to do with the office" when a final court ruling is handed down on inspections in Idaho, MacKenzie added. He said he expected such a ruling within two weeks.

Elsewhere, "we are proceeding as usual" with inspections, MacKenzie said. A communique was sent to field offices recently explaining the meaning of Rehnquist's partial stay and instructing OSHA staff to continue as before, he said.

Mine Safety

NOTICE PUBLISHED WITH PROPOSALS AND CHANGES ON HEALTH, SAFETY

A notice of proposed rulemaking with changes and additions to mine health and safety standards was published January 23 by the Department of Interior.

The notice revises existing standards and adds new definitions, deletes, revises or makes mandatory some advisory standards, and adds new mandatory standards. The proposed rulemaking covers ground control, fire prevention, ventilation, loading, travelways, electricity, personal protection, and others.

Written comments, including a request for public hearing, are invited before March 14, although those recommendations proposed as mandatory standards by the Federal Metal and Nonmetallic Mine Safety Advisory Committee are not subject to public hearing.

The proposed rules and definitions were compared with corresponding standards and definitions of the Occupational

Safety and Health Administration, according to the notice and were deemed to provide "at least the same degree of health and safety protection to the individuals working in the metal and nonmetal mining industries" as those covered by OSHA in the general and construction industries.

The notice stated that the listed proposals were designed primarily as performance standards, providing "certain definite requirements that delineate the responsibilities of the mine operator to protect mine workers."

The notice continued: "The form and philosophy of the listed proposals are different from that used to develop OSHA standards. The listed proposals are generally short and concise statements that are readily understandable by persons working in the metal and nonmetal mining industries."

The notice of proposed rulemaking appears in the Full Text section of this Current Report.

General Policy

ADVISORY GROUP DISCUSSES DRAFT POLICY ON CARCINOGENS, NO RECOMMENDATIONS

A draft proposal by the Occupational Safety and Health Administration for classifying and regulating workplace carcinogens was discussed January 27 by the standards subcommittee of the National Advisory Committee on Occupational Safety and Health, though no recommendations were made by the group.

The proposal, announced by OSHA on January 24, would create three categories for chemicals in regard to OSHA rulemaking (Current Report, January 27, p. 1107). Substances would be classified as confirmed carcinogens (resulting in the issuance of an emergency temporary standard followed within six months by a final standard), suspected carcinogens, and substances for which more scientific data would be needed for final classification.

If put into effect, the proposal would resolve broad policy questions in advance of rulemaking on specific substances. Rulemaking on individual substances then would be limited to such issues as the lowest feasible exposure level and environmental impact issues.

Subcommittee chairman Miles Colwell, vice president for health and environment, Aluminum Company of America, estimated that the group would require at least two sessions for discussion of the draft proposal. He told the meeting that he was at a "disadvantage" as he had received a copy of the lengthy draft proposal only a short time before the session began.

Subgroup member Nicholas Ashford, MIT Center for Policy Alternatives, commended OSHA for "such a vigorous attempt" at developing a new carcinogen policy. He added, however, that he was "disturbed" by aspects of the draft proposal. These included:

- An underemphasis on mutagenicity tests as a criterion for categorizing substances under the system.
- Failure to include similarity between chemicals as another criterion.

- The "danger" of mandating the issuance of a permanent standard in a certain period of time following the issuance of a temporary standard. Such a goal might not be achievable, and could place "a noose around OSHA's neck."

Jack Sheehan, legislative director, United Steelworkers of America, said he hoped that placing a substance within the third category would not give that substance a "nonserious connotation." This could result in the material receiving "short shrift" in regard to rulemaking, though it might possess serious non-carcinogenic effects, he noted.

The guides, "Evaluating Your Firm's Injury and Illness Experience," are available in separate editions for transportation and public utilities, service industries, construction industries, wholesale and retail trade industries, and manufacturing industries. The booklets provide an explanation of the calculation of incidence rates and the method for comparison of that rate with prevailing rates in the same industry.

The American Society of Safety Engineers assisted in the initial mailing of the brochures, which may be obtained upon request from the Bureau of Labor Statistics, Department of Labor, Washington, D.C. 20210.

Publications

NIOSH RESEARCH REPORT STUDIES RELATIONSHIPS OF HEAT STRESS INDICES

"Relationships Between Several Prominent Heat Stress Indices," a research report which presents a correlation of five environmental systems for measuring heat stress, is available from the National Institute for Occupational Safety and Health.

The measurement systems were studied for interrelationships in order to provide an accurate tool for comparisons and measurements of heat stress.

The study concentrated on correlating the Corrected Effective Temperature (CET), the Effective Temperature Corrected for Radiation (ETCR), the Wet Bulb Globe Temperature (WBGT), the Wet Globe Temperature (WGT), and the Belding-Hatch Heat Stress Index (HSI). The five techniques had all been utilized by various researchers in measuring heat stress effects, and NIOSH developed the comparison methods in order to define acceptable heat stress levels more accurately.

Further information on the document may be obtained from the National Institute for Occupational Safety and Health, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226. Inquiries should reference NIOSH publication number 77-109.

Alaska

OSHA APPROVES STANDARD SUPPLEMENT TO REFLECT CHANGES IN STATE PLAN

The Occupational Safety and Health Administration January 11 issued notice of approval of a supplement to the Alaska state plan reflecting changes in the plan to correspond with federal standard changes.

The first change included typographical and numbering alterations and the state's response to federal standard changes for mechanical powered punch presses. The second change consisted of numbering and typographical corrections to the state's General Safety Code. The third and final change included alterations to the state standards for helicopters, industrial slings, and vehicle mounted elevating and rotating work platforms, as well as typographical and numerical clarification.

A copy of the standards supplement and the approved state plan may be obtained for inspection and copying during normal business hours at the following locations:

- Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Bldg., 909 First Ave., Seattle, Wash. 98174.
- State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801.

► Technical Data Center, Occupational Safety and Health Administration, Room N3620, 200 Constitution Ave., N.W., Washington, D.C. 20210.

Discrimination

DISCHARGED EMPLOYEE TO RECEIVE BACK PAY IN SETTLEMENT AGREEMENT

An employee of Giant Refinery, Inc., Farmington, N.Mex., who was allegedly discharged for complaining about unsafe working conditions, will receive back pay under a settlement agreement reached by the Occupational Safety and Health Administration and the employer.

The employee charged that he and other workers were required to work, without personal protective equipment, in an enclosed tank that contained a high concentration of explosive fumes, and that there had been an earlier explosion leaving some I-beams hanging inside. After he protested to the employer, he was discharged, the employee claimed.

Under the settlement, the employer agreed to payment of back pay for the period the employee was without other income. Reinstatement was not included because it had not been requested. The employer also agreed to post for 60 days a notice affirming the company's agreement to refrain from discrimination against workers for exercising their rights under the Occupational Safety and Health Act. Section 11(c) of the Act prohibits such discrimination.

Washington

STATE STANDARDS APPROVED FOR ASBESTOS RECORDKEEPING

The Occupational Safety and Health Administration announced approval of Washington state plan standards for asbestos recordkeeping and exposure records on February 1 in the Federal Register.

The standard was found to be identical to the federal standard 29 CFR 1910.1001(m)(1), and was therefore approved.

The standards supplement, along with the approved state plan, may be obtained for inspection and copying during normal business hours at the following locations:

- Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048 Federal Office Bldg., 909 First Ave., Seattle, Wash. 98174.
- Department of Labor and Industries, General Administration Bldg., Olympia, Wash. 98504.
- Technical Data Center, Room N3620, 200 Constitution Ave., N.W., Washington, D.C. 20210.

South Carolina

STATE REVISES PROCEDURES FOR ENFORCEMENT, CONTEST REVIEW

The Occupational Safety and Health Administration announced approval of South Carolina state plan supplements regulating the enforcement of standards and the review of contested cases on February 1.

According to the approved supplements, an employer will receive a citation regardless of the employer's immediate abatement of the cited hazard. Employees may protest citations and proposed penalties under the supplements, and petitions for modification of abatement must include a state-

"Aside from the complete lack of known engineering technology in major areas and segments of the textile manufacturing process, the institute said, there is no justification, in the face of strong medical surveillance programs and the use of work practices and personal protective equipment, to require employers to expend vast sums for research and technological improvements in air cleaning equipment to bring dust levels within unnecessarily low limits."

The Industrial Safety Equipment Association expressed its objection to the proposal's exclusion of single-use dust respirators as protection against cotton dust. The group called the exclusion "most unfortunate since this type of respirator is most suitable for respiratory protection of persons exposed to cotton dust."

The Council on Wage and Price Stability said it would like to appear at the hearings and would take a position that industry by industry standards may be less costly than uniform standards.

The National Knitwear Manufacturing Association, New York City, reported that it has undertaken research, with preliminary results showing that dust levels can be "substantially reduced to 0.2 mg. m3" in knitting operations by using yarns manufactured under "controlled conditions." The association said this "clean yarn" is not obtained without extra cost but "our hope is to reduce the eventual impact on the consumer to the lowest level possible while obviously protecting employees."

Asbestos

MEDICAL REQUIREMENTS TO BE CHANGED; DIRECTIVE TO FIELD OFFICES FORTHCOMING

The Occupational Safety and Health Administration will change its policy on medical examinations for workers exposed to asbestos to require examinations only when exposure exceeds 0.1 fibers greater than five microns in length per cubic centimeter of air.

The change was announced in a January 19 letter from former Assistant Labor Secretary Morton Corn to George Wilkening, director of the environmental health and safety department, Bell Laboratories. Corn explained that the new policy "derives support from a recent recommendation from the National Institute for Occupational Safety and Health (NIOSH) that the permissible exposure level for airborne asbestos be fixed at this level" (Current Report, December 23, p. 921).

At present, OSHA requires medical examinations for workers exposed to any concentration of asbestos fibers. According to an OSHA source, a directive on the new policy is being prepared and will be transmitted to the field shortly.

Responding to a question from Wilkening as to the applicability of the asbestos standard when asbestos concentrations in an office building consistently are lower than levels found in the outside air, Corn affirmed that "initial measurements of office building employee exposures to airborne asbestos are, we believe, required whenever there is any reason to believe that airborne asbestos is present inside the building regardless of whether the levels present are less than those generally found in the normal outside environment."

However, Corn added, if an initial measurement shows the asbestos level to be lower than a level of two fibers per cubic centimeter of air, "then further sampling normally need not be performed until there is reasonable cause to believe that

the airborne asbestos concentrations revealed by the initial measurements have changed."

Lead

NO SIGNIFICANT ENVIRONMENTAL IMPACT FROM PROPOSED RULE PREDICTED BY OSHA

The Occupational Safety and Health Administration's proposed lead standard will have no "significant" impact on communities near establishments where lead is used or produced, according to a draft environmental impact statement by OSHA on the proposal.

The proposed standard, issued by OSHA on October 3, 1973, would reduce the permissible exposure limit for lead to 100-micrograms per cubic meter of air. A public hearing on the proposal is scheduled to begin March 15 (Current Report, January 6, p. 982).

OSHA noted that methods used by employers to comply with the standard may include ventilation and wet-sweeping. Potentially, these methods could increase the amount of lead released by the establishment into the outside air and water.

However, impending regulation of lead as an air pollutant by the Environmental Protection Agency probably will prevent industrial lead emissions from affecting the environment significantly, the draft impact statement said. A "positive impact" of the OSHA standard "would be better housekeeping and clean-up of machine and floor areas within the plants in order to minimize exposures to workers."

Currently, the quantity of waste water discharged from secondary smelters is small, the draft impact statement continued. Wet-sweeping of floors and the use of water as a dust suppressant in certain operations "is not expected" to "have any significant impact on the water quality surrounding the affected industries."

Much solid waste generated in smelting can be recycled back into the process, the draft statement emphasized. Collection of residue, impurities, and scrap in solid form, with subsequent disposal according to EPA guidelines, "should ensure that no adverse impacts on the environment will result."

The cost of complying with the proposed standard probably would be passed on to the consumer by the primary smelting industry, resulting in an estimated increase of two cents per pound in the price of lead, OSHA said. The agency estimated that capital costs for compliance would add up to \$401 million, or \$981 million at the highest. Annual total compliance costs would be approximately \$253 million, or \$486 million at the highest.

Some 17 to 19 independent smelters could be eliminated over the next 35 years by the proposal, the draft impact statement predicted. This would amount to about 15 percent of the secondary market. As with primary smelters, an increase of two cents per pound in the price of lead would allow "the more efficient integrated producers" among secondary smelters to pass additional compliance costs on to the consumer.

A number of marginal battery plants also might be eliminated if the proposal went into effect, the statement added. A reduction of between 1,025 and 1.6 million batteries produced by domestic manufacturers might occur, reducing the demand for pig lead by 12,000 to 19,000 short tons.

Small regional nonferrous foundries and pigment manufacturers will find the proposed standard "difficult to finance," OSHA said. For that matter, the estimated capital required for lead industry compliance (between \$470 million

and \$1.5 billion) "could be exceedingly difficult to raise over the next five-year period."

Energy consumption would be increased by between 312 million and 681 million kilowatt hours, the statement reported. This would translate into 473,000 to 1,032,000 barrels of oil, or between 1,300 and 2,800 barrels of oil per day.

OSHA predicted no impact on (1) land use plans, policies, or controls; (2) short-term uses of the environment; or (3) maintenance and enhancement of long-term productivity.

Lead

OSHA SCHEDULES MORE HEARINGS ON LEAD IN ST. LOUIS, SAN FRANCISCO

Two regional hearings on the proposed standard for workplace exposure to lead were scheduled by the Occupational Safety and Health Administration in addition to the hearing scheduled previously.

The first hearing, scheduled for Washington, D.C. on March 15 (Current Report, January 6, p. 962) will be followed by one in St. Louis, Mo. on April 26, and one in San Francisco on May 3.

In order to allow as many persons as possible to testify at the regional hearings, presentations generally will be limited to 15 minutes, OSHA stated (42 FR 13025). Because of the brief duration of the regional hearings, OSHA requested interested persons who are able to attend the Washington hearing to present their testimony in Washington.

OSHA will make its presentation and be available for questioning only at the beginning of the hearing in Washington. In addition, the expert witnesses who have been asked by OSHA to testify are scheduled to appear in Washington only.

All persons wishing to participate in either of the informal regional hearings should file a notice of intention to appear, postmarked on or before April 11, with Clarence Page, OSHA Office of Committee Management, Docket No. H-004, Room N3633, Department of Labor, Third St. and Constitution Ave., N.W., Washington, D.C. 20210; telephone, (202) 523-8024.

Such notices must contain the following information:

- ▶ The hearing location at which the person wishes to testify — either Bel Air Hilton, 333 Washington Ave., St. Louis, Mo. 63102; or Holiday Inn, Golden Gate Way, Van Ness Ave. at California St., San Francisco, Calif. 94109;
 - ▶ The name, address, and telephone number of each person to appear;
 - ▶ The organization, if any, which the person represents;
 - ▶ The issues that will be addressed and a brief statement of the person's views; and
 - ▶ Complete copies of any studies, scientific or economic data, or any other documentary materials which the person will be presenting for the record or discussion at the hearing.
- All persons giving advance notice as outlined above will have time reserved for oral presentations. Persons who have not submitted advance notices and who wish to testify will be allowed to give oral presentations if time permits. Priority, however, will be given to those persons who have submitted notices of appearance.

All written submissions will become part of the record of the proceeding and will be available for inspection and copying at the OSHA Office of Committee Management.

Any person who already has filed a notice of intention to appear, or who intends to file a timely notice of intention to

appear at any of the hearing locations may ask appropriate questions of any other participant at any of the hearing locations.

In addition, any person who has filed a notice of intention to appear in Washington, but now wishes to make a brief presentation at one of the regional hearings instead, may do so by notifying Clarence Page at the OSHA Office of Committee Management as soon as possible. OSHA stated

Appropriations

MESA SEEKS SUPPLEMENTAL FUNDS FOR INSPECTORS' SALARIES, HELICOPTERS

The Interior Department's Mining Enforcement and Safety Administration requested a \$1,100,000 supplemental appropriation for fiscal 1977 for increased inspectors' salary costs and for the use of helicopters in surface operations inspections.

Robert E. Barrett, MESA administrator, submitted a statement to the Senate subcommittee on appropriations for the Interior Department which called for \$300,000 for salaries of inspectors and \$300,000 for helicopter use.

The statement reflected MESA's desire to recruit mine inspectors from first line supervisory personnel in the industry. The normal entry level within the inspection workforce is a GS-9 rating which pays \$14,000 annually. According to the request, the average supervisory starting salary in the mining industry is \$18,000 to \$22,000 annually. Recent Civil Service Commission action enables MESA to offer starting salaries of \$17,000, a more effective position for competition with industry.

Helicopters

The appropriations request also included \$300,000 for the use of helicopters in surface mine inspections. The administrator's statement indicated that MESA's inspection program is behind schedule due to the inability to schedule surface mine inspections effectively. By leasing helicopters in the eastern coal areas, the administration seeks to conduct inspections efficiently and to make additional inspections. The request maintains that greater efficiency and additional inspections justify the increase in costs.

Public Employees

AFL-CIO REPORT SUGGESTS CHANGING STATE PLAN RULES

The AFL-CIO Public Employee Department suggested in a report entitled "Occupational Safety and Health: A Promise Unfulfilled for Public Employees" that the Occupational Safety and Health Act be amended "to prohibit implementation of state plans which do not meet federal safety standards and enforcement practices applied to private industry."

The report declared that "public employees are being denied the forceful protections of the Act which are provided workers in private industry." It notes that 23 states receive federal funds for state plans that include protection for public employees and that several states have developed public sector safety and health regulations on their own initiative.

But OSHA, according to the AFL-CIO report, "permits state plans to operate for three years without containing the specific guidelines in the federal law."

Mice, rats, and hamsters in the Maltoni study were exposed to various levels of vinylidene chloride through inhalation beginning with 10 parts per million parts of air for up to one year, according to Hammond. Kidney cancer developed in some of the mice at an exposure level of 25 ppm but did not appear in rats and hamsters, Hammond reported. At higher doses the mice died before getting cancer.

Maltoni also exposed mice for two years without ill effects to 10 ppm of vinylidene chloride, which Perry Gehring of Dow said is more than the exposure level received by Dow employees working with the chemical now.

"If people were exposed to kidney damage, it would have come out by now. It's obviously not carcinogenic," Gehring, director of toxicology research at Dow, said. He explained that 133 employees, some of them with histories of exposure dating back to 1944 and levels up to 75 ppm of vinylidene chloride were studied and "the tests have been negative, no health problems."

Gehring emphasized that in Maltoni's study no cancer appeared in the rats and hamsters, which, he said, agreed with results of a nearly finished Dow study that exposed rats to levels of 25 ppm and 75 ppm of vinylidene chloride "with no pathological or carcinogenic damage."

"A key factor is that the effect was seen only in mice," Gehring said. Although the Dow study does not include exposure to mice, Gehring said the company probably would wish to investigate the metabolism of vinylidene chloride in mice.

Asked about the possibility of vinylidene chloride leaching into food from plastic wrap, Gehring said testing, accurate to one-to-five parts per billion, showed a complete absence of the chemical in food packaged in plastic containing vinylidene chloride. "There is absolutely no hazard to the consumer," he said.

Recommended Actions

Selikoff, who is director of the Environmental Science Laboratory at Mt. Sinai, said the industry should take note of Maltoni's findings and look for ways to reduce contact by workers and consumers with the chemical. "I am strongly convinced that this will prove possible," Selikoff said.

To protect the worker he suggested the possibility of using closed systems in production and cited past success with vinyl chloride. As for the use of plastic wrap containing vinylidene chloride and the consumption of plastic-wrapped food, "the problem here lies with the residual monomer and whether it leaches into the food," Selikoff said. "Our experience with vinyl chloride is that this problem, too, can be solved," he added.

Lawrence Garfinkel, assistant vice president of the American Cancer Society in New York, suggested that "the next step is to get the government representatives to follow through." Representatives who attended the medical conference with Maltoni, Hammond, Selikoff, and others included officials from the National Institute for Occupational Safety and Health and the Occupational Safety and Health Administration.

Roscoe M. Moore, technical evaluation chief, NIOSH, said a full-scale epidemiological study to detect any excess mortality among workers at a polymerization plant which at one time produced vinylidene chloride will be launched by NIOSH in about three months.

The study at the BASF Wyandotte Corporation facility in South Kearny, N.J., was requested after preliminary investigations showed some liver changes in employees who worked with vinylidene chloride.

The Maltoni research was sponsored by BASF, AG of West Germany, Dow Chemical Corporation's Europe division,

Imperial Chemical Industries of Great Britain, Solvay of Belgium, and the Italian Government.

Diving Operations

ARTHUR YOUNG ARGUES PROPOSAL WILL NOT AFFECT ENERGY SUPPLY

The United States' energy supply will not be significantly affected by any price increases in commercial diving caused by the Occupational Safety and Health Administration's proposed standard for that industry, according to the post-hearing comments of Arthur Young and Company.

Arthur Young and Company filed its comments in response to criticism of the inflation impact assessment it prepared for OSHA on that agency's proposed standard for commercial diving operations (Current Report, February 17, p. 1210).

Info Works, a Louisiana consulting firm hired by the Association of Diving Contractors, said during OSHA's public hearing on the proposal in New Orleans, La., that price increases caused by the proposed standard's requirements would affect the U.S. energy supply. Commercial divers are employed in the exploration and exploitation of off-shore energy supplies.

Arthur Young stated that "the demand for commercial diving is relatively inelastic, particularly in the energy supply sector." The company argued that "the user industries would not diminish their use of the services as the price increased."

Underwater Welding

Chicago Bridge and Iron Company, Houston, Tex., declared "a strong objection" to any prohibition of AC underwater welding. The proposed standards do not include such a prohibition, but, according to this company, "interested parties are now proposing to prohibit AC welding underwater."

Miller Electric Manufacturing Company, Appleton, Mass., also argued against prohibiting AC welding underwater. The company's vice president wrote that "to infer that DC is safe and AC is lethal is a gross oversimplification." The company manufactures equipment used in AC underwater welding.

Shallow Water Diving

Several companies submitted comments similar to the statement of Northwest Divers Supply, Inc., Coos Bay, Ore., which said, "As admitted by OSHA, compliance with the proposed safety standard will force some shallow water diving companies out of business. Because of this we are asking that shallow water diving companies with less than 10 full- or part-time shallow water (less than 120 feet depth and 30 minutes ascent time) divers be excluded from the safety standard."

OSHA has said that it expects to issue the final standard around mid-year 1977. The period for submitting post-hearing comments closed February 28.

Asbestos

FIBERS MAY BE RELEASED IN PROCESS OF EXFOLIATION OF VERMICULITE ORE

Inspections of exfoliation processing of vermiculite ore will include evaluating worker exposure to asbestos, the Occupational Safety and Health Administration said after receiving data on asbestos content in the ore.

Exfoliation is a process which subjects vermiculite, a mica, to strong heat in order to separate it into thin sheets, which is its most useful form for insulation and other products.

In a memorandum to regional administrators and area directors February 10, OSHA reported receiving a study that said asbestos fibers had been found in vermiculite ore.

On February 1, 1977, the memorandum began, "OSHA received the enclosed report which indicates that asbestos fibers have been detected in samples of vermiculite ore. When vermiculite is subjected to strong heat in industrial processing, it exfoliates or separates into thin sheets. It is suspected that asbestos fibers may be released by this process and be present in a fine dust with the final product."

The instructions continued, "Although the enclosed study does not indicate the degree of hazard since fiber counts were not performed, the potential for employee exposure to asbestos can be inferred. Therefore, future inspections of exfoliation processing of vermiculite ore shall include an evaluation of employee exposure to asbestos fibers."

The report was based on preliminary findings by investigator A. Rohl, with support from the Health Research Council. Rohl found after sampling ore from an unidentified "major U.S. vermiculite source" the presence of tremolite and chrysotile asbestos, although the amounts of the fiber were not yet measured.

The report said exfoliation to create the lightweight expanded form of vermiculite could release the asbestos fibers in dust so that "potentially hazardous concentrations of asbestos may be contained in the dust produced by the essential stage of expansion."

In addition to insulation, vermiculite is found in concrete, plaster, and cement aggregates, soil conditioning, fertilizer carrier, and litter. More than 300,000 tons were produced in 1971, the report noted, and the output has increased at the rate of 6 percent each year.

The report recommended examining vermiculite consumer products as well as monitoring workplace conditions. It proposed that potting soils and litter, in particular, be examined for asbestos since the products "can be expected to release respirable dust during use."

The methods for analysis of asbestos, according to the report, are X-ray diffraction in the step-scanning mode and electron microscopy. As part of analysis, the report proposed freeing chrysotile and other asbestos fibers from the structural layers of the vermiculite through the use of ultrasonic energy. One recommended method was a sonifier cell disrupter.

Cotton Dust

TYPOGRAPHICAL ERRORS CORRECTED IN COTTON DUST PROPOSED RULE

Corrections of typographical mistakes in the December 28 notice of proposed rulemaking on cotton dust exposure were published by the Occupational Safety and Health Administration.

A list of 34 typographical corrections to the earlier notice appeared in the Federal Register February 25 (42 FR 11023), but there was no change in the date (March 4) for submitting comments on the proposal or notification of intention to appear at the public hearings, still scheduled for April 5.

The Full Text of the proposed standard and notice of hearing appeared in the OSHR January 6, Current Report, on p. 1005.

Unions

AFL-CIO URGES PRESIDENT CARTER TO RESCIND INFLATIONARY IMPACT ORDER

The AFL-CIO Executive Council urged President Carter to rescind Executive Order 11821 requiring inflationary impact statements for all proposed regulations.

In a separate statement on occupational safety and health issued at the end of its winter meeting in St. Harbour, Fla., the council called renewal of the Executive Order by former President Gerald Ford "a secretive, eleventh-hour attempt to repay his business supporters in the election" and added the statements place "a dollar value on the lives of workers and have blocked development of occupational health standards."

The text of the council's statement follows:

"The trade union movement fought long and hard for passage of a strong occupational safety and health law to stop the suffering and death in America's workplaces. We will not permit destruction of the Occupational Safety and Health Act by right-wing zealots and employers who place profits ahead of human lives."

"We find repugnant the contention that an employer has a constitutional right to kill or maim workers. Placing property rights ahead of human rights is contrary to the spirit of America."

"Since this enactment in 1970, the Occupational Safety and Health Act has been the target of some in Congress who seek to curry political favor with reactionary business and right-wing groups. These political opportunists have repeatedly tried to emasculate or destroy OSHA through distortion, propaganda and lies."

"The failure of the past two administrations to properly administer and enforce the law has added fuel to the fire. Inadequate budgets, short staffing, misordered priorities, sloppy procedures, poorly drafted regulations, unnecessary delays and attempts to politicize OSHA have undermined the law's effectiveness."

"There has been no more persistent and consistent critic of the administration and enforcement of OSHA than the labor movement. Our aim, however, is to make a good law work through proper administration."

"We are encouraged by President Carter's many statements of support for this law, and commend his recommendations that OSHA regulations be drafted in clear, understandable language. Nothing is more essential to public support of this law than understanding of what it is designed to do."

"We urge President Carter to rescind Executive Order 11821, renewed by former President Ford in a secretive, eleventh-hour attempt to repay his business supporters in the election. This order, which requires so-called 'inflationary impact' statements on OSHA standards, places a dollar value on the lives of workers and has blocked development of occupational health standards."

"We also urge him to require the Secretary of Labor to enforce the occupational safety and health guidelines in Section 19 of the law for all federal government agencies. The government can and must set the example for private employers in the area of job safety and health."

"The labor movement will continue its efforts in Congress for adequate funding and staffing for OSHA and the Toxic Substances Control Act of 1976, which is administered by the Environmental Protection Agency and will provide additional safeguards for workers exposed to toxic chemicals."

"And we serve notice: The labor movement shall not rest until every American worker enjoys a safe and healthful workplace."

CHEMMATERIALS CO., INC.

RECEIVED APR 7 1977

R. T. VANDERBILT COMPANY, INC.
30 WINFIELD STREET
NORWALK, CONNECTICUT 06855

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BUREAU OF MINES, WASHINGTON, D.C.
100-10-100-1000
100-10-100-1000

April 1, 1977

To Our Talc Customers

Gentlemen:

The following publicity release has been sent to all industry trade journals:

OSHA SAYS INSUFFICIENT EVIDENCE OF ASBESTOS
IN R.T. VANDERBILT TALC, DISMISSES CASE.

ATLANTA, March 25.-- The Department of Labor has dismissed a citation brought by OSHA against a customer of the R. T. Vanderbilt Company, Inc., of Norwalk, Connecticut, in which it was alleged that talc supplied by Vanderbilt contained asbestos. According to the request for dismissal prepared by OSHA, the Solicitor of Labor, Carin Ann Clauss concluded that the charge lacked sufficient evidence to support the citation.

The Vanderbilt customer, a tile manufacturer in Florida, was cited last August for violation of the OSHA Asbestos Standard despite the fact that the talc used in his tile formulation was certified by Vanderbilt as being free of asbestos. The manufacturer contested the citation. As the case progressed toward trial, it was disclosed that personnel in OSHA's Salt Lake City laboratory had, without the benefit of preliminary identification test, made the assumption that the Vanderbilt talc contained tremolite asbestos. Subsequent government laboratory studies revealed OSHA had insufficient evidence to prove an asbestos violation. Upon review of these facts, the attorney for the Department of Labor recommended dismissal of the citation.

The dismissal marked the second time in a row that OSHA has withdrawn an asbestos allegation involving Vanderbilt talc. In an earlier case in which OSHA cited a Vanderbilt customer, the government authority dropped all charges that the talc contained asbestos and agreed to a settlement citing the manufacturer for violation of a dust standard.

Commenting on the most recent dismissal of the citation, Vanderbilt president, Hugh B. Vanderhoef said, "This is an important decision. It directly affects the multimillion-dollar ceramic and paint industries and thousands of employees. We are, of course, very pleased with this turn of events."

U.S. DEPARTMENT OF LABOR
Occupational Safety and Health Administration

Occupational Safety and Health Administration, ISDL
1240 East 9th Street, Room 047
Cleveland, Ohio 44199

Chief Mr. Wm. Hoeckert:

Pursuant to the Occupational Safety and Health Act of 1970, an inspection of your premises was recently conducted as described below. No cause was found during the course of this inspection to issue a citation.

INSPECTION DATA

PREMISES INSPECTED

Date Begun April 13, 1976

Fosco Minsep Company

CSHO (IH) Name Cynthia R. Weaver

20200 Sheldon Road

Inspection Number 119

Brookpark, Ohio 44142

Area Director's Signature

James D. Sullivan

Issuance Date

June 7, 1976

670 999-010

FOS-00-0000001786

CONFIDENTIAL

T.R. Lennardi
F.S. Ellton
A.F. Ekar
C.R. Lynham
J. Morgan
S.C. Yoon

D.B. Woodbury

May 17, 1976

Proposed GSHA Standard

When the new proposed standard for occupational exposure to asbestos was published by GSHA, I asked Thomas A. Bozich to conduct a confidential inquiry into its impact upon Wollastonite. As you know, the proposed standard revision broadens the category of asbestos from the generic mineral to all naturally occurring fibers with certain characteristics.

Attached you will find an updated summary of this continuing confidential inquiry. You will note that Mr. Bozich believes Wollastonite's viability as a raw material continues.

DBW/b
Attach.

cc: R.C. Phoenix
A. Money
D.L. Adams
D.E. Bryant
W.J. Vandemark

FOS-00-0000001787

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