

FILE NAME: Johns-Manville (JMA)

DATE: 1975-1976

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with BC Notes

7/6/98:

7/5/98:

Comments to OSHA 1975

Comments selected by J.M. re 1975 OSHA proposed lowering of asbestos exposure limit, including Mobil Oil, Zidell Explorations (shipbreakers), Standard Oil (Indiana), Borg Warner, Thiokol, 3M.



Johns-Manville

Internal Correspondence

2836 all only

To: P. Kotin, M.D. W. B. Reitze
E. M. Fenner N. W. Hendry
G. W. Wright, M.D.
From: R. P. Carter

Date: January 7, 1976

Copies:

Subject: COMMENTS SUBMITTED TO OSHA IN RESPONSE TO PROPOSED
AMENDMENT OF ASBESTOS STANDARD

As of December 22, sixty-six comments were received by OSHA in response to its October 9, 1975 proposed amendment of the asbestos standard. Twenty of these comments were merely requests for extensions of the comment period, such requests ranged from 30 to 240 days.

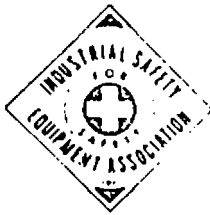
Of the 46 substantive comments submitted, only 14 warrant circulation and review. Most of the comments submitted are not particularly meaningful, and for the most part represent emotional pleas. None of the comments are of the magnitude and depth being contemplated by J-M.

The two most meaningful comments were submitted by Robert A. Curtis and Dr. Clark Cooper. Several good comments were submitted arguing against the proposed requirement for annual sputum cytologic examinations.

Copies of those comments relating to the activities of the sub-committees which you head are attached. Please circulate copies of these comments to members of your sub-committees, where appropriate. Consideration should be given to contacting some of the authors of these comments to pursue their data and arguments in more detail. I would appreciate receiving your recommendations as to the appropriate individuals to initiate these contacts.

R. P. Carter

/jh



25

INDUSTRIAL SAFETY EQUIPMENT ASSOCIATION, INC.

1901 N. MOORE STREET, ARLINGTON, VA. 22209 (703) 525-1695

December 1, 1975

Docket Officer
Docket H-033
Occupational Safety and Health Administration
U. S. Department of Labor
Room N-3620
200 Constitution Avenue, N. W.
Washington, D. C. 20210

Dear Sir:

The Industrial Safety Equipment Association, representing the major manufacturers of respiratory protective devices in the United States, desires to submit the following comments concerning the Proposed Revised Standard on Occupational Exposure to Asbestos.

1910.1001(g)(2) of the Proposed Revised Standard contains a table, designated as Table I, that lists the types of respirators which employers must require employees to use for respiratory protection against various levels of airborne asbestos (Federal Register, Vol. 40, No. 197, October 9, 1975, page 47662). It is recommended that Table I be revised as follows:

TABLE I

RESPIRATORY PROTECTION AGAINST ASBESTOS

Condition or Airborne Concentration of Asbestos	Required Respirator
Dust or mist not in excess of 10 fibers per cubic centimeter of air.	(A) A reusable air-purifying respirator equipped with a quarter-mask facepiece or half-mask facepiece and a high efficiency filter.* (B) An airline respirator equipped with a quarter-mask facepiece or half-mask facepiece operated in the demand flow mode. (C) A combination respirator equipped with a quarter-mask facepiece or a half-mask facepiece which includes a reusable air-purifying respirator equipped with a high-efficiency filter* and an airline respirator operated in the demand flow mode.

Dust or mist not in excess of 50
fibers per cubic centimeter of air.

- (D) A hose mask without blower or with blower equipped with a quarter-mask facepiece or half-mask facepiece.
- (E) A self-contained breathing apparatus equipped with a quarter-mask facepiece or half-mask facepiece operated in the demand flow mode.

(A) A reusable air-purifying respirator equipped with a full-facepiece and a high efficiency filter.*

(B) An airline respirator equipped with a full facepiece operated in the demand flow mode.

(C) A combination respirator equipped with a full facepiece which includes a reusable air-purifying respirator equipped with a high-efficiency filter* and an airline respirator operated in the demand flow mode.

(D) A hose mask without blower or with blower equipped with a full facepiece.

(E) A self-contained breathing apparatus equipped with a full facepiece operated in the demand flow mode.

Dust or mist in excess of 500
fibers per cubic centimeter of
air or unknown concentration.

(A) An airline respirator equipped with a quarter-mask facepiece, a half-mask facepiece, full facepiece, helmet, or hood operated in the continuous flow mode.

(B) An airline respirator equipped with a quarter-mask facepiece, half-mask facepiece, or full facepiece operated in the pressure-demand flow mode.

(C) A self-contained breathing apparatus equipped with a quarter-mask facepiece, half-mask facepiece, or full facepiece operated in the pressure-demand flow mode or other positive pressure flow mode.

(D) A combination respirator equipped with a quarter-mask facepiece, or full facepiece which includes an airline respirator operated in the continuous flow mode or pressure-demand mode and an auxiliary self-contained breathing apparatus operated in the pressure-demand flow mode or other positive pressure flow mode.

Firefighting.

(A) A self-contained breathing apparatus equipped with a full facepiece operated in the pressure-demand flow mode or other positive pressure flow mode.

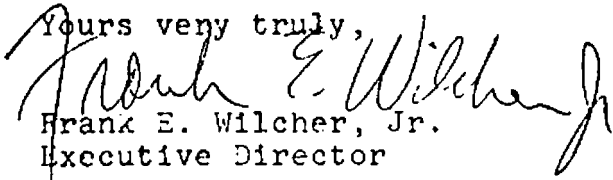
*Note.--High efficiency filter means a filter at least 99.97% efficient against 0.3um size airborne particles.

Reusable air-purifying respirators and powered air-purifying respirators equipped with dust filters, mist filters, and dust-mist filters are approved by NIOSH and MESA under the provisions of 30 CFR Part 11 for dusts, mists, and dusts and mists respectively which have a permissible 8-hour time weighted average concentration not less than 0.5 mg/m³ or not less than 2 million particles per cubic foot. Since 1910.1001(c)(1) of the Proposed Revised Standard Lists a permissible 8-hour time weighted average concentration for asbestos fibers of 0.5 fibers per cubic centimeter or 500,000 fibers per cubic meter (Federal Register, Vol. 40, No. 197, October 9, 1975, page 47660) which is equivalent to 14,158 fibers per cubic foot, the mentioned respirators with dust filters, mist filters, and dust-mist filters approved by NIOSH and MESA under the provisions of 30 CFR Part 11 cannot be used legally for respiratory protection against airborne asbestos and thus were not listed in the suggested revision of Table I. Since single-use air-purifying respirators equipped with dust filters, mist filters, and dust-mist filters, which are approved by NIOSH and MESA under the provisions of 30 CFR Part 11 for respiratory protection against pneumoconiosis-producing and fibrosis-producing dusts, mists, and dusts and mists, are tested against silica dust, silica mist, or silica dust and silica mist respectively with the same particle sizes and concentrations as are used in testing reusable air-purifying respirators and powered air-purifying respirators equipped with dust filters, mist filters, and dust-mist filters, and are allowed to have penetrations of dust and mist particles equivalent to those allowed for the mentioned reusable air-purifying respirators and powered air-purifying respirators, the cited single-use air-purifying respirators should not be used for respiratory protection against airborne asbestos and thus were not listed in the suggested revision of Table I. Under the provisions of 30 CFR Part 11, reusable air-purifying respirators and powered air-puri-

Wearing respirators which are approved by NIOSH and MESA for respiratory protection against airborne particles having a permissible 8-hour time weighted average concentration less than 0.5 mg/m³ and less than 2 million particles per cubic foot must be equipped with high-efficiency filters and since the permissible 8-hour time weighted average concentration for airborne asbestos given in the Proposed Revised Standard is equivalent to 14,158 fibers per cubic foot, the only types of air-purifying respirators which can be used legally for respiratory protection against airborne asbestos are the reusable air-purifying respirators and the powered air-purifying respirators equipped with high-efficiency filters.

1910.1001(g)(2) of the Proposed Revised Standard states that respirators shall be selected from among those approved by the National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare under the provisions of 30 CFR Part 11 (Federal Register, Vol. 40, No. 197, October 9, 1975, page 47560). It is pointed out that under the provisions of 30 CFR Part 11, respirators are approved jointly by both the National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare and the Mining Enforcement and Safety Administration, U.S. Department of Interior, and thus 1910.1001(g)(2) of the Proposed Revised Standard should be corrected.

Yours very truly,


Frank E. Wilcher, Jr.
Executive Director

FEW/xt

Mobil Oil Corporation

RECEIVED

150 EAST 42ND STREET
NEW YORK, NEW YORK 10017

75 DEC 8 PM 3:49

P. C. KRIST
VICE PRESIDENT
EMPLOYEE RELATIONS

DOCKET OFFICE

December 4, 1975

U. S. Department of Labor
OSHA
Docket Officer
Docket H-033
Room N-3620
200 Constitution Avenue, N. W.
Washington, D. C. 20210

PROPOSED REVISION - OSHA
STANDARD 1910.1001 ASBESTOS

Gentlemen:

Pursuant to the Federal Register, Volume 40, No. 197, pages 47660-47665 proposing revisions to the permanent standard for asbestos, Mobil Oil Corporation, 150 E. 42nd Street, New York, N. Y., 10017, requests the following comments and suggestions be introduced into the record and duly considered in the matter of the proposed standard.

1. 1910.1001 General - The proposed standard differs in organization and requirements from those on ketones, toluene and lead, therefore working contrary to the OSHA/NIOSH Standards Completion Project objective of "enabling the employer to better understand and comply with existing OSHA safety and health standards."
2. 1910.1001 (b) (1) - The minerals listed in the definition for asbestos sufficiently define the material, and therefore, the addition of "and every product containing any of these minerals" does not appear to be required.
3. 1910.1001 (c) - We have reviewed the Background Material contained in the Proposed Rulemaking and concur with the OSHA belief that sufficient medical and scientific evidence has now been accumulated to warrant designation of asbestos as a human carcinogen. However, we are unable to follow the rationale proposed by OSHA to reduce the permissible exposure from 5 fibers to 0.5 fiber per cubic centimeter of air.

Since the proposed reduction is significant from that in effect since July 7, 1972, and the effective level as of July 1, 1975, OSHA should be required to produce the scientific data used in determining the proposed permissible exposure of 0.5 fiber per cubic centimeter of air.

4. 1910.1001 (c) (2) - Comments contained in #3 above apply to the proposed establishment of a ceiling concentration of 5 fibers per cubic centimeter of air as opposed to 10 fibers contained in the existing standard.
5. 1910.1001 (d) - The words "may be" appearing on line 2 should be deleted and replaced with the word "is".
6. 1910.1001 (c) (4) (i) - After the word "exposure" appearing on line 6, add "if in excess of limits prescribed in (c)."
7. 1910.1001 (c) (4) (ii) - Language requiring "the employee to be notified of corrective action..." should be deleted. Notification could be interpreted to be a very brief verbal or written procedure, or detailed explanation concerning extensive engineering studies, etc. It is suggested that the following be substituted for the deleted sentence: "Records covering action taken by the employer shall be kept on file at the facility."
8. 1910.1001 (f) (6) - The requirement to perform measurements demonstrating a mechanical ventilation systems effectiveness on a 3-month basis should be deleted. It is suggested the following be inserted in its place: "The employer shall perform tests as required in accordance with recognized engineering practice to determine adequacy of ventilation systems."
9. 1910.1001 (g)(3)(iii) - After the word "use" on line 5, add "at a frequency to be determined by the employer."
10. 1910.1001 (g) (3) (iv) - After the word "be" on line 1, insert the word "regularly".
11. 1910.1001 (g) (3) (iv) - This section contains superfluous language as it applies to the assignment of employees to tasks requiring the use of a respirator and it should only be incumbent upon the employer to establish a respirator program in accordance with 1910.134(b).

In addition, the words appearing on lines 9 & 10 beginning with "To the maximum extent possible" should be deleted and replaced with "If a vacancy exists".

12. 1910.1001 (h) (4)(5) - The word "assure" appearing after the word "shall" should be deleted and replaced with the word "require" since the employer may not be able to assure the conditions requested herein, but could require them as a condition of employment.
13. 1910.1001 (i) (1) - Following the word "provided" appearing on line 8, add "unless disposable protective equipment is used."
14. 1910.1001 (j) (1) - The requirement that "if an employee refuses a required medical examination, the employer shall inform the employee of the possible health consequences of such refusal and obtain a signed statement..." should have the term "obtain" deleted and replaced with the term, "require" since an employer may not be able to obtain a signed statement from the employee, but can require a signed statement as a condition of employment.
15. 1910.1001 (j) (2) - Insert "in excess of the exposure limits" after the word "concentrations" appearing on line 5.
16. 1910.1001 (j) (3) - Insert "in excess of the exposure limits" after the word "fibers" appearing on line 5.
17. 1910.1001 (j) (4) - Insert "in excess of the exposure limits" after the word "fibers" appearing on line 6.
18. 1910.1001 (j) (6) (ii) - The requirement that "the physician's written opinion shall not reveal specific medical findings or diagnoses unrelated to exposure to ..." is not realistic, since it would indicate that the only results obtained from a medical examination performed on a periodic basis, would be to reveal specific findings related to the proposed standard. This does not allow the employer sufficient latitude to use periodic examinations to uncover or diagnose various problems related to the employee's health.
19. 1910.1001 (j) (2) (3)&(4) - In these sections there is reference to "a sputum cytology examination". It is recommended that either the requirement for this test be eliminated, or standards for examination be provided either as an Appendix, or by reference to the scientific literature.

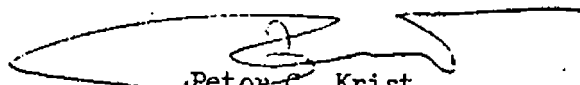
20. 1910.1001 (k) (1) (i) - After the word, "employees" on line 4 insert the word "regularly".
21. 1910.1001 (k) (1) (ii) - The reference to annual training should be reworded to indicate that training will be given prior to assignment in the workplace and thereafter when changes occur in the operations or materials being handled which could affect the employee.
22. 1910.1001 (n) (1) (i) (F) - Since records being maintained are to provide the employer and/or representatives of OSHA or NIOSH with information concerning employee exposure, it is suggested that the employer be given the option of using the employee's payroll number in place of the social security number. Additionally, it should be noted that in standards covering other carcinogens there is no reference to recordkeeping of employee exposure using a social security number or any other reference.
23. 1910.1001 (n) (2) (i) (B) - This section implies that the employer will accept the employees interpretation of the causal relationship between the employee complaint and the employee exposure to asbestos. It is suggested that this is more properly stated as follows: "any employee's medical condition determined by medical evaluation to have resulted from exposure to asbestos."
24. 1910.1001 (n) (3) (ii) - The requirement to maintain these records for at least 3 years is excessive and the "3" should be changed to "1".
25. 1910.1001 (n) (4) (i) (B) - Comment contained in #22 above applies to this section.
26. 1910.1001 (n) (4) (ii) - The requirement to maintain these records for at least 3 years is not consistent with other existing and proposed standards and should be changed to read that: "This record shall be maintained until replaced by a more recent record."
27. 1910.1001 (n) (6) (ii) - It is our opinion that the record-keeping requirements will impose a significant administrative burden upon the employer as well as leading to additional costs. The employer should have the right to recover these costs from a requesting party as it pertains to providing copies of the data and time expended in conducting the necessary search for data.

28. 1910.1001 (o) (1) - The information contained in this section appears to be directed to area monitoring rather than personal monitoring that would be required under this standard. Therefore, it should be reworded to reflect the observations possible under personal monitoring.

Although we have not reviewed the appendices in detail since they are advisory and not intended to be obligatory, it should be noted that the requirement contained in Appendix B, II, B stating that: "Employees involved in clean up operations should be restricted from the area until clean up has been completed." is impossible to comply with, since it means that no employees can enter the area to initiate clean up activities. We believe that the word "not" should be inserted after the word "employees" on line 1.

The comments contained herein detail our objections to specific sections of the proposed standard and suggest changes which could evolve a more prudent and feasible standard.

Sincerely,


Peter C. Krist
Vice President
Employee Relations

DEM/lm

33

ZIDELL EXPLORATIONS, INC.

RECEIVED
NOV 27 1975
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

3121 S.W. MOODY AVENUE
PORTLAND, OREGON 97201
228-8691 AREA CODE 503

November 26, 1975

Docket Officer
Docket H-033
U. S. Department of Labor,
Room N-3620
200 Constitution Avenue, N.W.
Washington, D. C. 20210

RECEIVED
NOV 27 1975
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

NOV 27 8 41 1:50

Re: Proposed Revision of 29 CFR 1910.1001,
the Standard for Occupational Exposure
to Asbestos

Gentlemen:

This company respectfully wishes to express its views and objections to 29 CFR 1910.1001 (d)(2)(iv)(c) which requires job rotation or transfer without change in rate of pay, seniority, status or geographical area for employees found unable to function normally as a result of having to wear a respirator.

This company is in the ship-breaking business where there is a degree of asbestos exposure and a high turnover of workmen. The first sentence of the protested standard reads:

"No employee shall be assigned to tasks requiring the use of respirators if, based upon his most recent examination, an examining physician determines that the employee will be unable to function normally wearing a respirator, or that the safety or health of the employee or other employees will be impaired by his use of a respirator."

We have no objection to this part, as it directly relates to the health and safety of an employee.

We do object to the next all-important sentence, as this is loaded with labor explosiveness and is not rightly a part of these health and safety regulations. This requirement is a social welfare problem and more properly belongs in labor legislation or



Docket Officer
U.S. Department of Labor
Re: 29 CFR 1910.1001
November 26, 1975
Page Two

regulations.

The sentence reads:

"Such employee shall be rotated to another job or given the opportunity to transfer to a different position whose duties he is able to perform with the same employer, in the same geographical area and with the same seniority, status and rate of pay he had just prior to such transfer, if such a different position is available."

This provision deals with seniority, status, rates of pay and other features--all of which are functions of labor relations and not health and safety. These features all involve the rights of workmen and by their inclusion in these regulations would tend to destroy the workmen's basic rights to bargain collectively on these points.

Further, such provisions would create conflicts in the present provisions of most labor contracts and would lead to filing of grievances and the fostering of substantial labor unrest.

Employees in ship-breaking that are exposed to asbestos are, in most cases, laborers and by the very heavy and dirty nature of the work, the labor turnover is very high. Experience shows that if any employee desires not to perform a certain duty he can always find a doctor to certify to that effect. By forcing this provision on employers, wherein the employer would have to find another job for the employee, the provision could create a situation whereby men would find a way to get away from less desirable duties which require wearing respirators and still maintain a job. Eventually, there would be no one to do the work.

It is not believed that the Occupational Safety and Health Act of 1970 intended to inject itself into the labor-relations field.

This belief is reinforced, and made clear, by a decision made by the Occupational Safety and Review Commission on November 8, 1972 (OSHRC Docket No. 1503).

At that time, this august body heard a noise abatement case wherein the Evening News Association had elected to abate their noise by administrative controls. The Detroit Printing Pressmen Local No. 13 objected to this method of abatement, per-

Docket Officer
U.S. Department of Labor
Re: 29 CFR 1910.1001
November 26, 1975
Page Three

mitted by OSHA regulations, because "sudden unilateral changes in job functions which employees have become accustomed to by virtue of seniority and long-standing practice tend to foster unrest."

The Commission pointed out that the congressional purpose was to "...assure so far as possible every working man and woman in the nation safety and healthful working conditions..."

The Commission went on to say that this matter before it "...related to problems of labor management relations and not to problems of Occupational Safety and Health. Labor relations matters are not within our jurisdiction. ...Another agency of the federal government is statutorily empowered to deal with labor relations matters."

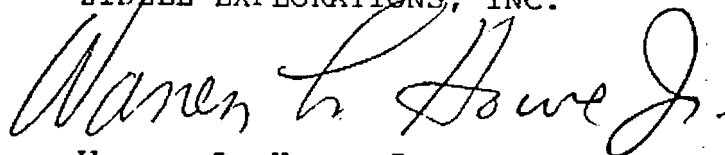
It is clear, then, the provision in the proposal regulation we have pointed out is a matter dealing with labor relations and not one of safety and health and does not belong in these regulations.

The OSHA Review Commission remarks that labor relations are not within OSHA's jurisdiction, and there are federal agencies empowered to deal with such matters.

Therefore, it is recommended that the second sentence of 29 CFR 1910.1001 (d)(2)(iv)(c) be deleted.

Respectfully,

ZIDELL EXPLORATIONS, INC.



Warren L. Howe, Jr.
Safety Director

WLH/wsc

Oil, Chemical and Atomic Workers International Union

35

ANTHONY MAZZOCCHI, DIRECTOR
CITIZENSHIP-LEGISLATIVE DEPARTMENT



1126 - 16TH STREET, N. W.
WASHINGTON, D. C. 20036
PHONE: (202) 223-5770

December 5, 1975

Docket Officer
Docket H-033
Occupational Safety and Health Administration
U. S. Department of Labor, Room N-3620
200 Constitution Ave. N.W.
Washington, D. C. 20210

DOCKET OFFICE

RECEIVED
DEC 8 PM 1:46

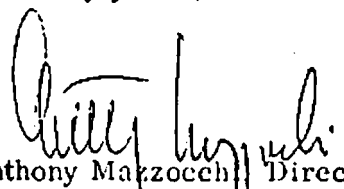
RE: Proposed Standard for Asbestos, Docket H-033

Dear Sir:

The Oil, Chemical and Atomic Workers International Union objects to several provisions of the Proposed Asbestos Standard. Some of our objections are: 1.) The failure of the proposed permissible exposure limit to protect workers against asbestos-induced cancer, 2.) The failure to provide employees with access to the written compliance program, 3.) The failure to require engineering controls, work practices, caution signs and labels, housekeeping, special clothing, change rooms, clothes lockers and showers wherever asbestos is used instead of just where the exposure limits are exceeded, and 4.) The failure to require transfer to another job with protection of seniority and rate of pay as a result of a medical examination which shows a physical impairment.

For the above reasons and others, we hereby request that a public hearing be held so that we may fully present our objections.

Sincerely yours,


Anthony Mazzocchi, Director
Citizenship-Legislative Department

cc: George Taylor, AFL-CIO
Sheldon Samuels, IUD

RECEIVED

75 DEC 8 PM 1:36

Paul D. Halley
Director

DOCKET OFFICE

Standard Oil Company (Indiana)

200 East Randolph Drive
Post Office Box 5910-A
Chicago, Illinois 60680

Environmental Health Services Division of
Medical and Environmental Health
Services Department

December 2, 1975

Docket Officer
Docket H-033
U.S. Department of Labor
Occupational Safety and Health Administration
Room N-3620
200 Constitution Ave., N.W.
Washington, D.C. 20210

Dear Sir:

The Standard Oil Company (Indiana) recommends the following changes to the provisions of the proposed Occupational Safety and Health Administration Standard for Asbestos as published in the Federal Register, October 9, 1975:

1. Monitoring -- The proposed standard on monitoring is not appropriate for operations involving the incidental removal of insulation and coverings containing asbestos and should be modified. Monthly monitoring would be required under paragraph (e)(2) even though appropriate respiratory protection and protective clothing are specified in paragraph (f)(4)(ii)(B) for employees engaged in this type of work. This monitoring requirement is unnecessary and burdensome, especially when such work is performed infrequently. In refineries and chemical plants, this monitoring would be required almost every time that pipes, valves and other equipment covered with insulation containing asbestos are repaired or inspected, even though employees are furnished with adequate respiratory and clothing protection. The requirement of monitoring on a routine basis serves no useful function since the work of removing the insulation is already completed before the collected air samples can be counted. More properly, monitoring should be done initially and of representative jobs and types of insulation and pipe coverings to establish maximum air concentrations that can occur and then appropriate respiratory protection be provided.

We recommend that the following paragraph outlining an exception to the monthly monitoring requirement be incorporated into the proposed regulation:

"Monitoring shall not be required for employees engaged in the removal of asbestos insulation and coverings when this removal is only incidental to the work being performed and who, under paragraph (f)(4)(ii)(B) of this section,

are required to wear approved respirators that provide adequate protection from airborne asbestos fibers and protective clothing. The adequacy of respirators shall be determined by sufficient monitoring of exposures to verify that the respirators selected under paragraph (g)(2) of this section provide the required protection."

2. Showering -- The requirement that employees be required to shower((i)(2)) is contradictory and in our opinion unnecessary since the employees would be protected with special clothing as provided for in paragraph (h). Washing of the hands, face and forearms as provided for in (i)(3) would be adequate, especially for those employees having minimal and infrequent contact with asbestos such as in the removal of insulation.
3. Lavatory and toilet facilities -- (i)(5) is hardly applicable to asbestos handling where all that is involved is the removal on occasion of asbestos-type insulation from pipes, etc. In these cases, the exposure is usually only a few minutes but may exceed the permissible level. This proposed requirement of (i)(5) as written would in effect then require that any and all toilet facilities be considered in a "regulated" area. Such a provision is unworkable and unnecessary. The Standard should recognize the difference between and provide for exemptions for these infrequent operations.
4. Regulated Areas -- Paragraph (d) would require maintaining a roster of all persons entering a "regulated" area and allowing only "authorized" persons to enter.

In operations where insulation may be removed such as from a large valve handling hot fluids, this may be done taking only a few minutes in order to get at the valve for servicing. It would be very difficult and unnecessary to maintain a roster and police "authorized person" entry to such an operation and some exemption should be provided.

It is likely that under the present definition, all of the area of a unit during a turnaround would be a "regulated" area. This could require keeping a roster of several hundred persons including many temporary employees and appears to be highly impractical. An exemption from this requirement should be provided for plants which comply with the respiratory and clothing protection and monitoring requirements.

5. Labels - Paragraph (1)(3) -- There is no disagreement with the stipulation that no label be permitted that contradicts the required cautionary label; however, the provision "or detract from the sign or label" is subject to interpretation and should be deleted.
6. Respiratory Protection -- Table I should specify full facepiece for the three types of respirators for use up to 1000 times the applicable exposure limit.

Docket Officer
Page 3
December 2, 1975

A type C supplied air respirator with a full facepiece operated in pressure-demand or other positive pressure-mode and with emergency egress bottle should be permitted for exposures over 2000 times the applicable exposure limit.

We will appreciate it if you would give our recommended changes your utmost consideration.

Sincerely,

Paul D. Halley
Paul D. Halley

40

Borg-Warner Corporation

200 SOUTH MICHIGAN AVENUE, CHICAGO, ILLINOIS 60604

December 5, 1975

Docket Officer
Docket H-33
U.S. Department of Labor
Room N - 3620
200 Constitution Avenue, N.W.
Washington, D.C. 20210

RECEIVED
DEC 8 PM 4:06
DOCKET OFFICE

RE: Proposed Standard for Occupational Exposure to Asbestos

Dear Sir:

Pursuant to 20 CFR 1911.11(b), we wish to file the following written comments concerning the proposed standard for Occupational Exposure to Asbestos.

1. Section 1910.1001(e)(3) - Method of Measurement

In the original criteria document concerning asbestos entitled Occupational Exposure to Asbestos issued by the National Institute for Occupational Safety and Health, it was recognized that only the biologically appropriate attribute of the air sample should be measured. Medical evidence has pointed to the asbestos fiber as a problem area in the search for a cause of the various types of cancers associated with asbestos use. Because of this evidence the present regulation (29 CFR Part 1910) restricts the number of asbestos fibers that are allowed in the work place.

The term "asbestos fiber" was defined so as to provide a standard whereby the biologically significant fibers can be identified and distinguished from other non-asbestos

particles present in the work place atmosphere. The asbestos fiber was defined in the present regulation as an asbestos fiber longer than 5 micrometers. Further interpretation of this definition added a requirement that the particle being examined have an aspect ratio of at least 3 times as long as it is wide to be considered an asbestos fiber. The proposed regulation incorporates the above standards and adds a maximum diameter requirement of 5 micrometers.

When the particles which have been captured on the filter during the air sampling process are examined under a microscope according to the prescribed membrane filter method, the analyst has only the definition of an asbestos fiber to work with as a standard to distinguished asbestos fibers from unregulated particles. Both the present definition of asbestos fiber and that proposed are inadequate to distinguish between asbestos fibers and other particles. All particles which have an aspect ratio of 3-1 or more are not necessarily asbestos fibers. The overbroad definition results in analysts counting particles that are not asbestos fibers as asbestos fibers (see Secretary of Labor vs. Borg-Warner, OSHRC, Docket No. 10757, where R. Zummualde, a N.I.O.S.H. expert testified that a talc particle would be counted as an asbestos fiber). Second, the overbroad definition results in analysts not being able to arrive at the same results upon subsequent or repeated analysis of the same sample. Third, many qualified analysts introduce their own additional standards in an attempt to avoid

counting particles which are not asbestos but have an aspect ratio of 3-1 or greater. The net result is a method of analysis that has been described by NIOSH experts as subjective. The subjective variance encountered when counting a single sample is on the order of plus or minus 25 percent.

As the concentration of particles per unit volume decreases the effect of the subjectivity in the analytical counting process increases. At a threshold limit value of 0.5 fibers per cubic centimeter it is quite possible that an analyst choosing to count a single fiber or not as asbestos could make the difference between compliance or violation. This problem is particularly significant when ceiling concentrations are being tested, due to the short testing time periods.

In order to reduce the possibility that a violation might be found due to the subjectivity of the analytical process and statistical error, several changes must be made.

- A. The definition of the terms asbestos should include in addition to the proposed standards the requirement that a particle must exhibit obvious curvature to be considered an asbestos fiber.
- B. The term asbestos includes all products containing any of the designated minerals as proposed. A limit of 5 percent asbestos should be allowed in products before the requirements of the proposed rule are applied. This accounts for the situation where a user of a product does not know of the trace asbestos content.

- C. Strict adherence to the sampling and analytical techniques specified must be made a requirement as a matter of regulation in order to assure an accurate and reliable sample for compliance or enforcement purposes.
- D. When sampling for ceiling concentrations, at least one fifteen minute sample must be taken to assure a sample that has a sufficient number of particles for a valid statistical analysis.
- E. When sampling for ceiling concentrations, the result must be the average of at least five samples if any samples are taken for less than 15 minutes.
- F. When determining a time weighted average concentration, variability in the work process must be taken into consideration.

2. Section 1910.1001(j) - Medical Surveillance

The standard does not include a level at which medical examinations should be instituted. A specific level should be designated as the point at which medical examinations should be provided.

Monitoring of the atmosphere in many cities indicate that there are always some asbestos fibers in the atmosphere. Unless a specific action level is designated, the medical surveillance provisions of this section would require the medical examination procedures outlined in this section to be provided to everyone. An article in the December 1975 issue of Professional Safety indicates that in a Yale University Library there is a

measurable concentration of asbestos fibers in the air. We suggest that an action level for implementation of the medical examination requirement be approximately 50 percent of the permissible exposure limit.

3. Feasibility of Attaining the Permissible Exposure of 0.5 Fibers per c.c. of Air

Our experience at this time indicates that we will find it extremely difficult, if not technically impossible, to maintain an airborne concentration of asbestos fibers below 0.5 fibers per c.c. of air when performing various machining operations on friction plates containing asbestos. Although in some operations we have been able to maintain the level below 0.5 fibers per c.c. of air, periodically we do record levels above 0.5 fibers per c.c. of air.

At the present time we have in operation the most advanced exhaust systems available. We have found it extremely difficult to maintain the 0.5 fiber level. Part of the problem, of course, is due to the fact that clutch plates and other asbestos containing disks are made up of various materials which are not identifiable under the measurement technique provided in the standard. It is our opinion that many times the counts include minerals or metals that are not asbestos, but because accurate identification of these particles is not possible under phase contrast illumination, we cannot be sure.

4. Economic Impact

We have conducted a study of only four locations who make gaskets containing asbestos and apply various machining and

fastening methods in the manufacturing of asbestos containing clutch plates and other friction devices.

If we can successfully design, operate and maintain an exhaust system to control emissions from various operations to 0.5 asbestos fibers per c.c. of air or less, we estimate that our costs will increase approximately 1 million dollars for these improved exhaust systems and an annual additional maintenance cost of approximately 350 thousand dollars per year.

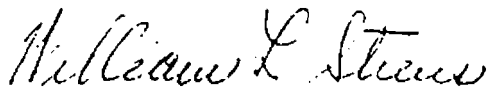
If we are not able to maintain the 0.5 fibers per c.c. of air limit, the capital cost for isolated working areas, change rooms, showers, additional monitoring, etc. will be approximately 4 million dollars. The annual operating cost increase for these four locations will be approximately 2.5 million dollars.

In conclusion we recommend the following:

- A. Section 1910.1001(e)(3) - Method of Measurement, be changed as recommended in the foregoing statement.
- B. Section 1910.1001(j) - Medical Surveillance, be instituted at one-half the permissible exposure level.
- C. Section 1910.1001(c) - Permissible Exposure, be retained at two fibers per cubic centimeter of air and the ceiling concentration at five fibers per cubic centimeter of air until substantial evidence is available to indicate revision of the exposure level is necessary.

D. Section 1910.1001(f)(g)(h)(i) - These sections should be followed only if the two fibers per cubic centimeter of air level cannot be attained.

Very truly yours,

A handwritten signature in cursive script, reading "William L. Stiens".

William L. Stiens, C.S.P.
Manager - Loss Control

WLS:rs

THIOKOL CORPORATION
Newtown, Pennsylvania 18940
215-968-5911

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Thiokol / EXECUTIVE OFFICES

December 8, 1975

Docket Officer,
Docket II-033,
U. S. Department of Labor
Room N-3620,
200 Constitution Ave., N.W.
Washington, D. C. 20210

RECEIVED
DEC 11 AM 4:05
DOCKET OFFICE

Gentlemen:

Thiokol Corporation uses asbestos in the manufacture of friction materials, specifically disc brake pads for use on new passenger cars and for the aftermarket. Thiokol also uses asbestos in the manufacture of insulating materials for rocket motors and uses a number of products containing asbestos for a variety of miscellaneous purposes, including insulation and building components. Thus, Thiokol has experience with manufacturing operations involving asbestos and a direct interest in the proposed Occupational Safety and Health Standard on asbestos (29CFR 1910.1001). We submit the following comments concerning the standard proposed in 40FR47625.

I. Regarding the permissible exposure to airborne concentrations of asbestos fibers (Paragraph c).

Experience in operations involving the manufacture of friction materials using asbestos leads us to conclude that the proposed limit of 0.5 fiber per cc is lower than the level that can be feasibly obtained in significant parts of the operation by engineering and work practice controls. Since the present standard was promulgated in 1972, significant engineering modifications have been made to our manufacturing facilities to meet the 5-fiber limit and to further improve controls with the objective of meeting the 2-fiber limit that becomes effective July 1, 1976. Most of the cost and effort were to improve control from the 5-fiber limit to the 2-fiber limit, a reduction of 60%. The half fiber limit represents a further reduction of 75% from the already low level of 2-fiber/cc. Our best engineering estimates indicate that this very stringent fiber level cannot be met in parts of our production facility.

We believe that different manufacturing techniques and completely different approaches to dust control would be necessary in order to meet the half-fiber limit. This solution is not feasible for several reasons:

- The friction materials used as brake pads on automobiles are critical for safety. Manufacturing processes now used are proven and subject to stringent quality controls. Significant modifications to the manufacturing processes would require a complete re-evaluation, essentially equivalent to a full development program, which would be very expensive and would require a long time - - probably several years.
- The control equipment which we have installed in good faith in our production facility over the past few years, to comply with the present asbestos standard limit of 2-fibers per cc effective July 1976, is estimated to have cost about 25% of the total cost of the production facility; for engineering control to 0.5 fiber/cc, this investment would be of little value. Furthermore, the present plant, with its investment of one million dollars, which has been established to manufacture a qualified product with the best feasible controls to keep employee exposure to airborne asbestos to the lowest practicable level would have to be replaced. We estimate the cost of this replacement at more than three million dollars.
- The facility requirements to meet the proposed new limit by engineering and work practice controls are estimated to be high enough that the investment probably could not be justified. The plant is currently running at about 90% capacity, and from a business standpoint, operation is marginal despite good operating efficiency. Termination of our operation would result in termination of employment of approximately 120 people in Trenton, N.J., which is already hard hit by unemployment. Imported goods could well replace those now produced in our facility.

Therefore, we believe that engineering and work practice control to 0.5 fiber/cc is not feasible.

The need for limiting personnel exposure to a time weighted average of 0.5 fiber/cc or to a ceiling value of 5-fibers/cc is not documented; rather the level appears to have been set based on an arbitrary judgement of the lowest level that can be feasibly reached by engineering and work practice controls. We submit that the permissible level should be established on the basis of the level necessary to protect health. We recognize that the open questions regarding carcinogenicity make it prudent to keep exposure to a minimum. For very low levels, particularly when dictated by caution rather than by medical evidence, if they are required, personal protective equipment should be permitted in lieu of other controls.

II. Regarding Methods of Compliance (Paragraph f)

Feasible engineering and work practice controls are required by sub-paragraph (1); personal protective equipment, which is an effective way to reduce (or eliminate) exposure of personnel to airborne asbestos, is required by sub-paragraph (2). The requirement of sub-paragraph (7), mandating each establishment to develop and implement a plan for controls beyond those that are feasible is unwarranted:

- The plan will not reduce employee exposure to asbestos.
- The good faith establishment and implementation of a compliance program as specified will demand engineering and financial resources that operations can ill afford and are likely to be unable to obtain.
- The requirement cannot be reasonably enforced; either plans without merit will be accepted, or the merits of the methods and schedule in the plan will be determined subjectively for each case until courts (probably with minimal expertise in this area) define how to evaluate the merits of the plans and what is acceptable.

III. Regarding Respiratory Protection (Paragraph g)

Respirators are an effective method of reducing the exposure of personnel to airborne asbestos. In environments for up to 5-fiber/cc (ten times the 8-hour TWA) and using the most simple respirator prescribed for this environment, personnel exposure to asbestos from breathing is essentially zero. Use of respirators will often result in lower exposure than relying on engineering controls. If the arbitrarily established permissible limit of 0.5 fiber per cc is adopted, the use of respirators should be permitted in lieu of engineering and work practice controls in areas where the fiber concentration (8 hour average) is no greater than 5 fibers per cc. This approach will provide the following:

- Reduced employee exposure as compared to engineering control to 0.5 fiber/cc with no respirator.
- Regular and immediate protection of employee in the area in case of any malfunction that causes a brief excursion to higher levels.
- Large savings in costs for equipment design, procurement and installation.
- Substantial savings in energy and costs necessary for operating the extra control equipment.

Respirator use should also be permitted in lieu of engineering controls in areas and operations which must be attended periodically or occasionally for short periods. Engineering controls for some operations of this type would be expensive and of no real value for reducing employee exposure. Examples include charging and unloading hoppers and maintenance of some equipment. Since these occurrences are generally foreseeable and expected, they are not "emergencies." The principle of permitting respirators in lieu of other controls for operations where the time of exposure of personnel is low has been adopted in the standards being proposed under the Standards Completion Project, although the time restrictions in those so far proposed are unnecessarily restrictive and unreasonable.

In regard to sub-paragraph (3) (iv), the mandated rotation of an employee to another job is improper and objectionable in a safety standard. Such action is a matter of personnel policy and labor contracts. The provision would many times be unfair to other employees; when an employee is transferred to another job under the mandates of this standard, the incumbent in this job would be displaced.

IV. Regarding Recordkeeping (Paragraph n)

The maintenance of exposure records (sub-paragraph 1) and rosters (sub-paragraph 5) for 40 years imposes a significant administrative burden on employers; the impact on small establishments is particularly severe. This requirement does not appear to be in any way related to employee safety and health; it is therefore not appropriate in the standard. Most of the data would be inadequately controlled for epidemiological studies. Data from selected establishments with a significant potential for exposure to asbestos, together with suitable control establishments, and follow-up on employees in these establishments would be necessary for a good study. Funding such a program to the selected establishments by NIOSH would seem to be the proper approach if this type of study is warranted.

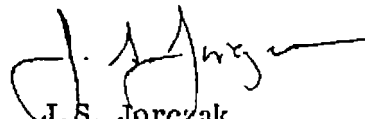
In regard to sub-paragraph (n) (6) (ii), the availability of records to affected employees and affected former employees is adequate. Making the records available to employee representatives is unnecessary, bears no relation to employee safety or health, and is objectionable.

V. Regarding Implementation Time

As noted above, we do not believe that the need for the limit of 0.5 fiber per cc TWA is established. More importantly, we object to the mandatory requirement for engineering and work practice controls for achieving this limit; we believe that control without respirators to the proposed limit is not feasible in current facilities using current engineering control concepts.

Should the proposed standard be adopted, a reduction of 75 percent from the July 1, 1976, limit of 2-fiber per cc will be required. Experience in our operations indicates that this reduction by engineering and work practice controls would be an order of magnitude more difficult than the reduction from 5-fibers to 2-fibers, for which four years was allowed. Years would be required for this program. We strongly urge that the adoption of this standard be deferred indefinitely until experience is obtained with the facilities that have been modified to achieve the 2-fiber limit. If a lower exposure limit is determined to be essential, the use of respirators to achieve it should be permitted.

Very truly yours,


J.S. Joreczak
Group Vice President

JSJ:bb



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OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

1006 FOURTH STREET
SACRAMENTO, CA 95814
(916) 322-2220

December 8, 1975

RECEIVED
DECEMBER 11 PM 4:07
CONTACT OFFICE

Docket Officer
Docket H-033
U. S. Department of Labor
Room N-3620
200 Constitution Avenue, N.W.
Washington, D. C. 20210

Dear Sir:

Subject: Response to request for comments on proposed
standard for occupational exposure to Asbestos

This letter is in response to your notice published in the Federal Register, Volume 40, No. 197, October 9, 1975.

Attached are comments prepared by the Occupational Health Section of the California Department of Health.

We appreciate the opportunity to comment on this standard. If you have any questions, please let me know.

Sincerely,

STEVEN A. JABLONSKY
Program Manager

Enc.

re:

- ☐ Public comment--proposed safety and health standards
- ☐ Information following a NIOSH submittal of criteria for a recommended standard
- ☐ Committee meeting
- ☒ Responding to OSHA request for comment on draft of proposed standards

The Occupational Health Section of the CALIFORNIA
Department of Health has reviewed the OSHA request(s)
and offers the following comments relating to: 1910.1001 Asbestos.

1. Paragraph 1910.1001 (e)(1) Initial (Monitoring).
Reword this paragraph as follows:

The employer shall monitor, or cause to have monitored, each place of employment where asbestos fibers are released in such a manner as to cause exposure to employees in excess of either of the two limits prescribed in paragraph (c) of this section. If either limit is exceeded, the employer shall immediately undertake a compliance program in accordance with paragraph (f) of this section.

Rationale: This paragraph is very vague from an enforcement standpoint as presently worded. In light of recent decisions by the OSAHRC with regard to medical examination being required at any level of exposure to asbestos, a reasonable administrative interpretation of this vague standard may not be possible.

In Northern California and in many other areas, there is considerable serpentine in surface soil, so that any operation involving common dirt may release asbestos fibers. In fact, the background level in San Francisco and Berkeley are about 1000 to 5000 fibers/M³ greater than 5 micrometers and about 500,000 fibers/M³. If shorter fibers are counted. It is, therefore, necessary that the enforcement level for monitoring be specified in the standard.

2. 1910.1001 (e)(2)(ii)

This subparagraph should be deleted. Subparagraph (e)(2)(iii) clearly indicates the procedure to follow if the level is below both limits, and subparagraph (e)(2)(i) clearly tells you what to do if any monitoring result is above the limits prescribed.

William W. Stiffman
For Chief of Occupational Health Section

3. 1910.1001 (f)(4) Work Practices.

This subparagraph should state that spills shall be cleaned up promptly.



GENERAL OFFICES • 3M CENTER • SAINT PAUL, MINNESOTA 55101 • TEL (612) 733-1110

December 8, 1975

Docket Officer
Docket H-033
U.S. Department of Labor
Room N-3620
200 Constitution Avenue N.W.
Washington, D.C. 20210

DOCKET OFFICE

DEC 15 PM 3:23

Dear Sir:

In re: Proposed Standard for Occupational Exposure to Asbestos.

We have examined the proposed standard on Asbestos which appeared in Federal Register Volume 40 Number 197, October 9, 1975.

MONITORING

Our comments on Monitoring relative to Federal Register Volume 40 Number 197, Thursday October 9, 1975 "Proposed Rules Occupational Exposure to Asbestos" are:

Page 47661:

(e) Monitoring

The application of monitoring results for the employee, "likely to be exposed to the highest airborne concentration of asbestos fibers", to all other employees who have possible similar exposure has several damaging impacts as it tends towards: 1) ignoring the unmonitored worker's health, 2) removing the burden of protecting each worker's health from the employer, 3) promoting a poor attitude among unmonitored workers which may later lead to careless work habits, 4) removing incentive for development of high technology and lower cost monitoring methods which will provide economical monitoring for all, and 5) providing a very inadequate data base for future epidemiological programs.

For these reasons, provisions for more extensive monitoring are recommended. A suggested plan would be to randomly select workers from each job classification such that within a given year, 20% of all workers in the job class are monitored at least once. The costs of monitoring these greater numbers of workers are substantial.

Where exposures are controlled through knowing what they are, the increase in worker health and long term productivity by proper protection will give a good return on this investment. It is essential to develop career records of worker exposure.



-more-

MINNESOTA MINING AND MANUFACTURING COMPANY

Page 2

Page 47661

(3) Method of Measurement

Note is taken of the suggestion on page 47653, column 3, top paragraph that "OSHA believes that new research developments regarding... advances in monitoring and protective technology make reexamination of the standards premises and general structure desirable". Because of the wisdom of this statement, and to provide for such eventualities as implementation of new approaches, the "Method for Measurement" must be written so as to allow methods which provide equal or greater performance in counting asbestos fibers as compared to the present adequate but costly and restrictive method. Nothing is lost by permitting new methods to compete with the present method and much is lost by completely ruling out new methods and perpetuating any single method regardless of its merit.

RESPIRATOR COMMENTS

Also of concern to us are the provisions for the use of various classes of respirators at different concentrations based on the time weighted average (protection factors) as proposed in the standards completion project. We feel that such a system has merit but strongly disagree with the method of assigning "protection factors" as put forward in the standards completion project. Rather, we feel that individual protection factors be assigned to each respirator. Our reasons for taking this position are documented in the attached comments which are taken from our comments being submitted in the Ketones Inflationary Impact Statement.

We hope these comments will be helpful to you in preparing a useful and workable standard. Should you wish further explanation of these comments or the accompanying documents, please do not hesitate to contact me.

Sincerely,



E.D. Horne
Laboratory Manager
Occupational Health
& Safety Products
Bldg. 230-B

EDH/hv
Attachments

RESPIRATOR SELECTION GUIDE

In the compliance section of the standards completion project there are two main areas of significance in regard to respirator usage. The first important area refers to table 2 in each criteria document wherein levels of respiratory protection and acceptable products are outlined. The other significant area deals with the decision logic sequence in respirator selection and it is this section of the standards completion project that is based on inadequate technical facts. On page 12 of the standards completion project analysis it is stated:

"The technically appropriate respirators for each substance are determined by the guidelines of the Respirator Decision Logic (Attachment 1) and the approval requirements of 30 CFR 11."

The assumption that technically appropriate respirators will result by following the guidelines of the Decision Logic in standards completion project Attachment 1 is not accurate and 30 CFR 11 is in desperate need of revision. The heart of the decision logic sequence is the assignment of protection factors which are defined as "criteria used in determining what limiting concentrations are to be permitted for each respirator type that will afford adequate protection to the wearer". In the standards completion project, levels assigned to protection factor values used data gathered by a procedure developed at Los Alamos as the basis for the assignment of a protection level to a respirator. This Los Alamos information is from very early studies and it contains some serious discrepancies.¹ We feel the protection factor concept to be of value but strongly recommend that the LASL concept of grouping respirators in a class for protection factor be eliminated and individual protection factors be assigned for each respirator when tested by NIOSH.

The following statement on page 39 of the standards completion project is not adequate information for basing the decision logic sequence on protection factors:

"The protection factors used in the preparation of the standards are based on quantitative fit tests performed at Los Alamos and elsewhere and in some instances on professional judgement. In appendix I, the protection factors for each class of respirators listed in the checklists are shown. The entries in each list are for an entire class of respirators, and are assigned the protection factor of the lowest performing device within each class."

Our reasons for requesting your review of these decision logic tables are that:

- (1) Protection factor work in our laboratory proves conclusively the existence of a problem in respirator class grouping.² For example, on NIOSH approved half masks protection factor values vary from 3.6 to 92. In the standards completion project plans, this class of respirators is assigned a protection factor value of 10. This type of classifying will not help an employer protect his worker properly should he purchase one of the poorer fitting NIOSH approved respirators.
- (2) Our testing also shows that one manufacturer could control the protection factor of an entire class. Thereby, if this manufacturer chooses not to sell a respirator in a class because it is not profitable to him, he could possibly get an approval on a product with poor facefit properties and thus keep the protection factor of that class low.
- (3) As new research in respiratory protection continues there is no incentive to produce the optimum product if the protection factor is assigned to the "class".

The following additional recommendations on the use of protection factors are made:

- (1) Protection factor studies should be undertaken by NIOSH to establish a consistent test procedure for respirators designed to remove particulate and organic vapor products.
- (2) That the NIOSH Testing and Certification Laboratory at Morgantown assign an individual protection factor to each respirator certified with the cost burden of this testing to be borne by the applicant for the certification. This protection factor value should then appear on each respirator package giving the user information to be sure he is properly protecting the worker with the product purchased.

REFERENCES

1. ISEA Analysis of Supporting Test Data (OSHA Exhibit 38) Utilized by E.C.Hyatt to Develop Respirator Protection Factors (not included)
2. Barghini, R. J. and Wilmes, D. P.: Performance Studies for Leakage of Half Mask Respirators.