PLAINTIFF'S EXHIBIT

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

STANDARD FOR EXPOSURE TO ASBESTOS DUST

Notice of Proposed Rule Making

Section 6(c) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) provides that upon the publication of an emergency temporary standard in the FEDERAL REGISTER the Secretary of Labor shall commence a rule making proceeding in accordance with section 6(b) of the Act, and that the emergency standard as published shall also serve as a proposed rule for the proceeding. An emergency temporary standard concerning exposure to asbestos dust was published in the FEDERAL REGISTER on December 7, 1971 (36 F.R. 23207). Accordingly, pursuant to section 6 (b) and (c) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1596; 29 U.S.C. 655), 29 CFR 1910.4, and Secretary of Labor's Order No. 12–71 (36 F.R. 8754), it is hereby proposed to amend 29 CFR Part 1910 as set forth below. The proposals include the emergency temporary standard and additional proposed rules on subsidiary issues.

Interested persons are invited to submit, both orally and in writing, data, views, and arguments concerning these proposals.

Written data, views, and arguments may be mailed to the Office of Safety and Health Standards, Room 305, 400 First Street NW., Washington, DC 20210, within 30 days after the publication of this notice in the FEDERAL REGISTER. The data, views, and arguments will be available for public inspection and copying at the Office of Safety and Health Standards, except as to matters the disclosure of which is prohibited by law.

Oral data, views, and arguments will be received by Hearing Examiner Arthur Goldberg, at a hearing beginning at 10 a.m. on March 14, 1972, in Conference Room B, Departmental Auditorium, 14th Street and Constitution Avenue NW., Washington, DC. Persons desiring to appear at the hearing must file with the Office of Safety and Health Standards a notice of intention to appear, no later than March 3, 1972. The notice must state the name and address of the person to appear, the capacity in which he will appear, and the approximate amount of time required for his presentation. The notice must also include, or be accompanied by, a statement of the position to be taken with regard to the proposed rules.

The oral proceedings shall be reported verbatim, and transcripts shall be available for inspection to any interested person on such conditions as the presiding hearing examiner may prescribe. The hearing examiner shall regulate the course of the oral proceedings, dispose of procedural requests, objections, and similar matters, regulate the conduct of those present at the hearing by appropriate means, and shall exclude to the extent practicable irrelevant, immaterial, and unduly repetitious data or arguments. The hearing examiner shall have discretion to keep the record of the hearing open for a reasonable, stated time to receive written recommendations, and additional data, views, and arguments from any person who has participated in the oral proceeding. Upon completion of the oral proceedings, the transcript thereof, together with written submissions on the proposed rules, exhibits filed during the hearing, and any posthearing data, views, arguments, and recommendations shall be certified by the hearing examiner to the Assistant Secretary of Labor for Occupational Safety and Health for his decision. The Assistant Secretary may adopt the proposals with or without changes, or determine not to issue a rule.

Under the authority of section 6(b)(1) and section 7(b) of the Act, the Assistant Secretary of Labor for Occupational Safety and Health will request the recommendations of an advisory committee with regard to the proposed rules. The committee will be provided with copies of these proposals, together with all pertinent factual information which is, or may become, available to the Assistant Secretary, including any information submitted by the National Institute for Occupational Safety and Health. The advisory committee will be

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asked to submit to the Assistant Secretary written recommendations regarding these proposed rules within 45 days after the publication of this notice. The recommendations will be available for public inspection and copying. No other advisory committee will be consulted with regard to these proposed rules.

Part 1910 of Title 29 of the Code of Federal Regulations is proposed to be amended as follows:

§ 1910.93 [Amended]

1. Table G–3 in § 1910.93 (36 F.R. 15104, August 13, 1971) is proposed to be amended by deleting the following:

Asbestos—12 fibers per milliliter greater than 5 microns in length or * * * 2 Mppcf.

Tremolite * * * 5 Mppcf. $\frac{20\ mg./M^3}{\%SiO_2}$

If so amended, Table G–3 would read as follows:

TABLE G 3 -MINERAL DUSTS

Substance	Mppcf	Mg/M³
Silica:		
Crystalline:		
Quartz (respirable)	250 [1]	10mg/M³ [2]
	%SiO₂+5	%SiO₂+2
Quartz (total dust)		30mg/M³
		%SiO₂+2
Cristobalite: Use ½ the value calculated from the count or mass formulae for quartz.		
Tridymite: Use ½ the value calculated from the formulae for quartz.		
Amorphous, including natural diatomaceous earth	20	80mg/M³
		%SiO₂
Silicates (less than 1% crystalline silica):		
Mica	20	
Soapstone	20	
Talc	20	
Portland cement	50	
Graphite (natural)	15	
Coal dust (respirable fraction less than 5% SiO₂)		2.4mg/M³ or 10mg/M³
For more than 5% SiO₂		%SiO₂+2
Inert or Nuisance Dust:		
Respirable fraction	15	5mg/M³
Total dust	50	15mg/M³

NOTE: Conversion factors—
mppcf×35.3=million particles per cubic meter
=particles per c.c.

[1] Millions of particles per cubic foot of air, based on impinger samples counted by light-field technics.

[2] The percentage of crystalline silica in the formula is the amount determined from air-borne samples, except in those instances in which other methods have been shown to be applicable.

[3] As determined by the membrane filter method at 430× phase contrast magnification.

[4] Both concentration and percent quartz for the application of this limit are to be determined from the fraction passing a size-selector with the following characteristics.

Aerodynamic diameter (unit density sphere)	Percent passing selector
2	90
2.5	75
3.5	50
5.0	25
10	0

The measurements under this note refer to the use of an AEC instrument. If the respirable fraction of coal dust is determined with a MRE the figure corresponding to that of 2.4 Mg/M³ in the table for coal dust is 4.6 Mg/M³.

2. A new § 1910.93a is proposed to be added to Part 1910, reading as follows:

§ 1910.93a Asbestos dust.

(a) *8-hour time-weighted average.* The 8-hour time-weighted average airborne concentration of asbestos dust to which employees are exposed shall not exceed 5 fibers longer than 5 microns per milliliter, as determined by the membrane filter method at 400–450 × (magnification) (4 millimeter objective) phase contrast illumination. Concentrations above 5 fibers per milliliter, but not to exceed 10 fibers per milliliter, may be permitted up to a total of 15 minutes in an hour, but for not more than 5 hours in an 8-hour day.

(b) *Methods of compliance*—(1) *Engineering methods.* Engineering methods, such as, but not limited to, enclosure, vacuum sweeping, and local exhaust ventilation, shall be used to meet the exposure limits prescribed in paragraph (a) of this section. Where such engineering methods are not feasible, or do not reduce the concentrations below the limits prescribed in paragraph (a) of this section, respiratory protective devices shall be provided and used in accordance with subparagraph (2) of this paragraph.

(2) *Other methods.* (i) When the limits of exposure to asbestos dust prescribed in paragraph (a) of this section are exceeded, and engineering controls required by subparagraph (1) of this paragraph are not feasible or do not reduce the concentration of asbestos dust below the limits prescribed in paragraph (a) of this section, the employer shall require the use of respiratory protective devices. The selection of respiratory protective devices shall be limited to those specified in paragraph (c) of this section.

(ii) The employer shall require that each employee test his respiratory protective device before each use in order to insure a proper fit according to the manufacturer's instructions. The employer shall further provide for effective training or supervision of employees in the testing of respiratory protective devices for fit before their use.

(c) *Allowable respirators.* (1) When the 8-hour time-weighted average concentration of asbestos dust is projected to exceed 5 fibers longer than 5 microns per milliliter, but not to exceed 25 such fibers, and when a concentration over a period of 15 minutes exceeds 10 fibers longer than 5 microns per milliliter, but does not exceed 50 such fibers, a reusable or single use filter type respirator, operating with negative pressure during the inhalation phase of breathing, approved by the U.S. Bureau of Mines under the provisions of 30 CFR Part 14 (Bureau of Mines Schedule 21B), shall be used.

(2) When the 8-hour time-weighted average concentration of asbestos dust is projected to exceed 25 fibers longer than 5 microns per milliliter but not to exceed 250 such fibers, and when a concentration over a period of 15 minutes exceeds 50 fibers longer than 5 microns per milliliter but does not exceed 500 such fibers, a powered filter positive pressure respirator approved by the U.S. Bureau of Mines under the provisions of 30 CFR Part 14 (Bureau of Mines Schedule 21B) shall be used.

(3) When the 8-hour time-weighted average concentration of asbestos dust is projected to exceed 250 fibers longer than 5 microns per milliliter a type "C" positive pressure supplied-air respirator approved by the U.S. Bureau of Mines under the provisions of 30 CFR Part 12 (Bureau of Mines Schedule 19B) shall be used.

(4) The employer shall establish a respirator program in accordance with the requirements of American National Standard Practice for Respiratory Protection Z88.2—1969.

(5) The respirators provided each employee shall be properly inspected, cleaned, repaired, and stored.

(d) *Particular operations and products.* (1) When an employer has employees who are exposed to asbestos dust resulting from the operations or the use of tools described in the remaining subparagraphs of this paragraph (d), the employer shall comply with the requirements of this paragraph. The requirements of this paragraph shall apply at all times, and, in addition, the requirements of paragraph (b) of this section may also apply, according to the terms thereof.

(2) All hand- or power-operated tools which produce asbestos dust such as, but not limited to, saws, scorers, abrasive wheels, and drills, shall be provided with local exhaust ventilation and dust collectors in accordance with the American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems: ANSI Z9.2—1971.

(3) Employees exposed to the spraying of asbestos, to the demolition of pipes, structures, or equipment covered or insulated with asbestos, or to the demolition of insulating strippings, shall be provided with respiratory protective devices in accordance with paragraph (c)(3) of this section.

(4) Asbestos cement, mortar, coatings, grout, and plaster shall be mixed in closed bags or other closed containers.

(5) Asbestos waste and scrap shall be collected and disposed of in sealed bags or other closed containers.

(6) Accumulation of asbestos dust shall be removed, as soon as practicable, and only by vacuum cleaners.

(e) *Warning signs*—(1) *Posting.* Warning signs shall be provided and displayed at each location where asbestos dust hazards are present. Signs shall be posted at least 50 feet in each direction from the location where the hazard is present, and at intervals of not more than 100 feet along each edge of the area where the hazard is present.

(2) *Sign specifications.* The warning signs shall conform to the requirements for 20" x 14" vertical format signs specified in § 1910.145(d)(2), and to this paragraph. The signs shall display the following legend in the white panel, with

letter sizes and styles of a visibility at least equal to that specified in the notation in the following column to the right:

Legend:	Notation
Asbestos	1" Sans Serif Gothic or Block.
Dust Hazard	¾" Sans Serif Gothic or Block.
Follow these	¼" Gothic.
Safety and Health Rules.	¾" Sans Serif Gothic or Block.
1. Avoid breathing dust.	¼" Gothic.
2. Wear your respirator.	¼" Gothic.
3. Do not remain in area unless your work requires it.	¼" Gothic.
Asbestos dust may cause asbestosis, a severe lung disease, and is implicated in the development of certain cancers. Control of exposure to asbestos dust helps protect against these hazards.	14 point Gothic.

(3) *Spacing.* Spacing between lines shall be at least equal to the height of the upper of any two lines, except that the spacing between "Following these" and "Safety and Health Rules" shall be at least ¾".

(f) *Monitoring*—(1) *Personal.* Employees engaged in the particular operations or using the particular tools specified in paragraph (d) of this section, or exposed to concentrations of asbestos dust in excess of the limits specified in paragraph (c)(3) of this section shall be monitored in accordance with this paragraph.

(i) *Method.* Dust samples shall be collected from within the normal breathing zone of the employees in their normal working posture. Employees wearing respiratory protective devices shall have the sample taken from a point located on the exterior of the respirator facepiece.

(ii) *Procedure.* The sampling procedure shall be such as to permit the determinations required by paragraph (a) of this section.

(iii) *Sampling duration.* The sampling duration shall be for a period of not less than 15 consecutive minutes.

(iv) *Sampling frequency.* Sampling periods shall be of such number and pattern as to represent accurately the exposure of the employees over their working period.

(2) *Environmental.* Environmental monitoring shall be conducted in all areas in which employees are exposed to concentrations of asbestos dust in excess of the limits specified in paragraph (a) of this section.

(i) *Method.* Asbestos dust samples shall be collected from areas which are representative of the concentration of airborne asbestos dust which may reach the breathing zone of exposed employees.

(ii) *Procedure.* Sampling procedure shall be such as to permit the determinations required by paragraph (a) of this section.

(iii) *Sampling duration.* Sampling duration shall be for a period of not less than 15 consecutive minutes.

(iv) *Sampling frequency.* Sampling periods shall be of such number and pattern as to represent accurately the exposure of the employees over their working period.

(g) *Medical examinations.* The employer shall provide, or make available at his cost, appropriate medical examinations on a periodic basis to any employee who is exposed to asbestos dust in excess of the limits specified in paragraph (a) of this section.

(h) *Records.* (1) Every employer shall maintain records of the personal and environmental monitoring, and of the medical examinations, required by paragraphs (f) and (g) of this section. Such records shall be maintained for at least 20 years.

(2) The records of monitoring shall be made available for inspection and copying to the Secretary of Labor and to his designated representatives.

(3) The records of medical examinations shall be made available only to the Secretary of Labor, to the Secretary of Health, Education and Welfare, to designated representatives of either of them, and, at the request of the employee or former employee examined, to his physician.

3. A new § 1910.19 is proposed to be added to Subpart B, reading as follows:

§ 1910.19 Asbestos dust.

Section 1910.93a shall apply to the exposure of every employee to asbestos dust in every employment and place of employment covered by § 1910.12, 1910.13, 1910.14, 1910.15, or 1910.16 of this Subpart B, in lieu of any different standard on exposure to asbestos dust which would otherwise be applicable by virtue of any of those sections.

(Sec. 6, 84 Stat. 1593; 29 U.S.C. 655, 29 CFR 1910.4; Secretary of Labor's Order No. 12–71, 36 F.R. 8754)

Signed at Washington, D.C., this 6th day of January 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72–402 Filed 1–11–72;8:45 am]

PLAINTIFF'S EXHIBIT

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Proposed Rule Making

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

STANDARD FOR EXPOSURE TO ASBESTOS DUST

Supplement to Notice of Proposed Rule Making

On January 12, 1972, notice of proposed rule making was published in the FEDERAL REGISTER at page 466 concerning proposed occupational standards dealing with exposure of employees to asbestos dust. The notice is supplemented as follows.

The National Institute for Occupational Safety and Health has filed with the Secretary of Labor "Criteria for a Recommended Standard on Occupational Exposure to Asbestos." The above-captioned document will be submitted for inclusion in the record of the proceeding. Copies of the document are available for public inspection and copying during normal business hours in the national office of the Occupational Safety and Health Administration, Office of Standards, Room 305, 400 First Street NW., Washington, DC 20210, and also in the various regional offices of the Administration.

Signed at Washington, D.C., this 22d day of February 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-2816 Filed 2-24-72;8:49 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 201, 204, 205, and 260]

[Docket No. R-435]

NET REALIZABLE VALUE OF HYDROCARBON RESERVES

Uniform System of Accounts; Notice of Extension of Time

FEBRUARY 18, 1972.

Revisions in Uniform Systems of Accounts for Natural Gas Companies (Classes A, B, C, and D) and Annual Report Form No. 2 to provide that the determination of natural gas reserves on acreage acquired after October 7, 1969, shall be made and attested to by independent appraisers, to disclose the net realizable value and related costs of hydrocarbon reserves, and to eliminate an allowance for equity funds on exploration incurred on or related to acreage acquired after October 7, 1969.

On February 15, 1972, the Independent Natural Gas Association of America filed a request for an extension of time to and including March 21, 1972, within which to file comments in the above-designated matter.

Upon consideration, notice is hereby given that the time is extended to and including March 21, 1972, within which any interested person may submit data, views, comments or suggestions concerning the notice of proposed rule making issued on January 5, 1972.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-2794 Filed 2-24-72;8:51 am]

[18 CFR Part 260]

[Docket No. R-308]

GAS PIPELINES COMPANIES

Total Gas Supply; Notice of Postponement of Conference Regarding Annual Report FPC Form No. 15

FEBRUARY 18, 1972.

On February 11, 1972, the American Gas Association filed a request for a postponement of the conference scheduled for March 14, 1972, by notice issued February 7, 1972, in the above-designated matter.

Upon consideration, notice is hereby given that the conference in the above-designated matter is postponed to March 21, 1972, at 10 a.m., in a hearing room (to be posted) of the Federal Power Commission, 441 G Street NW., Washington, DC.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-2796 Filed 2-24-72;8:51 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 240, 249]

[Release 34-9496; File No. S7-428]

NEW YORK STOCK EXCHANGE PLAN

Report of Income and Expenses

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to amend Rule 17a-10 (17 CFR 240.17a-10) under the Securities Exchange Act of 1934 (the Act). The action would be taken under the provisions of the Act, and particularly sections 17(a) and 23(a) thereof.

Rule 17a-10 requires every member of a national securities exchange and every section 15 of the Act to file each year with the Commission a report of his income and expenses and related financial and other information on Form X-17A-10 (17 CFR 249.618).

Paragraph (b) of Rule 17a-10 presently provides that a national securities exchange or a registered national securities association may submit to the Commission a plan providing for reports from its members on forms consistent with Form X-17A-10, and for the transmission to the Commission of copies of such reports. Such a plan may also provide that, in transmitting copies of such records to the Commission, the names and addresses of members whose information is transmitted may be omitted. The Commission, in declaring any such plan effective, may impose such terms and conditions relating to the provisions of the plan and the period of its effectiveness as may be deemed necessary or appropriate in the public interest, for the protection of investors, or to carry out the Commission's duties under the Act. Upon Commission approval of such a plan, the members of the exchange or association which submitted the plan are to file their reports directly with the association or exchange in accordance with the plan and not with the Commission. The National Association of Securities Dealers, Inc. and the American, Midwest, New York and Philadelphia-Baltimore-Washington Stock Exchanges have qualified plans pursuant to paragraph (b).

Since the adoption of that rule in June 1938, many important developments (such as the Commission's hearings relating to commission rates and other matters, the operations and back office crisis of 1968, the failure of numerous broker-dealers because of financial difficulties, the adoption of the Securities Investor Protection Act of 1970 and the "Study on Unsafe and Unsound Practices of Brokers and Dealers" submitted to Congress on December 23, 1971) have taken place. In light of these developments and the experience accumulated by the Commission during that period, the Commission believes that it should receive Form X-17A-10 reports from organizations that have qualified a plan pursuant to paragraph (b) of Rule 17a-10 on an identified basis so that it can more effectively carry out its regulatory responsibilities in the future. Accordingly, the Commission proposes to amend paragraph (b) of Rule 17a-10 by deleting the wording in that paragraph which permits a plan to provide that in transmitting copies of Form X-17A-10 reports to the Commission, a self-regulatory organization may omit the names and addresses of members as to whom such information is transmitted.