

sponsible for promulgating and enforcing occupational safety and health standards and deciding contested cases, subject to judicial review.

(b) The State program will protect all employees within the State, including those employed by the State and its political subdivisions. Public employees are to be granted the same protections as are afforded employees in the private sector. The State plan does not cover employees of the Federal government or those employees whose working conditions are regulated by Federal agencies other than the United States Department of Labor.

(c) The Wyoming Occupational Health and Safety Act gives the State agency full authority to administer and to enforce all laws, rules, and orders protecting employee safety and health in all places of employment in the State. The legislation provides employer and employee representatives an opportunity to accompany inspectors before or during the physical inspection of any workplace for the purpose of aiding such inspection; adequate safeguards to protect trade secrets; effective sanctions against employers; protection of employees against discharge or discrimination; procedures for prompt restraint or elimination of imminent danger situations; the right to review by employers and employees of alleged violations, abatement periods and proposed penalties; and prompt notice to employers and employees of alleged violations of standards and abatement requirements.

(d) Administrative regulations include procedures for permanent and temporary variances; notice to employees or their representatives when no compliance action is taken as a result of a complaint, including procedures for informal review; information to employees on hazards, precautions, symptoms and emergency treatment; and training and education programs for employers and employees, including an on-site consultation program consistent with the criteria set out in the Washington Plan decision (38 FR 2421).

(e) The State intends to promulgate Federal standards covering all of the issues contained in Parts 1910 and 1926 of this chapter but will not cover those found in Parts 1915, 1916, 1917, and 1918 of this chapter (ship repairing, ship building, ship breaking, and longshoring). The State also plans to adopt additional vertical standards relating to oil well drilling and servicing not provided by the Federal program. Future Federal standards shall be promulgated by the State within six months after promulgation by the Secretary of Labor. In the case of product standards the State has provided assurances that any State product standards will be required by compelling local conditions and will not unduly burden interstate commerce.

(f) The plan sets out goals and provides a timetable for bringing it into full conformity with Part 1902 of this chapter. All personnel employed to carry out the plan are to be hired under the Wyoming Personnel Merit System which

conforms to standards established by the United States Civil Service Commission. The plan also contains a detailed description of the resources that are to be devoted to it.

§ 1953.341 Where the plan may be inspected.

A copy of the plan may be inspected and copied during normal business hours at the following locations: U.S. Department of Labor, Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room 800, 1726 M Street, NW., Washington, D.C. 20210; Assistant Regional Director, Occupational Safety and Health Administration, U.S. Department of Labor, P.O. Box 3588, Federal Building, 1961 Stout Street, Denver, Colorado 80202; and the Occupational Health and Safety Department, 200 East 8th Avenue, P.O. Box 2186, Cheyenne, Wyoming 82001.

§ 1953.342 Level of Federal enforcement.

Pursuant to § 1902.20(b) (1) (iii) of this chapter, the present level of Federal enforcement in Wyoming will not be diminished. Among other things, the United States Department of Labor will continue to investigate catastrophes and fatalities, investigate valid complaints under section 8(f) of the Occupational Safety and Health Act of 1970, continue its target industry and target health programs and inspect a cross section of all industries on a random basis at least until standards are promulgated, the Wyoming Administrative Procedure Act and the Fair Employment Practices Act are amended and administrative regulations are adopted. Therefore, Federal enforcement activity will continue to the degree necessary to assure occupational safety and health protection to employees in the State of Wyoming, and evaluation of the State plan as implemented, will be made on a continuing basis to assess the appropriate level of Federal enforcement activity.

§ 1952.343 Developmental schedule.

(a) Adoption of Federal standards as State standards by February 1975.

(b) Administrative regulations for recordkeeping and reporting, variances, posting requirements, employee complaint procedures, inspections under the Act, employee exposure to toxic materials, providing information to employees on their exposure to hazards, personal protective equipment, medical examinations, and monitoring, safeguarding trade secrets, administrative review of citations, proposed penalties, and abatement periods, to become effective by June 1, 1974.

(c) Amendments to the Wyoming Administrative Procedure Act to be submitted to the State Legislature January 1975 and to become effective by May 1, 1975.

(d) Management Information System to be completed August 1, 1974.

(e) Merit staffing for administration of the program to be completed by August 15, 1974.

(f) Am. State's Fair
Employee to be sub-
mitted to the State Legislature which
convenes January 14, 1975.

Signed at Washington, D.C., this 25th day of April 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc. 74-10206 Filed 5-2-74; 8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES Additions and Miscellaneous Amendments

Correction

In FR Doc. 74-4784 appearing at page 9307 as the Part II of the issue of Friday, March 8, 1974, and corrected on page 13776 in the issue of Wednesday, April 17, 1974, on page 13776, "paragraph c." should read as follows:

c. The formula in paragraph (d) should read as follows:

(d) Particulate emission rate shall be determined by:

$C_e = C_s Q_s$ (Metric or English Units)

where:

C_e = Particulate matter mass emissions,

mg/hr (English units: lb/hr).

C_s = Particulate matter concentration,

mg/m³ (English units: lb/dscf).

Q_s = Volumetric stack gas flow rate,

dscm/hr (English units: dscf/hr).

Q_s and C_s shall be determined using Methods 2 and 5, respectively.

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Asbestos, Beryllium, and Mercury

Pursuant to section 112 of the Clean Air Act, as amended (42 U.S.C. 1857c-7), the Administrator of the Environmental Protection Agency promulgated national emission standards for the hazardous air pollutants asbestos, beryllium, and mercury on April 6, 1973 (38 FR 8820). The subsequent enforcement of these regulations has demonstrated a need for the clarifying revisions which follow. These revisions are necessary to advise the public of how the regulations are being interpreted in Agency enforcement activities. The revisions promulgated herein do not alter the stringency of the regulations.

A change to Subpart A, General Provisions, which applies to all affected sources, is promulgated. The definition of "alternative method" is revised to indicate more clearly that it is not a "reference method" or "equivalent method" and to make the definition consistent with that used in 40 CFR Part 60, Standards of Performance for New Stationary Sources.

The applicability of the asbestos regulation is discussed in the following documents which are available on request from the Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Mr. Don R. Goodwin:

1. Preamble to the proposed regulation (38 FR 23239)
2. Background information document for the proposed regulation (APTD-0753)
3. Preamble to the promulgated regulation (38 FR 8820)
4. Background information document for the promulgated regulation (APTD-1503)

Comments from the owners or operators of affected sources and from Agency regional enforcement personnel have indicated, however, that the intent should be specifically expressed in the text of the regulation. Considering this, the Agency determined that the text of the promulgated regulation should be revised and four definitions are added to clarify the applicability of 40 CFR Part 61, Subpart B, National Emission Standard for Asbestos.

The definition of "commercial asbestos" is added to distinguish between asbestos that is produced as a product and asbestos that occurs as a contaminant ingredient in other materials, and to make it clear that materials that contain asbestos as a contaminant only are not covered. Questions were raised concerning the applicability of the standard to manufacturing operations that use talc and vermiculite. As indicated on page 6 of the background information report for the proposed standards (APTD-0753), talc mines were not covered by the proposed standards; this was also intended to indicate that manufacturing operations that use talc or other materials contaminated with asbestos were not covered by the asbestos standard. In addition, the information available to the Agency at the time of promulgation (April 6, 1973) did not demonstrate that the mining and milling of such materials or manufacturing operations using such materials were major sources of asbestos emissions. The Department of the Interior and the Department of Health, Education and Welfare are studying the health effects of asbestos in talc. The revisions promulgated herein merely clarify the regulations promulgated April 6, 1973, and do not involve prejudgments concerning the outcome of investigations now underway.

Asbestos is also a contaminant in taconite ore. EPA at this time believes that asbestos releases from the milling of such ores should be covered by the hazardous air pollutant regulations and intends in the near future to propose for comment regulations which would accomplish this. Because the revisions here being promulgated are only clarifications of the Agency's intentions at the time the initial hazardous air pollutant regulations for asbestos were published and because they are not being proposed for comment, EPA believes that it is not appropriate to include restrictions on releases of asbestos

from taconite milling operations in these revisions.

The regulation promulgated on April 6, 1973, did not include a definition for "asbestos mill" or "manufacturing" operation, and questions arose concerning whether certain operations at these facilities are covered by the regulation, and whether the regulation applies to all milling and manufacturing operations that process ore or materials that contain asbestos. The definition of "asbestos mill" is added to clarify that the regulation covers ore crushing and conveying of asbestos tailings to disposal piles but does not cover open storage areas and asbestos tailings disposal piles. This was explained in the preamble to the promulgated regulations (38 FR 8821) and on pages 30 and 31 of the background information report (APTD-1503). The definition excludes the milling of ores that contain asbestos minerals only as a contaminant as previously discussed under the definition of "commercial asbestos." As noted earlier, the Agency intends to propose regulations covering taconite milling operations.

The definition of "manufacturing" is added to clarify that the regulation applies to only those sources within the specified categories of affected manufacturing facilities that process commercial asbestos into a product. Operations which process (cut, shape, assemble, mix, or otherwise alter) a manufactured product that contains commercial asbestos at a separate location are not intended to be covered by the regulation, and are classified as fabricating rather than manufacturing operations. The information available to EPA prior to promulgation was that new construction sites were the only major sources of asbestos emissions from fabrication operations and that these sources were adequately regulated by Occupational Safety and Health Administration standards. This was explained in the preamble to the promulgated regulation (38 FR 8821) and on page 32 of the background information report (APTD-1503).

Some questions have arisen concerning what operations constitute demolition. The definition of "demolition" is added to clarify that demolition occurs only in situations where load-supporting structural members are wrecked or removed. Accordingly, the standard does not apply to remodeling and renovation operations in which load-supporting structural members are not wrecked.

The time allowed owners or operators to notify the Administrator prior to commencement of a demolition operation is changed from 20 days to 10 days, and the time basis for the notification is clarified to be the postmark date of the notice. Experience has shown that 20 days' notice is not necessary to provide sufficient time for effective enforcement of the regulation, and the shorter time will be more convenient to demolition contractors.

Some questions have arisen concerning whether all of the friable asbestos ma-

terials on pipes, boilers, or load-supporting structural members had to be wetted and stripped off prior to demolition. The wording in § 61.22(d)(2)(i) of the promulgated regulation states that the friable asbestos material has to be removed, but does not specify the procedure to be used. A statement is added to clarify that it is not necessary for friable asbestos material to be removed or stripped from boilers, pipes, or load-supporting structural members prior to the removal of these items as units or in sections, provided that the asbestos material exposed during removal is wetted. As required in § 61.22(d)(2)(iii), such units or sections must subsequently be carefully lowered or taken to the ground level.

A paragraph is added to clarify that the regulation is not violated when uncombined water is the sole reason a source fails to meet the no-visible-emissions requirement. This makes the no-visible-emissions regulation consistent with other similar Agency regulations.

The Agency is presently studying the extent of asbestos emission from dumps of asbestos tailings and open storage of asbestos ores, disposal of asbestos waste material, and asbestos fabricating operations. Beryllium and mercury emissions resulting from the incineration of sewage sludge are also being studied. These investigations are nearing completion and the Agency will determine whether it is necessary to regulate these sources of hazardous pollutants to provide an ample margin of safety to protect the public health. The revisions to the regulations promulgated herein merely clarify the regulations promulgated April 6, 1973, and do not preclude subsequent revisions to the regulations as indicated by the studies described above.

The Agency finds that good cause exists for not proposing these revisions and for making them effective upon publication since (1) the revisions make certain clarifications, but do not change the substance of the national emission standards for asbestos, beryllium, and mercury; and (2) there is a pressing need to promulgate these revisions so that the asbestos standard can be uniformly interpreted by industry personnel and enforced by the Agency. Therefore, the Administrator has determined that it is unnecessary to publish a notice of proposed rulemaking or delay the effective date of this amendment and for the reasons cited has not done so.

The amendment of these regulations is promulgated pursuant to section 112 of the Clean Air Act, as amended (42 U.S.C. 1857c-7), and is effective upon promulgation.

Dated: April 29, 1974.

JOHN QUARLES,
Acting Administrator.

Part 61, Chapter I, Title 40, Code of Federal Regulations is amended by revising Subparts A and B as follows:

Subpart A—General Provisions

1. Section 61.02 is amended by revising paragraph (c) to read as follows:

§ 61.02 Definitions.

(c) "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference method or an equivalent method but which has been demonstrated to the Administrator's satisfaction to produce, in specific cases, results adequate for his determination of compliance.

Subpart B—National Emission Standard for Asbestos

2. Section 61.21 is amended by adding paragraphs (g), (h), (i), and (j). The added paragraphs read as follows:

§ 61.21 Definitions.

(g) "Asbestos mill" means any facility engaged in the conversion or any intermediate step in the conversion of asbestos ore into commercial asbestos. Outside storage of asbestos materials is not considered a part of such facility.

(h) "Commercial asbestos" means any variety of asbestos which is produced by extracting asbestos from asbestos ore.

(i) "Manufacturing" means the combining of commercial asbestos, or in the case of woven friction products the combining of textiles containing commercial asbestos, with any other material(s), including commercial asbestos, and the processing of this combination into a product as specified in § 61.22(c).

(j) "Demolition" means the wrecking or removal of any load-supporting structural member.

3. Section 61.22 is amended by revising paragraphs (a), (d) (1), (d) (2) (i), and (d) (4), and by adding paragraph (g). The revised and added paragraphs read as follows:

§ 61.22 Emission standard.

(a) Asbestos mills: There shall be no visible emissions to the outside air from any asbestos mill except as provided in paragraph (f) of this section.

(d) . . .

(1) Written notice of intention to demolish shall be provided to the Administrator by the owner or operator of the demolition operation. Such notice shall be postmarked at least 10 days prior to commencement of such demolition, or anytime prior to commencement of demolition subject to paragraph (d) (4) of this section. Such notice shall include the following information:

- (i) Name of owner or operator.
- (ii) Address of owner or operator.
- (iii) Description of the building, structure, facility, or installation to be demolished.
- (iv) Address or location of the building, structure, facility or installation.
- (v) Scheduled starting and completion dates of demolition.
- (vi) Method of demolition to be employed.

(vii) Procedures to be employed to meet the requirements of this paragraph.

(2) . . .

(1) Friable asbestos materials, used to insulate or fireproof any boiler, pipe, or load-supporting structural member, shall be wetted and removed from any building, structure, facility, or installation subject to this paragraph before wrecking of load-supporting structural members is commenced. Boilers, pipe, or load-supporting structural members that are insulated or fireproofed with friable asbestos materials may be removed as units or in sections without stripping or wetting, except that where the boiler, pipe, or load-supporting structural member is cut or disjointed, the exposed friable asbestos materials shall be wetted. Friable asbestos debris shall be wetted adequately to insure that such debris remains wet during all stages of demolition and related handling operations.

(4) Any owner or operator of a demolition operation who intends to demolish a building, structure, facility, or installation to which the provisions of this paragraph would be applicable but which has been declared by proper State or local authority to be structurally unsound and which is in danger of imminent collapse is exempt from the requirements of this paragraph other than the reporting requirements specified by paragraph (d) (1) of this section and the wetting of friable asbestos debris as specified by paragraph (d) (2) (i) of this section.

(g) Where the presence of uncombined water is the sole reason for failure to meet the no-visible-emission requirement of paragraphs (a), (c), or (e) of this section, such failure shall not be a violation of such emission requirements.

[FR Doc. 74-10262 Filed 5-2-74; 8:45 am]

SUBCHAPTER D—WATER PROGRAMS**PART 108—EMPLOYEE PROTECTION HEARINGS****Establishment of Procedures; Correction**

On page 12865 of the FEDERAL REGISTER of Tuesday, April 9, 1974, there appeared a notice adopting, with changes, regulations proposed on November 23, 1973 (38 FR 32268). Only § 108.3 and 108.4 of the proposed regulations were changed; these sections were set forth in the notice of adoption. However, §§ 108.1, 108.2, 108.5, 108.6, and 108.7 should have been reprinted at the same time. This notice corrects the notice of April 9 by reprinting the text of the entire regulation as promulgated.

Dated: April 29, 1974.

JOHN QUARLES,
Acting Administrator.

Sec.	
108.1	Applicability.
108.2	Definitions.
108.3	Request for investigation.
108.4	Investigation by Regional Administrator.
108.5	Procedure.
108.6	Recommendations.
108.7	Hearing before Administrator.

AUTHORITY: Sec. 507(e), Pub. L. 92-500, 86 Stat. 816 (33 U.S.C. 1251 et seq.).

§ 108.1 Applicability.

This part shall be applicable to investigations and hearings required by section 507(e) of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. (Pub. L. 92-500).

§ 108.2 Definitions.

As used in this part, the term:

(a) "Act" means the Federal Water Pollution Control Act, as amended;

(b) "Effluent limitation" means any effluent limitation which is established as a condition of a permit issued or proposed to be issued by a State or by the Environmental Protection Agency pursuant to section 402 of the Act; any toxic or pretreatment effluent standard established under section 307 of the Act; any standard of performance established under section 306 of the Act; and any effluent limitation established under section 302, section 316, or section 318 of the Act.

(c) "Order" means any order issued by the Administrator under section 309 of the Act; any order issued by a State to secure compliance with a permit, or condition thereof, issued under a program approved pursuant to section 402 of the Act; or any order issued by a court in an action brought pursuant to section 309 or section 505 of the Act.

(d) "Party" means an employee filing a request under § 108.3, any employee similarly situated, the employer of any such employee, and the Regional Administrator or his designee.

(e) "Administrator" or "Regional Administrator" means the Administrator or a Regional Administrator of the Environmental Protection Agency.

§ 108.3 Request for investigation.

Any employee who is discharged or laid-off, threatened with discharge or lay-off, or otherwise discriminated against by any person because of the alleged results of any effluent limitation or order issued under the Act, or any representative of such employee, may submit a request for an investigation under this part to the Regional Administrator of the region in which such discrimination is alleged to have occurred.

§ 108.4 Investigation by Regional Administrator.

Upon receipt of any request meeting the requirements of § 108.3, the Regional Administrator shall conduct a full investigation of the matter, in order to determine whether the request may be related to an effluent limitation or order under the Act. Following the investigation, the Regional Administrator shall notify the employee requesting the investigation (or the employee's representative) and the employer of such employee, in writing, of his preliminary findings and conclusions. The employee, the representative of such employee, or the employer may within fifteen days following receipt of the preliminary findings and conclusions of the Regional Administrator request a hearing under this part. Upon receipt of such a request, the Regional Administrator, with