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

1. Federal Office Building - Room 734
234 Summit Street
Toledo, Ohio 43604

OSHO NO.	OSHA-1 NO	FY
M-6044	64	75
AREA	REGION	
8120	5	

TALC

CITATION

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

1. Federal Office Building - Room 734
234 Summit Street
Toledo, Ohio 43604

OSHO NO.	OSHA-1 NO	FY
M-6044	64	75
AREA	REGION	
8120	5	

TO:
2. Mr. Richard Hampel, Plant Manager
Borg Warner Corporation-Plumbing Prod. Div.
1723 W. Fourth Street
Mansfield, Ohio 44906

3. Date October 8, 1974
THERE IS NO REQUIREMENT THAT THIS NOTIFICATION BE POSTED.

TO: 2. Borg Warner Corp.-Plumbing Prod. Division
1723 W. Fourth Street

8. Citation Number 1

4. Page 1 of 8. 2

NOTIFICATION OF PROPOSED PENALTY

This notification and the penalty(ies) proposed by the Secretary of Labor shall be deemed to be the final order of the Occupational Safety and Health Review Commission (*an independent agency with authority to review decisions respecting citations and proposed penalties*) and not subject to review by any court or agency unless, within 15 working days from the date of receipt of this notification, you submit a letter of contest. The letter of contest should be mailed or otherwise delivered to the Area Director named below at the address shown on the top of this notification. If no notice of contest is filed within the 15 working day period the proposed penalty(ies) becomes final and is immediately payable.

Payment of all penalties shown is to be made by check or money order payable to the order of "Occupational Safety and Health-Labor". Payment of penalties should be remitted to the Area Director at the address shown above.

Section 17(1) of the Act states: "Civil penalties owed under this Act shall be paid into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil action in the name of the United States brought in the United States district court for the district where the violation is alleged to have occurred or where the employer has its principal office."

4. On the 8th day of October, 1974, a citation(s) was issued to you in accordance with the provisions of Section 9(a) of the Occupational Safety and Health Act of 1970 (84 Stat. 1601; 29 U.S.C. 651, *et seq.*) hereinafter referred to as the Act. You were thus notified of certain alleged violations of the Act, as specified in that citation(s).

YOU ARE HEREBY NOTIFIED that pursuant to the provisions of Section 10(a) of the Act, the penalty(ies) set forth below is/ are being proposed, based on the citation(s).

5. Serious VIOLATIONS

5A. Citation No.	5B. Item No.	5C. Proposed Penalty
2	1)	
	2)	
	3)	
	4)	$600.00
	5)	
	6)	
	7)	
	8)	

6. Non-serious VIOLATIONS

6A. Citation No.	6B. Item No.	6C. Proposed Penalty
1	1	NONE
	2	$30.00
	3	$60.00
	4	NONE

7. Total Proposed Penalty for All Alleged Violations $690.00

Area Director: [signature] Date: October 8, 19 74

The proposed penalty for Nonserious Violations of safety and health standards reflects a 50 percent adjustment factor for corrective action to be taken within the period prescribed in the citation. If a particular alleged violation is not corrected within this period, the 50 percent adjustment will be added to such other penalty as may subsequently be proposed for failure to correct a violation within the abatement period. No abatement credit is allowed for violations of recordkeeping or posting requirements.

6. TYPE OF ALLEGED VIOLATION(S): Non-serious

7. An inspection was made on July 9, 1974 of a place of employment located at:

8. 1723 W. Fourth St., Mansfield, Ohio 44906 and described as follows:

9. Buildings of 300,000 sq. ft., housing a plumbing products manufacturing facility

On the basis of the inspection it is alleged that you have violated the *Occupational Safety and Health Act of 1970, 29 U.S.C. 651 et seq.*, in the following respects:

1. Item number	11. Standard, regulation or section of the Act allegedly violated	12. Description of alleged violation	13. Date by which alleged violation must be corrected
1	29 CFR Section 1910.95 (b) (1)	Employees were subjected to sound exceeding permissible noise exposures of Table G-16 in the following location: The glaze spray department.	Submit an acceptable progressive plan for feasible engineering or *administrative* controls by 1-10-75 ==== Final Abatement 10-12-76)
2	29 CFR Section 1910.95 (b) (3)	The use of hearing protection was not enforced in the glaze spray department. A formal plan for feasible engineering or administrative controls has not been submitted to OSHA.	10-24-74
3	29 CFR Section 1910.93 (c)	Concentrations of airborne dust were in excess of the 8-hour time weighted average in the raw materials batching area, the glaze spraying area, and the tank line dusting area.	Submit an acceptable progressive plan for feasible engineering or administrative controls by 1-10-75 ==== Final Abatement Date 10-12-77

The law requires that a copy of this citation shall be prominently posted in a conspicuous place at or near each place that an alleged violation referred to in the citation occurred. The citation must remain posted until all alleged violations cited therein are corrected, or for 3 working days*, whichever period is longer.

RIGHTS OF EMPLOYEES

Any employee or representative of employees who believes that any period of time fixed in this citation for the correction of a violation is unreasonable has the right to contest such time for correction by submitting a letter to the U.S. Department of Labor at the address shown above within 15 working days* of the issuance of this citation.

"No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act." Sec. 11(c)(1) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, 660(c)(1).

*Under the Occupational Safety and Health Act, the term "Working Day" means Mondays through Fridays but does not include Saturdays, Sundays, or Federal Holidays.

14.

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

OSHA NO.	FY
M-6044	74
AREA	REGION
8120	5

CERTIFIED NUMBER 476347
RETURN RECEIPT REQUESTED

11. Federal Office Building - Room 734
234 Summit Street
Toledo, Ohio 43604

TO:
2. Mr. Richard Hampel, Plant Manager
Borg Warner Corporation-Plumbing Prod. Div.
1723 W. Fourth Street
Mansfield, Ohio 44906

Subject: Citation(s) for Alleged Occupational Safety and Health Violation(s)

An inspection of a place of employment has revealed conditions which we believe do not comply with the provisions of the Occupational Safety and Health Act of 1970, (29 U.S.C. 651 *et seq.*). The nature of such alleged violation(s) is described in the enclosed citation(s) with references to applicable standards, rules, regulations and provisions of the said Act. These conditions must be corrected on or before the date shown to the right of each alleged violation therein.

The Act requires that a copy of the enclosed citation(s) be prominently posted "in a conspicuous place upon receipt" at or near each place a violation referred to in the citation occurred. It must remain posted until all violations cited therein are corrected, or for 3 working days*, whichever period is longer. A sufficient number of copies of the attached citation(s) should be prepared to permit posting in accordance with the requirements of the Act. The Act provides for penalties for violation of the posting requirements.

You are hereby notified, or will soon be notified, whether or not penalty(ies) will be proposed as a result of the cited violation(s). You have the right to contest any or all parts of either the citation(s) or the proposed penalty(ies) before the Occupational Safety and Health Review Commission. The Review Commission is an independent agency with authority to issue decisions regarding citation(s) and proposed penalty(ies). If you do contest, you should submit a letter to the Area Director at the address shown above within 15 working days* after receipt of the certified mail notice regarding proposed penalty(ies). If you fail to contest within the 15 working day period, the citation(s) and the penalty(ies) as proposed, shall be deemed to be a final order of the Review Commission and not subject to review by any court or agency.

If an employer contests the citation, the abatement period specified therein does not begin to run until the date of the Commission's final order in the case *PROVIDED* the employer initiated his contest in good faith and not solely for delay or avoidance of penalties.

You have a right to request a discussion with the Area Director concerning any results of the inspection (abatement dates, citations, penalties, etc.). Please direct correspondence to, or call, the Area Director at the address shown at the top of this letter. A request for an informal discussion cannot extend the 15 working day period allowed for filing a notice of contest. Therefore, a request for an informal discussion should be brought to the attention of the Area Director prior to the end of the 15 working days allowed for filing a notice of contest, preferably as soon as possible.

An employee or representative of employees may file a notice (letter) to contest the reasonableness of the time stated in the citation for the abatement of the alleged violation(s).

Alleged violations that are not contested shall be corrected within the abatement period specified in the citation. A followup inspection may be made for the purpose of ascertaining that the employer has posted the citation(s) as required by the Act and corrected the alleged violations. Failure to correct an alleged violation within the abatement period may result in further proposed penalties for each day the alleged violation has not been corrected. Timely correction of an alleged violation does not affect the initial proposed penalty.

Correction of alleged violations which have an abatement period of 30 days or less should be reported in writing to the Area Director promptly upon correction. Reports of corrections should show specific corrective action on each such alleged violation and the date of such action. On alleged violations having an abatement date of more than 30 days, a written progress report should be submitted each 30 days. The progress report should detail what has been done, what remains to be done, and the time needed to fully abate each such violation. When the alleged violation is fully abated, the Area Director should be so advised.

The Act provides that whoever knowingly gives false information is subject to a fine up to $10,000, imprisonment up to 6 months, or both.

If you wish additional information, you may direct such request to the undersigned at the address shown above.

*Under the Occupational Safety and Health Act, the term "Working Day" means Mondays through Fridays but does not include Saturdays, Sundays, or Federal Holidays

3. Citation(s) Enclosed

Quantity		Pages
1	Nonserious	2
2	Serious	2
	Willful and/or Repeated	

4. Notification of Proposed Penalty enclosed
(X) Yes ( ) No

U.S. Department of Labor
by Area Director

8. Glen L. Butler, CSP
Date October 8, 19 74

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

CITATION

OSHA NO.	FY
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11. Federal Office Building - Room 734
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TO: 2.
Borg Warner Corp.-Plumbing Prod. Division
1723 W. Fourth Street
Mansfield, Ohio 44906

3. Citation Number 1
4. Page 2 of 5. 2

6. TYPE OF ALLEGED VIOLATION(S): Non-serious

7. An inspection was made on July 9, 19 74 of a place of employment located at:
a. 1723 W. Fourth St., Mansfield, Ohio 44906 and described as follows:
b. Buildings of 300,000 sq.ft., housing a plumbing products manufacturing facility

On the basis of the inspection it is alleged that you have violated the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.*, in the following respects:

Item number	11. Standard, regulation or section of the Act allegedly violated	12. Description of alleged violation	13. Date by which alleged violation must be corrected
a	29 CFR Section 1910.93 (e)	Engineering controls were not in effect during the operations identified in Item #3. Respiratory protection shall be used until final abatement is achieved.	10-12-77

The law requires that a copy of this citation shall be prominently posted in a conspicuous place at or near each place that an alleged violation referred to in the citation occurred. The citation must remain posted until all alleged violations cited therein are corrected, or for 3 working days*, whichever period is longer.

RIGHTS OF EMPLOYEES

Any employee or representative of employees who believes that any period of time fixed in this citation for the correction of a violation is unreasonable has the right to contest such time for correction by submitting a letter to the U.S. Department of Labor at the address shown above within 15 working days* of the issuance of this citation.

"No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act." Sec. 11(c)(1) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, 660(c)(1).

*Under the Occupational Safety and Health Act, the term "Working Day" means Mondays through Fridays but does not include Saturdays, Sundays, or Federal Holidays.

14. Area Director's Signature Glen L. Butler Issuance Date October 8, 19 74

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1. Federal Office Building - Room 734
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CSHO NO.	OSHA-1 NO.	
H-6044	64	75
AREA	REGION	
8120	5	

2. TO:
Borg Warner Corp.-Plumbing Products Division
1723 W. Fourth Street
Mansfield, Ohio 44906

3. Citation Number 2

4. Page 1 of 5. 2

6. TYPE OF ALLEGED VIOLATION(S): Serious

7. An inspection was made on July 9, 1974 of a place of employment located at:

8. 1723 W. Fourth St., Mansfield, Ohio 44906 and described as follows:

9. Buildings of 300,000 sq.ft., housing a plumbing products manufacturing facility

On the basis of the inspection it is alleged that you have violated the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.*, in the following respects:

Item number	11. Standard, regulation or section of the Act allegedly violated	12. Description of alleged violation	13. Date by which alleged violation must be corrected
1	29 CFR Section 1910.93 a (b) (3)	Concentrations of airborne asbestos fibers in the employees breathing zone were in excess of ten (10) fibers, longer than five (5) micrometers, per cubic centimeter of air on the tank line.	11-12-74
2	29 CFR Section 1910.93 a (d) (1)	Respirators were being used to achieve compliance with the asbestos exposure standards in lieu of adequate engineering controls.	11-12-74
3	29 CFR Section 1910.93 a (g) (1) (i)	Caution signs were not provided and displayed at each location where airborne concentrations of asbestos fibers may be in excess of the exposure limits.	11-12-74
4	29 CFR Section 1910.93 a (d) (3)	Special clothing, such as coveralls or similar whole body clothing, head covering, gloves, and foot coverings were not provided and their use enforced for employees working in an area where the airborne concentration of asbestos fibers exceeded the ceiling level of ten (10) fibers, longer than five (5) micrometers, per cubic centimeter of air.	11-12-74
5	29 CFR Section 1910.93 a (d) (4) (i)	Change rooms were not provided for employees working regularly at a plant where airborne concentrations of asbestos fibers exceeded the exposure limits.	11-12-74
6	29 CFR Section 1910.93 a (d) (4) (ii)	Employer did not provide two (2) separate lockers or containers for each employee, so separated as to prevent contamination of the employees street clothes by his work clothes.	11-12-74

The law requires that a copy of this citation shall be prominently posted in a conspicuous place at or near each place that an alleged violation referred to in the citation occurred. The citation must remain posted until all alleged violations cited therein are corrected, or for 3 working days*, whichever period is longer.

RIGHTS OF EMPLOYEES

Any employee or representative of employees who believes that any period of time fixed in this citation for the correction of a violation is unreasonable has the right to contest such time for correction by submitting a letter to the U.S. Department of Labor at the address shown above within 15 working days* of the issuance of this citation.

"No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act." Sec. 11(c) (1) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, 660(c)(1).

*Under the Occupational Safety and Health Act, the term "Working Day" means Mondays through Fridays but does not include Saturdays, Sundays, or Federal Holidays

14. Area Director's Signature _____ Issuance Date October 8, 1974

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H-6044	64	75
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2. TO:
Borg Warner Corp.-Plumbing Products Division
1723 W. Fourth Street
Mansfield, Ohio 44906

3. Citation Number 2

4. Page 2 of 5. 2

6. TYPE OF ALLEGED VIOLATION(S): Serious

7. An inspection was made on July 9, 1974 of a place of employment located at:

8. 1723 W. Fourth St., Mansfield, Ohio 44906 and described as follows:

9. Buildings of 300,000 sq.ft., housing a plumbing products manufacturing facility

On the basis of the inspection it is alleged that you have violated the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.*, in the following respects:

Item number	11. Standard, regulation or section of the Act allegedly violated	12. Description of alleged violation	13. Date by which alleged violation must be corrected
7	29 CFR Section 1910.93 a (f)	Monitoring of the workplace environment was not carried out to determine if the airborne concentration of asbestos was above or below acceptable limits.	11-12-74
8	29 CFR Section 1910.93 a (j)	The employer did not make available, medical examinations, for employees relative to exposure to asbestos fibers. The combination of these factors constitutes a serious violation.	11-12-74

The law requires that a copy of this citation shall be prominently posted in a conspicuous place at or near each place that an alleged violation referred to in the citation occurred. The citation must remain posted until all alleged violations cited therein are corrected, or for 3 working days*, whichever period is longer.

RIGHTS OF EMPLOYEES

Any employee or representative of employees who believes that any period of time fixed in this citation for the correction of a violation is unreasonable has the right to contest such time for correction by submitting a letter to the U.S. Department of Labor at the address shown above within 15 working days* of the issuance of this citation.

"No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act." Sec. 11(c) (1) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, 660(c)(1).

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14. Area Director's Signature _____ Issuance Date October 8, 1974

Presentation By The R. T. Vanderbilt Company, Inc.
To Assistant Secretary of Labor, Mr. John Stender,
Industrial Talc - June 19, 1975, Washington, D. C.

On behalf of the R. T. Vanderbilt Company I would like to thank Mr. Stender and the Occupational Safety and Health Administration for this opportunity to speak to this issue, namely, the possible withdrawal of Mr. Stender's letter to Mr. Vanderbilt of October 9, 1974 and the possible rescinding of OSHA Field Information Memorandum #74-52 on the subject of tremolite and talc.

Let me make it clear at the start that the Vanderbilt Company has suffered significant loss of talc business in the past year as a result of the promulgation of the OSHA Asbestos Standard. If Mr. Stender's letter is recalled and the Field Memorandum is rescinded we will stand to lose a major amount of business and it is extremely doubtful that the Vanderbilt Company will be able to remain in the talc business if this action is taken. I also want to make it clear that we honestly believe that if these documents to provide temporary relief from an inapplicable and defectively promulgated asbestos standard are allowed to stand, pending the conclusion of the NIOSH-NIEA study of tremolitic talc, the health and safety or our workers and of the workers in the establishments where our talcs are used, will not be compromised.

We are strong in this belief. We have evidence and data to show that this belief is correct and we will stick with this position until we are shown reliable and conclusive evidence to the contrary.

The OSHA Asbestos Standard was promulgated in 1972 to regulate certain mineral product for which there was good and convincing evidence that a hazard existed for those worke exposed to dust containing these minerals. These minerals were chrysotile, crocidolit and anosite, which together constitute 99 percent of the minerals used as asbestos. But without any documentation whatsoever, the minerals anthophyllite, tremolite and actinolite were also included in the list of materials to be regulated by this standard. This action, this oversight, let us say, this lack of recognition of the need for mineralogical expertise in a standard regulating minerals, has inadvertently, and certainly, we believe, unintentionally, set in motion a chain of events which has seriously jeopardized the economic future of our company.

Our competitors have seized upon the opportunity of using the government as an ally in their efforts to gain economic advantage over us. Our competitors are not small. They are Pfizer and Cyprus Industrial Minerals and Johns-Manville and Engelhard Minerals - all of them many times our size, and all members of the FORTUNE 500. Together with big government, we face the frightening prospect of huge companies allied in a fight against one small, family-owned talc producer.

The two basic types of talc sold in the United States are tremolitic and steatite or platy talc. OSHA has regulated tremolite without any documentation and has erroneously put it under the asbestos standard. OSHA does not put steatite talc under the asbestos standard thus giving the steatite producers a strong competitive advantage.

In practically all cases in which we have lost our talc business because of fear of the asbestos label and its consequent regulation requirements, we have lost to steatite talc a substance that has not been proved any more or less hazardous than tremolitic talc. But neither the relative toxicity of the steatite talcs nor of the tremolitic talcs will be known until the completion of the official NIOSH-NIEA study.

Our competitors have been quite busy since the asbestos standard was promulgated. In a series of ads in leading paint journals the Pfizer Minerals Company has advised paint companies to "Avoid Talc Problems posed by new Federal Regulations" and "If you use talc and are not using the right talc, you may encounter a problem". By admission in one advertisement, the Pfizer copy reads "It was a lot cheaper and quicker for manufactur

to switch to asbestos-free talc than to install the equipment necessary to reduce airborne concentration of hazardous fibers to admissable levels".

And we ask again, where is the documentation that proves steatite or platy talc less hazardous than tremolitic talc?

We even have the sorry spectacle of another of our competitors, again many times larger in overall business volume, advising customers to use their talc because it contains less tremolite, - trading on the relative ease of complying with the standard in comparison with the use of Vanderbilt's so-called asbestos containing talc.

But the most vicious attack of all has come from the largest asbestos company in the country - Johns-Manville.

Johns-Manville representatives approached us in early April of this year and asked to meet our company executives and technical personnel for the purpose of discussing the labeling of talcs with the Asbestos Warning Label.

A meeting was held in April and analytical data was presented by Johns-Manville on a series of Vanderbilt talcs they had secured on the open market. They admitted they had shown this same data to OSHA officials earlier in the year without notice to us, and they admitted that they had sought withdrawal of the OSHA Field Memorandum on the basis that it had resulted in unfair competition. An admission that was confirmed later in our discussion with various OSHA personnel in Washington. OSHA was apparently impressed with the Johns-Manville data and without confirming its accuracy let it be known that as a result of these findings Vanderbilt's credibility had been seriously damaged and a recommendation would be made to withdraw the OSHA Field Amendment.

The most damaging portion of the data presented was the alleged finding, among other mineral fibers of up to 35 percent chrysotile asbestos in all our talc products.

The data came as a surprise to us, partly because we had not detected chrysotile in our

After listening to NIOSH testimony at the recent Borg-Warner Hearing in Ohio there is no doubt they will continue to maintain that Vanderbilt talcs are loaded with asbestos. According to NIOSH's interpretation of the criteria stipulated in the OSHA Field Memorandum they are certain to find asbestos fibers even by this set of standards.

And, of course, they could find fibers in any mineral product, especially if NIOSH is allowed to develop its own set of fiber definitions, which seem to be - "If a particle has a pathological response, it must be a fiber". This interpretation is, in our opinion a subversion of both the Standard and the Field Memorandum.

Even the steatite producers hedge on the purity of their products by adding to their claim of asbestos-free talc the qualifying statement - "to the limits of x-ray diffraction and transmission electron microscopy".

As a matter of fact, the state of the art of analysis for asbestos is such that the Food and Drug Administration has withdrawn their proposal to prohibit the use of "asbestos-containing" talcs as food and drug ingredients, giving as their reasons the inadequacy of the available methodology to determine the amount of asbestos in talc, as well as a consideration of the controversial nature of evidence to demonstrate the hazard to health presented by ingestion of the amounts of asbestos fibers normally to be expected in the talcs used in food and drugs.

Using the criteria of the OSHA Field Amendment as they were meant to be used, and taking into consideration the state of the art of analysis and the impossibility of reaching zero asbestos or fiber in a naturally - occurring mineral product, we submit that our talc products are essentially free of true asbestos fiber forms of the minerals listed in the Federal Register.

The business of mining, dealing with mineral associations as they occur in nature, is concerned with variations in mineral content and variations in the forms of these minerals from batch to batch as different areas of an open pit or an underground stope are devel-

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products containing materials which had been clearly demonstrated to be a hazard. . .

We knew well that our products contained tremolite and anthophyllite, and we were conditioned to the probability that Johns-Manville would use the out-dated and inadequate definition of a fiber to prove that the latter two minerals were present in the asbestos form. But the accusation of a significant content of chrysotile in our products was indeed frightening.

Johns-Manville had offered to supply us with portions of the talcs they analyzed for our own inspection, and we immediately accepted this offer. The samples, as received, were sent to two well known and accredited analytical laboratories E. H. Ventions, Rockville, Maryland, and McCrone Associates, Chicago, Illinois, for the express purpose of detecting the one ingredient, chrysotile, we had not found or suspected to exist in our talcs. We also sent off-the-shelf samples of our products in case there was any question about the handling of our talcs by Johns-Manville personnel.

The results of analysis by E. H. Ventions and McCrone, using every available technique of mineral inspection - scanning electron microscopy coupled with energy dispersive spectrometer, transmission electron microscopy, selected area diffraction, etc. are contained in the report we will leave on the table for the inspection of the technical people in the room.

The result - absence of any detectable chrysotile. And, we might add, Johns-Manville is the largest producer of chrysotile in North America and supposedly expert.

You see, Mr. Stender, that this small company is up against. And you might ask, what are the findings of the people at NIOSH Technical Headquarters in Cincinnati.

We are aware of the fact that NIOSH has been gathering samples of our talc products following the Johns-Manville visit to OSHA offices in Washington, and no doubt they have finished their analysis and have reams of data and pictures to show and distribute.

With these talc products we are processing a mixture of at least six or seven different minerals, and several of these minerals can appear in different forms, that is, the same mineral with the same chemical composition and crystal structure can occur in more than one form or shape.

In the case of the mineral talc, we have become aware, since we purchased the assets of the former International Talc Company in the vicinity of our Gouverneur properties, of the existence of two forms of the mineral talc, fibrous and non-fibrous.

The fibrous forms occur predominantly in the former International mines at the eastern most section of the talc belt. Usually, the fibrous talc deposits are accompanied by fibrous or true anthophyllite asbestos.

We mine this material from a separate mine, we process it in a separate mill, and we label the bags with the official Asbestos Warning Label - and we have notified our customers of the need to comply with the OSHA Asbestos Standard when using the product. This is procedure took place soon after we resumed mining of this particular product and has been going on since the beginning of this year. We might add here, to those critics who can understand our reluctance to label our MYTAL grades, or to have our customers label our MYTAL asbestos-free products with the official Asbestos Warning, that this decision to label our fibrous grades has resulted in significant loss of business. One of our large customers stopped using our product solely for the reason of the Asbestos Warning. In case he had found a substitute material.

As in the asbestos-using industry only those customers with particular applications for which there were no ready or economic substitutes, have continued with the use of the fibrous grades and instituted compliance with the asbestos standard.

When our other grades of talc are mined, that is, the MYTAL or asbestos-free talcs, an effort is made at the time of mining, before the ore is crushed and processed, to examine the ores scientifically for the existence of asbestos fiber, and to separate any por-

of the crude ore that we determine have a fibrous content.

In our on-going evaluation of the finished ground product we have found from time to time the existence of fibers that escaped our examination of the crude ore. An extensive research program is in progress to eliminate by processing techniques any fibers that do escape our original inspection.

We have stressed the need to determine scientifically and positively the relative hazard involved in the use of industrial talcs. NIOSH has recognized this need and has instituted the joint NIOSH-MSHA study, which we believe has already begun in Vermont. We wholeheartedly support the NIOSH program and have agreed to a thorough inspection of our facilities, to open up our medical records to the NIOSH investigators, and to cooperate in the investigation as confirmed in our letter to Dr. Jon May, dated March 20, 1975. We hope that NIOSH will not pre-judge the issues to be studied. All we ask is that we are not hanged before we are found guilty.

Until this study is concluded we respectfully request for our customers, relief from intimidation by OSHA personnel and the opportunity to control harassment by our competitors. It is our belief, as stated earlier, that interpretation of the asbestos standa as set forth in Field Memorandum #74-92 will not affect adversely the health and safety of workers exposed to the dust of our products.

We are not alone in this belief. The Bureau of Mines in its amendment of the asbestos regulations for Metal and Non-metallic mines, as published in July 1, 1974 issue of th Federal Register sought to clarify the definition of asbestos and to deal with industr talcs containing tremolite. Following the May 8, 1973 public symposium on talc the Bu of Mines concluded that "Medical data based on both human and animal studies supported the opinion that talc and talc with tremolite are not as hazardous as chrysotile or ot true asbestos minerals". The Bureau of Mines further indicated its willingness to awa the results of the planned joint study by NIOSH and MSHA to determine the toxic nature [illegible] dust exposure before setting new asbestos regulations. The Bureau of Mines further stated in its Federal Register publication that "tremolite of non-asbestiform which occurs in talc deposits is not mentioned in its definition of asbestos and therefore is not covered".

Furthermore, the Environmental Protection Agency, recognizing the differences between asbestos and industrial talc, and acknowledging the need for standards that can be uniformly interpreted by industry personnel and enforced by the Agency, clarified and revi their National Emission Standard for Hazardous Pollutants by publishing in the May 3, I issue of the Federal Register a rule on the applicability of the asbestos standard to manufacturing operations using industrial talc. The EPA regulations make it clear that operations that use talc are not covered by the asbestos standard.

Dr. W. E. Smith, present here today, has published the results of his animal studies to determine the effect of various types of asbestos and tremolitic talc when injected int pleurally into hamsters. Dr. Smith discovered profound differences in biologic effect. respect to both fibrogenicity and carcogenicity, between tremolitic talc and the true asbestos minerals.

The report of Dr. G. W. Schepers given at the Bureau of Mines Talc Symposium of May 8, also establishes the lack of carcogenicity of the mineral tremolite found in New York Talcs. Dr. Schepers rates the pathogenicity of tremolite in the same category as talc clay.

Dr. Morris Kleinfeld, formerly of the New York State Department of Labor, Division of Industrial Hygiene published his report of an epidemiological study of 39 workers who total work history in the Vanderbilt mine and mill ranged from 11 to 22 years. His f of no evidence of lung cancer in these workers led him to recommend "that the present threshold limit value for tremolite and anthophyllite needs reevaluatio.

We could go on to other publications that would indicate the relative lack of hazard associated with tremolitic talc exposure - sufficient evidence to show that considera

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controversy surrounds this particular area of medical study.

In view of the date we have presented regarding the total lack of documented hazard involving the minerals under consideration, we request the following:

1. The NIOSH-MESA study of all industrial talcs be completed.

2. Your letter of October 9, 1974 permitting certification of our talcs be continued pending the completion of the NIOSH-MESA study.

3. The reasonable and scientifically acceptable description of a mineral fiber, as state in the OSHA Field Memorandum #74-92 be continued.

4. When the NIOSH study is completed and conclusions drawn, an appropriate standard regulating all industrial talcs be established.

If OSHA and NIOSH continue on the present course which they have indicated to us there won't be a tremolitic talc industry to investigate. We will have closed our doors before the investigators arrived - and a valuable economic commodity will have been eliminated from the American market place.

cc: Mr. H. B. Vanderbilt
Mr. T. T. Noland
Mr. G. L. Fiederlein
Dr. C. S. Thompson
Mr. V. O. Streitmatter
Mr. G. E. Erdman
Mr. P. B. Gibney, Jr.
Dr. K. S. Karaten

A. M. Harvey November 4, 1976
C. S. Thompson

CNA Insurance
Syracuse, New York
Mr. Ted Estergard
Mr. Roy Orr
Mr. Alan Goldberg-Attorney

Report of Call at Syracuse:

Dr. C. S. Thompson and I discussed the Workmans Compensation hearing scheduled for November 17, 1976 dealing with former GTC worker Francis Boney.

Mr. Boney died in May 1976 while his compensation case was in progress. The diagnosis was death due to bronchogenic cancer. Prior to death, Mr. Boney was claiming complete disability due to talcosis. Mr. Boney's widow is now claiming that the cancer was a result of talcosis, brought on by exposure to talc, and CNA is faced with a sizeable claim that must be handled separately from the W. C. proceedings that were taking piece before Mr. Boney's death.

In this type of case, unlike the W. C. cases of disability of living claimants, there is no settlement out of court. CNA either pays the stipulated sum to the widow or is freed from any responsibility, depending upon what the court rules was the cause of death.

CNA believes that if the W. C. court referee rules that death was caused by cancer which in turn was caused by talcosis, there will be a rash of similar claims from many other GTC workers. This may be especially the case since the Boney widow's lawyer is apparently making a career out of handling talc worker cases. He has handled some ITC worker cases, and is now adding the GTC workers to his list of clients.

Mr. Goldberg said that the Boney attorney had mentioned that Mr. Kitts would be at the hearing, and it is believed that Kitts also gave testimony at other hearings involving former ITC workers. Accordingly, CNA is quite anxious to counteract any Kitts testimony that asbestos might be involved in the Boney case. Otherwise, they believe they can expect many more similar claims from former GTC workers.

It was agreed that Mr. Harvey would attend the hearing scheduled for November 17th in Syracuse, for the purpose of observation and advising Mr. Goldberg in any way that might help counteract Kitts testimony. Mr. Goldberg will leave the hearing open until we have had a chance to study the transcript of the Kitts testimony with Dr. Thompson, then another date will be set for Dr. Thompson to present rebuttal as well as new testimony of his own. They felt that this procedure was as good as, or possibly better than having Dr. Thompson at the hearing on the same day as Kitts.

We discussed at length the medical aspects of the case. CNA is now relying on a pathologist from Albany who may or may not know much about the talc-asbestos problem. We suggested that CNA contact Dr. Tabershaw for advice on this whole situation, and they seemed quite receptive. We would not be surprised if CNA brings him in on the case as a consultant.

In summary, CNA is mainly interested in disassociating talcosis from lung cancer and, by inference, exposure to New York State talcs from carcinogenicity. To do this they need to establish that little or no asbestos was normally found in the ores mined at the time Mr. Boney was working for GTC. This is where they need our assistance.

AMH:slb