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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

OCCUPATIONAL EXPOSURE TO ASBESTOS

Notice of Proposed Rulemaking

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-033]

OCCUPATIONAL EXPOSURE TO ASBESTOS

Notice of Proposed Rulemaking

Pursuant to sections 6 (b) and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 1599, 29 U.S.C. 655, 657) and Title 29 Code of Federal Regulations (CFR) Part 1911, it is proposed to revise 29 CFR 1910.1001, the standard for occupational exposure to asbestos.

This standard, as revised, would continue to apply to all employments covered by the Act but would exclude the construction industry. It is OSHA's intention to develop and propose a separate revision to the existing asbestos standard which would be applicable only to the construction industry.

The accompanying document is a proposal issued pursuant to sections 6(b) and 8(c) of the Act. The Occupational Safety and Health Administration (OSHA) requests the submission of written comments, data, and arguments from interested persons on the issues addressed or implicit in the proposal. In addition, the proposal states that an informal hearing may be requested to provide further opportunity for discussion of the issues. After the hearing, if one is held, OSHA will issue a final standard based on the full record of the evidence.

The proposed standard would, among other things, lower the permissible exposure to 500 000 fibers per cubic meter (0.5 asbestos fibers per cubic centimeter) for an 8-hour time-weighted average exposure, and likewise reduce the permissible ceiling exposure to 5 million asbestos fibers per cubic meter (5 asbestos fibers per cubic centimeter) for any period not exceeding 15 minutes; extend the retention period for medical and monitoring records to forty years or for the duration of employment plus twenty years, whichever is longer; provide procedures for the transfer of medical and monitoring records of certain former employers; require specific minimum data on medical and monitoring records; revise the procedures for initial and subsequent monitoring; modify the definitions of "asbestos" and "asbestos fiber;" add provisions for employee hygiene, informations and training; revise and update the requirements for respirators, and warning signs and labels; and establish a time parameter for sampling ceiling concentrations. In addition, the proposal will suggest work practices to be followed for certain operations and processes involving asbestos.

The major issues raised in this proposal include the following:

1. Whether, and by what date, the permissible limit for an 8-hour time-weighted average exposure to asbestos should be lowered to 500 000 fibers per cubic meter (0.5 fiber per cubic centimeter), and, if so, whether such an exposure limit would provide an adequate margin of safety to protect employees against known and suspected workplace hazards of asbestos.

2. Whether, and by what date, the permissible ceiling limit should be reduced to 5 million fibers per cubic meter (5 fibers per cubic centimeter), and, if so whether such an exposure limit would provide an adequate margin of safety to protect employees again k known and suspected workplace hazards.

3. Whether the proposed change in the definitions of "asbestos" and "asbestos fiber" would clarify the standard's intended scope, and properly relate to known or suspected workplace hazards.

4. Whether the proposed sampling period for the determination of ceiling concentrations would be appropriate and adequate.

5. Whether the proposed procedures for initial and subsequent exposure monitoring would be appropriate and adequate.

6. Whether the proposed retention period for medical and monitoring records would be appropriate and adequate.

7. Whether the requirement for records data on medical and monitoring records would be appropriate and adequate.

8. Whether the procedure for transferring the medical and monitoring records of former employers would be appropriate and adequate.

9. Whether the information gathering requirements of the proposal would create any undue administrative and economic burdens on employers, particularly for those employing small numbers of employees, or workforces which are highly transient in nature.

10. Whether the revised schedule for allowable respirator use would be appropriate and adequate for protecting workers against exposure to asbestos.

11. Whether the provision for job reassignment on account of medical unsuitability is appropriate, and, if so, whether it effectively furthers the purposes of the Act.

12. Whether the appendices are appropriate and otherwise in the best interests of worker health and safety.

13. To what extent, if any, should the proposal be modified to reflect a concern for workplaces which are of a nonfixed nature or otherwise engage a highly transient workforce.

14. Whether compliance with the proposal as a whole would be technologically and economically feasible for all affected industries, and particularly for employers engaging small numbers of employees.

15. Whether the standard should have a delayed effective date for any industry sector and, if so, the extent to which a phased schedule for compliance would be appropriate.

16. What are the environmental and inflationary impacts of the proposal.

I. Background

A. General

Asbestos is a generic term used to describe a number of naturally occurring fibrous, hydrated mineral silicates that differ in chemical composition. These may be divided into two mineral groups: (1) Pyroxenes, which include anthophyllite ($(Mg,Fe)_7Si_8O_{22}(OH)_2$) the type most widely used in U.S. industry; and (2) amphiboles, including amosite ($Fe^{2+}_7Si_8O_{22}(OH)_2$), crocidolite ($Na_2Fe^{2+}_3Fe^{3+}_2Si_8O_{22}(OH)_2$), tremolite ($Ca_2Mg_5Si_8O_{22}(OH)_2$), anthophyllite ($(Mg,Fe)_7Si_8O_{22}(OH)_2$), and actinolite ($Ca_2(Mg,Fe)_5Si_8O_{22}(OH)_2$). Asbestos fibers are generally characterized by high tensile strength, flexibility, heat and chemical resistance, and favorable frictional properties. Certain grades of asbestos can be carded, spun, and woven, while others can be laid and pressed to form paper, or used for structural reinforcement of materials such as cement, plastic, and asphalt.

Chrysotile (white asbestos) is the fibrous form of the mineral serpentine. It is the most common variety of asbestos, widely distributed geographically, with the largest deposits being in Canada, Russia, and Rhodesia. It accounts for over 90 percent of world consumption. Chrysotile can be readily crushed or fiberized into fine, white, silky fibers which may be processed into numerous products. The fibers have good heat resistance, but are destroyed by acids. Crocidolite (blue asbestos) is another important, although more specialized, form of asbestos. It is the fibrous form of riebeckite, and has fine, resilient fibers of a characteristic blue color. It is mined in South Africa and Australia, and to a lesser extent, in Bolivia. Crocidolite is a strong, fast filtering fiber used especially in the manufacture of asbestos cement sheets and pressure pipes. It is also characterized by its high resistance to acids.

Amosite is the fibrous variety of the mineral grunerite, a ferrous magnesium silicate mined only in South Africa. Amosite can be readily broken down into long, somewhat harsh fibers, with a brownish-yellow to almost white color, depending upon the quality. It is used largely in the production of asbestos cement and heat-insulating products. It is characterized by a good resistance to acids and other chemicals.

Anthophyllite is a magnesium silicate of series has variable composition which has rather fragile, brownish or off-white fibers. It is rarer than other types described, but significant quantities have been mined in Finland, Kenya, and other countries. It is used primarily as an inexpensive filler, and for some specialized applications for which good heat or chemical resistance is required.

Tremolite, a calcium magnesium silicate, is often a major component of industrial and commercial talc. It is mined in various parts of the United States including New York, Vermont, and Montana.

Actinolite, a calcium magnesium iron silicate, is rarely used in industry. It is

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found in various parts of the world, but is less fiber strength makes it less desirable for industrial use.

Nearly one million tons of asbestos are consumed in the United States annually. According to the Bureau of Mines *Minerals Yearbook, 1972*, approximately 95 percent of asbestos products consumed in 1972 were used in the construction industries (860,000 short tons). Approximately 5 percent were used in non-construction industries (46,000 short tons). Approximately 85 percent of the asbestos used in construction is further bonded, i.e., the asbestos is locked in an inert product such as floor tiles, asbestos cement, and roofing felts and shingles, while the remaining 5 percent is a loose or as powder form present in insulation materials. Asbestos cement powders, and acoustical products. These latter products generate more airborne fibers than the firmly bonded products. The 169,000 short tons of asbestos used in the non-construction industries in 1972 were utilized in such products as textiles, friction materials including brake linings and clutch facings, paper, paints, plastics, roof coatings, floor tiles, and miscellaneous other products.

An estimated 50,000 workers are involved in the manufacture of asbestos-containing products. However, this figure does not include secondary manufacture of products which contain asbestos, such as electrical or thermal insulated, or products which include previously manufactured components containing asbestos.

There are approximately 40,000 field insulation workers in the United States who are exposed to asbestos dust. The activities of these workers is estimated to cause secondary exposures to approximately three to five million other building construction and shipyard workers. However, since the dust exposure to the individual worker is extremely variable, and the number of asbestos workers at any one location is small, the primary and secondary asbestos dust exposures to all workers have never been satisfactorily estimated.

In the United States, the mining and milling of asbestos is a relatively small industry employing fewer than a thousand workers. The Occupational Safety and Health Administration does not have jurisdiction over mining and milling operations, as such operations are covered by the Mining Enforcement and Safety Administration of the Department of the Interior.

B. REGULATION OF OCCUPATIONAL EXPOSURE TO ASBESTOS

A standard for occupational exposure to asbestos was included in the initial promulgation of OSHA standards published on 29 May 1971 (36 FR 10466) pursuant to Section 6(a) of the Act, 29 U.S.C. 655(a). Derived from a 1969 federal standard issued under the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et. seq.), the original OSHA standard established an exposure limit of 12 fibers (greater than 5 microns in length) per milliliter or 2 million particles per cubic foot of air.

Pursuant to Section 6(c) of the Act, 29 U.S.C. 655(c), a petition for an emergency standard to control concentrations of asbestos dust was submitted to the Secretary by the Industrial Union Department of the AFL–CIO on 4 November 1971. As a result of that petition, an emergency temporary standard for occupational exposure to asbestos dust was published on 7 December 1971 (36 FR 23207). The emergency standard stated that: "The 8-hour time-weighted average airborne concentration of asbestos dust to which employees are exposed shall not exceed 5 fibers per milliliter greater than 5 microns in length, as determined by the membrane filter method at 430–450 × 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 for up to 3 hours in an 8-hour day."

On 13 January 1972 a proposal for a new permanent asbestos standard was published (37 FR 468), pursuant to Section 6(b) of the Act, 29 U.S.C. 655(b). The proposal included the exposure limitations of the emergency temporary standard plus an array of engineering and administrative controls, work practices, and procedures for medical surveillance and monitoring.

The present standard was promulgated on 7 June 1972 (37 FR 11318). This standard which appears as 29 CFR 1910.1001 (formerly published as 29 CFR 1910.93a prior to recodification) established an 8-hour time weighted average (TWA) concentration exposure limit of five fibers longer than 5 micrometers per cubic centimeter of air, and a ceiling limitation against any exposure in excess of ten such fibers per cubic centimeter. The present standard further provided that, effective 1 July 1976, the 8-hour TWA is to be reduced to two fibers.

Pursuant to Section 6(f) of the Act, 29 U.S.C. 655(f), a petition for review of the Secretary's standard was filed with the United States Court of Appeals for the District of Columbia. The principal petitioners, the Industrial Union Department of the AFL–CIO, objecting to several substantive provisions of the standard, as well as to the grounds upon which such provisions were premised, requested that the Secretary's final decision be reversed. However, the Court affirmed the standard and the Secretary's judgement with two exceptions, *Industrial Union Department, AFL–CIO v. Hodgson*, 499 F. 2d 467 (CADC 1974).

The Court directed the Secretary to reconsider the effective date (1 July 1976) for the two-fiber standard and determine whether such date might be accelerated for all or some of the industries so affected. The Court also directed the Secretary to review the standard's recordkeeping provision requiring a three-year retention period for exposure monitoring records and to reconsider whether such time period could be adequate to assure employee protection and prevention of asbestos related diseases.

Following the decision in *Industrial Union Department, AFL–CIO*, supra, OSHA reviewed the record of the asbestos rulemaking proceeding in 1972, particularly with respect to the issues remanded by the Court to the Secretary. It is OSHA's belief that the record of the 1972 asbestos standard proceeding is inadequate to properly resolve the two issues raised by the Court's remand and that in the interest of achieving the best feasible occupational health protection a new rulemaking proceeding should be initiated so that fresh and more extensive evidence may be developed regarding changes in industrial work compliance capabilities, and employee health practices which have occurred since the standard's promulgation over three years ago. In addition, OSHA believes that new research developments regarding the harmful effects of asbestos exposure as well as advances in monitoring and protective technology, make re-examination of the previous standard's premises and general structure desirable. The process accordingly goes beyond the issues OSHA has been directed to consider by the Court, in the interest of effecting the Administration's continuing mandate to "set the standard which most adequately assures on the basis of the best available evidence that no employee will suffer material impairments of health or functional capacity" from occupational exposure to this substance.

II. TOXICOLOGICAL CONSIDERATIONS OF EXPOSURE TO ASBESTOS

A. EFFECTS OF ASBESTOS EXPOSURE

Asbestos, in its several commercial forms, has been shown in very recent time to be associated with the production of a variety of disease entities. These include:

1. Asbestosis: a diffuse, interstitial, pulmonary scarring of the lungs;

2. Bronchogenic carcinoma: a malignancy of the internal of the lung;

3. Mesothelioma: a diffuse malignancy of the lining of the chest cavity (pleural mesothelioma), or of the lining of the abdomen (peritoneal mesothelioma); and

4. Cancer of the stomach, colon, and rectum.

Asbestos may be evident, in its advanced stages, by characteristic manifestations on x-ray films, by restrictive pulmonary function, or by clinical signs of finger clubbing or rales (dry, crackling sounds within the lung). Its most important symptoms is dyspnea, or undue shortness of breath. The disease is progressive, even in the absence of further exposure, as those initially affected fibers which have been trapped within the lung continue their biological action. In its severe forms, death results from the inability of the lung to supply sufficient oxygen or from the heart's failure to pump blood through the scarred lungs.

Mesothelioma tumors are diffuse and spread readily throughout the cavity of which. They have yet to be successfully cured by any types of treatments including chemotherapy, radiation, or surgery. Death usually results within a year of diagnosis. In the general population, mesothelioma is so rare that it has yet

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to be separately noted in the International classification of diseases. It may point for one death in several thousand in the absence of an environmental or occupational asbestos exposure. In some groups of insulation workers, it may account for one death in ten.

Once established, the other asbestos associated cancers differ little from those occurring in the general population, although there may be variation in the location of the primary site. Appropriate treatment and prognosis follow for the particular tumor. There is very limited long term survival from lung cancer therapy; and only somewhat better from treated cancer of the colon or rectum.

Asbestosis and asbestos cancer—whether it be lung cancer, pleural mesothelioma, peritoneal mesothelioma, cancer of the stomach, colon, rectum—usually do not become clinically evident until more than 20 years have passed from onset of exposure. This time-frame is now widely recognized. While some such cancers may appear during the second decade following onset of occupational exposure, peak incidence is often not noted until the 30-years-from-onset point, or later. This is true both with regular, long-term asbestos work, and following short-term, brief or intermittent exposures. While variations in the time of occurrence may depend upon intensity and duration of exposure, with heavier exposure often being associated with shorter latency periods, variations among individual cases make it impossible to predict the latency period for the risk of any particular worker.

3. Prior history

In 1971, in response to a petition of the Industrial Union Department, AFL-CIO, OSHA considered development of a standard regulating occupational exposure to asbestos. At that time, it had been well established that asbestosis was a major cause of disability and death among workers regularly exposed to asbestos dust in occupational circumstances in the United States, where the principal opportunity for such exposure occurred in the manufacture of asbestos products, and their use (Manchuse and Coulter, 1963; Selikoff, Churg and Hammond, 1964; Selicoff, 1965; Enterline and Kendrick, 1967; Selikoff, Hammond and Churg, 1968). The hazard of lung scarring resulting from the inhalation of asbestos ("asbestosis") had been a continuing problem from the time of its first identification (Departmental Committee, 1907; Cooke, 1924; Merewether and Price, 1930 and Greenburg, et al., 1938).

Data suggest that the incidence of asbestosis would be markedly diminished by reduction of occupational exposure to identified levels, in factories and during end product use. The British Occupational Hygiene Society reported in 1968 (Subcommittee on Asbestos, British Occupational Hygiene Society, 1968) that it had been given data by a single large asbestos textile mill which indicated that there was comparatively little clinical and/or roentgenological evidence of asbestosis at this factory in a survey completed in 1968. Recent measurements, using modern fiber-counting methods, were correlated with earlier dust measurements using other techniques. This allowed estimates of 4-5 fibers/ml to be made of workers exposures since 1933 at the factory (Berry, 1972). These reported data carried considerable weight because information on dust exposure and their effects were available. Moreover, all of the 339 male males examined and surveyed by the company medical departments had been employed for at least 10 years, 112 had been employed for 20 years or more. There had thus been some opportunity to observe the incidence of asbestosis associated with longer exposure to asbestos, a factor of some importance since abnormal findings are often not seen until a significant period of time has elapsed from first exposure.

The Committee of the British Occupational Hygiene Society, in evaluating the information given to it on the recorded exposures in this plant and the infrequency of disease among the workers exposed to dust at these levels came to the conclusion that, by lowering the permitted level still further, to 2 fibers/ml as a time-weighted average, employees could be permitted to work in such environments for a full working life-time (50 years) without substantial risk of developing asbestosis. It was calculated that workers exposed to 100 fiber-years/ml, that is, to 2 fibers/ml for 50 years, 4 fibers/ml for 25 years, or 10 fibers/ml for 10 years) would have a 1% risk of developing early signs of asbestosis.

The British Committee published in 1968 its report "Hygiene Standards for Chrysotile Asbestos" for the prevention of Asbestosis" in 1968. At the time, there were few data of comparable nature in the United States. While extensive clinical and epidemiological studies of the health effects of asbestos exposure on American workers had been made, comparatively few dust counts had been recorded during the years in which the exposure of these workers had occurred. Moreover, the dust counts that had been taken had utilized techniques other than the new membrane filter counting methods. For these reasons, NIOSH, in its evaluation of considerations relating to a standard for occupational exposure to asbestos (NIOSH, Criteria Document, 1971) stated that the recommendation of the British Occupational Hygiene Society was "given great weight in the development of this standard."

The asbestos standard set by OSHA in 1972 was thus based on a number of well-characterized observations. Lung scarring ("asbestosis") had been described as an important complication of occupational exposure to asbestos during the original descriptions of the problem in Great Britain. It had been found equally important in U.S. studies in the 1930's, and more recent investigations in the 1960's had demonstrated that it had continued as a serious problem. However, from the British Occupational Hygiene Society's evaluation of factory data relating the incidence of disease to exposure that the recognized, continuing important health hazard of asbestosis could be controlled on the basis of current observations.

It was known at the time that asbestosis was not the only disease that could occur as the result of asbestos exposure. Reports were available that workers so exposed were also at increased risk of developing several types of cancer, and these reports had demonstrated that such risks were present during the use of asbestos in the United States, in factory production of asbestos products and in their subsequent use (Mancuso and Coulter, 1963; Selikoff, Churg and Hammond, 1964; Enterline and Kendrick, 1965). However, these data had not yet been fully evaluated in terms of the extent of risk in large parts of the asbestos industry in the United States and there were few data which would allow judgment concerning intensity and extent of exposure to asbestos in relation to the subsequent risk of asbestos-associated cancer. The British Occupational Hygiene Society's Committee had recognized this problem in Great Britain as well, but developed its standard based on information related to the risk of developing asbestosis, noting in its report (1968) that it was not possible at this time, to specify an air concentration which is known will be free of (cancer) risk. In setting its standard, OSHA hoped that reduction of exposure levels designed to prevent asbestosis would also serve to control the hazard of asbestosis-associated cancer. In this it placed considerable reliance on an additional facet of the British experience. Concurrently, a published report from the same factory by its medical director and recognized statisticians (Knox, Holmes, Doll and Hill, 1968) had indicated that no significant increase in cancer mortality had been found among workers first employed in this plant subsequent to 1933, when the improved conditions mandated by the 1931 Factory Regulations came into effect.

Since the promulgation of the U.S. permanent asbestos standard considerable new information has been forthcoming on the toxic effects of asbestos. This has been in two areas: in the widening spectrum of cancers associated with asbestos exposure, and in various manifestations of asbestos disease in individuals exposed to relatively low concentrations of dust. This extension of the factual data within recent years now requires reexamination of OSHA's concerns from a primary function of prevention of asbestosis with the connection of concomitant reduction in the incidence of asbestos-associated cancer, to a new orientation, that of primary concern with the prevention of asbestos-cancer. There is an additional focus in this reorientation. Reduction of asbestos exposure to levels sufficient to prevent asbestosis is known, at least in some instances, to be insufficient to prevent asbestos-cancer. On the other hand, a reduction of asbestos exposure to an extent sufficient to prevent asbestos-associated cancer will also prevent asbestosis.

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These new observations should not divert OSHA's prime focus on the prevention of asbestosis, since significant pulmonary risk or physical impairment has not been an important feature of low-level, short-term occupational exposure. Rather, it should emphasize the preventive perspectives of the current standard derived from collateral issues concerned with prevention of asbestos-related lung scarring rather than those related to the prevention of asbestos-induced cancer, particularly mesothelioma.

C. THE NEW EVIDENCE

(1) *Asbestosis.* Subsequent to the hearings on the current standard, uncertainty has arisen as to whether the existing British asbestos standard and the mandated 2 fiber m. U.S. standard provides effective protection even against asbestosis. The data from Great Britain obtained in 1968 indicated that some clinical disease, including x-ray evidence of asbestosis, had occurred among workers first employed in that factory at some time after 1933, when important improvements in work practices had been achieved. In 1972 results of evaluation of new x-rays that had been taken in 1970 of the work force then employed in the same factory, were reported as showing that many now had abnormal findings either in the lung or in the coverings of the lung (pleura) (Lewinsohn, 1972). There was thus a difference between the prevalence of abnormal x-ray findings among workers x-rayed in 1968 as reported to the British Occupational Hygiene Society, and evaluation of other x-rays of workers in the same factory four years later.

Additionally, clinical data are becoming available concerning asbestos lung scarring in individuals exposed at levels much lower than those of occupational circumstances. Among 210 family contacts of former asbestos factory workers, 38% have been reported to have x-ray changes characteristic of asbestos exposure (Anderson, Selikoff, Lilis and Daum, 1973).

(2) *Cancer.* In December 1972, important new information on the spectrum of asbestos cancers was presented at the Conference on the Biological Effects of Asbestos, sponsored by the International Agency for Research on Cancer of the World Health Organization. At this conference, and subsequently, data on three groups of asbestos workers became available (Selikoff, Hammond and Seidman, 1973; Enterline, 1972). As expected, the high risk of bronchogenic carcinoma and mesothelioma persisted among factory employees and insulators. Moreover, these later studies confirmed the excess gastrointestinal cancer that had been suggested earlier, and extended the spectrum of asbestos related cancers.

(a) *Lung cancer.* The most important cancer affecting asbestos workers is cancer of the lung, although mesothelioma has attracted considerable attention because of the high frequency among asbestos workers and infrequent occurrence in the population as a whole.

In many groups of asbestos workers, approximately 20% of all deaths are caused by lung neoplasms. This has been true both among asbestos product factory workers (Selikoff, Hammond and Churg, 1968) and insulators (Selikoff, Hammond and Seidman, 1973). The exact percentage varies with circumstances of exposure, age of the workers, duration of the workers exposure and, perhaps most of all, according to the duration from the onset of their asbestos work history. In addition, the last several years have seen the discovery of another critical variable affecting the incidence of lung cancer among asbestos workers. In 1968, Selikoff, Hammond and Churg reported that lung cancer was not significantly increased in incidence among asbestos workers with no history of cigarette smoking, although when such history was present, the incidence of lung cancer increased markedly over what would be expected among other cigarette smokers, in the absence of asbestos exposure. Thus, these scientists calculated that an asbestos worker who smoked cigarettes had 92 times the risk of dying of lung cancer, as compared with the individuals without cigarette smoking or asbestos work. This finding has been confirmed by larger studies (Hammond and Selikoff, 1972) where, again, it was found that non-smoking asbestos workers had few lung cancers while those who smoked had much more lung cancer than would have been expected had they not been asbestos workers. Calculations suggest that cigarette-smoking asbestos workers have approximately eight times the risk of developing lung cancer compared to other smokers.

(3) *Pleural and peritoneal mesothelioma.* In 1960, Wagner, Sleggs and Marchand demonstrated an important association between asbestos exposure and pleural mesothelioma. This cancer, which appears to be unrelated to smoking, had previously been considered to be a very rare tumor. Numerous reports have confirmed the finding of Wagner and his colleagues that mesothelioma can be commonly associated with asbestos exposure. A subsequent report by Elmes and Simpson, 1964, concerning workers in a British asbestos factory demonstrated that the same tumor could be commonly found in the abdomen (peritoneal mesothelioma), as well as in the chest.

The exact risk of death of these invariably fatal neoplasms has not been as well defined as has lung cancer, although recording of cases from hospitals near one large asbestos factory has indicated that it must be very common indeed (Morlaw, Conlan, Tavernaise and Schiebel, 1973). Information available from the experience of asbestos insulation workers suggests that approximately five to seven percent of deaths may be due to this neoplasm (Hammond, Selikoff and Churg, 1965; Selikoff, Hammond and Seidman 1973). More recently, it has been suggested that this estimate is too low, on the basis of the experience of workers in a British asbestos factory, where calculations indicated that between 10 and 11 percent of deaths could be due to mesothelioma (Newhouse and Berry, 1975).

(b) *Gastro-intestinal cancer.* Gastro-intestinal cancers (cancer of the stomach, colon and rectum) are also increased in incidence among asbestos workers, but the increase is less pronounced than that of lung cancer or mesothelioma. A number of studies now indicate that the increase is on the order of two or three times the number of expected tumors (Selikoff, Hammond and Seidman, 1973; Elmes, 1968). Although this increased risk is relatively limited, especially when compared with lung cancer and mesothelioma, it is nevertheless of considerable importance since a two- or three-fold increase in such common tumors becomes an important cause of death for the workers involved.

It has been suggested that other tumors are also increased in incidence among asbestos workers, particularly cancers of the larynx (Stell and McGill, 1972; Newhouse, 1973) and neoplasms of the oropharynx (Selikoff, Hammond and Churg, 1970), and of the esophagus (Selikoff, Hammond, and Seidman, 1973). However, data concerning these neoplasms are less extensive than for lung cancer, mesothelioma and gastro-intestinal cancer and further experiences are awaited. In any case, they are not very common tumors in general and any increase does not weigh heavily on the overall cancer risk of asbestos workers.

Considering all neoplasms, among some groups of asbestos workers employed either in asbestos factory work or in the use of asbestos products as much as 40 to 45 percent of all deaths have been due to one or another type of cancer, an approximately three-fold or four-fold increase.

Of significant importance, new data have recently been made available concerning the cancer risk of workers in the textile mill reviewed for the British standard, including those workers first employed after 1933 (Heward, Kinlen, Lewinsohn, Pete and Doll, 1975). It was found that there was excess mortality from lung cancer among those workers who entered scheduled areas after 1 January 1933. There was "clear evidence of some excess of lung cancer and respiratory deaths among those first exposed between 1933 and 1939." Equally important was the finding that "there still appears to be an excess of deaths due to lung cancer after 15 or more years' exposure" even among those first exposed in 1931 and subsequently. Indeed, it is known that mesothelioma deaths have occurred among the specific group of 290 workers whose experience prior to 1968 led to the development of the current standard, as detailed above (Brody, J. E., 1974).

There are further data indicating the necessity for revaluation of the asbestos standard, albeit less directly derived from asbestos worker exposure. This information is derived from occurrence of asbestos cancer among individuals ex-

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used to low levels of fiber use, as in environmental circumstances, or to brief or sporadic exposures to higher levels.

Analysis of the history of asbestos exposure among individuals in a large series of cases of mesotheliomas in Great Britain and South Africa have provided evidence that brief or intermittent exposure to asbestos may, after the passage of decades, result in mesothelioma. (Greenberg and Lloyd Davies, 1974; Webster, 1973). In such circumstances, it appears that the lifetime exposure was less than the 100 fiber-years/ml envisaged by the current standard. The same discrepancy between present projected exposures and the risk of asbestos cancer exists when considering cases of mesothelioma resulting from household contact to asbestos among members of families of asbestos workers (Lilington, 1974) or among residents living in the vicinity of asbestos plants.

Of considerable industrial importance has been the recent description of asbestos disease among shipbuilding and ship repair workers, few of whom actually work with asbestos, but many of whom were, in the past, inadvertently exposed to the asbestos dust resulting from the use of asbestos products by a relatively few of their work mates. In 1968, Harries of the Royal Navy reported cases of mesotheliomas among shipyard workers at the Royal Navy dockyard in Devonport, in trades which did not directly involve worker exposure to asbestos, but in which there had been occasional opportunity for exposure merely by virtue of working in the same areas. This original finding has been widely confirmed and numerous cases of mesotheliomas have since been reported in former shipyard workers (Whitwell and Rawcliffe, 1970; McEwen et al, 1970; Saumarez, 1968; Greenberg and Lloyd Davies, 1974). Studies of populations of current shipyard workers have shown much radiological evidence of asbestos abnormalities among workers in trades only indirectly exposed to asbestos in the yards (Sheers and Templeton, 1968; Fletcher, 1972).

Gilliam et al (1978), studying the mortality and reviewing the chest x-rays of 439 underground metal miners exposed to an asbestiform mineral, found three times the risk of malignant respiratory disease than expected. The fiber concentrations averaged 0.24 fibers/ml.

Further, evidence has indicated that asbestos also acts as a lung carcinogen at levels much below those which will produce asbestosis. Two surveys of shipyard workers who had x-ray evidence of pleural plaques, but generally not of pulmonary fibrosis, showed a 2.5-fold excess risk of death from lung cancer and high risk of mesothelioma. (Fletcher, 1972; Edge, 1975). In a study of the mortality experience of a large U.S. asbestos insulation manufacturing facility, it was found that workers in low-dust areas, with a minimum risk of death from asbestosis, had the same high risk of death from various cancers as workers in dustier areas (Nicholson, 1975).

III. Certain Considerations Concerning Carcinogenicity

In the case of asbestos, we are dealing with a substance that poses a range of health risks to the working population. These include the threat of cancer, as well as asbestosis. In considering the controversial issue of carcinogenicity, OSHA is relying upon not only the new data reviewed above but the leading scientific principles and opinions believed to reflect the research conclusions of international cancer experts, which were developed since or not known to OSHA at the time that the original standard was promulgated.

A. The Latency of Carcinogenic Effects

In humans, the latency period for chemical carcinogens may well extend between 20 to 40 or more years. Analogous periods exist for test animals. This means that the disease may undergo a long development before a tumor is actually detected. At that point, it has reached a stage where removal of the worker from the workplace may be of no avail and where treatment may be extremely difficult, if not futile. Prudent policy would therefore seem to indicate that every reasonable measure should be taken to eliminate human exposure to chemical compounds as soon as their carcinogenic nature is identified.

B. Variability in Individual Susceptibility in Relation to the Concept of a Threshold

Cancer development may be influenced by such factors as the differing susceptibility of various body organs. In animal studies it has been found that individual variability in response to carcinogens is great depending upon factors such as age, sex, hormonal status, diet, and genetic factors. Thus, in the working population, certain groups, such as those already biologically compromised, may be more susceptible than other groups.

C. A "Threshold" Limit

Because of the variability of individual response to carcinogens and other factors, the concept of a "no effect" or "threshold level" may have little real significance on the issue of existing knowledge. While some level, below which exposure to a carcinogen does not cause cancer, may conceivably exist for any one individual, other individuals in the working population may have cancer induced by doses so low as to be effectively zero. This is not to say that researchers will never find a threshold level for a carcinogenic substance, but it does mean that the threshold concept for carcinogens is, at present, more a matter of responsible regulatory policy than a precise, scientific determination.

These theoretical concepts have a bearing on the asbestos issue, particularly as to the question of the existence, or nonexistence, of a threshold level of carcinogenic effect. A "no effect" level theoretically may exist, but it has not been demonstrated.

In previous rulemaking proceedings, OSHA has considered these issues and determined that in the absence of evidence to establish a safe level on the basis of present knowledge employee exposure must be reduced as low as feasible. See the preambles to the carcinogen standards (39 CFR 1910.1003-1910.1016 (39 FR 3718)), the vinyl chloride standard (29 CFR 1910.1017 (39 FR 35892)), the coke oven emissions proposal (40 FR 32268), and the beryllium proposal.

OSHA welcomes all views and comments on these subjects.

IV. Pertinent Legal Authority

The primary purpose of the Act is to assure, so far as possible, safe and healthful working conditions for every working man and woman. One means prescribed by Congress to achieve this goal is the authority vested in the Secretary of Labor to set mandatory safety and health standards pursuant to Section 6(b) of the Act, 29 U.S.C. 655(b). This standards setting process permits the participation of interested parties in the consideration of medical data, industrial processes and other factors relevant to the identification of hazards and the selection of appropriate control measures. Occupational safety and health standards provide notice of the permitted exposure levels and provide a basis for ensuring the existence of safe and healthful workplaces. Section 6(b)(5) of the Act, 29 U.S.C. 655(b)(5), provides that:

> The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws.

Sections 3(8), (9) and (6), 20, 21, 22, and 24 of the Act reflect Congress recognition that conclusive medical or scientific evidence, including causative factors, epidemiological studies or dose-response data, may not exist for many toxic materials or harmful physical agents. Nevertheless, standards cannot be postponed because definitive medical or scientific evidence is not currently available. Indeed, while final standards are to be based on the best available evidence, the legislative history makes it clear that "it is not intended that the Secretary be paralyzed by debate surrounding diverse medical opinion." (House Rept. No. 91-1291, 91st Cong., 2d Session, p. 18 (1970)). This Congressional judgment has been supported by the

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sures which have reviewed standards promulgated under the Act. For instance, in substituting the standard for coke-oven emissions in American Iron and Steel Institute v. OSHA, 577 F.2d 825 (3d Cir. 1978), the U.S. Court of Appeals for the Second Circuit stated that, "It remains the duty of the Secretary to act to protect the workman from risk and to act even in circumstances where existing methodology or research is deficient." *The Society of the Plastics Industry, Inc. v. United States Department of Labor*, 595 F.2d 1301 (C.A.D.C. 1978), *cert. denied sub nom. Firestone Plastics Co. v. United States Department of Labor*, ___ U.S. ___, 43 U.S.L.W. 3510 (27 May 1975). A similar rationale was applied by the U.S. Court of Appeals for the District of Columbia in reviewing the standard for occupational exposure to asbestos, 29 CFR 1910.1001, but appearing at the time of review at 29 CFR 1910.93a). The Court stated:

Some of the questions involved in the promulgation of these standards are on the frontiers of scientific knowledge, and consequently as to them conclusions exist as presently available to make a fully informed factual determination. Decision-making must in that circumstance depend to a greater extent upon policy judgments and less upon purely factual judgments. *Industrial Union Department, AFL-CIO v. Hodgson, supra*, 499 F.2d at 474.

In setting standards, the Secretary is expressly required to consider the feasibility of the proposed standards. H. Rpt. No. 91-1282, 91st Cong., 2d Sess., p. 58 (1970). Nevertheless, consideration of technological feasibility are not limited to devices already developed and in use. Standards may require improvements in existing technologies or require the development of new technology. *The Society of the Plastics Industry, Inc. v. United States, supra*, 509 F.2d at 1309.

Where appropriate, the standards are required to include provisions for labels or other forms of warning to apprise employees of hazards, suitable protective equipment, control procedures, monitoring and measuring of employee exposure, employee access to the results of monitoring, and appropriate medical examinations. Where a standard prescribes medical examinations or other tests, they must be made available at no cost to the employee (Section 6(b)(7) of the Act). Standards may also prescribe recordkeeping requirements where necessary or appropriate for enforcement of the Act or for developing information regarding occupational accidents and illnesses (Section 8(c) of the Act).

V. The Proposal

The development of this proposal is premised upon: (1) recent medical and scientific evidence as to increased health hazards associated with occupational exposure to asbestos and (2) the experience gained by OSHA in the seven years of enforcement and administration of the current asbestos standard.

The following is a summary and analysis of the significant issues contained in the text of the proposed standard for occupational exposure to asbestos.

A. Scope and Application

The standard, as revised, would continue to apply to all workplaces where occupational exposure to asbestos is present but would exclude the construction industry.

It is OSHA's intention to develop and propose a separate revision to the existing asbestos standard for the construction industry. Approximately three-fourths of all asbestos products in 1972 were used in the construction industry. In addition, the uniqueness of the construction industry itself (viz., the multiplicity of non-fixed workplaces, and the utilization of highly transient workforces) strongly suggests separate treatment. These structural differences were reflected in the 17-18 September 1975 deliberations of the OSHA Advisory Committee on Construction Safety and Health.

Although OSHA believes that health hazards faced by employees in the construction industry with regard to occupational exposure to asbestos are similar to those faced by their counterparts in other covered employments, OSHA recognizes that alternative administrative and engineering controls may be more appropriate and feasible for the construction industry. Therefore, OSHA intends to consult with the Construction Advisory Committee in order to further explore such alternatives. Upon publication of the proposal to revise the existing asbestos standard for the construction industry, OSHA will consider the possibility of consolidated hearings on that proposal and the proposal contained herein for all other covered employments.

OSHA is aware that certain provisions of this proposal, such as medical surveillance and the extended retention period for medical and monitoring records, may pose special problems to some employers, especially those who have small numbers of employees, operate with non-fixed places of employment, or use workforces which are highly transient in nature. This awareness has been expressed by the Departments of Labor in a statement submitted to the House Subcommittee on Environmental Problems Affecting Small Business on 26 June 1975, as follows:

It has become increasingly evident that the combined body of Federal regulations imposes a substantial and in some cases unnecessary burden upon employers, particularly those who are small businesses. While most of these requirements serve a necessary and useful purpose, a definite potential exists for duplication, conflicting standards and inappropriate recordkeeping requirements. In an effort to eliminate problems where any exist in the Department of Labor, I have requested my agency heads to assess the small business impact of the laws they administer and determine what can be done to ease the burden on the small employer while still insuring compliance with the law.

Although it is clear that OSHA's first and prime responsibility is to assure employees safe and healthful places of employment, the Act and its legislative history recognize that economic and technological feasibility are legitimate factors to be considered in the setting of occupational safety and health standards.

In addition, the Act explicitly takes cognizance of the impact such standards may have on small business, specifically with respect to any recordkeeping requirements which are imposed. Pursuant to section 8(c) of the Act, OSHA is exploring various methods of reducing, to the maximum extent feasible, the administrative and economic burdens of the provisions various recordkeeping requirements.

While the proposal does not address itself to specific alternatives OSHA invites comments concerning options which would both provide full protection to affected employees and at the same time would minimize the administrative and economic burden on affected employers—especially those with small numbers of employees, non-fixed workplaces, or highly transient workforces.

B. Discussion of Major Provisions

OSHA recognizes that, since the promulgation of the current standard, several distinguished individuals and many agencies, both public and private, have made valuable contributions to the field of toxic substances generally, and asbestos specifically.

Exposure Levels. Recently, the National Institute for Occupational Safety and Health (NIOSH) has informed OSHA that it is currently reviewing data which may provide significant information with respect to the margin of safety afforded by the existing asbestos exposure limits. In a memorandum dated 29 September 1975 to the Deputy Assistant Secretary of Labor for OSHA, the Director of NIOSH stated:

Multiple and consistent epidemiologic studies have virtually no doubt that asbestos is carcinogenic to man.

OSHA also believes sufficient medical and scientific evidence has now been accumulated to warrant the designation of asbestos as a human carcinogen. Therefore, it is incumbent upon OSHA to propose the establishment of safeguards to protect the lives of affected workers.

OSHA deems it appropriate to propose that the 8-hour exposure limit (TWA) be lowered to 500,000 fibers per cubic meter (0.5 asbestos fibers per cubic centimeter), and that the ceiling exposure limit be 5,000,000 asbestos fibers per cubic meter (5 asbestos fibers per cubic centimeter) for any period up to 15 minutes. OSHA recognizes that there is no assurance of a safe exposure for a substance with known carcinogenic property. In this case asbestos, and that there should be no detectable concentrations. However, the Act requires that the Secretary establish standards to be as feasible, and therefore the Secretary must take into consideration technological and economic factors.

OSHA believes that it may be appropriate to postpone the effective date of the proposed exposure level because of the existence of problems of transition of a technological and economic nature. OSHA expressly invites comments on this issue, including comment on the ap-

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...portativeness of a phased-in plan for compliance with any new exposure level. ...ed on such feasibility factors. In this ...sheet, OSHA particularly invites comments on the structure of the asbestos industry generally including factors distinguishing particular sub-industries in terms of methods of asbestos use and capabilities of compliance.

Definitions. OSHA believes that the present standard's definitions of "asbestos" and "asbestos fiber" should be revised by adding to the existing definition of "asbestos" and phrase "and every product containing any of these minerals", and by substituting the phrase "particulate form of asbestos" for the words "asbestos fibers" in the definition of "asbestos fiber". This reflects OSHA's concern for the morphology and toxicity of the regulated substance rather than its geologic or mineralogic origin. The proposed definition of "asbestos fiber" would also add to the current specification (minimum length 5 micrometers), a minimum aspect ratio of 3 to 1 and a maximum diameter of 3 micrometers. Such a definition is consistent with the one appearing in the "Recommended Procedures for Sampling and Counting Asbestos Fibers (Joint AIHA Vol. 36, No. 2, February 1975, pp. 83-90). In addition, air samples are presently evaluated by OSHA in terms of the concentration of asbestos fibers greater than 5 micrometers in length, and with a length to width aspect ratio of at least 3:1. Thus, the definition as revised ...set specific parameters for asbestos ...rs which are known to be respirable, ...d which can be counted using phase contrast microscopy.

OSHA is aware of scientific explorations into the area of pathological response to fiber morphology, and is currently working on several projects with other agencies, including NIOSH, to provide additional knowledge of this area.

Recordkeeping. OSHA proposes to extend the period for employer retention of monitoring records from three years to forty years, or for the duration of employment plus twenty years, whichever is longer. As the Court in *Industrial Union Department, AFL-CIO*, supra, 499 F. 2d at 487 pointed out, although the existing three-year period is adequate for OSHA's enforcement purposes, it may not be sufficient for the development of essential data regarding the causes of asbestos related diseases, some of which appear to have latency periods of up to forty years. The extended period for retention, with resultant data accumulation, will be vital to epidemiological and dismissal investigations to determine such things as dose-response relationships in diseases caused by exposure to asbestos.

OSHA believes that it is essential to such scientific investigations that both medical and monitoring records be retained for a similar period of time. Therefore, OSHA has proposed that the ...tion period for employee medical ...ds be extended from the present ...ty years to a period commensurate with that for monitoring records, i.e., ...forty years or for the duration monitoring records, i.e., forty years, or for the duration of employment plus twenty years, whichever is longer.

The proposal also outlines specific items of data which would be recorded with regard to employee exposure monitoring and medical examinations. OSHA views these requirements as the minimum necessary to develop the cause-effect relationships between exposures and pathology. OSHA believes these modifications to be consistent with the Court's direction, as well as with the recordkeeping requirements of section 8(c) of the Act, 29 U.S.C. 657(c).

The proposal would also add a requirement concerning the transfer of monitoring and medical records (1) when one employer succeeds another, or (2) when an employer ceases to do business, without a successor. An employer succeeding another would be required to receive and maintain those records which the predecessor would have been required to keep. Employers terminating their businesses without successors would be required to send their records to NIOSH.

Monitoring Procedure. The proposal also revises monitoring requirements for initial occupational exposure to asbestos, and increases the frequency for subsequent monitoring in order to provide a more adequate basis for relating employee's health records to their exposure levels. The adoption of this proposal would revoke the current specific requirements for both personal and environmental monitoring as well as the specific provisions for the collection of samples. Such revocation, and the permission to discontinue monitoring after two consecutive measurements below the permissible exposure levels would allow the exercise of some judgment as to when and how monitoring would have to be performed. An employer would be expected to exercise this judgment with an adequate appreciation of the purpose of monitoring, and the possible grave consequences of over-exposure.

Diagnostic Testing. The proposal also adds sputum cytology as a diagnostic test. The use of sputum cytology is proposed only for those workers who are 45 years of age or older or who have been employed in occupations involving exposure to asbestos 10 years or more. Although there has been some concern as to the value of sputum cytology, OSHA believes its usage for special high risk groups can be beneficial.

Regulated Area. The proposal requires that regulated areas be established. Use of areas so limited to authorized persons, and that a roster of persons authorized to enter be made daily and maintained for at least 40 years, or for the duration of employment plus 20 years, whichever is longer. One purpose of establishing regulated areas is to limit the exposure to as few people as possible. OSHA recognizes that in certain unrelated workplaces this requirement would pose special problems. Therefore, comments relating to alternate procedures applicable to affected employers would be welcomed.

Sampling of Ceiling Concentrations. The proposal provides for a sampling period up to 15 minutes for the determination of ceiling concentrations. The present standard contains no time parameters for measurement of the ceiling limit. A period of 10 to fifteen minutes is proposed because it has been found to be practical and is currently used by OSHA in determining compliance.

Respirators. The proposal revises the requirements for respirators, referencing NIOSH as the current approving authority and listing those respirators allowed for various air concentrations based on known protection factors. This is consistent with the selection of respirators recently developed for use in the Joint OSHA-NIOSH Standards Commission Project. The proposed revision will not render any existing respirators obsolete, but rather will enable a greater variety of respirators to be used under different conditions of exposure.

Refusal of Medical Exams. The proposed revision also contains a procedure to be followed by the employer in the event that an employee refuses to undergo any medical examination which must be offered. The procedure involves informing the employee of the potential risks that are incurred by his refusal to be examined and obtaining a signed statement from the employee attesting to the fact that the employee has been informed of the potential risks, but still does not wish to be examined. It is not OSHA's intent to encourage employees to avoid medical examinations. On the contrary, OSHA believes that positive action taken by the employer to inform employees of the risks involved will encourage employees to undergo such examinations.

Job Reassignment. The proposal also retains a provision from the existing standard (29 CFR 1910.1001(f)(2)(iv)(c)) which requires job rotation or transfer without loss of pay (where such positions are available) for employees found unable to function normally as a result of having to wear one of the prescribed respirators. OSHA is aware that the concept has been the subject of considerable controversy. However, actual labor management experience as to the operation of this provision has yet to be reviewed by OSHA. Therefore, OSHA would welcome comments from interested parties concerning not only the effectiveness of the provision, but as to the relative merits of the concept itself. Based on the receipt of such information, OSHA will reconsider the provision's applicability and scope. If warranted, OSHA may consider job reassignment based on medical unavailability, per se, as the subject for a separate rule-making procedure.

Employee Information and Training. Information and training are essential for the protection of employees, because employees can do much to protect themselves if they are informed of the nature of the hazards in the workplace. To be effective, however, an employer education system must educate employees of the specific hazards associated with the work environment. For this reason, the

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employer would be required to inform each employee assigned to a regulated area about the nature of asbestos-related health problems, the necessity for exposure control, the work practices and engineering controls associated with the employee's job assignment, and the medical surveillance programs.

Signs and labels. Due to the hazardous nature of asbestos, OSHA believes that emphasis should be placed on warning employees and other persons about the dangers of exposure. For this reason, the proposed standard includes a section on signs for regulated areas and labels for products containing asbestos or their containers.

The signs to be posted at regulated areas inform employees of the carcinogenic hazard of asbestos and alert them to the fact that only persons authorized by the employer should enter the area.

Hygiene facilities and practices. The proposal provides that all employees working in regulated areas must be required to wash hands, face, and forearms before eating, drinking, or smoking. Finally, smoking, nonfood chewing products, drinking, and eating are prohibited in regulated areas. In addition employees working in regulated areas are required to shower before leaving at the end of the work shift. This section of the proposed standard also requires that the employer provide for the hygiene facilities such as change rooms and showers in accordance with 29 CFR 1910.141.

Appendices. In addition, the proposal introduces appendices to be published with the standards as information and guidance.

Appendix A (Substance Safety Data Sheet) provides information on the general nature of asbestos, exposure limits and general precautions regarding its usage. Appendix B (Substance Technical Guidelines) provides technical information on asbestos minerals, recommendations for monitoring, and general work-practices for clean-up operations. Two guides for workpractices for certain operations are included as enclosures. The first deals with loading, unloading, and storing asbestos cargo. The second provides guidance to employers who introduce asbestos into manufacturing operations. Appendix C (Medical Surveillance Guidelines) provides information considered to be useful and appropriate to the examining physician.

VI. Environmental Impact Assessment

The National Environmental Policy Act of 1969 (NEPA), (42, U.S.C. 4321-4343), requires, among other things, that Federal agencies assess their proposed major actions, including rule making, to determine whether a significant impact on the quality of the human environment may result. Furthermore, 29 CFR 1999.3 (d) requires that where OSHA determines that an environmental impact statement should be prepared, the determination be do so must be published in the Federal Register. Accordingly, it is hereby noticed that OSHA intends to prepare an environmental impact statement on the proposed revision to the standard for occupational exposure to asbestos.

Once the draft environmental impact statement has been prepared a copy of it will be made available by OSHA to any member of the public who requests an opportunity to comment on it. Any person or agency submitting comments on it to OSHA must at the same time forward five copies of the comments to the Council on Environmental Quality (CEQ), 722 Jackson Place, N.W., Washington, D.C. A 45-day period will be allowed for the submission of comments after the publication of the notice of availability of the draft environmental impact statement. The draft statement will be available where practicable at least 30 days prior to a public hearing on the proposed standard. The environmental impact of the proposal would be an appropriate issue at such hearing.

In addition, comments that may be helpful in preparing the draft environmental impact statement on the proposed revision are solicited. Any person having relevant information or data is invited to submit it to David R. Zeil, Office of Standards Development, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N-3668, Washington, D.C. 20210 by November 10, 1975. Comments submitted in regard to the proposed standard need not be resubmitted. All material received on environmental impact will be available for public inspection and copying at the above address.

VII. Public Participation

Interested persons are invited to comment on the proposed standard on or before December 8, 1975. Written data, views and arguments concerning the proposal must be submitted in quadruplicate to the Docket Officer, Docket H-033, U.S. Department of Labor, Room N-3620, 200 Constitution Avenue, N.W., Washington, D.C. 20210 Telephone 202/523-8076. Written submissions must clearly identify the provisions of the proposal addressed and the position taken with respect to each such provision. The data, views, and arguments will be available for public inspection and copying at the above address. All written submissions received will be made part of the record.

Pursuant to 29 CFR 1911.11 (b) and (c), interested persons may, in addition to filing written comments as provided above, file objections to the proposal and request an informal hearing with respect thereto, in accordance with the following conditions:

1. The objections must include the name and address of the objector;

2. The objections must be postmarked on or before December 8, 1975;

3. The objections must specify with particularity the provision of the proposed rule to which objection is taken, and must state the grounds therefor;

4. Each objection must be separately stated and numbered; and

5. The objections must be accompanied by a detailed summary of the evidence proposed to be adduced at the requested hearing.

In addition to the comments invited above concerning the proposal and its environmental impact, OSHA hereby solicits comments from interested parties regarding the potential inflationary impact of the proposed revision. Comments must be submitted in accordance with the above requirements for comments on the proposal and may be directed toward any or all of the following subjects:

1. Cost impact on consumers, businesses, markets, or Federal, State, or local government;

2. Effect on the productivity of wage earners, businesses, or government;

3. Effect on competition;

4. Effect on supplies of important materials, producers, or services;

5. Effect on employment; and

6. Effect on energy supply or demand.

It is OSHA's intention to prepare an inflationary impact statement and analysis, if appropriate, or a certification that the revision has no substantial inflationary impact, and to make such statement or certification available at least 30 days prior to any public hearings on the proposed revision. The potential inflationary impact of the proposed revision would be an appropriate issue at such hearing.

This procedure has been concurred with by the Council on Wage and Price Stability in accordance with the Office of Management and Budget Circular A-107 (28 January 1975), issued pursuant to Executive Order 11821.

Accordingly, pursuant to sections 6(b) and 8(c) of the Occupational Safety and Health Act (84 Stat. 1593, 1599; 29 U.S.C. 655, 657) and 29 CFR Part 1911, it is hereby proposed to amend Part 1910 of Title 29 of the CFR as set forth below.

Signed in Washington, D.C., this 30th day of September 1975.

JOHN T. DUNLOP,
Secretary of Labor.

1. Mancuso, T. F. and E. J. Coulter: Methodology in Industrial Health Studies. Arch. Environ. Health 6: 316-326, (1963).

2. Selikoff, I. J., Churg, J. and E. C. Hammond: Asbestos Exposure and Neoplasia. J.A.M.A. 188: 22-26, (1964).

3. Selikoff, I. J., Churg, J. and E. C. Hammond: The Occurrence of Asbestosis Among Insulation Workers in The United States. N.Y. Acad. Sci. 132: 139-155, (1965).

4. Lemasters, P. and M. Knudsen: Asbestos-Dust Exposure at Various Levels and Mortality. Arch. Environ. Health 16: 183-189, (1967).

5. Selikoff, I. J., Churg, J. and E. C. Hammond: Asbestos Exposure, Smoking and Neoplasia. J.A.M.A. 204: 106-112, (1968).

6. Murray, H. M.: Report of the General Special Committee on Compensation for Industrial Diseases. H.M. Stationery Office, London, (1907).

7. Cooke, W. E.: Fibrosis of the Lungs due to the Inhalation of Asbestos Dust. Brit. J. Med. II: 147, (1924).

8. Merewether, E. R. A., and C. W. Price: Report on the Effects of Asbestos Dust on the Lungs and Dust Suppression in the Asbestos Industry. H.M. Stationery Office, London, (1930).

9. Dreessen, W. C., Dallavalle, J. M. Edwards, T. I. et al: A Study of Asbestosis in the Asbestos

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Textile Industry. Public Health Rep. 83 No 261, p 125 (1968).

British Occupational Hygiene Society—Committee on Asbestos Hygiene Standards. Is the Chrysotile Asbestos Dust Amb. Occup. Hyg. 11 47-57 (1968).

Berry, J. Hygiene Standards—Theory and Application in Relation to Effects of Asbestos pp [illegible] International Agency for Research on Cancer [illegible] (1973).

Criteria for a Recommended Standard Occupational Exposure to Asbestos. National Institute for Occupational Safety and Health (1972).

Knox, J. F., Holman, W., Doak, S. and L. D. Hill: Mortality From Lung Cancer and Other Causes Among Workers in an Asbestos Textile Factory. Brit. J. Industr. Med. 25 293-303. (1968).

Lewinsohn, H. C.: The Medical Surveillance of Asbestos Workers. New Jer. Health J. 33 (2) 69 [illegible] (1973).

Anderson, H. A., Selikoff, I. J., Lilis, R. and S. Daum: Confirmed Asbestos Neoplastic Risk. Arch. N.Y. Acad. Sci. (In Press).

Selikoff, I. J., Hammond, E. C. and H. Seidman: Cancer Risk of Insulation Workers in the United States. Biological Effects of Asbestos, pp. 209-216. International Agency for Research on Cancer, Lyon. (1973).

Enterline, P., de Causse, P. and V. Henderson: Mortality in Relation to Occupational Exposure to The Asbestos Industry. J. Occup. Med. (4 897-903. (1972).

Selikoff, I. J., Hammond, E. C. and J. Churg: Carcinogenicity of Amosite Asbestos. Arch. Environ. Health 23: 183-186. (1971).

Nicholson, W. J.: Research Approaches to the Control of Carcinogenic Exposures: Asbestos—The "TLV" Approach. Mount Sinai School of Medicine of the City University of New York, New York. 10029.

Kamigaki, E. C. and I. J. Selikoff: Relation of Cigarette Smoking to Risk of Death Asbestos-Associated Disease Among Insulation Workers in the United States. In Biological Effects of Asbestos, pp. 312-317. International Agency for Research on Cancer, Lyon. (1973).

Wagner, J. C., Berry, G. A. and P. Marchand: Diffuse Pleural Mesotheliomas and Asbestos Exposure in the North Western Cape Province. Brit. J. Industr. Med. 17 260-271. (1960).

Battigelli, J. B. and W. J. Smither: Peritoneal Tumors in Asbestosis. Brit. J. Industr. Med. 21 28-31. (1964).

Borrow, M., Cosston, A., Livermore, L. T., and N. Selikoff: Mesothelioma and Its Associations with Asbestos: J.A.M.A. 201 487-491. (1967).

Hammond, E. C., Selikoff, I. J. and J. Churg: Neoplasia Among Insulation Workers in the United States with Special Reference to Intra-Abdominal Neoplasia. Ann. N.Y. Acad. Sci. 132:519-535. (1965).

Newhouse, M. L. and G. Berry: The Risk of Developing Mesothelioma Through Asbestos Exposure. XVIII International Congress on Occupational Health. Brighton, England. (1975).

Elmes, P. C. and M. E. G. Simpson: Insulation Workers in Britain. 2. Mortality 1910-66. Brit. J. Industr. Med. 28:326-336. (1971).

Hill, I. D. and T. McGill: Asbestos and Laryngeal Cancer. Lancet 2 416-417 (1972).

Newhouse, M. L. and G. Berry: Letter to the Editor: Asbestos and Laryngeal Cancer. Lancet 2 618. (1973).

Selikoff, I. J., Hammond, E. C., and J. Churg: Mortality Experience of Asbestos Bore Pneumoconiosis. Proc. 1st Conf. Johannesburg. 1965. pp. 186-196. Oxford University Press. (1967).

Howard, B., Kuhlik, L. J., Lewinsohn, H. C., Pike, J., and N. Dyer: A Mortality Study Among Workers in an Electric Asbestos Factory. XVIII International Congress on Occupational Health. Brighton, England. (1975).

Brody, J. E., New York Times, Sept 30, 1974

Wagner, J.: Asbestos and Malignancy. J. A. Med. J. 47 65-71 (1973).

Greenberg, M. and L. Davies: Mesothelioma Register 1967-68. Brit. J. Industr. Med. 31 91-104. (1974).

Harries, P. G.: Asbestos Hazards in Naval Dock Yards. Ann. Occup. Hyg. 11 135-149 (1968).

Whitwell, F. and Rawcliffe, M.: Diffuse Malignant Pleural Mesotheliomas and Asbestos Exposure. Thorax 26 6. (1971).

McEvoy, J., Blackstock, A. Blair, A. and A. M. Gibson: Mesotheliomas in Scotland. Brit. Med. J. 4 373-376 (1971).

Stumpflus, J.: Epidemiology of Mesothelioma on Walberge Island. Brit. J. Industr. Med. 28 39-46. (1971).

Sherin, G. and A. R. Templeton: Effects of Asbestos in Dockyard Workers. Brit. Med. J. 2 571-579. (1965).

Fletcher, D. E.: A Mortality Study of Shipyard Workers with Pleural Plaques. Brit. J. Industr. Med. 29 142-145. (1972).

Gilliam, J. D., Lemen, R. A., Archer, V. E., Wagner, J. K., and J. Dement: Morbidity and Mortality Among Hard Rock Miners Exposed to an Asbestiform Mineral. Am. N. Y. Acad. Sci. (In press).

Selgo, J. R.: Asbestos Related Disease in Barrow-in-Furness. Env. Res. (In Press)

Section 1910.1001 is proposed to be revised to read as follows:

§ 1910.1001 [illegible]

(a) *Scope and application.* This section applies to every place of employment where asbestos or a product containing asbestos is manufactured, processed, packaged, stored, supplied, used or otherwise handled. However, this section does not apply to construction work within the scope of § 1910.12 of this part nor to working conditions of employees with respect to which other Federal agencies exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

(b) *Definitions.* For the purpose of this section—

(1) "Asbestos" includes chrysotile, amosite, crocidolite, tremolite, anthophyllite, and actinolite, and every product containing any of these minerals.

(2) "Asbestos fiber" means a particulate form of asbestos, longer than 5 micrometers, with a length-to-diameter ratio of at least 3 to 1, and with a maximum diameter of 3 micrometers.

(3) "Emergency" means an unforeseeable and unexpected occurrence likely to release airborne concentrations of asbestos fibers in excess of 5 fibers per cubic centimeter of air, such as, but not limited to, failure of equipment or control devices, and rupture of containers.

(4) "Authorized person" means a person required by his duties to enter a regulated area and authorized to do so by his employer, this section, or the Occupational Safety and Health Act of 1970. The phrase includes a representative of employees who is designated to observe monitoring procedures.

(5) "Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor or any of his designees.

(6) "Director" means the Director of the National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or any of its designees.

(c) *Permissible exposure to airborne concentrations of asbestos fibers*—(1) *8-hour time-weighted average concentration.* No employee may be exposed to an 8-hour time-weighted average airborne concentration of asbestos fibers in excess of 0.5 fiber per cubic centimeter or 500 000 fibers per cubic meter) of air as determined on the basis of a 40-hour work week and by the method prescribed in paragraph (e)(3) of this section.

(2) *Ceiling concentration.* No employee may be exposed to airborne concentrations of asbestos fibers in excess of 5 fibers per cubic centimeter (or 5 million fibers per cubic meter) of air, as determined over a period up to 15 minutes by the method prescribed in paragraph (e)(3) of this section.

(d) *Regulated areas.* Any work area where a person may be exposed to airborne concentrations of asbestos fibers in excess of either of the limits imposed by paragraph (c) of this section shall be designated a regulated area. Only authorized persons may be allowed to enter such an area. A daily roster of all persons entering a regulated area shall be made and maintained.

(e) *Monitoring.* The purpose of all monitoring required by this paragraph is to measure accurately the airborne concentrations of asbestos fibers in a workplace to which employees would be exposed if they worked in the area without the use of personal protective equipment, such as respirators. Monitoring shall be performed in a manner reasonably calculated to satisfy this purpose. It may not be necessary to monitor every employee exposed to airborne concentrations of asbestos fibers in order to satisfy the purposes of this paragraph. For instance, the employee, or his working locations, likely to be exposed to the highest airborne concentration of asbestos fibers in a work area may be deemed a representative of all the employees in the area. An employee in one shift may be deemed a representative of all employees in other shifts who, because they perform the same operation or are stationery in the same area, or for other relevant reasons, may reasonably be considered to have the same level of exposure as the representative employee. However, the results of a monitoring of a representative employee shall be deemed to apply, and to indicate the exposure level of, all employees represented.

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(1) *Initial.* Every employer shall cause every place of employment where asbestos fibers may be released to be monitored in such a manner as to determine whether employees are exposed to concentrations of asbestos fibers 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.

(2) *Frequency.* (i) If monitoring shows that an employee's exposure is above either limit prescribed in paragraph (c) of this section, the monitoring shall be repeated every month, except as otherwise provided in paragraph (e)(2)(iii) of this section.

(ii) If monitoring shows that an employee's exposure is below both limits prescribed in paragraph (c) of this section, the monitoring shall be repeated every three months, except as otherwise provided in paragraph (e)(2)(i) or (e)(2)(iii), or (e)(2)(iv) of this section.

(iii) If two consecutive monitorings made at least 5 days, but not more than 3 months apart, show that an employee's exposure is below both limits prescribed in paragraph (c) of this section, monitoring need not be repeated, except as otherwise provided in paragraph (e)(2)(iv) of this section.

(iv) Whenever an employer has reason to believe that an employee's level of exposure has changed because of a change in production, process, controls, or other relevant factors, the employee shall be monitored as soon as practicable, and thereafter paragraphs (e)(2)(i), (e)(2)(ii), or (e)(2)(iii) shall apply.

(3) *Method of measurement.* All determinations of airborne concentrations of asbestos fibers shall be made by the membrane filter method at 400–450 x (magnification) (4 millimeter objective) with phase contrast illumination.

(4) *Employee notification.* (i) Within five (5) working days after the receipt of the measurement results, the employer shall notify each employee in writing of the results concerning the employee's exposure.

(ii) Where the results reveal an employee's exposure to be above either of the permissible exposure limits, such notification shall also include a statement of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(f) *Methods of compliance.* Employee exposure to asbestos fibers shall be controlled to or below the permissible exposure limits by engineering controls, work practices, and personal protection controls.

(1) *Engineering and work practice controls.* Engineering controls shall be instituted immediately to reduce employee exposure to or below the permissible exposure limits, except to the extent that such controls are not feasible. Where engineering controls which can be instituted immediately are not sufficient to reduce exposure to or below the permissible exposure limits they shall nonetheless be used to reduce exposure to the lowest practicable level and shall be supplemented by the use of work practice controls.

(2) *Personal protection controls.* Where engineering and work practice controls are not sufficient to reduce employee exposure to or below the permissible exposure limits, they shall nonetheless be used to reduce exposure to the lowest possible level, and shall be supplemented by the use of respirators, in accordance with paragraph (g) of this section.

(3) *Particular tools.* All hand-operated and power-operated tools which may produce or release asbestos fibers in excess of the exposure limits prescribed in paragraph (c) of this section, such as, but not limited to, saws, scorers, abrasive wheels, and drills, shall be provided with local exhaust ventilation systems.

(4) *Work practices.* (i) *Wet methods.* Insofar as practicable, asbestos shall be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet state sufficient to prevent the emission of airborne fibers in excess of the exposure limits prescribed in paragraph (c) of this section, unless the usefulness of the product would be diminished thereby.

(ii) *Particular products and operations.* (A) No asbestos cement, mortar, coating, grout, plaster, or similar material containing asbestos shall be removed from bags, cartons, or other containers in which they are shipped, without being either wetted, or enclosed, or ventilated so as to prevent effectively the release of airborne asbestos fibers in excess of the limits prescribed in paragraph (c) of this section. (B) Employees engaged in the spraying of asbestos, and in the removal of asbestos insulation or coverings shall be provided with respiratory equipment and protective clothing in accordance with paragraph (g) of this section.

(5) *Local exhaust ventilation.* Local exhaust ventilation and dust collection systems shall be designed, constructed, installed, and maintained in accordance with the American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, ANSI Z9.2–1971, which is incorporated by reference herein. (See § 1910.6 of this part concerning the availability of ANSI Z9.2–1971, and the maintenance of a historic file in connection therewith.)

(6) *Mechanical ventilation.* When mechanical ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system to control the exposure, such as capture velocity, duct velocity, or static pressure, shall be made at least every 3 months. Measurements of the system's effectiveness to control exposure shall also be made within 5 days of any change in production, process, or control which might result in any change in employee exposure.

(7) *Compliance programs.* (i) Every employer shall establish and implement a written program to reduce exposures to or below the permissible exposure limits solely by means of engineering and work practice controls.

(ii) The written program shall include:

(A) A description of each exposed operation, e.g., crew size, operating procedures and maintenance practices;

(B) Engineering plans and studies used to determine the controls for the operation;

(C) A report of the technology considered in meeting the permissible exposure limits;

(D) Monitoring data;

(E) A detailed schedule for implementation of the engineering controls and work practices that cannot be implemented immediately as well as for the development and implementation of any additional engineering and work practices necessary to meet the permissible exposure limits;

(F) Other relevant information.

(iii) Written plans for compliance programs shall be submitted, upon request, to the Assistant Secretary and Director, and shall be available at the worksite for examination and copying by the Assistant Secretary and the Director. Such written plans shall be revised and updated at least every six months to reflect the current status of the program.

(g) *Respiratory protection.* (1) *Use.* Respirators shall be used where required under this section. Compliance with the permissible exposure limits may not be achieved by the use of respirators, except:

(i) During the time period necessary to install engineering or work practice controls; or

(ii) In work situations in which engineering controls and supplemental work practice controls are insufficient to reduce exposure to or below the permissible exposure limits; or

(iii) In emergencies.

(2) *Selection.* Where respirators are permitted by this section, the employer shall select them from among those approved by the National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, pursuant to 30 CFR Part 11, and in accordance with Table 1 set out below.

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TABLE I

RESPIRATORY PROTECTION AGAINST ASBESTOS FIBERS

Concentration or exposure	Required respirator
Up to 2 times the limit prescribed in paragraph (c) of this section	(A) Self-contained breathing apparatus with a full facepiece in pressure-demand or other positive pressure mode.
Up to 10 times the applicable exposure limit prescribed in paragraph (c) of this section	A) A type C supplied air respirator with a full facepiece operated in pressure-demand or other positive pressure mode or with a full facepiece, hood or helmet operated in continuous flow mode.
Up to 100 times the applicable exposure limit prescribed in paragraph (c) of this section	(A) A type C supplied air respirators operated in pressure-demand or other positive pressure or continuous flow mode or (B) A powered air purifying respirator with a high efficiency particulate filter. (C) self contained breathing apparatus a pressure demand positive pressure mode.
Up to 10 times the applicable exposure limit prescribed in paragraph (c) of this section	A) A high efficiency particulate filter respirator with a full facepiece or (B) Any supplied air respirator with a full facepiece or C) Any self-contained breathing apparatus with a full facepiece.
Up to 10 times the applicable exposure limit prescribed in paragraph (c) of this section.	(A) Any air purifying respirator with replaceable particulate filter or C) Any single use respirator with or without valve or (C) Any supplied air respirator; or D) Any self-contained breathing apparatus.

* High efficiency filter—99.97 percent efficient against 0.3 micron dioctylphthalate (DOP).

(3) *Respirator program.* (i) Respirators shall be used and maintained in accordance with § 1910.134 (b) and (d) of this part.

(ii) The employer shall institute a respiratory protection program in accordance with § 1910.134 (b) of this part.

(iii) Employees who wear respirators shall be allowed to leave work areas to wash their face and respirator facepiece to prevent skin irritation due to respirator use.

(iv) No employee shall be assigned to tasks requiring the use of a respirator if, based upon his most recent examination, an examining physician has determined that the employee would be unable to function normally while wearing a respirator, or that the safety or health of the employee or other employee would be impaired by his use of a respirator. To the maximum extent possible 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, within 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.

(h) *Personal protective clothing.* (1) The employer shall provide, and require the use of, personal protective clothing, such as coveralls or similar whole body clothing, head coverings, gloves, and foot coverings, for any employee exposed to airborne concentrations of asbestos fibers which exceed either of the limits prescribed in subparagraph (c) of this section.

(2) Clean and dry protective clothing and equipment shall be provided to each affected employee at least daily.

(3) The employer shall clean, launder, maintain, or dispose of protective clothing and equipment required by this section.

(4) The employer shall assure that all protective clothing and equipment is removed only in change rooms required by paragraph (i) (1) of this section.

(5) The employer shall assure that no employee removes contaminated protective clothing and equipment from the change room except for the purpose of cleaning, laundering, maintenance, or disposal.

(6) Contaminated protective clothing and equipment shall be placed in impermeable closed containers.

(7) The employer shall inform any person who launders or cleans protective clothing and equipment contaminated with asbestos of the potentially harmful effects of exposure to asbestos fibers.

(i) *Hygiene facilities and practices.* (1) *Change rooms.* Where employees wear protective clothing and equipment, clean change rooms equipped with separate facilities for street clothes and separate storage facilities for protective clothing and equipment shall be provided.

(2) *Showers.* Employees working in regulated areas shall be required to shower before leaving at the end of the work shift. The employer shall provide shower facilities in accordance with § 1910.141(d)(3) of this part.

(3) *Lavatories.* Employees working in regulated areas shall be required to wash face, and forearms prior to drinking, eating, or smoking. The employer shall provide an adequate number of lavatories for this purpose which shall meet the requirements of § 1910.141 (d)(3) and (5) of this part.

(4) *Arrangement of clean or facilities.* Clothes lockers and change facilities shall be arranged so as to separate regulated areas and uncontaminated areas.

(5) *Arrangement of lavatory facilities.* Lavatory and toilet facilities which the employer is required to provide in regulated areas shall be arranged so that no access is available from them to uncontaminated areas.

(j) *Prohibition of activities in regulated areas.* The presence or consumption of food or beverages, the presence or use of smoking or herbicide products, or cosmetics shall be prohibited in regulated areas.

(j) *Medical surveillance.* (1) *General.* Every employer shall provide or make available at his cost medical examinations relative to exposure to asbestos as required by this paragraph. If an employee refuses a medical examination provided in accordance with this paragraph, the employer shall inform the employee of the possible health consequences of such refusal, and shall obtain a signed statement from the employee stating that such employee has been informed of the consequences and refuses to be examined.

(2) *Preplacement.* The employer shall provide or make available to each of his employees, within 10 calendar days following his first employment in an area exposed to airborne concentrations of asbestos fibers, a comprehensive medical examination. Such examinations shall include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches), a history to elicit symptoms of respiratory disease, pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$), and for employees with 10 or more years of exposure to airborne concentrations of asbestos fibers or who are 45 years of age or older a sputum cytology examination.

(3) *Annual.* Every employer shall provide or make available comprehensive medical examinations to each of his employees exposed to airborne concentrations of asbestos fibers at least annually. Such examination shall include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches), a history to elicit symptoms of respiratory disease, pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$), and, for employees with 10 or more years of exposure to airborne concentrations of asbestos fibers or who are 45 years of age or older, a sputum cytology examination.

(4) *Termination of employment.* The employer shall provide or make available within 30 calendar days before or after termination of employment of any employee exposed to airborne concentrations of asbestos fibers, a comprehensive medical examination. Such examination shall include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches), a history to elicit symptoms of respiratory disease, pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$), and, for employees with 10 or more years of exposure to airborne concentrations of asbestos fibers or who are 45 years of age or older, a sputum cytology examination.

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(3) *Recent examinations.* No medical examinations is required of any employee, if adequate records show that the employee has been examined in accordance with this paragraph within the past 1-year period.

(c) *Employee's written opinion.* (i) Within 30 days after receipt of each examination required by this paragraph, the employer shall obtain a written opinion from the examining physician, containing the following:

(A) The physician's opinion as to whether the employee has any medical conditions which would place the employee at increased risk of material impairment of his or her health from exposure to asbestos fibers, or which would, directly or indirectly, be aggravated by such exposure;

(B) Any recommended limitations upon the employee's exposure to asbestos fibers, or upon the use of protective clothing and equipment, such as respirators; and

(C) A statement that the employee has been informed by the physician of any medical conditions which require further examination or treatment.

(ii) The written opinion shall not reveal specific findings or diagnoses unrelated to occupational exposure to asbestos fibers.

(iii) A copy of the written opinion shall be provided to the affected employee.

(7) *Withdrawal from exposure.* No employee shall be exposed to asbestos fibers in such a way as would put the employee at increased risk of material impairment of his or her health from such exposure. This determination may be based on the physician's written opinion.

(k) *Employee information and training.* (1) *Training program.* (i) Every employer shall provide a training program for employees assigned to regulated areas.

(ii) The training program shall be provided at the time of initial assignment and at least annually thereafter, and shall include information each employee of:

(A) The specific nature of the operations which could result in exposure to asbestos fibers as well as any necessary protective steps;

(B) The engineering controls and work practices associated with the employee's job assignment;

(C) The purpose, proper use, and limitations of respiratory protective equipment as required in § 1910.134 (b), (d), and (f) of this part;

(D) The purpose for, and a description of, the medical surveillance program required by paragraph (m) of this section; and

(E) A review of this standard.

(2) *Access to training materials.* (i) A copy of this standard and its appendixes shall be made readily available to all employees working in regulated areas.

(ii) All materials relating to the employee information and training program shall be provided upon request to the Assistant Secretary and the Director.

(l) *Signs and labels.* (1) *Danger signs.* (i) *Posting.* Signs shall be prominently displayed at each regulated area. Signs shall be posted at such a distance from such a location that an employee may read the signs and take necessary protective steps before entering the area marked by the signs.

(ii) *Sign format.* The sign shall bear the following legend, with other wording and space of sufficient size to convey the following:

Legend	Location
Area of	1 each side of group of areas.
Cancer hazard.....	1 each side of group of areas.
Avoid breathing dust - Wear assigned protection.	1 each entrance.
Eyewash fountain.....	Do.
Do not remain in area unless your work requires it.	Do.

Spacing between words shall be at least equal to the height of the upper of any two lines.

(2) *Danger labels for labeling.* Labels shall be affixed to all raw materials, mixtures, scrap, waste, debris, and other products containing asbestos fibers, or to their containers, except that no label is required where asbestos fibers have been modified by a bonding agent, coating, binder, or other material so that during any reasonably foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in paragraph (c) of this section will be released.

(i) *Specifications.* Labels shall be printed in letters of sufficient size and contrast as to be readily visible and legible. The label shall state:

DANGER

CANCER HAZARD

CONTAINS ASBESTOS FIBERS

AVOID CREATING DUST

(3) *Prohibition of contrary statements.* No statements may appear on or near any sign or label required by this paragraph which would contradict or detract from the sign or label.

(m) *Housekeeping.* (1) *Cleaning.* All exposed surfaces in any place of employment shall be maintained free of accumulations of asbestos fibers if their suspension would create an airborne concentration in excess of the exposure limits prescribed in paragraph (c) of this section.

(2) *Waste disposal.* Asbestos waste, scrap, debris, bags, containers, equipment, and asbestos-contaminated clothing contained for disposal, shall not be handled in any manner that would cause the release of asbestos fibers in excess of the exposure limits prescribed in paragraph (c) of this section shall be collected and disposed of in sealed impermeable bags or other closed, impermeable containers.

(n) *Recordkeeping.* (1) *Exposure records.* Every employer shall make an accurate record of every monitoring of employee exposure as required in paragraph (e) of this section.

(i) The record shall include:

(A) Date of monitoring;

(B) Operation involving exposure to asbestos fibers;

(C) Sampling and analytical methods used;

(D) Number, duration, and results of samples taken;

(E) Type of protective devices worn, if any; and

(F) Names, social security numbers, job titles, and exposure levels of all employees monitored.

(ii) Each record of an employee's exposure shall be maintained for at least 40 years, or for the duration of the employee's employment plus 20 years, whichever period is longer.

(2) *Medical records.* The employer shall keep an accurate medical record for each employee subject to medical surveillance required by paragraph (m) of this section.

(i) A record shall include:

(A) Physician's written opinion;

(B) Any employee medical complaints related to exposure to asbestos;

(C) A signed statement of any refusal to be examined, in accordance with paragraph (m)(1) this section.

(ii) Each record shall be maintained for at least 40 years, or for the duration of the employee's employment plus 20 years, whichever period is longer.

(3) *Mechanical ventilation measurements.* When mechanical ventilation is used as an engineering control, the employer shall maintain a record of the measurements demonstrating the effectiveness of such ventilation, as required by paragraph (f)(6) of this section.

(i) The record shall include:

(A) Date and location of measurements;

(B) Type of measurements taken; and

(C) Result of measurements.

(ii) Each record shall be maintained for at least 3 years.

(4) *Employee training.* The employer shall keep an accurate record of all employee training required by paragraph (k) of this section.

(i) The record shall include:

(A) Date of training;

(B) Name, social security number and job title of employee trained;

(C) Content or name of training provided; and

(D) Identification of materials distributed to the employee.

(ii) Each record shall be maintained for at least 3 years.

(5) *Access.* Each record required by paragraph (n) of this section shall be maintained for at least 40 years or for the duration of the employment plus 20 years, whichever period is longer.

(6) *Availability.* (i) All records required to be maintained by this section shall be made available upon request to the Assistant Secretary and the Director for examination and copying.

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(iii) Employee measurements and observations. [illegible] shall make available [illegible] examination and [illegible] former employees, or their designated representatives.

(iv) Preservation of records. [illegible] required by this section shall be made available upon request for examination and copying to the Director, or designated by the Director or his representative.

(v) In the event the employer ceases to do business and there is no successor to receive and retain his records for the prescribed period, these records shall be transmitted [illegible] to the Director and each employee no [illegible] shall be notified in writing of this transfer.

(g) *Observation of monitoring.* (i) *Employee observation.* The employer shall give employees or their representatives an opportunity to observe any measuring or monitoring of their exposure to asbestos fibers conducted pursuant to this section.

(ii) *Observation Procedures.* (i) When observation of the measuring or monitoring of employee exposure to asbestos fibers requires entry into an area where the use of personal protective equipment is required, the observer shall be provided with and required to use such equipment and shall comply with all other applicable safety and health procedures.

(ii) Without interfering with the measurement, observers shall be entitled to receive an explanation of the monitoring or measurement procedures, observe all steps related to the measurements and record the results obtained.

(h) *Appendices.* The information contained in the appendices to this section is not intended, by itself, to create any additional obligations not otherwise imposed, or to detract from any existing obligation.

Appendix A—Substance Safety Data Sheet

Asbestos

I. Substance Identification

A. *Substance:* Asbestos

For purposes of the asbestos standard asbestos is identified as including the following hydrated silicate minerals: chrysotile, amosite, crocidolite, tremolite, [illegible] and actinolite.

B. *Permissible exposure:* [illegible]

1. 0.5 fibers (longer than 5 micrometers, with a length-to-diameter ratio of at least 3 to 1 and with a maximum diameter of 3 micrometers) per cubic centimeter of air as an 8-hour time-weighted average.

2. 5 fibers (longer than 5 micrometers with a length-to-diameter ratio of at least 3 to 1 and with a maximum diameter of 3 micrometers) per cubic centimeter of air as determined using a sample collected over a period up to 15 minutes.

C. *Description:*

Asbestos fibers of high tensile strength and flexibility (chrysotile) are white, of similar hue as brown fibers may range from barely [illegible] variation to fine silky ones.

II. Health Hazard Data

A. *Routes of entry:*

Airborne fibers of asbestos are the major hazard. The [illegible] may be more at the risk of developing the diseases listed below.

B. *Toxicology:*

Asbestos exposure is associated with a unique [illegible] of lung cancers including [illegible] of the lungs, of the pleura (the membrane that surrounds the lungs), and [illegible] and asbestosis (a chronic fibrosis of the lungs). Symptoms of [illegible] may not appear for many years after [illegible] of the onset of [illegible] is long. It is generally [illegible] a considerable time lapse between [illegible] of the cancer and the appearance of [illegible] determined by x-ray.

C. *Medical:*

Applicants such as [illegible] that [illegible] asbestos [illegible] examinations [illegible] for prevention of radiologically evidenced pneumoconiosis.

III. Respiratory and Protective Clothing

A. *Respirators:*

You must wear a respirator whenever you are in an atmosphere where asbestos fiber concentrations exceed the permissible limits. In some operations this may be required for routine use if your employer is in the process of installing controls, or in situations where these controls cannot feasibly reduce exposure levels to within permissible limits. The [illegible] and work they must be selected in accordance with Table I of the asbestos standard and have a National Institute for Occupational Safety and Health (NIOSH) seal of approval. If you experience difficulty breathing while wearing a respirator, tell your employer.

B. *Clothing:*

The purpose of wearing protective clothing is to prevent additional exposure which could result from asbestos dust from personal clothing and on the body, becoming airborne. It is essential that contaminated clothing be removed and handled in such a way that the dust will not become airborne and inhaled.

IV. Precautions for Safe Use and Handling

Perform all operations in a manner which will keep the amount of dust which becomes airborne and potentially inhaled to an absolute minimum. Follow the requirements of the asbestos standard regarding [illegible] using controls, regulated areas, work practices, respiratory protection and protective clothing. Special work practices may be developed for your particular operations. Find out what they are and follow them. If you notice operations which may be exposing you or others to excessive dust, tell your supervisor.

Appendix B—Asbestos Technical Guidelines

Asbestos

I. Physical and Chemical Data

A. *Identification:*

Asbestos includes several different hydrated silicates, as listed in Appendix A.

B. *Properties common to the asbestos standard:*

Chrysotile, amosite, crocidolite, tremolite, anthophyllite and actinolite

C. *Physical characteristics:*

Asbestos fibers generally have high tensile strength, flexibility, heat and chemical resistance and good frictional properties. Characteristics vary with the mineral.

(1) Chrysotile (the fibrous form of serpentine) is the most common variety of asbestos. It can be crushed into fine white to brown fibers. It has high heat resistance but a relatively low tensile strength.

(2) Crocidolite (the fibrous form of riebeckite) has fine resistant blue fibers. The fibers are strong and resist acids.

(3) Amosite (the fibrous variety of grunerite) can be grayish-green to brown. Fibers are brittle. Amosite is characterized by good resistance to acids and other chemicals.

(4) Anthophyllite (the fibrous form of anthophyllite) is often used in products with [illegible] and chemical resistance.

(5) Tremolite is calcium magnesium silicate. Fibers have low tensile strength. Fibers [illegible] under [illegible] for many industrial applications. It is often a minor component of industrial and commercial use.

(6) Actinolite is calcium magnesium iron silicate. Fibers, like tremolite, have relatively low strength so that industrial use is limited.

II. Clean-up of Spills and Contaminated Areas

A. Clean-up of asbestos and asbestos-containing materials must be done in a manner which will not result in employee exposure to asbestos dust. Do not dry sweep. Wash or otherwise make the material as [illegible] become airborne. Wet the material before handling when possible. If loose material must be cleaned up dry, use vacuum cleaning or other methods which will keep dust under control.

B. Employees involved in clean up operations should be restricted from the area until clean up has been completed.

C. Employees involved in clean up operations should wear respiratory equipment specified in Table I of the asbestos standard when air concentrations are unknown. When air concentrations are known, select appropriate respirators from Table I of the asbestos standard.

D. Enclose waste asbestos materials in containers, which are impermeable to asbestos fibers and dispose of in a manner which will not result in subsequent exposures.

IV. Monitoring and Measurement Procedures

A. *General:*

Measurements taken for the purpose of determining employee exposure are best taken in a fashion such that the average 8-hour exposure may be determined from a single sample or two (2) 4-hour samples. Short time interval samples may also be used to determine the average exposure level if a minimum of five (5) measurements are taken in random manner over the 8-hour work shift. Random sampling means that any portion of the work shift has the same chance of being sampled as any other. The arithmetic average of all such random samples taken on one (1) work shift is an estimate of an employee's average level of exposure for that workshift. All samples should be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee).

The concentration of dust in the air in which a worker is exposed will vary, depending upon the nature of the operation and upon the type of work performed by the operator and the position of the operator relative to the source of the dust. The amount of dust inhaled by a worker can vary daily, seasonally, and with the weather. In order to obtain representative samples of workers' exposures, it is necessary to collect samples under varying conditions of

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...sensitive individuals days, and at different ...

...The ... of small ... differential ... of dust ... be ... a ... of ... by ... other ...

...With the following ... procedure ... at the workers breathing ... from 4 to 8 hours, ... sting of airborne ... 8-hour shift—a ... procedure ... more ... from the use of personal respirators.

B. Recommended method

The recommended sampling and analysis method is described in the ... entitled "NIOSH Membrane Filter Method for Evaluating Airborne Asbestos Fibers" by Leidel, Busch, and Lynch, which may be obtained from the Publications Unit, U.S. Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control, National Institute for Occupational Safety and Health, Cincinnati, Ohio 45202 (in press). A brief summary is given below.

Samples are collected by drawing air through a cellulose ester membrane filter by means of a battery powered personal sampling pump. The filter, after collection of the sample, is transferred from an opaque vessel to a transparent, optically flat container. The fibers are sized and counted by phase contrast microscopy at 400-450× magnification.

V. Work practices for certain operations

Work practices for certain work involving asbestos follow as enclosures to this appendix.

They are advisory in nature and are not intended to create any additional obligations not otherwise imposed by the standard, or to relieve from any existing obligation.

Enclosure I

Loading, unloading and storage asbestos bags

(a) Prior to unloading bags of either crude variety of asbestos fiber from a railcar, truck, ship, or other carrier, inside a closed ... section of the cargo and carry ... to detect ... release of leakage or spillage of asbestos ... has occurred and the amount of loose asbestos and dust present, if any.

(b) If the ... have damaged ... there is no ... on the cargo ... the cargo space, unloading and ... the removal or ... that may present ... Leaking and ... asbestos fiber ... in ... sealed bags or other closed containers ... to minimize the release of asbestos fiber to the ... in a manner that will minimize any damage that could create an exposure problem.

(c) If visual ... of bags and other ... reveal ... or ... that do not ... with unloading of ... Employees ... to ... protective ...

... unloaded ... and dust ... of asbestos ... of ... that do not ... protective ... bags or other containers ... to asbestos dust. ... by blowing or ... bags, flipping ... bags or other ... by ... or by ... using ... or other containers ... desirable to ... fibers. Glove ... before ... the ... or the ... of the ...

(d) If ... vessels, railroad ... trucks, ships or other ... have contained asbestos ... in their ... in bags, the carrier ... and clean up ... asbestos fiber ... dust ... to ... the ... of asbestos fiber ... dust will contaminate the asbestos cargo.

(e) If the airborne concentrations of asbestos fibers to which employees are exposed during ... (e.g., unloading) ... exceed ... are unknown, select ... from Table 1 of ... standard ... Use. During ... operations in ... or storage ... where airborne concentrations of asbestos fibers are unknown, have employees wear ... respirators selected from Table 1 of the asbestos ... which ... for up to 10 times or more ... the ... in paragraph (b) of the asbestos standard. Where ... concentrations are known, have employees wear ... respirators as specified in Table 1 of the asbestos standard.

(g) Special ... is to be worn by all employees ... in loading, unloading, and storage of asbestos cargo when the wearing of such ... is required by paragraph (g)(3) of the asbestos standard.

Enclosure II

Introduction of asbestos fibers into manufacturing processes

(a) Conduct production operations involving introduction of asbestos fiber into a process under dust controlled conditions such that employees are not exposed to concentrations of asbestos fiber above the exposure limits prescribed in paragraph (b) of the asbestos standard.

(b) In those operations where bagged asbestos fiber is being used, ensure that the fiber bags arrive at the work station in good condition, free of loose fiber on the bag surface. If the bags are stacked on pallets, the pallets must be clean and free of loose fiber.

(c) Place empty bags or other containers which have contained asbestos fibers in closed or airtight containers impervious to asbestos fibers until disposed of by methods that do not create airborne concentrations in excess of the exposure limits prescribed in paragraph (b) of the asbestos standard.

Appendix C—Medical Surveillance Guidelines

I. Scope of Index

Introduction.

II. Terminology

A. Exposure to asbestos dust may result in ... of the dust concentrations ... or the duration of exposure is long ... ers). There is a considerable time ... between initiation of the dust and the appearance of changes ... or ... Asbestosis is characterized by

1. A pattern of ... changes ... with diffuse ... of variable degree and ... pleural ... of fibrosis and calcification.

2. Clinical changes ... the rales and finger clubbing. There may be present or absent in any individual case.

3. Physiological changes ... in lung disorder.

B. Neoplasms

Neoplasms, such as mesotheliomas, may occur without radiological evidence of ... as exposure levels lower than those required for prevention of radiological ... does sometimes.

III. Special Tests

A. Chest roentgenograms.
B. Lung function tests.
1. Forced vital capacity.
2. Forced expiratory volume at 1 second.
3. Sputum cytology.

IV. Surveillance and Preventive Considerations

A. Preplacement

A routine medical examination and a complete medical and work history are required to be made available. The examination should include a chest roentgenogram ... (posteroanterior 14 x 17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) forced expiratory volume at 1 second (FEV 1.0), and, for employees with 10 or more years of exposure to airborne concentrations of asbestos fibers or who are 45 years of age or older, a sputum cytology examination. Those employees with respiratory disorders generally should not be placed where there is increased risk to inhalation of asbestos fibers.

C. Annual and termination examinations

Annual and termination examinations are required to be made available. They are to include, as a minimum, a chest roentgenogram (posteroanterior 14 x 17 inches), a history to elicit symptomatology of respiratory disease, pulmonary function tests to include forced vital capacity (FVC), and forced expiratory volume at 1 second (FEV 1.0), and, for employees with 10 or more years of exposure to airborne concentrations of asbestos fibers or who are 45 years of age or older a sputum cytology examination.

(Secs. 4, 6, 8, 84 Stat. 1592, 1593, 1597 (29 U.S.C. 653, 655, 657) and 29 CFR Part 1911)

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