H. Jaffuey:
Bud: ASARCO + St. Joe Lead
variance + interim order re MRP.

interesting in that a "step down"
MRP method is used - instead of MRP@60
MRP@55 + instead of 10% now
using 5% employees - Perhaps we could
be faced with this in Sept. 87?
Cliff H.

Occupational Safety and Health Administration

(V-86-3)

Temporary Variance and Interim Order; ASARCO, Inc.

AGENCY: Occupational Safety and Health Administration, Labor.

ACTIONS: (1) Notice of application for temporary variance and interim order; (2) Grant of interim order.

SUMMARY: This notice announces the application of ASARCO, Incorporated, for a temporary variance and interim order pending a decision on the application for variance from certain requirements of the medical removal provisions prescribed in 29 CFR 1910.1025(k)(1)(i)(D) of the standard for Occupational Exposure to Lead.

It also announces the granting of an interim order until a decision is rendered on the application for temporary variance.

DATES: The interim order became effective on April 17, 1985, the date of the letter granting the interim order. The last date for interested persons to submit comments is July 15, 1985. The last date for affected employers and employees to request a hearing on the application is July 15, 1985.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue NW., Room N-3656, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination at the above address, Telephone: 202-523-7193

or the following Regional and Area Offices:

U.S. Department of Labor—OSHA, 555 Griffin Square Building, Room 602, Dallas, Texas 75202

U.S. Department of Labor—OSHA, Federal Building, Room 421, 1205 Texas Avenue, Lubbock, Texas 79401

U.S. Department of Labor—OSHA, 911 Walnut Street, Room 406, Kansas City, Missouri 64106

U.S. Department of Labor—OSHA, Overland-Wolf Building, Rm. 100, 6910 Pacific Street, Omaha, Nebraska 68106

U.S. Department of Labor—OSHA, 4300 Goodfellow Boulevard, Building 105E, St. Louis, Missouri 63120

U.S. Department of Labor—OSHA, Federal Building, Rm. 1554, 1961 Stout Street, Denver, Colorado 80294

U.S. Department of Labor—OSHA, Petroleum Building, Suite 210, 2812 1st Avenue North, Billings, Montana 59101.

Notice of Application

Notice is hereby given that ASARCO, Incorporated, 120 Broadway, New York, New York 10271, has made application pursuant to section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.10 for a temporary variance from 29 CFR 1910.1025(k)(1)(i)(D) of the medical removal protection (MRP) provisions of the lead standard, which states:

> The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that the average of the last three blood sampling tests * * * [or the average of all blood sampling tests conducted over the previous six (6) months, whichever is longer] indicates that the employee's blood lead level is at or above 50 ug/100g of whole blood; provided, however, that an employee need not be removed if the last blood sampling test indicates a blood lead level at or below 40 ug/100g of whole blood.

The purpose of these provisions is to provide protection from excessive lead exposure for employees with substantially elevated blood-lead levels.

The addresses of the places of employment that will be affected by the application are as follows:

ASARCO, Incorporated, Post Office Box 7, Glover, Missouri 63646

ASARCO, Incorporated, East Helena, Montana 59835

ASARCO, Incorporated, Fifth and Doyle Streets, Omaha, Nebraska 68102

ASARCO, Incorporated, Post Office Box 1111, El Paso, Texas 79940.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that the implementation of the 50 μg/100g removal trigger of the lead standard is not feasible for the following reasons:

(1) Implementation would require the long-term removal of significant numbers of percentages of skilled and experienced employees who are critical to maintaining safe and healthful operations.

(2) The length of time these employees are predicted to have to remain on removal would create serious operational disruptions unless these employees can be quickly replaced, which they cannot.

Almost all jobs in ASARCO's primary lead facilities, the applicant claims, involve a degree of skill, training, and experience such that the widespread removals and transfers necessary under the 50 μg/100g trigger would severely impair the safety and efficiency of the plant. Limitation of the relief from removal/return trigger levels to supervisory, skilled or maintenance employees would, therefore, pose difficult administrative burdens. The applicant has requested a temporary variance to allow removal of employees under the MRP provisions when the employees' blood lead levels exceed 55 μg/100g rather than at the 50 μg/100g removal trigger. This relief would expire on February 1, 1986.

OSHA has decided to consider a step down process to assist the applicant in its endeavor to comply with the requirements of § 1910.1025(k)(1)(i)(D) by requiring medical removal at 55 μg/100g rather than at 50 μg/100g of whole blood as authorized under a recently expired temporary variance granted to the applicant. Whereby, the previous temporary variance required that at least 10 percent or more of the total lead-exposed supervisory, maintenance and skilled production employees have blood lead levels greater than 50 μg/100g of whole blood, OSHA will now consider the 55 μg/100g medical removal trigger when 5 percent or more of the applicant's employees have blood lead levels greater than 50 μg/100g of whole blood. OSHA believes that continued relief would be warranted if the applicant can show strict compliance with the Cooperative Assessment Program agreements reached with OSHA and the United Steelworkers of America (USWA), compelling evidence to show economic need for the relief and a significant reduction in the number of employees with blood lead levels above 50 μg/100g.

This request for relief comes at a time when ASARCO and the USWA have taken the initiative to apply the experience they gained under the arsenic standard. For the purpose of developing engineering compliance plans for ASARCO's four facilities, ASARCO, the USWA and OSWA are participating in a cooperative tripartite assessment to determine the lowest air lead levels that can be achieved by engineering controls, operation by operation, in each facility. Since OSHA

is very concerned that engineering solutions be found to lead exposure problems, the Agency looks favorably upon the tripartite arrangement as an effective way to achieve these solutions. As evidence of ASARCO's good faith in complying with the lead standard, it is signatory to several Cooperative Assessment Program (CAP) agreements in which milestones are established for the installation of feasible engineering controls and schedules are set for other related studies to be performed. OSHA commends ASARCO and the USWA for their initiative.

OSHA recognizes that the most effective solution to the problems of lead exposure at ASARCO is to implement engineering controls to the extent feasible and that such a solution will be most protective of employee's health. OSHA also recognizes that implementing engineering controls of the sort ASARCO has agreed to in the cooperative tripartite agreement will require the allocation of considerable technical expertise and supervisory and skilled personnel as well as the expenditure of large sums of money. Since ASARCO has committed itself to such a program, OSHA believes that its resources are stretched so thin that it cannot absorb the additional drain on professional, skilled and technical personnel that would be caused by the medical removal of all employees with blood lead levels over 50 μg/100g. Thus, in this case OSHA finds compelling evidence for the need for interim relief despite the fact that fewer than 10 percent of the total lead-exposed supervisory, maintenance and skilled production employees would have to be removed because of elevated blood lead levels. The 10 percent criterion for relief consistently has been treated by OSHA as a rule of thumb. Plants below that criterion have been eligible for relief if they could show by compelling evidence that relief is needed." (46 FR 37891, 37892; July 23, 1981.)

Our technical staff has reviewed the data submitted concerning ASARCO's primary lead smelting and refining plants located at Glover, Missouri; East Helena, Montana; Omaha, Nebraska; and El Paso, Texas. The applicant's data showed that 5.2 percent of the lead exposed employees had blood lead levels of at least 50 ug/100g of whole blood as averaged over a six-month period during calendar year 1984. During 1983, the applicant had shown that the percent of lead-exposed employees subject to removal under a 50 ug/100g trigger for the four plants ranged from 10.4 to 18.6 percent. The present 5.2 percent is a significant reduction in the number of the applicant's employees with a blood lead level above 50 ug/100g.

This relief is conditioned upon ASARCO's ongoing compliance with all other provisions of the lead standard as well as with all conditions of the order set forth below, in lieu of complying with the requirements of 29 CFR 1910.1025(k)(l)(i)(D). OSHA believes that the inclusion in the order of additional requirements for medical surveillance, in conjunction with the agreed upon tripartite process demonstrates all parties concerned with the health of ASARCO's employees be protected.

A copy of the application for variance will be made available for inspection and copying upon request at the locations listed above. All interested persons, including employers and employees who believe they would be affected by the grant or denial of the application for variance are invited to submit written data, views, and arguments relating to the pertinent application no later than July 15, 1985.

In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than July 15, 1985, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Grant of Interim Order

It appears from the application and supporting data that an interim order is necessary to prevent undue hardship on the applicant and its employees pending a decision on the variance. Therefore, it is ordered, pursuant to the authority in section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.10(c) and in Secretary of Labor's Order No. 9-83 (48 FR 35736) that the facilities listed above are hereby authorized to comply with the requirements of the interim order set forth below, in lieu of complying with the requirements of 29 CFR 1910.1025(k)(l)(i)(D). All other provisions of the lead standard are unaffected by this order and therefore must be complied with in conjunction with the terms of the order.

The terms of the interim order are as follows:

(1) This order may be revoked upon the employer's failure to meet the requirements of its Cooperative Assessment Program agreements.

(2) The terms of the order apply to all employees in the lead-exposed workforce.

(3) As presently required by 29 CFR 1910.1025(j)(2) of the lead standard, the employer shall perform blood lead and zinc protoporphyrin (ZPP) tests every two months on each employee whose last blood test indicated a blood lead level at or above 40 ug/100g and who is exposed to lead above the action level or 30 ug/m³.

(4) The employer shall remove all employees in accordance with the provisions of § 1910.1025(k)(l)(i)(D) except that the average of the blood sampling tests shall indicate that the employee's blood lead level is at or above 55 ug/100g of whole blood instead of 50 ug/100g as the provision now reads.

(5) The employer shall return all employees in accordance with the provisions of § 1910.1025(k)(l)(iii)(A)(3) of the lead standard.

(6) For an employee with blood lead levels between 50 and 55 ug/100g, who need not be removed under the terms of this order and who work in jobs having air lead exposure at or above 30 ug/m³, the employer shall:

(a) Require that effective respiratory protection be worn at all times they are in the area;

(b) Do an immediate inspection and evaluation of the employee's respirator usage;

(c) Do an immediate inspection and evaluation of the lead-related work practices affecting the employee;

(d) Do an immediate inspection and evaluation of the use and availability of hygiene facilities, and the employee's relevant personal hygiene habits;

(e) Do an immediate inspection and evaluation of the existing engineering controls to determine whether they are maintained properly to insure that such systems do not have an adverse effect upon the employee;

(f) Provide a personal consultation with a licensed physician every two months; and

(g) Provide the comprehensive medical examination required under paragraph (j) of the lead standard by a licensed physician every three months.

(7) For all employees required to wear respiratory protection under the terms of this order, ASARCO, Incorporated shall provide:

(a) Quantitative face fit tests at the time of initial fitting and at least semi-annually thereafter;

(b) An evaluation by a licensed physician prior to the time of initial fitting and at least annually thereafter of:

(i) A pulmonary function test which includes FEV_1 and FVC; and

(ii) A physical examination; and

(c) A posterior-anterior chest x-ray on a 14 x 17 inch film, on a five-year time interval.

(8) Based upon the inspections and evaluations required in paragraphs 6(b), (c), (d), and (e), the employer shall take all reasonable and appropriate corrective steps to reduce the employee's absorption of lead. The employer shall submit to the Office of Variance Determination a written report documenting when and where the evaluations took place, the corrective actions that were necessary and taken, and the name and job classification of the affected employees. This submission shall be made within 45 days after the effective date of this order.

(9) After the various consultations, evaluations, examinations and tests required in paragraphs 6(f), 6(g), 7(b) and 7(c), the physician shall make a written determination as to whether the employee has a detected medical condition that places the employee at increased risk of material impairment to health from exposure to lead, or is unable to wear a respirator. If the employee is determined to have such a medical condition or to be unable to wear a respirator, he or she shall be removed from work areas where the exposure to airborne lead is at or greater than 30 ug/m³.

(10) For the duration of the variance, the employer shall submit every two months to the Office of Variance Determination, blood lead, zinc protoporphyrin, and air lead data as accumulated.

(11) The employer shall agree to allow OSHA to inspect its premises in connection with this order.

(12) The employer shall comply with all other provisions of the lead standard which are unaffected by this order.

As soon as possible ASARCO, Incorporated shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for temporary variance and interim order. The Assistant Secretary may revoke this order at any time, without prior notice, whenever the applicant does not comply with any requirement of the order or the relevant standards or if other information indicates that revocation of the interim order is warranted. Unless revoked, the interim order will remain in effect until February 1, 1986 or until a decision is made on the application for temporary variance, whichever occurs first.

Signed at Washington, D.C. this 10th day of June, 1985.

Robert A. Rowland,

Assistant Secretary of Labor.

[FR Doc. 85-14390 Filed 6-13-85; 8:45 am]

BILLING CODE 4510-26-M

[V-85-4]

St. Joe Lead Company; Application for Permanent Variance From Certain Provisions of the Standard for Occupational Exposure to Lead

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of application for permanent variance.

SUMMARY: This notice announces the application of the St. Joe Lead Company for permanent variance from certain provisions of the occupational health standard governing exposure to lead, 29 CFR 1910.1025. Specifically, the applicant seeks relief from the requirements in § 1910.1025 (e)(1), (e)(3), and (e)(4), concerning engineering controls; § 1910.1025 (f)(1), (f)(2), and (f)(3), concerning respiratory protection; and § 1910.1025 (k)(1(i)(C), (k)(1)(i)(D), and (k)(1)(iii)(A)(3), concerning medical removal protection.

DATE: The last date for interested persons to submit comments on the variance application is July 15, 1985.

The last date for affected employers, employees and appropriate State authority having jurisdiction over employment or places of employment covered in the application to request a hearing on the application is July 15, 1985.

ADDRESSES: Send comments and hearing requests to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Rm. N-3656, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

James J. Concannon, Director, Office of Variance Determination at the above address, Telephone: (202) 523-7193

or the following Regional and Area Offices:

U.S. Department of Labor—OSHA, 911 Walnut Street, Room 406, Kansas City, Missouri 64106

U.S. Department of Labor—OSHA, 4300 Goodfellow Boulevard, Building 105E, St. Louis, Missouri 63120.

Notice of Application

Notice is hereby given that St. Joe Lead Company, 7733 Forsyth Boulevard, Clayton, Missouri 63105, has filed an application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596, 29 U.S.C. 655(d)) and 29 CFR 1905.11, requesting a permanent variance from the following provisions of the occupational health standard governing exposure to lead ("the lead standard"): 29 CFR 1910.1025 (e)(1), (e)(3), and (e)(4); 29 CFR 1910.1025 (f)(1), (f)(2), and (f)(3); and 29 CFR 1910.1025 (k)(1)(i)(C), (k)(1)(i)(D), and (k)(1)(iii)(A)(3).

The address of the place of employment, a primary lead smelter and associated operations, that will be affected by this application is as follows:

St. Joe Lead Company, Herculaneum, Missouri 63048.

The applicant certifies that it has informed employees who would be affected by the variance of the application by posting copies at all places where notices to employees are normally posted. It reports that employees have also been informed of their right to petition the Assistant Secretary for a hearing. The applicant asserts that, taken as a whole, its proposals in lieu of compliance "afford employment as healthful as would prevail under the terms prescribed by the standard."

Engineering Controls

The sections under the lead standard's paragraph (e), *Methods of compliance*, that are pertinent require that the employer implement engineering and work practice controls in order to reduce and maintain employee exposure to lead within prescribed limits, "except to the extent that the employer can demonstrate that such controls are not feasible" [29 CFR 1910.1025(e)(1)]. Where such controls are not sufficient to reduce exposures to or below the permissible exposure limit (PEL), the employer must implement them nonetheless in order to reach the lowest feasible level of exposure and must achieve the PEL by supplementing them with respiratory protection as prescribed under paragraph (f) [29 CFR 1910.1025(e)(2)]. The standard establishes a PEL of fifty micograms of lead per cubic meter of air (50 $\mu g/m^3$) averaged over an 8-hour period. At present, employers in the primary smelting industry must achieve air lead exposures of 100 $\mu g/m^3$ by means of feasible engineering and work practice controls; the standard permits these employers to use respiratory controls to reduce employee exposures the rest of the way down to the 50 $\mu g/m^3$ permissible exposure limit (that is, down

from the currently prescribed level of 100 $\mu g/m^3$ or down from whatever is the lowest feasible level which may be attainable relying solely on engineering and work practice controls). In 1991, these employers must achieve air lead exposures of 50 $\mu g/m^3$ by means of feasible engineering and work practice controls.

Paragraph (e)(3) requires the employer to establish and implement a written compliance program in order to achieve the PEL. In addition, paragraph (e)(4) permits the employer to bypass compliance with the 100 $\mu g/m^3$ interim exposure level prescribed by the standard's implementation schedule where, according to his compliance plan, the employer would achieve the PEL solely by engineering and work practice controls and the diversion of resources necessary to comply with the interim exposure level would clearly preclude compliance, otherwise attainable, with the PEL by the time specified.

St. Joe Lead Company states that it cannot meet the requirements concerning engineering and work practice controls prescribed by the lead standard. The applicant asserts that, dating back to when it was issued a citation in 1974, it has been implementing engineering controls in some operations in order to reduce exposures down to 200 $\mu g/m^3$ (averaged over an 8-hour period). It also notes that "some engineering controls may materially assist in making the smelter cleaner thereby reducing the burden on housekeeping programs in particular." Moreover, such controls "have had some effect on area samples." Nevertheless, the applicant's experience is that these controls do not materially affect the exposure readings obtained from personal sampling and that high exposures still occur. Indeed, during some plant conditions an exposure to 10,000 $\mu g/m^3$ "would not be uncommon," given the high degree of mobility of lead-exposed employees in performing varying job tasks—e.g., start-up, keeping the material flowing, maintenance during "upset conditions," housekeeping, and shut-down. The company essentially contends that the salutary effects of engineering controls are limited to certain areas of the applicant's facility, wheras the varied responsibilities of many employees routinely take them throughout the facility, including into areas where feasible engineering controls are not available to reduce exposures. The applicant thus concludes that neither St. Joe Lead Company nor any other primary lead smelter will be able to satisfy the engineering control requirements of the lead standard at any time in the foreseeable future.

Accordingly, in lieu of complying with paragraphs (e)(1), (e)(3), and (e)(4) of the lead standard, the applicant proposes to implement a written compliance program "to reduce the average blood lead level of exposed employees to or below 35 $\mu g/dl$ (one deciliter is essentially the same as 100 grams) of whole blood," through a combination of administrative, respiratory and engineering controls. In the company's view, the purpose of the lead standard is "to reduce employee blood lead levels to the below those levels at which reversible physiological effects of lead exposure may appear." The company reads the standard as setting as a health goal "an average blood lead level of less than 40 $\mu g/dl$ for all exposed employees." Thus, the company believes that attainment of an "average plant-wide goal of a 35 $\mu g/dl$ blood lead" will produce equivalent health protection to that which would be obtained under the standard.

In the alternative, if the applicant fails to achieve the 35 $\mu g/dl$ target, but, within six years of the effective date of the variance order, succeeds in achieving a 37.5 $\mu g/dl$ average blood lead level for its exposed employees, then the applicant proposes that its obligations under this part of the variance would cease. In the event that the 37.5 $\mu g/dl$ target is not achieved after six years but the applicant "can demonstrate continued progress toward attainment of that level", the applicant proposes to revise its compliance program and to undertake to attain the 37.5 $\mu g/dl$ target by some other date determined by the applicant; if the applicant is unable to demonstrate continued progress after six years, then the company will revise its compliance program in order to attain the 37.5 $\mu g/dl$ target within four additional years.

The applicant also pledges its willingness to implement certain engineering controls which are feasible and cost-effective. Nevertheless, the applicant reserved the right over the course of the variance to substitute different cost-effective controls than those selected at the inception of the variance.

Respiratory Controls

The sections under the lead standard's paragraph (f), *Respiratory protection*, that are pertinent require the employer to provide and assure the use of appropriate respirators as prescribed in the standard. For example, the standard permits the use of a half-mask, air-purifying respirator with high efficiency filters for lead exposures not in excess of ten times the PEL. Respirators must be used where engineering and work practice controls are not sufficient to reduce exposures to or below the PEL [29 CFR 1910.1025(f)(1)]. The standard further provides that (after the dates for compliance with the interim levels specified in Table I) no employer shall require an employee to wear a negative pressure respirator longer than 4.4 hours per day [29 CFR 1910.1025(f)(1)]. Other appropriate respirators are not subject to this limitation [29 CFR 1910.1025(f)(2)]. The employer is also responsible for assuring that the respirator is fitted properly [29 CFR 1910.1025(f)(3)].

St. Joe Lead Company states that it has instituted a respirator program which includes quantitative fit testing, employee training, and mandatory, enforced work rules regarding respirator usage. The applicant asserts that the proper respirator use which is assured by its program will provide "equivalent air lead protection to that mandated by the standard." In this regard, the applicant contends that the protection factors (i.e., the ratio of air sample results taken at the employee's lapel to sample results taken inside the employee's respirator) which the lead standard attributes to different types of respirators are understated. For example, while the lead standard assigns a protection factor of 10 to half-mask, air purifying respirators equipped with high-efficiency filters, the applicant reports that test results obtained in its own fit testing program indicate protection factors of at least 100 for these respirators. Based on these findings, which the company believes to be supported both by field data collected at the Herculaneum plant in 1982 by the National Institute of Occupational Safety and Health as well as by the American National Standards Institute's standard Z88.2—1980, the applicant concludes that air-purifying, negative pressure, full or half-mask respirators that are fitted by quantitative fit testing will protect employees to below 50 $\mu g/m^3$ when air lead levels in the smelter are as high as 5000 $\mu g/m^3$.

Accordingly, in lieu of complying with paragraphs (f)(1), (f)(2) and (f)(3) of the lead standard, the applicant proposes to provide respirators consistent with the following scheme:

(1) Where airborne concentrations of lead do not exceed 0.5 mg/m^3 [500 $\mu g/m^3$], a half-mask air-purifying respirator equipped with a high-efficiency filter.

(2) Where airborne concentrations of lead do not exceed 5.0 mg/m^3 [5000 $\mu g/$

m^3], where St. Joe can demonstrate through quantitative fit testing that a protection factor of greater than 200 can be attained, a half-mask air-purifying respirator equipped with high-efficiency filters or a full facepiece air-purifying respirator with high-efficiency filters.

(3) Where airborne concentrations of lead do not exceed 20 mg/m^3 [20,000 $\mu g/m^3$], any powered air-purifying respirator with high-efficiency filters.

(4) Where airborne concentrations of lead do not exceed 50 mg/m^3 [50,000 $\mu g/m^3$], any half-mask supplied-air respirator.

(5) Where airborne concentrations of lead do not exceed 100 mg/m^3 [100,000 $\mu g/m^3$], a supplied-air respirator with full facepiece hood, helmet or suit operated in a positive-pressure mode.

(6) Where airborne concentrations of lead are greater than 100 mg/m^3 [100,000 $\mu g/m^3$], a full facepiece self-contained breathing apparatus operated in a positive-pressure mode.

The applicant also seeks exemption from the 4.4 hour limit per day governing employee use of negative pressure respirators. In the applicant's view, "at most it is a cosmetic provision in the sense that it arguably requires that employees be comfortable on the job." The applicant also contends that, given the necessity for its employees to wear respirators continuously during lead exposure, the 4.4 hour limit is infeasible because the company doubts that sufficient skilled maintenance and operating talent is available in the vicinity of its plant to operate it with such "part-time" labor.

Medical Removal Protection

The sections under the lead standard's paragraph (k), *Medical removal protection*, that are pertinent prescribe procedures for the temporary medical removal and return of an employee. By 1981, the employer must remove an employee from work having an exposure to lead at or above the 30 $\mu g/m^3$ action level on each occasion that a periodic and a follow-up blood sampling test conducted in accordance with the lead standard indicate that the employee's blood lead level is at or above 60 $\mu g/100g$ of whole blood [29 CFR 1910.1025(k)(1)(i)(C)]. As of March 1, 1983, an employee whose lead exposure is at or above the action level must also be removed on each occasion that the average of the last three blood sampling tests conducted in accord with the lead standard (or the average of all blood sampling tests conducted over the previous six months, whichever is longer) indicates that the employee's blood lead level is at or above 50 $\mu g/100g$ of whole blood [29 CFR 1910.1025(k)(1)(i)(D)]. Paragraph (k) provides, though, that an employee need not be removed if the last blood sampling test indicates a blood lead level at or below 40 $\mu g/100g$ of whole blood.

The lead standard provides for the return to former job status for an employee removed due to a blood lead level at or above 60 $\mu g/100g$, or due to an average blood lead level at or above 50 $\mu g/100g$, when two consecutive blood sampling tests indicate that the employee's blood lead level is at or below 40 $\mu g/100g$ of whole blood [29 CFR 1910.1025(k)(1)(iii)(A)(3)].

Under the terms of an interim order [49 FR 33757, August 24, 1984], St. Joe Lead Company is temporarily relieved from the requirement to comply with the 50 $\mu g/100g$ removal trigger level; it must continue to comply with the 60 $\mu g/100g$ removal trigger and the 40 $\mu g/100g$ return trigger.

St. Joe Lead Company argues that compliance with the 60 $\mu g/100g$ removal, 50 $\mu g/100g$ removal and 40 $\mu g/100g$ return triggers is not feasible at this time and may not be in the future. The applicant acknowledges that "tremendous progress" has been made in achieving blood lead reductions at the Herculaneum smelter, principally due to the company's hygiene, medical surveillance and respirator programs. The applicant contends, though, that the feasibility of medical removal protection (MRP) is ultimately defined by the percent of worker population actually on removal status at program equilibrium. In the company's view, this percent of population on removal is a function not only of the removal and return triggers but, most importantly, the removed individuals' lead absorption/excretion dynamics. According to this formulation, the applicant asserts that, at current exposures and resulting employee blood lead levels, the equilibrim percent of the company's exposed workforce on removal under the 60–40 and the 50–40 MRP programs would be in excess of 10% and of 50%, respectively. The applicant has calculated that, as of January 1983, 28.2% of the Herculaneum smelter's workforce had blood lead levels in the 50 $\mu g/dl$ to 60 $\mu g/dl$ range and fully 25% of the workforce would have been eligible for immediate removal on a blood lead "averaging" basis. The applicant has concluded that the maximum number of persons that can feasibly be sustained on medical removal is not more than four percent of the total exposed population.

In addition, in light of the asserted inefficacy of engineering controls, the company anticipates that relatively few work areas will have air lead measurements below the action level. Given the number of employees that the company expects to have on removal status, the applicant believes that sufficient work for all removed employees will not be available in the near future unless such employees are allowed to wear respirators in the removal areas and unless the respirators are assigned the higher protection factors which the company advocates.

The company belives that increased medical surveillance of lead exposed employees whose blood leads are at or above 50 $\mu g/100g$ constitutes "an equally effective health substitute" for achieving "the principal health goals of the standard."

Accordingly, in lieu of complying with paragraphs (k)(1)(i)(C), (k)(1)(i)(D), and (k)(1)(iii)(A)(3), the applicant proposes "eventual compliance" with the 50/40 removal-return triggers as follows:

1. St. Joe shall remove each employee with a blood lead level at or above 10 $\mu g/dl$, and return the employee when his or her blood lead level is at or below 50 $\mu g/dl$.

2. At such time as a blood lead census of exposed employees indicates that the sum of employees on medical removal and the non-removed employees whose blood lead exceeds 58 $\mu g/dl$ is less than 4% of the total exposed population, St. Joe shall adjust the removal/return triggers such that employees with blood lead levels at or above 58 $\mu g/dl$ are removed. Such a removed employee shall not be returned until that employee's blood lead level is at or below 48 $\mu g/dl$.

3. At such time as a blood lead census of exposed employees idicates that the sum of employees on medical removal and the non-removed employees whose blood lead exceeds 55 $\mu g/dl$ is less than 4% of the total exposed population, St. Joe shall adjust the removal/return triggers such that employees whose three most recent (or 6-month average, whichever is longer) blood lead level tests average 55 $\mu g/dl$ or over are removed. Such an employee shall not be returned until that employee's blood lead level is at or below 45 $\mu g/dl$.

4. At such time as a blood lead census of exposed employees indicates that the sum of employees on medical removal and the non-removed employees whose blood lead exceeds 53 $\mu g/dl$ is less than 4% of the total exposed population, St. Joe shall adjust the removal-return triggers such that employees whose three most recent (or 6-month average, whichever is longer) blood lead level tests average 53 $\mu g/dl$ or over are removed. Such an employee shall not be

returned until that employee's blood lead level is at or below 43 μg/dl.

5. At such time as a blood lead census of exposed employees indicates that the sum of employees on medical removal and the non-removed employees whose blood lead exceeds 50 μg/dl is less than 4% of the total exposed population, St. Joe shall adjust the removal-return triggers such that employees whose three most recent (or 6-month average, whichever is longer) blood lead level tests average 50 μg/dl or over are removed. Such an employee shall not be returned until that employee's blood lead level is at or below 40 μg/dl.

6. If after six years St. Joe has not made progress such that less than 5% of its exposed population exceeds a blood lead level of 55 μg/dl, then St. Joe shall undertake engineering control programs designed to reduce employee exposure to airborne lead.

7. If at any time in attempting to comply with paragraphs 2, 3, and 4 immediately above, St. Joe demonstrates that greater than 6% of its exposed employee population is on medical removal, St. Joe may raise its removal/return triggers as required to hold the removed population at or below 6% of its work force. In no case, however, may St. Joe adjust the removal/return triggers above 60 μg/dl removal and 50 μg/dl return.

8. If at any time St. Joe complies with paragraph 5 above, nothing further is required of this section of this order.

9. Beginning with the effective date of this order, St. Joe shall remove an employee from his normal work assignment to an area where such employee's exposure is less than 30 μg/m³ or to an area where his exposure is less than 150 μg/m³ if respiratory protection is worn continuously and St. Joe can demonstrate for each affected employee through quantitative fit testing a protection factor of 100 or greater.

By way of increased medical surveillance, the applicant proposes to do the following:

1. St. Joe shall perform blood lead, zinc protoporphyrin (ZPP), hemoglobin, every two months on each employee whose last blood test indicted a blood lead level at or above 40 μg/100g.

2. For employees with blood lead levels above 50 μg/100g, St. Joe shall provide: (a) Personal consultation with a licensed physician every two months; and (b) a comprehensive medical examination by a licensed physician every six months.

3. After each personal consultation and the comprehensive medical examination, the physician shall make a written medical opinion as to whether the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

(a) If the employee is determined to have such a condition, he or she shall be removed from work having an exposure to lead at or above 30 ug/m³, or

(b) If the employee is determined not to have such a condition, St. Joe shall retain and upon request make available to OSHA the written statements from the physician concerning each affected employee stating that it is medically appropriate for the employee to continue to work at his or her present job.

4. Commencing upon the effective date of this order, St. Joe shall submit to OSHA on a quarterly basis the names and job classifications of all employees on MRP and the areas to which removed employees are assigned.

5. For employees with blood lead levels at or above 50 ug/dl who are working in areas with air lead levels at or above 30 ug/m³, respirator usage shall be mandatory during the entire work shift.

6. For all employees with blood lead levels at or above 50 ug/dl who need not be removed under the terms of this order, St. Joe shall make periodic inspections and evaluations of:

(a) The lead-related work practices affecting the employees;

(b) The employee's respirator use; and

(c) The use and availability of protective clothing and other "personnel equipment" and hygiene facilities and the employee's relevant personal hygiene habits.

Based on the inspection and evaluation, St. Joe shall take all reasonable and appropriate corrective actions in these regards to reduce its employees' absorption of lead. Commencing on the effective date of this order, St. Joe shall submit to OSHA a quarterly report setting forth blood lead, ZPP, hemoglobin, and air-lead data for all exposed employees.

7. St. Joe shall agree to allow OSHA to inspect its premises in connection with this order.

Request for Public Comment

Section 6(d) of the Occupational Safety and Health Act of 1970 provides for the issuance of a variance upon a showing by the proponent "that the conditions, practices, means, methods, operations or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard." A copy of the application for variance will be made available for inspection and copying upon request at the locations listed above. Any affected employer, employee or appropriate State agency having jurisdiction over employment or places of employment covered in this application may file with the Assistant Secretary of Labor comments and/or a request for hearing concerning the merits of this application, as provided in 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate and must be directed to the Office of Variance Determination at the above address.

Signed at Washington, D.C. this 10th day of June 1985.

Robert A. Rowland,

Assistant Secretary of Labor.

[FR Doc. 85-14391 Filed 6-13-85; 8:45 am]

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Office of the Assistant Secretary

Secretary of Labor's Committee on Veterans' Employment; Meeting

The Secretary's Committee on Veterans' Employment was established under Section 308, Title III, Pub. L. 97-306 "Veterans Compensation, Education and Employment Amendments of 1982," to bring to the attention of the Secretary, problems and issues relating to veterans' employment.

Notice is hereby given that the Secretary of Labor's Committee on Veterans' Employment will meet on Tuesday, July 2, 1985, at 1:00 p.m., in the Secretary's Conference Room, S-2508, FPB.

Items to be discussed are:

Pre-separation Briefing Project

Colorado Partnership Project Interagency

VA/DOL Counseling Enhancement Project

Status-Emergency Veterans' Job Training Act

The public is invited.

Signed at Washington, D.C. this 11th day of June, 1985.

Donald E. Shasteen,

Deputy Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 85-14389 Filed 6-13-85; 8:45 am]

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