FRICTION MATERIALS STANDARDS INSTITUTE, INC., E-210 ROUTE #4, PARAMUS, N.J. 07652

December 30, 1975

PLAINTIFF'S EXHIBIT

MAR-131

To: Asbestos Study Committee

Subject: Draft Comments on Proposed Amendments to OSHA Asbestos Regulations

I feel that the Institute must make a response to the proposed amendments to the regulations on occupational exposure to asbestos. I don't feel at this late date that it can be done by six committee members sitting down together, with six different feelings about various sections of the proposed amendments.

I have therefore drafted up the attached for review--correction--etc. by committee members. It is difficult to express thoughts to which all members will agree. I have tried to include comments relative to the friction materials business that I've heard expressed at meetings, at the seminar and read in the literature.

While I am not looking for wholesale changes (if everyone gives a different slant on each subject I will not know what to re-write) I would appreciate corrections of facts, or marginal notes (O.K. or N.G.) expressing approval or disapproval of sections as written. If I were to receive more than one objection to a section we might delete, or have time to re-write it. If you wish to add something, and you feel our industry supports such a comment, please submit it in relatively final form.

I would appreciate your help and will review this and any comments with your Chairman, Mr. Wagner. Any committee member who has knowledge of the AIA comments could help by seeing that our proposed comments are not at cross-purposes with theirs. I do not, however, wish to bring AIA in on this as our comments must be separate and distinct from those of AIA. If we parrot AIA we have lost credibility.

If you could reply to me on this by January 15, 1976 I believe the comments could be re-drafted for approval in time for commenting by February 9, 1976. Your cooperation will be appreciated.

E. W. Drislane
Executive Director

F-13
(15)

PROPOSED DRAFT

The Friction Materials Standards Institute Inc. is an association of most of the domestic brake lining and clutch facing manufacturers. We also service eighteen foreign manufacturers of friction materials. Asbestos is an important ingredient in most friction articles and the proposed revisions to the standard for occupational exposure to asbestos will have a major impact on this industry.

Our members support the concept of government regulation to safeguard the health of its workers, and with the cooperation of the worker this can be done. We feel there are sections in the proposed regulations--and the background data used for their development--that need comment.

The Institute has urged that the membership make individual replies in order to participate in this rulemaking. The Institute's comments will not cover certain subjects such as regulated areas and exhaust ventilation that can best be commented on by individual manufacturers. As an association, we cannot speak for all our members because certain proposals are controversial within our industry. Because of this we do not necessarily concur with those poposals on which we have not commented. We hope that individual members of the friction materials industry will comment directly to you on those subjects.

MAR 000421

1. PERMISSIBLE EXPOSURE TO AIRBORNE CONCENTRATIONS OF ASBESTOS FIBERS

The proposed 8 hour time weighted average concentration limit of 0.5 fibers/cc and the ceiling concentrations limit of 5 fibers/cc are the most controversial requirements.

1.1 Exposure limit rationale based on British experience

In developing the rationale for the 0.5 fiber limit (TWA), considerable weight was given to Great Britain's 2 fiber/cc limit, and improved conditions from their 1931 Factory Regulations. While it is understood that fiber count records were not available, our members contend that their friction materials factories are far cleaner today than their Great Britain counterparts of 1933 "when important improvements in work practices had been achieved." Our members doubt that levels below 10 fiber/cc were achieved until Great Britain went to the 2 fiber/cc limit. And, knowledgeable individuals believe that the British factories have not achieved this 2 fiber/cc level on a sufficiently consistent basis that would preclude citations and fines in the United States. We believe that alleged British compliance with the 2 fiber/cc limit is pertinent to the establishment of the reduced 0.5 fiber/cc limit in the United States.

1.2 Manufacturers have not achieved the July 1, 1976 2 - fiber/cc limit

Members working to meet the current 5 fiber/cc limit (and the 2 fiber/cc July 1, 1976 limit) state that in areas where they have concentrated efforts--mixing, pressing, grinding--they will run into counts in excess of 5 fiber/cc. Within days a State OSHA inspector will check the same area and it will be indicated the area is in compliance. While the

State OSHA people will not officially advise their counts when the area is in compliance, some have privately said they showed no fiber! This disparity in counts has made several members concerned less OSHA is using these low (or "zero") counts as a basis for proposing the 0.5 fiber/cc limit, with the mistaken assumption that industry is already in or near compliance. Our members wish to emphasize that they are striving to get under the 2 fiber/cc limit by July 1, 1976 and that they are not already complying with the new proposals.

1.3 Epidemiology based on crocidolite asbestos is not applicable to friction materials

Crocidolite (blue) asbestos is not used in friction materials. Any epidemiological data extrapolated from sources using crocidolite, where that type asbestos is considered the significant carcinogen (mesothelioma for example), should not be used where a standard is applied to all asbestos manufacturing. This particular point must be emphasized as regards mesothelioma where these malignancies have been experienced at exposure levels below those causing asbestosis. While it may not be feasible at the outset of a new--or revised--standard to consider the various types of asbestos, it is important that epidemiological studies be evaluated with the knowledge that crocidolite is more likely to produce mesothelioma than the chrysotile asbestos used in friction materials. If the mesothelioma evidenced at lower exposure levels was associated primarily with crocidolite asbestos, is is suggested that this evidence not be used in support of a lower exposure level for all asbestos types.

MAP 000423

1.4 Reliability of the membrane filter method and its use for enforcement

While it may be that the proposed 0.5 fiber/cc limit is essentially a "no detectible asbestos" limit, the facts are that during industry's endeavors to comply with the existing limit, and the July 1, 1976 limit, asbestos counts in the 2-10 fiber/cc range have been most difficult to reproduce. While skilled counters may have readings varying by 0.5 fiber/cc on the same sample, tests made at the same work station under seemingly identical conditions will vary up to 2 fiber/cc. A standard is being proposed (0.5 fibers/cc) that is less than the variations encountered in the relatively clean areas of 1975.

Industry appreciates that the membrane filter method is the only tool available for fiber counts, and realizes it must be used to clean up the work area. However, the use of this membrane filter method for enforcement of the 0.5 fiber/cc limit is of serious concern. Users acknowledge that the membrane filter method is not an accurate reproducible means of quantifying asbestos concentrations. The friction materials industry expresses their objection to the use of a tool—with questionable reliability--as a means of enforcement of a very tight numerical standard.

1.5 The proposed exposure levels will expand applicability of the standard to brake lining shops, car dealers, etc.

The proposed exposure limits, and the proposed ceiling concentrations in particular, would bring most garages with brake lining work, as well as their suppliers (re-builders, job shops, and the like) under requirements of this standard. Equal enforcement would mean that the regulated area, monitoring, ventilation, record-keeping and other requirements intended for manufacturers would now be required by these small businessmen.

Technical papers have been written to indicate that drilling, grinding, cutting, or other subsequent operations on brake linings will raise concentrations above these new limits. At the installation level, the ceiling concentrations may be exceeded only a few times a day, but this would still bring garages under the scope of this standard. It must be assumed that all workers are to be protected equally and it is questioned if OSHA has taken this expanded applicability into consideration when these exposure limits were proposed.

1.6 Friction materials manufacturers cannot project costs and problems with these proposed exposure levels until their new equipment and procedures are evaluated

It is difficult to segregate cost considerations from the standards section of the OSHA notice of proposed rulemaking. However, industry has embarked on a series of procedures and designs to meet the current 5 fiber/cc limit, and the forthcoming 2 fiber/cc limit. Costs have been incurred in many ways in addition to dust collection and ventilation systems: bag opening machinery, special work benches, new processing methods, sophisticated enclosures, and the like. These changes have been incurred in good faith with the intention of complying with the existing standard. It can not even be known if these equipment additions and processing changes will meet the existing standards until they are in place and working in the "real world." And, there is no way of knowing whether these outlays are worthless--perhaps all new technology will be needed for compliance with the new proposals. Industry needs to evaluate this equipment and the new methods now in the acquisition and implementation phase before it can accurately project the costs necessary to meet these new limits, if these limits are in fact attainable.

MAR 000425

The friction materials industry is not the vinyl chloride industry. We do not say the exposure limits cannot be met. But this industry has been working under regulatory requirements for a longer time and has a better feel for what can be accomplished and what is feasible. At this time, our industry does not know if it can meet the new limits--it will have a better handle on what is feasible after the July 1, 1976 start-up date for the 2 fiber/cc limit.

2. MONITORING - EMPLOYEE NOTIFICATION

It is felt that bulletin board notification of employee's exposure would serve the intent of "...shall notify each employee in writing..."

3. WORK PRACTICES

The friction materials business is under regulatory surveillance by the National Highway Traffic Safety Administration (NHTSA). An Air Brake Systems Standard (Standard 121) took effect in 1975. The Hydraulic Brake Systems Standard (Standard 105-75) took effect on January 1, 1976. Brake lining is an essential part of all brake systems, and our manufacturers cannot change formulation or processing methods without considerable additional testing on their part, as well as by brake systems manufacturers and vehicle manufacturers. Certain friction materials have superior performance characteristics when manufactured using dry methods. Processing changes are easier in an unregulated industry, and OSHA should understand that the friction materials industry must conform to these other regulations. The brake lining industry is caught between the forces of "more performance" on the one hand, with more limited options in manufacturing methods on the other.

While the wet method is recommended "insofar as practical," it should be understood that brake lining manufacturers have additional regulatory problems that do not affect other users of asbestos, and production methods must not be overly regulated.

4. RESPIRATOR PROGRAM - EMPLOYEE ROTATION

The requirements for rotation of an employee--based on examination of a physician--with "the same seniority, status, and rate of pay" could seriously affect worker assignment responsibilities of management. In many cases, labor and industry have collective bargaining agreements which contain pay differentials for night shifts, work on certain more difficult tasks, work in certain areas, outdoor versus indoor assignments, etc. The new hire generally will start with premiums for night differential, more difficult tasks, etc. Should re-assignment be called for he would be moved into areas which do not command premiums--but he will be the exception and will receive the premium. This could cause untold difficulty with existing labor agreements. Such a requirement may conceivably be beyond the authority of OSHA, were it to disrupt existing contacts.

5. MEDICAL SURVEILLANCE - PREPLACEMENT

With the extensive data available which shows that cigarette smoking causes a significant increase in lung cancer, some members advocate that "discrimination" be permitted against the hiring of those smoking cigarettes in a factory using asbestos in its products. Some further advocate that an employer be permitted to require the use of respirators by those known to smoke cigarettes. Support of a non-smoker status would be permitted by affidavit or other similar requirement.

In the absence of such permission to "discriminate" against a smoker, the "history to elicit symptoms of respiratory disease" should include history or observation on smoking habits.

6. DANGER LABELS

6.1 Wording of the "Danger Label"

The danger label connotes a highly toxic or poisonous material--such as cyanide or arsenic. The "danger" can only result if dust is created and breathed. To put the warning in proper perspective, it should be indicated that the problem exists if the dust is created. The label as proposed could cause employees to refuse to pack, unpack, stencil, assemble or in other fashion touch a clutch facing or piece of brake lining. I believe we are trying to get the employee to avoid creating dust, so that should be moved up on the label, and the "danger" exists only if the dust is created. We suggest:

WARNING

Avoid Creating Dust

Contains Asbestos Fibers

Breathing Asbestos Dust

May Cause Serious Bodily Harm

I do not believe that OSHA is out to panic employees--it should be positive in emphasizing "Avoid Creating Dust."

6.2 The requirement for label on brake linings "...any forseeable processing."

In this section it is stated: "...except that no label is required where asbestos fibers have been modified by a bonding agent...so that during any reasonably forseeable use, handling, storage, disposal, processing or transportation, no airborne concentrations of asbestos fibers in excess of the exposure limits...be released." Some members contend that their brake linings, which have locked-in asbestos, will not during any reasonably forseeable processing result in airborne asbestos concentrations above the limits. Other members contend that they have data showing airborne concentrations above today's limits when lining is drilled, cut, ground or chamfered. And these manufacturers insist that "any reasonably forseeable use" applies to all asbestos-containing brake linings.

If some manufacturers interpret this section one way and some the other, those purchasing lining without the label may assume that this product is safer than the other with the label. This labeling requirement should be more definitive based on tests of airborne concentrations of asbestos fibers conducted at brake reline shops with contemporary collection systems.

7. HOUSEKEEPING -WASTE DISPOSAL

The requirements on waste disposal appear to border on EPA requirements, as detailed in their National Emission Standards for Hazardous Air Pollutants. We suggest that this requirement, which may infer the need for "sealed impermeable bags," be examined and re-written to maintain harmony with the EPA requirements.

8. RECORDKEEPING

The Institute supports most provisions of the recordkeeping requirements. When this data is gathered (and reviewed by objective analysts) the epidemiology of asbestos in friction materials factories can be determined and threshold limit values developed. In particular, we support the proposed recordkeeping requirements for (1) Exposure records, (2) Medical records (except short term employees), (3) Mechanical ventilation, and (4) Employee training. It is assumed that such records can be stored using the technology available in the years to come. Microfilm and EDP Storage--with adequate protection to avoid unwarranted corrections or erasures--must be permitted. Full size hard copy records could become a warehousing problem.

The Institute recommends that maintenance of roster records in summary form be suitable as an alternate to the keeping of the daily roster record. This would serve the epidemiological purposes of the proposed recordkeeping requirements.

The Institute recommends that a shorter cut-off be permitted on short term or part time hirings. It is suggested that employee medical records be maintained as proposed where the employee has worked a total of two years or more. All records of employees working less than two years should be disposable after a maximum of five years. Without such provision the hiring of temporary summer employees, college students, etc. will in effect be precluded.

The need for recordkeeping of this nature should be primarily for epidemiological reasons. The short term employee in the friction materials factory is less likely to incur one of the diseases associated with asbestos.

Exposure levels and other requirements should be based on protecting those with longer exposure. In other words, the data will be available on those exposed for longer periods of time. If the worker exposed for the longer period of time is protected, it is logical that those working for shorter periods are also protected.

9. INFLATIONARY IMPACT

In discussing items of this nature, the Institute does not have access to specific cost data. That is only available from individual manufacturers. The subjects of cost impact, competition, effects on employment, etc., are related to each other. The OSHA regulations will require considerable expenditures for equipment. In addition there will be continual additional costs of monitoring, respirator usage, productivity losses in use of regulated areas, recordkeeping and the like. Information on these costs must be collected from individual companies. The Institute would like to point out two items of concern to domestic manufacturers of friction materials.

9.1 There are fewer United States friction materials manufacturers in 1976 than in 1972-73

In our 1972-73 fiscal year, the Institute had 25 Active Members--those are manufacturers of brake lining or clutch facings resident in the United States. Today we have 19 members. Reasons other than OSHA regulations have contributed to this decline in domestic manufacturing. But there is no question but that some manufacturers were influenced in their decisions by earlier OSHA and EPA regulations. For reference,

some of the discontinued friction materials manufacturing operations since 1972-73 were:

Auto Specialties Mfg. Co. (St. Joseph, Michigan) discontinued automotive disc brake lining business.

Johns-Manville Corp. (Waukhegan, Ill.) discontinued all automotive and truck friction materials business.

Scandura, Inc. (Charlotte, N.C.) discontinued all friction materials manufacturing.

Standco Industries, Inc. (Houston, Texas) withdrew from industrial - truck clutch facing manufacturing

Silver Line Products, Inc. (Los Angeles, Cal.) discontinued all friction materials manufacturing

In addition, a major manufacturer, World Bestos Co., a division of the Firestone Tire & Rubber Co. in New Castle Indiana was to be shut down. It was rescued by a last minute acquistion by Royal Industries. Major manufacturing operations were closed by members in Passaic, N.J., and Richmond, Kentucky. The only new entrant has been Hayes-Albion Corp., with a plant in Johnson City, Tennessee, set up under a Federal Trade Commission order.

Friction materials manufacturers are a diverse group. Some will be better able to cope with the proposed regulations then others. If the trend indicated continues, it would seem logical that OSHA and EPA regulations contributed to this loss in domestic manufacturing and loss in employment.

9:2 Will stricter regulations export the jobs of American workers?

Most of our members support the principles of free trade. Some have manufacturing facilities in other countries. Others sell their products worldwide. Others have licensing agreements with foreign manufacturers. And, the Institute has eighteen Regional members--non-resident manufacturers. Where competition is free and un-restricted the domestic manufacturers can compete. However, if the proposed regulations are implemented, domestic manufacturers will be working with the most restrictive exposure levels in the world. While some multi-national companies indicate that they will go to the same exposure levels worldwide, they are a minority. Except for Great Britain and the Province of Ontario, we are not aware of other jurisdictions with numerical exposure levels.

If the capital and on-going costs for compliance with the proposed regulations go significantly beyond those costs scheduled for compliance with the July 1, 1976 exposure level, brake linings, brake blocks, and clutch facings manufactured in foreign countries--without asbestos control--will be even more price competitive than now. And in today's replacement market, they are increasing their share of the market steadily. In a recent Labor Department notice on the application of Wagner Electric Corporation employees for worker adjustment assistance, it was stated:

> Imports of automotive brake products like or directly competitive with those produced at the Plymouth Avenue St. Louis plant...increased in value from $46,000,000 in 1970 to $118,000,000 in 1974. The ratio of imports to domestic consumption (I/C) and production (I/P)

rose from 10.0% and 8.6% to 15.3% and 13.2% in 1974.

We believe that brake linings and brake blocks are in the class of products competitive with Wagner's St. Louis plant. If the proposed regulations add significantly to our members' costs, they will be at a price disadvantage with manufacturers in foreign countries where asbestos regulations are either less restrictive or not in effect at all. This imbalance in international occupational regulations could end up protecting the American worker at the cost of his job. It is a problem that should be called to the attention of not only the regulators and legislators, but the workers directly involved.

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The Institute trusts that the Occupational Safety and Health Administration will consider these comments by the Institute. We trust also that comments received directly from friction materials manufacturers will be considered in your rulemaking, and we have asked our members to contribute.

If additional information is needed on any of the subjects raised by these comments, the Institute would be pleased to attempt gathering such information.

Respectfully submitted,

FRICTION MATERIALS STANDARDS INSTITUTE

E. W. Drislane