



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
FOOD AND DRUG ADMINISTRATION

PLAINTIFF'S EXHIBIT

CHV-624

June 8, 1972

ADDRESS REPLY TO.

BUREAU OF PRODUCT SAFETY
5401 WESTBARD AVENUE
BETHESDA, MARYLAND 20016

Standard Oil Co. of California
225 Bush Street
San Francisco, California 94104

Attention: Mr. D. H. Barber

Gentlemen:

This is in response to your letter concerning asbestos-containing garments for general use.

If the gloves you mention are to protect your company personnel only, and are not intended for use by the general public, they would not be affected by this proposed regulation. The proposed action is taken under the provisions of the Federal Hazardous Substances Act and therefore would apply only to articles intended or suitable for use in or around the household. It does not cover articles used strictly for industrial or commercial applications.

We hope this clarifies the matter. If you have any further questions, please let us know.

Sincerely yours,

Dale C. Miller

Dale C. Miller, Chief
Compliance Guidance Staff
Bureau of Product Safety

SAFETY DIVISION	
D. H. BARBER	
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April 24, 1972

ASBESTOS-CONTAINING GARMENTS
FOR GENERAL USE

Mr. Charles C. Edwards
Commissioner of Food & Drugs
Department of Health, Education and Welfare
Room 6-68, 5600 Fishers Lane
Rockville, Maryland 20852

Attn: Hearing Clerk

Dear Sir:

Re Federal Register, Vol 37, No. 34 dated February 18, 1972
(21 CFR Part 191) in which you propose to order a ban on Asbestos-Containing
Garments for General Use and limit them to "garments having a bona fide
application for firefighting purposes", we wish to go on record as opposing
and protesting such limitation.

For some twenty years now we have furnished our Company personnel
a cotton canvas sandwich asbestos glove to protect them from radiator burns
on automotive pressure cooling systems. We have no reports in our medical
records to show that asbestos from protective garments ever has caused a pul-
monary problem. We have other situations in refineries where welders and
laborers working in high temperature atmospheres require protection of aluminized
asbestos suits and hoods and we have no records of disabilities due to asbestos.
We believe it legally and morally wrong to deprive employees the protection and
to subject them to greater hazards because we cannot furnish them with this
protective equipment simply because they are not fighting a fire.

Sincerely yours,

Original
D. H. BARBER

D. H. Barber

DRL:mc
bcc-Mr. J. H. Gibson (LMC)
Mr. P. G. McKellar
Mr. E. C. O'Reilly
Mr. F. M. Russell (GCH)
Mr. G. C. Smith

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2nd

September 26, 1972

MEMO TO TF 110. ASBESTOS:

S. L. Dryden talked with Ron Ott, Industrial Hygienist for the local OSHA Region today in order to clarify the monitoring requirements for asbestos under OSHA (29 CFR 1910.93a).

The standard merely states that samples are to be analyzed by "the membrane filter method at 400-450X...with phase contrast illumination." No reference is made to any guideline document. OSHA uses Appendix I of the NIOSH Criteria Document (CD) as their guideline, but it carries no legal clout.

My specific questions related to the number of fields (or fibers) which must be counted and the minimum sampling time for statistical validity. The CD recommends inspecting as many fields as are necessary to count at least 100 fibers (generally 20 to 100 fields). Mr. Ott indicated that the counting procedure is a matter of professional judgement and following the CD is not essential for compliance with the monitoring requirements of the standard. In terms of sampling short-term operations, Mr. Ott felt that the wording of the standard ("No employee shall be exposed at any time to airborne concentrations.....in excess of 10 fibers/cc..") precludes the use of the CD recommendation of a 15 minimum sampling time for operations that take less than 15 minutes. That is, the sampling period should approximate the length of exposure in short-term operations, and additional sampling time which would dilute the sample cannot be tacked on.

S. L. DRYDEN

cc: R. W. Ader

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Clark, Department of Health, Education, and Welfare, Room 6-68, 5600 Fishers Lane, Rockville, Md. 20852, and may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: February 3, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-2167 Filed 2-17-72; 8:47 am]

[21 CFR Part 191]

ASBESTOS-CONTAINING GARMENTS FOR GENERAL USE

Proposed Classification as Banned Hazardous Substance

Inhalation of asbestos fibers for as little as 3 months has been reported as causing lung cancer, mesothelioma, and lung fibrosis. To provide an emergency standard dealing with the exposure of employees to asbestos dust, the Occupational Safety and Health Administration of the Department of Labor promulgated 29 CFR 1910.93a in the Federal Register of December 7, 1971 (36 F.R. 23208), which reads in part "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 400-450 X magnification (4 millimeter objective) phase contrast illumination."

Said promulgation was based on recent studies by the National Institute for Occupational Safety and Health, recommendations by the American Conference of Governmental Industrial Hygienists, and other relevant material.

On the basis of reports and investigations, the Commissioner of Food and Drugs learned that certain garments made from an imported fabric containing 8 percent of asbestos have been marketed. An ad hoc committee of five experts in the field of asbestos toxicity was appointed to evaluate the health significance of asbestos in such garments. The committee concluded that the use of asbestos in garments for the general public was inappropriate and presented an unwarranted hazard of toxicity.

Accordingly, the Commissioner finds that asbestos-containing garments marketed for general use, other than those having a bona fide application for firefighting, are hazardous substances, that cautionary labeling is inadequate to protect the public health and safety, and therefore, that such articles should be kept from interstate commerce.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (sec. 2(a) (1)(B)), 74 Stat. 374, as amended 80 Stat. 1354-5; 15 U.S.C. 1261 and of the Federal Food, Drug and Cosmetic Act (sec. 701(c)), 52 Stat. 1055, as amended; 21 U.S.C. 371(c)), and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that

a new subparagraph (6) be added to § 191.9(a), as follows:

§ 191.9 Banned hazardous substances.

(a) Under the authority of section 2 (q) (1) (B) of the act, the Commissioner declares as banned hazardous substances the following articles because they possess such a degree or nature of hazard that adequate cautionary labeling cannot be written and the public health and safety can be served only by keeping such articles out of interstate commerce:

(6) General-use garments containing asbestos (other than such garments having a bona fide application for firefighting purposes).

Interested persons may, within 60 days after publication hereof in the Federal Register, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-68, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in triplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: February 12, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.
[FR Doc.72-2157 Filed 2-17-72; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-SW-9]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Johnson City, Tex., 700-foot transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Southwest Region, Federal Aviation Administration, Post Office Box 1669, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the Federal Register will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be

changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Council, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.121 (37 F.R. 2143), the Johnson City, Tex., transition area is amended to read:

JOHNSON CITY, TEX.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Johnson City RBN (latitude 30°12'22" N., longitude 92°37'05" W.) and within 2.5 miles each side of the 175° bearing (106° magnetic) from the RBN extending from the 10.5-mile radius area to 11.5 miles south of the RBN.

In addition to providing controlled airspace for the instrument approach procedure serving Johnson City Airport, this proposed alteration will also accommodate an approach procedure for Shepherd Farm Airport, Stonewall, Tex.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on February 10, 1972.

R. V. REYNOLDS,
Acting Director, Southwest Region.
[FR Doc.72-2173 Filed 2-17-72; 8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-WF-52]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Fortuna, Calif., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 3651 West Manchester Avenue, Post Office Box 92667, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the Federal Register will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW.,

PROCEDURE FOR COLLECTION OF ASBESTOS AND FREE SILICA SAMPLES ON MEMBRANE FILTERS

Asbestos Fibers

It is recommended that a system manufactured by C. F. Casella and Co., Inc., Electro-Neutronics, Inc., Mine Safety Appliances Co., Radiation Detection Equipment, Inc., or National Environmental Instruments, Inc. be used. Each of these systems consists of a rechargeable battery powered pump which operates at about 2 liters per minute. A Millipore Monitor (Cat. No. MAWP 037 0A) which includes a Type AA filter having 0.8μ pores is used to collect the sample. This is a 3 piece monitor. The face cap should be removed and the monitor used open-face during sampling. In order to obtain concentrations of fibers on the filters which are not too large for counting, the following guidelines are presented:

<u>Recommended Sampling Times</u>	<u>Areas Sampled</u>
5 min.	Very dusty cloud with some fallout as viewed away from direct sunlight
10 min.	Medium dusty cloud
15 min. to 8 hours	Slight cloud, plus knowledge that some asbestos fibers are suspended in the air.

For determining the 8-hour time-weighted average airborne concentration of asbestos, sampling times of 1.5 to 8 hours are usually appropriate. The maximum short term concentration should be evaluated over periods of at least 15 minutes and preferably 30 minutes.

Free Silica

When collecting a sample on Millipore for Free Silica or Quartz analysis, the same systems are used as described for collecting asbestos fibers. The monitor is preceded by a cyclone having a 10μ cutoff in order to collect a respiratory sample on the filter. A National Environmental Instruments, Inc., Model 2.8 cyclone with the Monitor Cat. No. M000 037 FO with 37 mm Type 00 AA plain white filters with 0.8μ pores and 37 mm 37 mm diameter pads beneath the filters is recommended.

It is suggested that 1 to 8 milligrams of dust be collected in each filter. This amount can usually be collected in 4 to 8 hours.

WH/kc

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TF 110.1 354/4/72