F. L. Pundsack, 1-03 April 17, 1979

Paul Kotin, M.D., 1-06

See below

OSHA REPORTING SYSTEM--WAUKEGAN

The attached memo from J. W. Szczygielski is, tragically, all too self-explanatory. The seriousness of the situation cannot be overstated, particularly since Waukegan is involved. The following points are pertinent:

1. The decision not to report occupational disease cases as required by OSHA, until proven otherwise, must be regarded as a conscious one made in 1972 when the regulations were promulgated.

2. Responsibility for the decision can only be surmised; however, investigation of the situation must begin with the employee relations manager and plant manager at the time.

3. More immediate is the necessity for responding to this potentially explosive situation. It is incontrovertible that Johns-Manville is in violation of OSHA regulations and, further, it appears that the violation is willful, which has not happened before. At the very least, the situation could be terribly expensive; at the worst, it could result in prison sentences.

4. There are several options in responding:

a. Continue the reporting procedures in effect at Waukegan. This option is totally untenable to me since the OSHA regulations would still be violated.

b. Contest the validity of the OSHA regulation on the basis that it violates medical confidentiality. In my opinion, this option also is untenable since, to the best of my knowledge, all other Johns-Manville plants are in compliance with the regulation.

c. Submit the accumulated list of occupational disease cases immediately to OSHA, along with an explanation for the failure to comply. I believe that this is really the only option available to Johns-Manville even though the repercussions will be severe.

I believe the situation needs thorough discussion. Since W. B. Reitze and I are scheduled to meet with you at 9:00 AM tomorrow on other matters, I would like to add this item to the agenda, following which we can meet with other involved parties to reach a resolution.

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HS&E

cc: F. H. May, Jr., 1-03
G. E. Parker, 1-03
D. B. Von Wald, 2-17
M. A. Tappin, 1-05
W. B. Reitze, 1-06
W. R. Paul, M.D., 1-06
J. H. [illegible], 2-16

HS&E