Manville Service Corporation
303 978 2000

, 1982

Mr. Adrian S. Bedard
Vice President Local 255
International Chemical Workers
6031 E. 23rd Street
Long Beach, CA 90815

RE: OSHA Access to Employee Exposure and Medical Records

Dear Mr. Bedard:

This letter is in reply to your request for information on the above subject dated January 11, 1982. We are aware of the unsettled nature of the law concerning this subject as is amplified by the Louisiana Chemical Association litigation remaded back to the District Court for the Western District of Louisiana from the Court of Appeals for the Fifth Circuit. The Fifth Circuit holding that access rule is a "regulation" issued under section 8 of the Occupational Safety and Health Act rather than a "standard" under section 6. We are also aware of a second action involving the AFL-CIO Industrial Union Department pending and stayed before the Court of Appeals for the District of Columbia. Most important is the fact that the agency itself is reviewing with the idea of reproposing new regulations on its access rules.

Naturally, the above procedures cast a cloud over the whole spectrum of union and employee access. Moreover, there exists many other problems including the legitimate issues of proprietory information and privacy considerations such as those dictated by the California Privacy Statute.

However, there are some aspects of your request that we can be accomplished and we will herein attempt to do so:

1. (a) A list of all toxic substances and harmful physical agents, by chemical and trade name, that employees are potentially exposed to on the job.

A list of the above was issued earlier to your union in 1979. We are enclosing an updated list as used at the plant. See Attachment A.

...erial safety data sheets on all the toxic substances and harmful physical agents that employees are potentially exposed to on the job.

Some of our vendors provided Material Safety Data Sheets. Copies kept in our files are enclosed as Attachment B.

2. (a) All biological monitoring data for toxic substances or harmful physical agents that employees are exposed to on the job.

All biological monitoring data for toxic substances for individual employees is maintained in our employee's medical files. Our policy is to ask all individual employees to review his own medical file, including the requested biological monitoring data. If an individual employee indicates in writing that any organization is to be provided access, the Company will provide the same to the extent of the written authorization signed by its employee. Any examination of the individual medical records can be conducted at the plant location during regular working hours with medical personnel available to explain said results. Employees can contact Nurse Geri Clark, 2420 E. 223rd Street, Long Beach, California, 90810 at 213-834-6471 for the purpose of conducting the necessary authorizations. Likewise, this individual should be contacted by your organization if an individual employee has given a written authorization after review of his file

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your organization will be provided access again during regular business hours.

2. (b) All analyses of the above biological monitoring data.

No analysis exists at the Plant.

3. (a) All industrial hygiene monitoring data and other environmental monitoring data for toxic substances or harmful physical agents that employees are exposed to on the job.

The plant maintains periodic industrial hygiene surveys from 1972. These records are available at the facility and have been posted in the past. Your agency can review them at the facility. Again, Contact Nurse Geri Clark at 2420 E. 223rd Street, Long Beach, California, 90810, 213-834-6471.

3. (b) All analyses of the above industrial hygiene and environmental data.

No analysis exists at the Plant.

4. (a) Results of all historical monitoring surveys, personal monitoring and industrial hygiene surveys. Which contaminants are monitored by the Company? What method and location of sampling was used (such as time-integrated, spot sample, personal, breathing zone, fixed location?) A sample protocol should be provided for the Union. How does the Company calibrate sampling on the sampler? What is the analytical method, its sensitivity, and the internal method of calibration?

See answer above. The sample methods used follow the NIOSH prescribed methods for monitoring asbestos and any other materials found in the Plant. All this data is available through both OSHA and NIOSH, and the Union can obtain this information from government sources.

In addition, included are methods and locations of sampling, sample protocol, calibration equipment, analytical methods, sensitivity, etc.

5. (a) All medical screening tests data because it is relevant to the health of employees exposed to toxic substances and harmful physical agents.

Medical screening tests are again maintained in individual employee files. The access procedures are outlined in 2(a) above which will be followed. Upon review and authorization by the individual employees, your organization will be permitted access at the Plant during normal business hours.

5. (b) All analyses of the above medical screening test data.

No analysis of the above medical screening data are maintained at the plant.

6. (a) All analyses of medical records.

No analyses of the medical records are maintained at the Plant.

Very truly yours,

Lawrence S. Falter

Lawrence S. Falter
Senior Counsel

Enclosures

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