PLAINTIFF'S EXHIBIT UC-23

J.I.E.9

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To (Name) Mr. T. W. Carmody
Division UCC - HS&E Affairs
Location 270 Park Ave. - 11th Floor
New York, NY

Date February 15, 1978

Originating Dept. "Calidria" Asbestos

Answering letter date

Copy to Messrs. J. F. Browning
~~J.~~ L. Myers
W. C. Thurber

Subject UCC Response to the Generic Standard

Dear Tom:

The outline of the UCC response to the OSHA Generic Standard Proposal in the version attached to your note of January 12, 1978 has been reviewed as agreed. As expected, it seems like a fine job. A couple of additional ideas are presented here for your consideration for possible inclusion in the presentation.

Based on the asbestos experience, an important reason why the rulemaking procedures are so long and drawn out and face so much opposition is that OSHA tends to go off the deep end. Sweeping requirements are proposed with little consideration of the incremental (if any) increase in worker safety and health gained compared to the increased burden on industry and society to comply with the particular requirements. Specific examples include monitoring and medical surveillance.

The monitoring problem for asbestos is discussed in the Union Carbide response to the October 9, 1975 Proposed Rulemaking. It is not simply a matter of using a resource that could be more effective elsewhere but that the requirement far exceeds the resources available in the foreseeable future.

The annual physical examination mandated for millions of workers regardless of the level of asbestos exposure or time since initial exposure also far exceeds the resources needed to provide meaningful examinations. OSHA seems to believe that they can solve this problem by providing the general practitioner with exposure data and literature on carcinogens. This is patently ridiculous and becomes increasingly so as more and more substances are brought under regulation.

Finally, the monitoring and medical examination requirements are coupled with extreme recordkeeping requirements which, in effect, attempt to operate entire industries as vast epidemiological experiments. This is a highly inefficient use of resources which in the overall, detracts from rather then enhances worker health. There is little or no disagreement that regulations are needed to protect worker health. If OSHA would promulgate realistic regulations containing only requirements which make a substantial improvement in health, much of the opposition would not occur and standards could be worked out more rapidly.

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In the last part of the section, "UCC believes that a satisfactory. . ." the statements are made:

Example: Potent Human - Best Available; Weak Animal - Best Practical.

Example for Industrial Hygiene: Potent Human - Quarterly personal sampling; Weak Animal - Yearly personal sampling with area instrument monitoring.

This sort of proposal by cliché makes me nervous. Basically, exposure to a Potent Human Carcinogen should be controlled to whatever level the risk-benefit analysis shows as acceptable to society. There is no way to tell a priori and in general terms what kind of technology will be required to achieve this level. To paraphrase the AIHC proposal, why is a risk-benefit analysis needed if it has already been decided what technology must be used? The same problem exists in the AIHC alternate to formulate draft model standards. Basically, we seem to be proposing two sets of criteria which are not necessarily consistent. Caution is needed here.

Finally, the question of the Classification Authority, I still believe that it is extremely important that the Authority define how the level of risk at low exposures is to be estimated. (This was discussed in detail in my letter of January 23, 1978.) It appears that the January 27, 1978 Alternative Proposal moves significantly in this direction but stops short of clear definition. Perhaps UCC could make the point in their presentation so that it is entered into the record. I am having a timing problem in getting it included in the AIA/NA presentation since it is basically a new concept for this group and approval procedures are somewhat cumbersome.

Very truly yours,

-H. B. Rhodes

Harrison B. Rhodes

HBR/rmm

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