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UNION CARBIDE

INTERNAL CORRESPONDENCE

UNION CARBIDE CORPORATION OLD RIDGEBURY ROAD, DANBURY, CT 06817

PLAINTIFF'S EXHIBIT UC-68

To (Name) GOHC (See Attached Distribution)
Division
Location
Area

Date September 6, 1984

Originating Dept. HS & EA

Area P2

Subject: OSHA SPECIAL EMPHASIS PROGRAM FOR ASBESTOS, DATED JULY 23, 1984

REFERENCE: R³ Letter to GOHC Dated November 16, 1983

Copies to T. W. Carmody
W. E. Chambers
C. E. Eley

XC: DRNewman Chickasaw
JANelson "
WPFethke Tampa

for your info - I doubt if Chickasaw a Tampa unit would be involved. If an OSHA inspector did check us, could we show that asbestos is not used? If it is used, please let me know the details.

Mike Snowden 9/19/84

The attached National Emphasis Program (NEP) defines the OSHA Special Emphasis Inspection Program for Asbestos which replaces the one I sent you last November.

As communicated earlier, OSHA, under a consultation agreement with EPA, has been handling asbestos under EPA referrals (OSHA Notice CPL 2 and CPL 2.60).

RLB, What do you have in writing to show this, as we decided verbally (ie no asbestos in LINDE Bldg) WPF

This new directive (CPL 2.60A) defines OSHA's internal asbestos inspections. It states that each Area Director will schedule a total of 10 asbestos NEP inspections for each Area/District Office for General Industry this fiscal year. It also highlights construction sites and maritime sites. These inspections are in addition to the EPA referrals.

OSHA is notorious for not meeting their objectives and schedules, but it is obvious that OSHA inspections for asbestos exposure will increase.

R³

R. R. Rankin

RRR/pob
Attachment

A0430r

Walter

We have background measurements on all areas that contain asbestos and site [illegible] Oct 1st

U.S. Department of Labor

Assistant Secretary for
Occupational Safety and Health
Washington, D.C. 20210

OSHA Instruction CPL 2.60A
JUL 23 1984
Office of General Industry
Compliance Assistance

Subject: Special Emphasis Inspection Program for Asbestos

A. Purpose. This instruction revises the current National Emphasis Program (NEP) for programmed health inspections of establishments where asbestos is used, stored or processed.

B. Scope. This instruction applies OSHA-wide.

C. Cancellation. OSHA Instruction CPL 2.60, October 1, 1983, is canceled.

D. Action. Regional Administrators and Area Directors shall ensure that the procedures established in this instruction are adhered to in scheduling programmed inspections.

E. Federal Program Change. This instruction describes a Federal program change which affects State programs. Each Regional Administrator shall:

1. Ensure that this change is promptly forwarded to each State designee.

2. Explain the technical content of this change to the State as requested.

3. Ensure that State designees are asked to acknowledge receipt of this Federal program change in writing within 30 days of notification to the Regional Administrator. This acknowledgment should include a description either of the State's plan to implement the change or of the reasons why the change should not apply to that State.

4. Review policies, instructions and guidelines issued by the State to determine if this change has been communicated to State program personnel. Routine monitoring activities shall also be used to determine if this change has been implemented in actual performance.

A04302

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F. Background. Workers exposed to airborne asbestos in their workplaces face a significant danger of developing the disabling diseases of asbestosis, lung cancer and mesothelioma. The diseases caused by asbestos constitute the highest level of health risk for American asbestos workers.

1. While malignant mesothelioma of the pleura and peritoneum are extremely rare in persons not exposed to asbestos, scientific studies have shown that in some asbestos-exposed occupational groups, mesothelioma has accounted for 10-18 percent of all asbestos-related deaths. This form of cancer is incurable and is usually fatal within a year after diagnosis. In addition, cancers of several other types have been associated with exposure to asbestos.

2. Considerable public attention has been focused on the dangers of asbestos and OSHA is continuing its work on a permanent asbestos standard.

3. OSHA has conducted a NEP in asbestos since October 1, 1983. OSHA has decided to continue its compliance presence in industries where the greatest exposure to asbestos is most likely to be present. This NEP will attempt to concentrate available resources on those industries.

4. The program has been based on a list of industries with a previous history of violations of the asbestos standard. The assumption was that industries cited for past asbestos exposures would be the most likely targets for potential present overexposures. Experience now shows, however, that this procedure was not effective in identifying the potential overexposures to asbestos as the agency had assumed. Consequently, lists will now be developed on the basis of local knowledge.

5. The procedures are also strengthened for scheduling inspections in the construction and maritime industries. All worksites where asbestos is used, stored or processed, regardless of the manner in which they come to the attention of the Area Director, shall be scheduled for inspection.

G. Procedures. Regional Administrators shall ensure that each Area Director develops an asbestos establishment list made

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up of all establishments identified as using, storing or processing asbestos. To develop that list the Area Director shall use whatever sources of information that are available to the degree that they are reliable. Examples of such sources are local knowledge, past inspection reports, trade journals or newspapers, and local media reports irrespective of whether or not a violation is alleged or indicated.

1. Adjustments. Prior to using the Asbestos Establishment List for scheduling purposes, additions and deletions shall be made as necessary or appropriate in accordance with the guidelines given in the FOM, Chapter II, E.2.b.(1)(b) 4.

   NOTE: As soon as it becomes clear that asbestos is not found at an establishment on the list, the establishment shall be deleted, even if it has already been scheduled for inspection.

2. Scheduling Inspections in General Industry. Area Directors shall ensure that the guidelines given in the FOM, Chapter II, E.2.b.(4), are followed in scheduling inspections at these establishments.

   a. After the asbestos establishment list has been prepared and adjusted, as necessary, establishments on the list shall be numbered consecutively beginning with the number 1, skipping any deletions.

   b. The Area Director shall schedule for each Area/District Office a total of 10 asbestos NEP inspections for the fiscal year. The establishments shall be selected as follows:

      (1) Apply the random number table to the establishment list prepared according to G.2.b. (Instructions for using a random number table are provided in OSHA Instruction CPL 2.25D, Appendix E.)

      (2) Select establishments in the order prescribed by the random numbers until a total of 10 establishments has been selected from the list.

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c. If there are 10 or fewer establishments on the Area/District Office Establishment List, the random number table is not used and all listed establishments shall be scheduled for inspection.

d. Establishments selected for inspection may be scheduled in any order that makes efficient use of available resources.

e. All inspections scheduled under the procedures in G.a. through d. shall be conducted even if they must be carried over into the next fiscal year.

f. Except as noted in the following paragraph, if an inspection cannot be conducted for any legitimate reason, the Area Director shall select the next establishment prescribed by the random number table for inspection. This process shall be repeated as often as necessary until the required number of inspections has been completed or until the fiscal year ends.

g. When an inspection is not conducted because the employer has refused entry, a warrant shall be sought in accordance with the current procedure for handling such refusals. Only if the court refuses to issue a warrant or if the Regional Solicitor declines to apply for a warrant, is such an establishment to be replaced as indicated in G.2.f.

h. Inspections conducted under this NEP normally shall be limited to areas within the establishment where asbestos is or may be used, stored, or processed.

i. If it is not discovered until the CSHO arrives on the site that the establishment is not using asbestos and none is to be found on the premises, the inspection shall be terminated immediately and the OSHA-1 Form completed according to instructions given in J. Such terminated inspections need not be replaced as one of the 10 required inspections.

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j. If an establishment selected for inspection under the NEP also appears on the General Industry Health Inspection Register, it shall be removed from the list of establishments scheduled for inspection under the NEP and replaced according to the procedures in G.2.f.

k. Unprogrammed inspections and inspections scheduled from the general industry health inspection register which are conducted at sites where asbestos is present shall be coded as NEP inspections in accordance with the guidelines given in J.1.b. even though they have no effect on the manner of selecting programmed NEP inspections or on the number of such inspections to be conducted.

H. Inspections of Construction Sites. OSHA experience has shown that certain construction and demolition activities typically involve potential exposure to asbestos fibers. The following procedures outline the action to be taken by the Area Director to discover and to handle activities where asbestos is likely to be present:

NOTE: Referrals from the Environmental Protection Agency (EPA) are not included in the NEP described in this instruction until such time as the OSHA Notice CPL 2, April 1, 1984, expires and is not renewed.

1. The Area Director shall use any appropriate means within his/her disposal to determine when construction and demolition activities potentially involving asbestos are taking place.

2. All CSHOs shall be alert for construction or demolition activities where asbestos may be present.

a. Such activities shall be reported to the supervisor for evaluation as soon as the CSHO becomes aware of them.

b. If the CSHO is on a site where asbestos is present, the activity involving asbestos shall be evaluated by the inspecting CSHO and brought immediately to the supervisor's attention. If the supervisor judges it appropriate, a health inspection shall be scheduled.

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3. Any construction or demolition activity involving the possible presence of asbestos that comes to the attention of the Area Director shall be treated in the following manner:

a. The Area Director and the health supervisor shall make a reasonable effort to determine if there is any possibility of employee exposure to asbestos as a result of the construction or demolition activity.

b. If employee exposure to asbestos is possible, an inspection shall be scheduled in accordance with the following guidelines:

(1) Any construction or demolition activity discovered under H.2.b. shall be treated as a CSHO referral, evaluated, assigned the proper inspection priority, and scheduled for inspection in accordance with the FOM, Chapter IX, B.3. and Chapter II, E.1.a.

(2) Reports of imminent danger, fatality/catastrophe investigations, formal complaints, referrals from safety and health agencies and media reports, any of which involve the possible presence of asbestos, shall be assigned a priority as indicated in the FOM, Chapter II, E.1.a, and handled in accordance with Chapters VII, VIII, and IX, as appropriate.

(3) Construction or demolition activities involving the possible presence of asbestos discovered in any other fashion (e.g., nonformal complaints, other government agency referrals, news photographs or any other report), however such reports may be classified and regardless of whether or not a violation is identified or alleged, shall be handled as programmed construction inspections under the NEP. All such worksites discovered shall be assigned the highest priority among programmed inspections and scheduled for inspection as soon as practicable.

NOTE: Nonformal complaints and other notices of hazards that would not normally receive an

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inspection shall be recorded on the OSHA-1 and other appropriate forms (OSHA-7 and OSHA-90) in the usual manner according to the instructions given in the IMIS Forms Manual.

4. Construction health inspections scheduled under this NEP generally shall be limited to those areas at the site where asbestos is or may be used, stored, removed or otherwise found.

5. If it is not discovered until the CSHO arrives on the site that none of the employers are dealing with asbestos and none is present on the premises, the inspection shall be terminated immediately and the OSHA-1 Form completed according to instructions given in J.

I. Inspections of Maritime Sites. Past experience has indicated that shipbreaking and repair operations frequently involve employee exposure to asbestos. The following procedures outline the action to be taken by the Area Director to discover and to handle activities where asbestos is likely to be present:

1. The Area Director shall use any appropriate means to determine when shipbreaking or repair operations potentially involving asbestos are taking place.

2. All CSHOs shall be alert to the existence of maritime activities where asbestos may be present.

   a. Such activities shall be reported to the supervisor for evaluation as soon as the CSHO becomes aware of them.

   b. If the CSHO is on a site where asbestos is present, the activity involving asbestos shall be evaluated by the inspecting CSHO and brought immediately to the supervisor's attention. If the supervisor judges it appropriate, a health inspection shall be scheduled.

3. Any maritime operation involving possible presence of asbestos that comes to the attention of the Area Director shall be treated in the following manner:

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a. The Area Director and the health supervisor shall make a reasonable effort to determine if there is a possibility of employee exposure to asbestos as a result of the maritime (scrapping (salvage) or repair) operation.

b. If employee exposure to asbestos is possible, an inspection shall be scheduled in accordance with the following guidelines:

(1) Any shipyard activity discovered under I.2.b. shall be treated as a CSHO referral, evaluated, assigned the proper inspection priority, and scheduled for inspection in accordance with the FOM, Chapter IX, B.3. and Chapter II, E.1.a.

(2) Reports of imminent danger, fatality/catastrophe investigations, formal complaints, referrals from safety and health agencies and media reports, any of which involve the possible presence of asbestos, shall be assigned a priority as indicated in the FOM, Chapter II, E.1.a, and handled in accordance with Chapters VII, VIII, and IX, as appropriate.

(3) Shipyard activities involving the possible presence of asbestos discovered in any other fashion (e.g., nonformal complaints, other government agency referrals, news photographs or any other report), however such reports may be classified and regardless of whether or not a violation is identified or alleged, shall be handled as programmed construction inspections under the NEP. All such worksites discovered shall be assigned the highest priority among programmed inspections and scheduled for inspection as soon as practicable.

NOTE: Nonformal complaints and other notices of hazards that would not normally receive an inspection shall be recorded on the OSHA-1 and other appropriate forms (OSHA-7 and OSHA-90) in the usual manner according to the instructions given in the IMIS Forms Manual.

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4. Maritime (shipyard) health inspections scheduled under this NEP generally shall be limited to those areas at the site where asbestos is or may be used, stored, or found.

5. If it is not discovered until the CSHO arrives on the site that the operation does not involve using asbestos and none is to be found on the premises, the inspection shall be terminated immediately and the OSHA-1 Form completed according to instructions given in J.

J. Recording in IMIS. The following guidelines shall be applied when recording inspections conducted under this NEP or other inspections where asbestos is found:

1. Current instructions for completing the appropriate inspection classification boxes (Item 25) on the OSHA-1, Inspection Report, as found in the IMIS Manual shall be followed for inspections under this NEP.

   a. The OSHA-1 for any programmed inspection scheduled under the National Emphasis Program for Asbestos shall be marked "Planned" (Item 24h.) and National Emphasis Program (Item 25d.) Record "ASBESTOS" in the space in Item 25d.

   b. The OSHA-1 for any programmed inspection scheduled from the health inspection register but where asbestos is found shall be marked "Planned" (Item 24h.), "Health Planning Guide" (Item 25b. as appropriate) and National Emphasis Program (Item 25d.) Record "ASBESTOS" in the space in Item 25d.

   c. The OSHA-1 for any unprogrammed inspection (even if handled as a programmed inspection in accordance with H.3.b.(3) or I.3.b.(3)) conducted under the National Emphasis Program for Asbestos shall be marked as unprogrammed (Item 24 a. through g., as appropriate). In addition it shall be marked National Emphasis Program (Item 25d.) Record "ASBESTOS" in the space in Item 25d.

2. Where it is discovered upon arrival at a worksite scheduled for an NEP - Asbestos inspection that asbestos is in fact not used, stored or found, the OSHA-1 shall be

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completed, nevertheless, as indicated in J.1; in addition, however, the CSHO shall mark Optional Information (Item 42) as follows: Type = N, ID = 7, Value = NOAZ.

Patrick R. Tyson
Deputy Assistant Secretary

DISTRIBUTION: National, Regional and Area Offices
All Compliance Officers
State Designees
NIOSH Regional Program Directors
7(c)(1) Project Managers

J

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