UNION CARBIDE

INTERNAL CORRESPONDENCE

PLAINTIFF'S EXHIBIT
UC-530

MINING AND METALS DIVISION

4625 ROYAL AVE., P. O. BOX 579, NIAGARA FALLS, NEW YORK 14302

To (Name) Messrs. W. C. Thurber
Division J. V. Murray
Location J. L. Myers

Date April 16, 1975

Originating Dept. "Calidria" Asbestos

Answering letter date

Copy to File ✓

Subject NICA OSHA Commentary

The attached OSHA commentary prepared by the National Insulation Contractors Association is provided for your information. The comments may be all right for their industrial situation but they seem to have missed many of the subtilties.

There is one paragraph, however, which may be of particular interest to us, i.e Article IX page 7. Here it is stated that OSHA has advised them that the "place of employment" definition allows a contractor to monitor by function rather than at all work locations. This could have a very significant application to our current problems in the drilling mud and tape joint contractor areas.

In my opinion, however, we need a more solid verification than this paragraph for the concept to be really useful. I discussed ways to obtain this with Bob Mereness. He knows of NICA but does not have any personal contacts there. He feels that the best way to go is to paraphrase this question and run it back by OSHA through Harry Gilbert. I agreed to this and he will move on it promptly.

I also talked by phone with Mr. John Pollock, the Executive Director of NICA. His recollection was somewhat vague but he took the position that this was not really a question of interpretation. They discussed the question with OSHA and were told by them that this was what the regulations said. He did not recall who they had talked with. This obviously is not very helpful.

H. B. Rhodes

H. B. Rhodes

HBR:gt
Attachment

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National Insulation Contractors Association
John C. Pollock, Executive Director

SUPPORT NICA
AND THE
NATIONAL INDUSTRY FUNDS

TO: All Insulation Contractors

The importance of the Occupational Health and Safety Act of 1970 (OSHA) cannot be over emphasized. It will affect you and your daily business operation.

NICA has been actively representing the entire insulation industry at government hearings, discussions with government and labor officials and with others concerned with the protection of your interests regarding the OSHA program.

This is just one of the many services performed by NICA of benefit to the entire insulation industry.

R. F. "Pat" Yount
President - NICA

A20930 From Inc Weeks
4/3/75

8630 Fenton Street, Silver Spring, Maryland 20910 Telephone (301)565-6623

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REPORT ON OSHA REGULATIONS

by

NICA OSHA TASK FORCE

Spence Royer, Richard Stapleton, Don Bradshaw, all members of NICA's OSHA TASK FORCE, along with Jim Brown, NICA's Legal Counsel, met in Denver at the Johns-Manville office on July 17 and 18, 1972. The following conclusions and subsequent recommendations for implementing the OSHA Standards with reference to asbestos fiber were adopted at that time.

It is the opinion of the OSHA Task Force that the best way to avoid the problems involving asbestos is to eliminate asbestos from the products used in the insulation industry. We believe that this problem will disappear in the near future since we have been assured that asbestos free materials will be available within a short time.

On jobs which require the removal and demolition of old materials, or on which asbestos containing materials are sprayed, it will be necessary to observe the precautions as set out in Paragraph V of the outline attached hereto.

The OSHA Task Force thinks it likely that once the requirements are met on asbestos, OSHA will shift its attention to other materials, such as silica, lead, etc. This being the case, we recommend that a National program be promulgated to give guidance and professional advice on all occupational disease problems.

We recommend that such firms as Tabershaw-Cooper on the west coast and Executive Health Examiners on the east coast be retained to screen clinics and diagnostic offices in each local headquarters city and make recommendations on the one that they think most capable. Tabershaw-Cooper have had years of experience in this field and have collected a wealth of information for the benefit of the Western States Conference.

After the proper clinics or doctors have been selected in each area, the firm or firms chosen would continue to check them to see that they are doing the job of taking the x-rays and properly interpreting them. As a further check and control, copies of all x-rays would be sent to the consultants for their examination. If there was a difference of opinion, the consultant would contact the doctor at the local city and secure further information to see that the diagnosis was correct. The consulting firm would also keep these files for twenty years as required by the regulation.

The OSHA Task Force further recommended that the fee for the services of the consultant be paid from the National Industry Fund and that the individual examination cost be borne by each employer.

It is possible that the regions could coordinate these functions by handling the contacts with individual contractors within their area.

Under the regulations, it is necessary that all locations be monitored by December 6, 1972, and at least every six months thereafter. The consultant could also provide this monitor service and keep the records that are necessary to be kept for three years.

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We are firmly convinced that we should seek some outside professional help in setting up a monitoring and physical examination program. In the long run, this will be cheaper and much more efficient than each contractor going his own way. The service would be made available to any contractor regardless of whether or not he is a member of NICA and would be strictly on a voluntary basis.

It is further recommended by the OSHA Task Force that all physical examinations be taken on the employee's time and not on company time. In the event the employee wishes to avoid loss of time, the employer should make an effort to schedule the examinations on Saturday or after working hours.

We further recommend that a request be made to OSHA by our legal counsel, seeking a delay in the enforcement of the monitoring and physical examination requirements to allow the contractors time to dispose of all materials which now contain asbestos and replace them with asbestos free products.

Respectfully submitted this 21st day of July, 1972.

NICA OSHA TASK FORCE

J. S. Royer, Chairman
Richard Stapleton
Don Bradshaw
William A. Bayer
James Brown, NICA Legal Counsel

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SUPPLEMENTAL REPORT ON OSHA REGULATIONS

by

NICA OSHA TASK FORCE

On August 11, 1972, Spence Royer, Dick Stapleton and Jim Brown, Legal Counsel, conferred in Washington, D.C., with officials of the Office of Standards and with the Special Programs Division of OSHA.

The purpose of the conference was to obtain interpretations of certain provisions of the regulations, including "fixed place of employment," monitoring requirements, "separate lockers or containers" for clothing, the laundering obligation and the obligation of the employee to take a physical examination.

The results of the conference are incorporated into the outline of employer obligations attached hereto.

NICA OSHA TASK FORCE

J. S. Royer, Chairman
Richard Stapleton
Don Bradshaw
William A. Bayer
James Brown, NICA Legal Counsel

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OBLIGATIONS OF EMPLOYER
under
STANDARDS FOR EXPOSURE TO ASBESTOS DUST
29 C.F.R. § 1910.93a

I. Fiber Ceilings. The permissible asbestos fiber (longer than 5 micrometers) airborne concentration limits to which any employee may be exposed are:

A. 5 fibers per cubic centimeter of air on a time weighted-average (TWA) over an 8-hour day.

B. 10 fibers per cubic centimeter of air at any one time.

Note: References herein to "limits" or "fiber limits" refer to the above limits.

II. Methods of Meeting these Exposure Limits

A. Engineering controls. Compliance must be primarily through engineering controls such as use of exhaust ventilation and dust collection systems, enclosures and other such means.

B. Respirators, shift rotation, etc. Respirators and shift rotation and other such means can be used to meet employee exposure limits only in the very limited situations specified in the regulations. See Paragraph VII of this outline on respirators.

III. Local Exhaust Systems

A. When required

1. With all hand and power tools which may produce or release asbestos fibers in excess of limits. (Saws, scorers, abrasive wheels, drills, etc.)

2. Where necessary to keep within the asbestos fiber limits.

B. What required. Must be designed, constructed, installed and maintained in accordance with American National

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Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, ANSI Z9.2-1971. Copies can be obtained from:

American National Standards Institute
1430 Broadway
New York, N. Y. 10018

IV. Removal from Containers - Cement, etc.

A. Products subject to this requirement:

asbestos cement
mortar
coating
grout
plaster
similar material containing asbestos

B. Procedure. Must be either:

1. wet
2. enclosed, or
3. ventilated

sufficiently to prevent airborne fibers in excess of the limits.

V. Spraying, Demolition or Removal

A. Special equipment and procedures are required for protection of employees engaged in spraying asbestos or removal of asbestos insulation or removal or demolition of equipment or structures insulated with asbestos. The requirements are:

1. Approved respiratory equipment must be used.

2. Special clothing must be supplied and used if the 10 fiber ceiling is exceeded.

3. Change rooms are required in some instances.

4. Two separate lockers or containers for each employee's work clothes and street clothes are required.

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5. Special laundering requirements are imposed.

B. The respiratory equipment must be -

1. continuous flow or pressure demand, supplied-air type, and

2. approved by the Bureau of Mines or NIOSH

a. The Committee will obtain a list of presently approved items

3. Employer must also establish a respirator program in accordance with American National Practices for Respiratory Protection, ANSI Z88.2-1969.

C. Special clothing requirement.

1. Items required are:

Whole body clothing (coveralls or shirt and pants)
Head covering
Gloves
Foot coverings

2. In view of laundering requirements, use of throw-away paper articles should be investigated. See Paragraph IV of this outline for laundering requirements.

D. Change rooms and separate clothes lockers or containers may be required. See Paragraph VI of this outline.

VI. Change Rooms, Separate Clothes Containers and Laundering

A. Change rooms are required

1. At "any fixed place of employment,"

2. For "employees working regularly at the place,"

3. If exposure to airborne asbestos fibers exceeds either the 5 fiber TWA or the 10 fiber limit.

Comment: A construction site is not considered to be a "fixed place of employment."

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Note that change rooms are required only in the places and under the conditions described above.

B. Clothes Containers. Where a change room is required, the employer must furnish a locker or container for the employee's street clothes and a separate locker or container for his work clothes. The separate containers must be sufficiently separated as to prevent contamination of the street clothes. Separate plastic clothing bags will meet this requirement.

C. Laundering of "Asbestos Contaminated Clothing"

1. Extent of employer's obligation. OSHA Office of Standards interprets the regulation to require employer to launder any special clothing he is required to furnish but not any other clothing.

2. Employer laundering of special clothing. Employer must:

a. Transport in sealed impermeable bag

b. Affix following label to bag:

CAUTION
Contains Asbestos Fibers
Avoid Creating Dust
Breathing Asbestos Dust May Cause
Serious Bodily Harm

c. Notify laundry that laundering must be done in a manner that will not cause release of airborne fibers in excess of limits.

VII. Respirators

A. Generally. Respirators cannot be used to obtain compliance with exposure limits unless specifically authorized by regulations.

B. When authorized.

1. During time needed to install engineering controls and work practices required by the regulations.

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2. In work situations where the required engineering controls and work practices are technically not feasible or feasible to an extent insufficient to meet exposure limits. (This would include spraying, demolition and removal. See Paragraph V.)

3. In emergencies.

C. Kinds to Use

1. Must be approved by:

a. Bureau of Mines, or

b. NIOSH

2. Air purifying - can be used where concentrations are reasonably expected not to exceed 10 times the limits.

3. Powered-air purifying. Where concentration expected to exceed 10 times but not 100 times exposure limits

4. Supplied-air, continuous flow or pressure demand. Concentrations above 100 times limits.

D. Respirator Program. If use respirators, must establish a program in accord with American National Practices for Respiratory Protection, ANSI Z88.2-1969.

E. Employee with Respirator Problems:

1. Will not be given work requiring respirator if:

a. Physician, based on most recent examination, determines:

(1) Employee cannot "function normally wearing a respirator," or

(2) Safety or health of the employee or other employees will be impaired by his use of respirator.

2. Will (1) be rotated to a different job or (2) be be allowed to transfer to a different position in

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the same geographical area with same seniority, status and rate of pay if such position is available and he is able to perform the duties required. (The validity of this requirement should not be assumed. Anyone faced with the problem may want to check with his counsel.)

VIII. Caution Signs and Labels

A. Signs

1. Must be displayed at each location where asbestos fibers "may be" in excess of limits.

2. Must conform to size, lettering and other minute details specified in the regulation.

3. Must be posted at all approaches to area containing excess concentrations.

4. The Committee recommends that NICA make arrangements whereby signs meeting the requirements of the regulations can be purchased from a central source.

B. Labels

1. Must be affixed to "all raw materials, mixtures, scrap, waste, debris and other products containing asbestos fibers, or to their containers."

2. Exception: Where fibers have been modified by a bonding agent, coating or other material "so that during any reasonably forseeable use, handling, storage, disposal, processing or transportation" airborne fibers in excess of limits will not be released.

3. Labels must be in following form:

CAUTION
Contains Asbestos Fibers
Avoid Creating Dust
Breathing Asbestos Dust May Cause
Serious Bodily Harm

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4. The Committee recommends that NICA make arrangements whereby labels meeting the requirements of the regulations can be purchased from a central source.

IX. Monitoring Amount of Airborne Asbestos Fibers

A. When required

1. By December 6, 1972

2. At least every 6 months thereafter

B. Where required

1. "Every place of employment where asbestos fibers are released."

2. Comment: The regulations were apparently drafted with plant operations in mind. Because it is difficult to apply them to the contracting business, the Committee met with the OSHA Office of Standards in Washington to obtain a workable interpretation as applied to a contractor. We were advised that a contractor would be required to monitor each function. Thus, for example, the cutting of calcium silicate on a particular job would be monitored. If this contractor had three other jobs in which this same operation was performed, using the same tools, the same material and under substantially the same conditions, it would not be necessary to monitor this same function at each of the other job sites. However, if a contractor has more than one branch or operating unit from which employees were hired and operations conducted, each of these branches or operating units would be considered to be a"place of employment" and the cutting of calcium silicate would have to be monitored on at least one job handled out of each such branch or operating unit. The cutting of calcium silicate is simply an example and the above comments are applicable to every other operation in which asbestos fibers are released.

C. Where samples collected from -

1. Personal. "within the breathing zone of the employees."

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2. Environmental. "* * * areas * * * representative of airborne concentrations of asbestos fibers which may reach the breathing zone of the employees."

D. Sampling Frequency and Pattern. "such frequency and pattern as to represent with reasonable accuracy the levels of exposure of the employees." Frequency must be sufficient to show 8-hour time weighted average.

E. Method of Sampling. Membrane filter of 0.8 micrometer porosity mounted in an open-face filter holder.

F. Practical suggestions on equipment and procedures:

1. Industry program. The Committee is exploring the possibility of making available, on a purely voluntary basis, a program that would enable contractors to comply with the monitoring requirements. The arrangement under consideration would include (1) conducting a school to train several people in each region or area to operate the monitoring equipment and take the necessary samples, (2) identifying and making arrangements with persons (microscopists) qualified to examine and evaluate the samples, and (3) making this arrangement available to any contractor who wishes to hire the person doing the monitoring and the microscopist at the per unit charge each would make.

   For those contractors who desire to devise their own program, the Committee will furnish, as soon as we can, a list of monitoring equipment and supplies that are suitable and the names and locations of any microscopists known to the Committee.

G. Records

1. Duty to keep. Must keep records of all required personal and environmental monitoring.

2. Time - 3 years.

3. Employee access. Employee and former employee has access to records showing "employee's own exposure."

H. Notice of excess exposure

1. Duty - Employer must give to employee

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2. Form - written.

3. Time - as soon as practicable but not later than 5 days after employee is found to have been so exposed.

4. Corrective action - must "timely" notify employee what action is taken.

X. Medical Exams

A. Furnished by - employer.

B. When -

1. Preplacement. Within 30 calendar days of first employment in occupation exposed to airborne asbestos fibers.

a. How ascertain this?

2. Jan. 31, 1973. Every employee on or before this date.

3. Annual. After Jan. 31, 1973, must provide annual exam.

4. Termination of employment. Must have examination with each employer.

5. Exceptions. Examination is not required "if adequate records show that the employee has been examined * * * within the past 1-year period."

a. A card signed by the doctor and issued to the employee could serve as the necessary record.

C. Medical Records

1. Maintenance. Employer must "cause to be maintained."

2. Period - At least 20 years.

3. Access -

a. Assist. Sec. of Labor.

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b. Director of NIOSH.

c. Authorized medical consultants of above.

d. Employee's physician on request of employee.

e. Employer.

D. Duty of Employee to take Exam

1. While no ruling has been issued on this matter, the Office of Standards has advised that the Act and regulations do not impose a duty on the employee to take an examination. This would be a matter of employment policy and any contractual agreement.

E. Industry Program. As indicated in its Report, the Committee recommends that arrangements be made for a program which would be available to any contractor. This would eliminate the necessity of each contractor setting up his own program, although he could do so if he wished.

XI. Timetable

A. Do now -

1. Use necessary engineering controls to comply with 5 fiber TWA and 10 fiber ceiling. Keep in mind that TWA limit drops to 2 fibers on 7-1-76.

2. Use local exhaust system with all saws, etc., that may produce excess fibers.

3. Wet all asbestos containing material for handling, mixing, etc., unless usefulness of product would be diminished.

4. In removing asbestos cement, mortar, coating, grout, plaster or similar material containing asbestos from containers, you must (a) wet, (b) enclose or (c) ventilate sufficiently to prevent fibers above limits.

5. In spraying, removal and demolishing operations:

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a. Have employees use (1) prescribed respirator and (2) special clothing.

b. Furnish special clothing.

c. Place special clothing in impermeable bags, attach caution label and comply with laundering requirements.

d. Have an approved respirator program.

e. If at a "fixed place of employment," provide change rooms and separate clothing lockers or containers for employees "working regularly at the place."

6. Post caution signs at locations where concentrations of fibers may exceed limits.

7. Place caution labels on all raw materials, waste, etc.

8. Keep all external surfaces free of accumulations which, if dispersed, would cause excessive airborne fibers.

B. When you employ a worker whom you have not previously employed.

1. Provide physical within 30 calendar days unless records show he has been examined pursuant to regulations within the preceding year.

C. Every time you terminate an employee

1. Provide physical exam unless records show he had one in past year.

D. On or before December 6, 1972.

1. Have completed monitoring of every place of employment where asbestos fibers are released.

E. On or before January 31, 1973

1. Provide or make available physical exams for all covered employees.

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