PLAINTIFF'S EXHIBIT

UC-2443

cc to DJC
only to JKR

UNION CARBIDE

INTERNAL
CORRESPONDENCE

UNION CARBIDE CORPORATION OLD RIDGEBURY ROAD, DANBURY, CT 06817

Division Environmental Coordinators
Division Environmental Contacts
Component Coordinators
J. E. Knap - Investment Recovery

December 13, 1984

HS&EA

P-2

J. D. Baker
C. L. Dudnick

Clarification of the Notification Requirements for Renovation of Facilities Containing Friable Asbestos Material

Questions have been raised regarding the timing and the content of the prior notification requirement under the current asbestos NESHAP regulation. Early in October, I contacted two gentlemen in the EPA for clarification of the notification requirement. Both Mr. Simms Roy (EPA's Research Triangle Park) representing the Standards Development Division and Mr. Robert Meyers of EPA Enforcement (Washington, DC) have made it clear that it is EPA's intention to assure complete compliance with the regulation so as to eliminate hazards associated with the removing and handling of asbestos during demolition and renovation activities. While the prior notification requirement is part of this regulation, EPA personnel stress that compliance with the actual workplace practices in removing and disposing of asbestos is the primary purpose for the regulation. After discussing several possible considerations in such a notification requirement, I believe that we should follow a reasonable guideline with regards to the prior notification for renovation[1] under two separate situations: 1) one which includes a "one-time" or "blanket" notification for small, repetitive operations which add or surpass the trigger level or TL[2] (EPA refers to these as planned but unscheduled operations); and (2), an individual event notification whereby a single project may by itself surpass the TL.

Blanket Notification Rationale

If your facility has reason to believe that during the next calendar year it will exceed the TL by adding together the quantities of asbestos removed during repetitive operations, then prior to that calendar year, send a written notification to the Regulatory Agency (EPA or the State, if it has been delegated the NESHAP authority for asbestos) with information, to the best of your knowledge, regarding such activity. While it may be impossible to

(1) This memorandum does not address prior notification for demolition. Depending on the amount of asbestos, the agency must be notified either 10 or 20 days in advance of demolition. See 40 CFR 146(b)(1) and 40 CFR 146(b)(2).

(2) TL is defined as 260 linear feet of pipe or 160 square feet of surface on other equipment.

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specify the exact start and completion dates of said renovation (considering your prediction may be up to 13 months in advance), it would be advisable to say that, because of the nature of your operations, unplanned, but routine renovations make it difficult to predict such exact dates. In such individual cases (none of which by themselves exceeds the TL and therefore would require a notification), the owner of the facility would not notify the EPA or State immediately prior to each specific event unless specifically requested to do so by the Agency. In your blanket notification, you may ask the Agency if it still would like to receive an additional prior notification for each single event. If so, the manner and the timing of such notification should be determined by discussions between the owner/operator of the facility and the Regulatory Agency (e.g., a satisfactory agreement might be the establishment of a telephone call to a 24 hour "hotline").

Individual Event Notification Rationale

A large renovation project (which exceeds the TL by itself) would, by its nature, require substantial preparation (e.g., securing adequate amounts of insulating materials and maintenance personnel). Appropriate planning should allow ample time to make a notification in writing prior to the commencement of such renovation operations. Therefore, for any large single event which, by itself, exceeds the TL, the owner/operator must provide prior notification to the Agency regarding the specific event. The regulations require this notice "as early as possible" prior to commencement of renovation. I suggest a 10-20 day advance notification, similar to notices for demolitions.

Asbestos: Pre-notification Guideline for Renovation Operations

In order to be assured that you comply with a reasonable interpretation of the Asbestos NESHAP regulation, it is necessary to:

1. Provide to the Regulatory Agency before the start of a given calendar year (preferrably December) a notification that during the next calendar year the owner or operator of the facility expects to remove asbestos during various unscheduled operations which in aggregate will be in excess of the trigger level specified in the regulation.

2. Provide the Regulatory Agency with specific information on any large, single project which, by itself, will exceed the trigger limits so specified in the regulation.

Since the prior notification requirement is confusing and at best vague in how to handle small quantity, unscheduled renovations, we believe that compliance with this guidance will provide you sufficient protection in following the intent of the prior notification requirement.

As a reminder of earlier guidance on this issue, I have included a copy of C. L. Dudnick's 4/30/84 letter on the subject. She has also included a new form "C" which is a suggested format for the Blanket Notification letter.

R. F. Kelley

R. F. Kelley

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FORM C

Re: Notification of Unscheduled Renovations
at (name of plant: e.g., Texas City,
Texas Facility)

Dear Sir:

This is to notify you, as required by the provisions of 40 CFR §61.146, that Union Carbide Corporation, Old Ridgebury Road, Danbury, Connecticut 06817, as owner, expects to engage in unscheduled renovation activities during the coming calendar year which, in the aggregate, are estimated to involve removing 80 linear meters (260 linear feet) or more of friable asbestos on pipes or 15 square meters (160 square feet) or more of friable asbestos used to cover other facility ~~components~~.

Because the renovation operations are only predicted to occur at Union Carbide's facility located at (address) during the next twelve months, we cannot at this time advise you when each renovation will begin and be completed and how much asbestos will be removed during each renovation. However, we can advise you of the procedures we intend to employ in handling and disposing of the asbestos materials. [Describe in general terms nature of anticipated renovations, methods and procedures to be used as per 40 CFR 61.146 (c)(6) and (7), 61.147 and 61.152.]

All asbestos material will be disposed of at (name and address of site, if known. If not, state you don't know but chosen site will have to meet NESHAPS regulations).

In our opinion, ~~this blanket notification meets the~~ requirements of 40 CFR 61.146 for unscheduled renovation operations. If, however, you would like to receive an additional of each individual unscheduled renovation, please contact (name of employee at plant and position) at (address and phone #), so that mutually acceptable procedures can be arranged.

Very truly yours,

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