UC-140-2

PLAINTIFF'S EXHIBIT

UC-3339

UNION CARBIDE

INTERNAL CORRESPONDENCE

METALS DIVISION

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

To (Name) Messrs. R. E. Byrne, Jr.
A. A. Messenger
J. L. Myers
E. W. Shortridge
W. C. Thurber

Division

Location

Copy to File

Date December 3, 1976

Originating Dept. "Calidria" Asbestos

Answering letter date

Subject October 28, 1976, Revision to California OSHA Asbestos Standard, Title 8, Section 5208.

G-2-a

The official version of the changes in the California asbestos regulations that were adopted by the Standards Board on October 28, 1976, are attached for your information. These paragraphs will be considered again by the Standards Board for possible further revisions early in 1977. I am staying in close touch, mainly as an AIA/NA representative, with the activities in California.

H. B. Rhodes

H. B. Rhodes

HBR:dal
attachment

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(B) Following any change in control, process, or production method which may alter the airborne concentration of asbestos, the employer shall monitor the level of any employee's exposure which may have been affected by such change.

(C) Monitoring shall be repeated at least once every 6 months where exposure to airborne asbestos may exceed an 8-hour time-weighted average concentration of 1 fiber, longer than 5 micrometers, per cubic centimeter or a ceiling concentration of 10 fibers, longer than 5 micrometers, per cubic centimeter.

(D) The sampling of airborne asbestos required by this paragraph shall be performed in a manner which will assure a reasonably accurate determination and shall be made without regard to employee use of respiratory protective equipment.

(E) All determinations of airborne concentrations of asbestos fibers performed under requirements of this section shall use the membrane filter method with phase contrast illumination, 400 to 450X magnification, and 4 millimeter objective.

DO NOT WRITE IN THIS SPACE

Repeal Subsection (j) and adopt new Subsection (j) into Section 5208 to read:

(j) Medical Examinations.

(1) The employer shall provide or make available at no cost to the employee a comprehensive preplacement medical examination by a licensed physician for each employee engaged in an occupation where exposure to airborne asbestos, without regard to the use of respiratory protective equipment, has been determined to exceed, or may be reasonably expected to exceed, an 8-hour time-weighted average concentration of 1 fiber, longer than 5 micrometers, per cubic centimeter or a ceiling concentration of 10 fibers, longer than 5 micrometers, per cubic centimeter.

The examination shall be provided or made available within 30 calendar days of an employee's initial assignment to such occupation and shall include as a minimum a 14-inch by 17-inch chest X-ray (posterior-anterior), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at one second ($FEV_{1.0}$).

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(2) At least annually every employer shall provide or make available at no cost to the employee a medical examination to employees as specified in paragraph (j)(1). The employer shall provide or make available, within 30 days of termination of employment of any employee exposed to airborne asbestos, a medical examination as specified in paragraph (j)(1), if such examination has not been taken within the previous year of termination.

NOTE: Pursuant to authority granted by Labor Code Section 6305(b), the Division, upon the advice of the Department of Health, may require an employer to make additional diagnostic test(s) available during medical examinations performed under the provisions of this paragraph when a preponderance of evidence indicates the advisability of such supplemental testing.

(3) Records shall be kept of medical examinations required by this subsection for each employee; such records shall be maintained by the employer for at least 30 years. Access to records of medical examinations required by this subsection shall be made available for inspection and copying to the Division of Industrial Safety, the Department of Health, and to authorized physicians or medical consultants of either of them. Upon written request of an employee or former employee, the employer shall provide a copy of the medical examination record to the employee's or former employee's physician. Any physician who conducts a medical examination required by this subsection shall furnish the employer of the examined employee or former employee all the information required by this subsection and any other medical information related to occupational exposure to asbestos.

DO NOT WRITE IN THIS SPACE

Adopt new Subsection (k) into Section 5208 to read as follows:

(k) Employee Notification. Any employee found to have been exposed to asbestos fibers in excess of either of the permissible limits prescribed by subsection (a) shall be notified in writing of the exposure within 5 days of the finding. The individuals so exposed shall also be notified of the corrective action, in compliance with subsections (b), (c), (d), (e) and (f) being taken by the employer.

There are no building standards contained in this Order.

Pursuant to Section 106, Chapter 1284, Statutes of 1974, the above orders do not create any obligation for reimbursement by the State to any local agency under Section 2231 of the Revenue and Taxation Code for costs that may be incurred by it in complying with these orders because these orders merely implement Federal law and regulations.

UCC 009285

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FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

DO NOT WRITE IN THIS SPACE

FINDING OF EMERGENCY

The Occupational Safety and Health Standards Board finds that an emergency exists and that the foregoing attached regulation is necessary for the immediate preservation of the public peace, health and safety or general welfare. A statement of the facts constituting such an emergency is:

The present Safety Orders do not specify a requirement for employers to notify employees exposed to asbestos in excess of the requirements of Section 5208. This requirement was inadvertently repealed in the last revision of the standard. There is an immediate need to readopt this requirement to protect the health of employees working in and around asbestos.

Due to the hazardous nature of asbestos, the existing Section 5208 has an immediate need to clarify the monitoring and medical examination requirements of the standards to clarify to the employers and the employees of their rights and responsibilities. This emergency adoption will resolve the above problems.

The said regulation is therefore adopted as an emergency regulation to take effect immediately upon filing with the Secretary of State as provided by Section 11422(c) of the Government Code.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

R. T. RINALDI, Executive Officer

DATE: October 29, 1976

UCC 009286

STATE OF CALIFORNIA—AGRICULTURE AND SERVICES AGENCY
DEPARTMENT OF INDUSTRIAL RELATIONS

EDMUND G. BROWN JR., Governor

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
1006 FOURTH STREET
SACRAMENTO, CA 95814
(916) 322-3640

CERTIFICATE OF COMPLIANCE

(Section 5208, Asbestos, Subsections (g)(1), (j) and (k) of the California Administrative Code, Title 8, Chapter 4, Subchapter 7 as contained in the General Industry Safety Orders)

The Occupational Safety and Health Standards Board hereby certifies that said agency complied with the provisions of Sections 11423, 11424, and 11425, Government Code, prior to the adoption of the emergency regulation adopted by the Board on October 28, 1976.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

R. T. Rinaldi

R. T. RINALDI, Executive Officer

DATED: October 29, 1976

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