UC 149-2

PLAINTIFF'S EXHIBIT

UC-3504

UNION CARBIDE

INTERNAL CORRESPONDENCE

METALS DIVISION

P.O. BOX 579 - 4625 ROYAL AVE., NIAGARA FALLS, NEW YORK 1430

To (Name) Messrs. T. W. Carmody - NYO
Division R. F. X. Fusaro - NYO
Location J. L. Myers - Niagara
~~H.~~ C. Thurber - NYO

Date March 6, 1978

Originating Dept. "Calidria" Asbestos

Answering letter date

Copy to File

Subject AIA/NA Response to OSHA Generic Standard Proposal

A copy of the above-noted response is included for your information. The principal objective was to keep the door open for AIA/NA participation in the hearings. We also wanted to stress the non-fixed places of employment question. The "recycle" objection was mainly to get this question into the record.

I am listed as the speaker with the understanding that there is no problem to change this should it become appropriate. Obviously, any statement made in the name of the AIA/NA will be given proper prior review by Union Carbide.

The endorsement of the AIHC proposal was not included. There was a feeling that the Asbestos Industry should keep a low profile for the present in this rulemaking and a problem with the lack of a detailed critique of the Model Standards. It is our intent to endorse at the hearings if the members are in agreement.

H. B. Rhodes

Harrison B. Rhodes

HBR/rmm
Attachment

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ASBESTOS INFORMATION ASSOCIATION
NORTH AMERICA
1745 Jefferson Davis Highway, Crystal Square 4, Suite 509
Arlington, Virginia 22202 • (703) 979-1150

25 February 1978

OSHA Office of Consumer Affairs
Room N 3633
U.S. Department of Labor
Third Street and Constitution Avenue, N.W.
Washington, D.C. 20210

Gentlemen:

The Asbestos Information Association/North America requests the opportunity to make a verbal presentation of not more than fifteen minutes at the OSHA hearing on the proposed rulemaking for identification, classification, and regulation of toxic substances posing a potential occupational carcinogenic risk. Harrison B. Rhodes, Dr. Engineering Sciences, Chairman, AIA/NA Standards Advisory Committee, will speak for the Association. (Technology Manager, Union Carbide Corporation, P.O. Box 579, Phone: 716/278-3375.) Dr. Rhodes' comments will concern:

COPY

1. The need for special consideration of the construction industry and other industries characterized by non-fixed places of employment.

2. The relationship of the proposed generic standard to the current and proposed asbestos standard.

The Need for Special Consideration for Non-Fixed Places of Employment

OSHA has heretofore recognized that there are conditions present in a construction environment, and not present in a manufacturing environment, which warrant special attention. OSHA's October 9, 1975 Notice of Proposed Rulemaking-Occupational Exposure to Asbestos, OSHA stated:

> "The standard, as revised, would continue to apply to all workplaces where occupational exposure to asbestos is present, but would exclude the construction industry.
>
> It is OSHA's intention to develop and propose a separate revision to the existing asbestos standard for the construction industry..In addition, the uniqueness of the construction industry itself (viz., the multiplicity of non-fixed workplaces, and the utilization of highly transient work

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> forces) strongly suggests separate treatment...Although OSHA believes that health hazards faced by employees in the construction industry with regard to occupational exposure to asbestos are similar to those faced by their counterparts in other covered employments, OSHA recognizes that alternative administrative and engineering controls may be more appropriate and feasible for the construction industry."

The separation of manufacturing and construction standards as proposed for asbestos should be adopted by OSHA for all appropriate toxic substances posing a carcinogenic risk. The unique factors present in a construction environment and in other non-fixed workplaces where asbestos-containing products are utilized are likely to be present in construction environments where products containing other toxic substances are used. These factors which are not present in a manufacturing environment warrant special attention, including, but perhaps not limited to, a modified approach to compliance. The three model standards should not apply to the construction industry or to similar industries characterized by non-fixed workplaces.

The Relationship of the Proposed Generic Standard to the Current and Proposed Asbestos Standard

The OSHA standard for occupational exposure to asbestos was the first health standard promulgated under the Occupational Safety and Health Act. This standard evolved through an emergency temporary standard published in December 1971, followed by a permanent standard in June 1972.

In October 1975, a proposed revision of the standard was issued. Subsequently hearings were held before the Construction Industry Advisory Committee to consider an appropriate standard for the construction industry. OSHA officials have stated that there is no intention to apply the October 4, 1977 generic carcinogen proposal to those standards already promulgated or to those currently in the rulemaking process. Such policy makes sense. It would not be sensible to recycle the asbestos standard through the generic standard procedures starting with a new emer-

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gency temporary standard. It would be unreasonable to discard a standard adapted to a particular industry after several years of study and review for a new approach designed for broad standards setting. It is recommended that OSHA specify in the final promulgated generic carcinogen standard that those substances now regulated by approved standards or currently in the rulemaking process be exempt from procedures under the proposed generic standard.

Several provisions set forth in the model standards are questioned as to best available scientific evidence. In this regard, attention is invited to AIA/NA's April 1976 response on the proposed revision to the asbestos standard which is submitted as part of the record. Many of the provisions proposed by AIA/NA for asbestos are relevant to the model standards and are recommended for consideration to be included therein.

Yours truly,

R.H. Mereness
Executive Director

RHM/sm

Enclosure

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V.E.15 cc: M. Swetonic AA

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Subchapter A
Prevention and Control of Air Contamination and Air Pollution

PART 196
Asbestos-Containing Surface Coating Materials
(Statutory authority: Environmental Conservation Law, Sections 14 and 15)

Sec.

196.1 Applicability
196.2 Prohibition

Section 196.1 Applicability. This Part shall apply throughout the State of New York.

Section 196.2 Prohibition. No person shall engage in or allow surface coating by the spraying of asbestos or asbestos-containing materials.

EXPLANATION OF PROPOSED PART 196
ASBESTOS-CONTAINING SURFACE COATING MATERIALS

The spraying of asbestos-containing materials may cause detrimental effects to the safety, health, welfare, and comfort of the public. Experience in industry clearly indicates that inhalation of asbestos may cause serious disease, and that some asbestos related diseases may be found after exposure to relatively low levels of asbestos.

Alternatives to asbestos spraying include:

1.) The continued use of present spray-on technique using substitute materials for asbestos.

2.) The use of other application methods.

Enacted late 1971.

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