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INTERNAL CORRESPONDENCE

PLAINTIFF'S EXHIBIT

UC-3548

MINING AND METALS DIVISION

P. O. BOX 579, NIAGARA FALLS, NEW YORK 14302

To (Name) Mr. J. L. Myers
Division UCC Mining & Metals
Location Niagara Falls, NY

Date May 29, 1973

Originating Dept. "Calidria" Asbestos

Answering letter date

Copy to Messrs. R. E. Byrne, Jr.
P. J. Morgan
W. C. Thurber
File ✓

Subject California Asbestos Regulations

Dear John:

The detailed comments on the new California asbestos regulations are attached. As with the recent review of the EPA regulations, most of these can probably be answered by Mr. Morgan.

The most obvious critical area that I can see is the use of an asbestos concentration of 1 fiber/cc. as the criteria for monitoring and medical examinations without defining whether this is a peak or TWA. A recent contact by Mr. Piersall indicates that there is considerable resistance to clarifying this; however, as you know, the future of our RG-244 business rests heavily on this seemingly small item.

In the course of this review, the AIA and UCC proposed changes were checked with the Emergency Regulations as published. UCC had a much higher batting average than the AIA but generally made less controversial recommendations. An annoted copy of the AIA proposals is also attached for your consideration.

It is suggested that you and Mr. Morgan review these comments and questions in the light of Mr. Piersall's discussions with California and the original AIA proposals. I feel we should concentrate on the things most important to us in separate UCC testimony at the hearings. The AIA can, obviously, make the same points as well as others but we have a large stake in California and should not rely wholly on the AIA, who does not have the same interest in "customer assistance" as we do.

It should be noted that this review has been made from the point of view of its impact on our customers. Problems it may present at our mine or at the King City mill have not been examined.

Very truly yours,

H. B. Rhodes

HBR:cjb
Attachments

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UCC 007469

COMMENTS AND QUESTIONS ON THE CALIFORNIA EMERGENCY ASBESTOS REGULATIONS

SECTION 5208

1. Page 1, §5208 a.

The ceiling concentration wording is different from that in Article 108, Section 5155. A maximum of 5 periods of 15 minutes each for exposures of greater than 5 fibers but not more than 10 fibers is specified in Article 108. No such requirements are noted in §5208 a.

This does not appear to present any particular problem to us but it might make us some points to bring it to their attention.

2. Page 1, §5208 b.

The words "...Engineering controls....shall be used to meet the exposure limits in Section 5208 (0)..." appear.

Are we correct in assuming that if the exposure limits are being met without such engineering controls that they are not required? (Identical wording appears in OSHA!)

3. Page 1, §5208 b.

"All hand-operated and power-operated tools which may produce or release asbestos fibers...."

This look like the same use of "may" as in the EPA regulations, "...may emit." We assume that the same legal interpretation, whatever it is, will apply.

4. Page 4, §5208 c.

Asbestos containing materials shall not be removed from bags, etc. without being wetted unless it is enclosed and/or vented to effectively control airborne fibers so as not to exceed the allowable limits.

Suppose the asbestos is such a minor constituent or has been treated in such a way so that under any reasonable handling the allowable dust levels are not exceeded. Is prewetting or ventilation then required?

5. Page 2, §5208 d.

Reference is made to Section 5144 regarding respirators. There is no obvious problem but we should obtain a copy of this section for review.

6. Page 2, §5208 d.

The wording would seem to preclude wearing of respirators as an added precaution when concentrations are below the allowable values. It might be useful to change Item 1 to read:

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"Reusable or single-use air filtering respirators may be worn for lower concentrations but shall be used when the concentration exceeds the levels specified in Section 5208 a.....etc."

This is also consistent with parts (d)-1 and (d)-2.

7. Page 3, §5208 (e)-1.

Based on E. A. Piersall's letter of 4/12/73, the "ceiling level" is 10 fibers/cc. This seems quite clear. Is there any need to suggest any specific changes in the wording of the regulation?

8. Page 3, §5208 (e)-2.

Again, based on E. A. Piersall's letter, the term "exposure limits" covers both the TWA and/or the ceiling concentration. This, too, looks clear and I do not see any reason to suggest any wording changes.

9. Page 3, §5208 (e)-3.

As written, the lockers, etc. are not contingent on exceeding exposure limits. Their intent (E. A. Piersall's letter of 4/12/73) was to require this only when 10 fiber ceiling limit is exceeded. This needs to be pushed hard for clarification since it could be a major deterrent for the use of asbestos.

10. Page 4, §5208 (f)-3.

Labeling requirements are specified for "contaminated clothing" without any definition of what this means. It is suggested that such labels be required except where under any reasonably foreseeable handling the exposure limits of §5208 will not be exceeded. This follows OSHA wording.

Labeling reference in last sentence is §5208 i not h.

11. Page 4, §5208 (g)

The words "...where asbestos concentrations may reasonably be expected to exceed 1 fiber..." are used without definition as to whether it is peak or TWA. Ernie Piersall was unable to convince them that this should be TWA. This is a crucial point and we should push hard for TWA.

12. Page 5, §5208 (h)

This now says caution signs are required where "...concentrations of asbestos fibers may be in excess..." It is suggested that this should read "...asbestos fibers may reasonably be expected to be in excess of..."

This is a minor point and also is related to the legal meaning of "may."

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13. Page 5, §5208 (h)

It would appear that the mill and the mine may have to be posted. If so, are there any comments needed here?

14. Page 7, §5208 (j)-1

The same problem exists here as in §5208 (g), i.e., 1 fiber/cc. is not defined. It is even more crucial here since medical examinations are required. We could live with it under monitoring if we could get TWA specified here.

15. Page 7, §5208 (j)-1

The words "...shall be given" appear in reference to the physical examination. The AIA on page 3 of their letter, makes a considerable point that under OSHA policy an employee may refuse to take a physical examination made available by the employer. California seems to have refused to accept this. Should we get involved with it or leave it to the AIA?

16. Page 8, Article 108, Section 5155

A reference to section 5208 is made which is not internally consistent Maybe this should be pointed out.

HBR:cjb
Mining & Metals Division
Niagara Falls, NY
5/29/73

A2080?

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