UNION CARBIDE

May 30, 1974

Dr. Raymond T. Moore
Associate Director, NIOSH
3-30 Parklawn Building
5600 Fishers Lane
Rockville, Maryland 20852

Subject: Comment on Proposed Rule Making 30 CFR Part 71,
as published in Federal Register (37FR23649)
November 7, 1972

Dear Dr. Moore:

The proposed health standards for surface coal mines, as set forth in the above-captioned Notice, establish special rules concerning asbestos. In our view, the proposed asbestos standards are unnecessary and will lead to confusion because they are inconsistent with established standards for industry, as published by the Department of Labor pursuant to the Occupational Safety and Health Act (OSHA) and by Department of Interior pursuant to the Federal Metal and Non-Metallic Mine Safety Act.

While not extensively engaged in coal mining, Union Carbide does mine and process asbestos. It is our understanding that the presence of asbestos in coal mines is minimal and has not been found to constitute a special hazard. Consequently, it does not seem reasonable to have more stringent rules where there is no hazard than for situations in which some significant hazard has been recognized such as the industrial plants for which the OSHA regulations were designed or for asbestos mines and mills under MESA jurisdiction.

Specifically, we object to that portion of proposed Section 71.202 which goes beyond ACGIH recommendations to provide that the eight-hour time weighted average (TWA) concentration to which miners are exposed shall not exceed two fibers per cubic centimeter of air. On July 7, 1972, following extensive hearings which are a matter of public record, the Department of Labor, under Section 1910.93(a) of the OSHA standard, set the time weighted average limit at five fibers per cc, effective July 2, 1972 through June 30, 1976. Not until July 1, 1976 is the standard reduced to two fibers per cc.

PLAINTIFF'S EXHIBIT

UC-4354

Union Carbide trial exhibit UC-4354: James W. Rawlings to Dr. Raymond T. Moore (NIOSH) Commenting on Propo…
ACL Doc 18931 · Page 1 of 3
Published by AsbestosClaims.Law
asbestosclaims.law/library/18931/1

UNION CARBIDE

Dr. Raymond T. Moore -2- May 30, 1974

We further note that under the Health and Safety Standards - Metal and Non-Metallic Open Pit Mines, a mandatory air quality standard of five fibers per cc has also been adopted. It is incongruous that a five fiber standard has been judged acceptable for open pit asbestos mines where certain recognized hazards exist but a two fiber standard is proposed for surface coal mines where there is no demonstrable hazard from airborne asbestos fibers. Both operations are, of course, under MESA jurisdiction. Additional evidence as to the broad acceptance of the five fiber standard by government industrial hygienists may be found in the Department of Navy regulations on asbestos promulgated on April 9, 1974 (OPNAVINST 6260.1).

In the interim (i.e. until July 1, 1976), it is our contention that a uniform standard should be applied for all workers to avoid confusion, to facilitate interpretation, and to aid administration. We, therefore, urge that a consistent standard of five fibers per cubic centimeter of air or an eight hour time weighted average basis be adopted for surface coal mines at this time. This material is submitted for inclusion in the record of the hearings to be held by NIOSH on June 5, 1974, and for consideration by the Chairman in his fact-finding deliberations on the subject.

Very truly yours,

James W. Rawlings

JWR/WCT/es

cc: Messrs. R. F. X. Fuerst
G. K. Crocker
R. H. Meremee
P. L. Morgan
L. L. Myers
E. A. Pierrell
J. W. Rawlings

Union Carbide trial exhibit UC-4354: James W. Rawlings to Dr. Raymond T. Moore (NIOSH) Commenting on Propo… Published by AsbestosClaims.Law
ACL Doc 18931 · Page 2 of 3 asbestosclaims.law/library/18931/2

Published by AsbestosClaims.Law
asbestosclaims.law/library/18931/3