STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS

EDMUND G. BROWN JR., Governor

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

PLAINTIFF'S EXHIBIT
UC-5237

SUMMARY

PUBLIC HEARING

April 26, 1979
FRESNO

CALL TO ORDER

Chairman Gerald P. O'Hara called the Public Hearing of the Occupational Safety and Health Standards Board to order at 10:04 a.m. in Room 1036 of the California State Building at 2550 Mariposa Street, Fresno, California on April 26, 1979.

INTRODUCTIONS

Board Members Present	Gerald P. O'Hara, Chairman Edward Ashton Dr. O. Bruce Dickerson William Donnelly Margaret O'Grady Raymond Rodriguez
Board Members Absent	None.
Board's Staff Present	R. T. Rinaldi, Executive Officer Dr. Clinton Vanneman, Senior Industrial Hygiene Engineer John L. Bobis, Principal Safety Engineer Betty Taylor, Industrial Hygienist Mark Ashcraft, Staff Services Analyst GeorgAnn Duarte, Board Secretary
Division of Occupational Safety and Health Administration's	Dr. Fred Ottoboni William Steffan
Others Present	Al Libra, California Manufacturers' Association Jerome F. Cole, Lead Industries Association, Inc. Rudy Florez, UAW Local Union No. 1797 Mark Rickman, Vernitron Piezo Electric Michael J. Connolly, General Motors Corporation Philip K. Edholm, General Motors Corporation J. Wilson, General Motors Corporation E. Wilson Green, E. I. DuPont Company T. O'Donnell, General Motors Corporation Tom Richardson, California Farm Bureau W. M. Pallies, ESB, Inc. M. Sellers, Estee Battery Mike Shaw, Gould, Inc.

OTHERS PRESENT (continued)

Frank Limon, Gould, Inc.
Keith E. Cooper, Trojan Battery Company
Michael Preston,ESB, Inc.
John Walovich, Prestolite Battery
R. V. Walle, Prestolite
B. B. Pusey, U. S. Steel
G. Sticksel, U. S. Steel
Peter Angelides, Federated Metals Corporation
Roy C. Wahl, Federated Metals Corporation
Lorence L. Timm, Attorney At Law, Hanford
Bill Bristol, CAL/OSHA, San Francisco
Jim Guenther, Federal OSHA, Region IX
Dr. Ira H. Monosson, CAL/OSHA, Los Angeles
Harry Stewart, Prestolite Battery
Richard P. Giaoomazzi, Bethlehem Steel Corporation
R. D. Peterson, R. D. Peterson Associates
R. H. Nason, Daelco, Inc.
R. A. Robinson, Daelco, Inc.
Art D. Gregorio, Plasterers' Local Union No. 2
Ed Maher, Pacific Telephone Company
Ted Saleeda, Plasterers' Local Union No. 489
Charles Ray, Western Plastering
Don Bonusman, EDO Western
Virginia Lew, Department of Industrial Relations
John F. Lewell, California Chamber of Commerce
Charles Manfred, Appeals Board
Bert Davis, Del Monte Corporation
Felix Lollar, Management Safety Consultant
Earl Taylor, E. I. DuPont
David F. Gilbert, E. I. DuPont
John F. Dickey, E. I. DuPont
Ben Hoiland, Ben Hoiland Crane Testing
Arthur Muellett, Sacramento
V. Stefan, V. F. Stefan, Inc.
J. Forrester, Pacific Gas & Electric Company
Anne Bell, CAL/OSHA REPORTER
E. Story, Asbestos Workers Local Union No. 16
Monte Manwill, Asbestos Workers Local Union No. 16
John T. Banister, Associated Roofing Contractors
R. D. Klein, Riverside Cement
Ken Merrigon, Riverside Cement
Richard Hart, B.F. Goodrich
Cliff Erickson, CAL/OSHA, San Francisco
Mike Ota, CAL/OSHA
J. M. Hay, Flintkote Company
John L. Myers, Union Carbide Corporation
Harry Rhodes, Union Carbide Corporation
Zoltan Saary, Chevron Research Company
Jack Brantley, Communications Workers of America
Paul H. Beemer, W. W. Henry Company
Hal Adelman, Southern California Edison Company
Herb Long, Southern California Edison Company
Lloyd Holliday, General Telephone Company
Howard R. Kelly, Gulton Industries

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OTHERS PRESENT (continued)

Dave Crandon, McKinsey & Company
Rick Greenthal, McKinsey & Company
David Kandel, Kaiser Steel Corporation
Thomas P. Feit, W. R. Grace & Company
Don L. Hedges, Norris Industries

CHAIRMAN'S OPENING REMARKS

Mr. O'Hara indicated that the Standards Board is a part-time, independent Board mandated by the Legislature to hold public hearings on proposed standards which will provide such freedom from danger as the nature of the employment reasonably permits. The Board's policy is to adopt standards which are enforceable, reasonable, understandable and contribute to the safety and health of California employees.

The Chairman called attention to the agenda indicating there are building standards to be considered at the Public Hearing. He stated the Board's intent is to promulgate into Title 24 those safety regulations that also building regulations. He stated the purpose for doing so is to eliminate conflict, duplication and overlap in building standards and Title 8 standards.

PROPOSED SAFETY STANDARDS

1. GISO, Sections 3319(a), 4309(d) and (f), 4924, 5001(d), 5021(c), 5022(d), 5025.

Page 1, Section 3319(a) — No Comments.

Page 2, Section 4309(d) — Mr. Bobis of the Board's Staff indicated that the proposed revisions to Subsections (a) and (f) were adopted by the Board last month. The only revisions for hearing concern Subsection (d). There were no comments.

Page 3, 4924(a) — Mr. Bobis recommended that the reference to "Division of Industrial Safety" be corrected to reflect the new agency's name of "Division of Occupational Safety and Health Administration". The Board concurred.

PROPOSED SAFETY STANDARDS (continued)

1. GISO, Sections 3319(a), etc. (continued)

Page 4, 5021(c) "Note"

Mr. Ben Hoiland of Hoiland Crane Testing indicated that, in his opinion, backhoes and casting-type work should not be exempted. He recommended that the "Note" read: ". . .backhoes or breaking balls, when not used for lifting service. . . "

Mr. Rodriguez, Board Member, recommended that "casting-type work" be defined in the Orders, irregardless of whether or not it is a common term in the construction industry. Mr. Bobis agreed that it could be defined to clarify the "note".

There was considerable discussion concerning the provisions of Mr. Hoiland's remarks and their applicability to the wording in note.

Mr. Bobis stated that the "note" was prompted as a result of an Appeals Board Decision where backhoes were cited for not being certified, which was not the intent of the regulations. He stated the intent of the regulations was to include only that equipment which is used to lift, and backhoes are not used in that case.

Mr. Rinaldi indicated that the Board's staff would review the "Note". Mr. O'Hara concurred.

Page 7, Plate V, Title

Mr. Bobis recommended that the reference to "Division of Industrial Safety" be corrected to reflect the agency's new name.

2. Title 8, Construction Orders & Title 24, Part 2, Basic Bldg. Reg. Section 1528(c) and B1750., "Spraying of Asbestos"

Dr. Vanneman indicated that these proposed revisions were based on the mandate of Senate Bill 1591, enacted in 1978, in which the Board was authorized to adopt standards pertaining to exemptions of the Health and Safety Code Section 25910 concerning the prohibition of spraying of asbestos in or upon buildings or structures during their construction, alteration or repair. He stated that on November 8, 1978, the Board

PROPOSED SAFETY STANDARDS (continued)

2. Sections 1528(c) and B1750 (continued)

conducted a Public Hearing in which testimony was received concerning the provisions of Senate Bill 1591; and that Dr. Fred Ottoboni, consultant to the Board at that time, analyzed the results of that testimony and proposed these revisions accordingly. The Board's staff concurs with the proposal.

Page 1, (c)(2)

Mr. Donnelly suggested that perhaps the exemption should include a concentration limit.

Dr. Ottoboni stated that, in his opinion, it would not be necessary; however, if abuses would occur then it would be necessary.

Page 1, (c)(4)

Mr. Bill Steffan of DOSHA stated that in his opinion, 1/4 of 1 percent cannot be adequately measured and recommended that the level be changed to 1 percent, which would read: "Substances containing less than 1 percent. . .

Dr. Ottoboni stated that he recognizes Mr. Steffan's suggestions that below 1 percent asbestos essentially becomes invisible in a bulk sample; however, the trend toward improved analytical techniques would allow the measuring of 1/4 of 1 percent; and that, in his opinion, the law (SB 1591) specifies 1/4 of 1 percent.

Page 1 and 2 (c)(2) and (3)

Mr. John Myers of Union Carbide recommended that the proposed wording for exceptions (c)(2) & (c) be replaced with the language contained in part (c)(1) of Senate Bill 1591, which reads: "Exterior and interior coatings and laminating resins containing escapulated asbestos fibers found within the finished product from manufacture through application and cold process asphalt roof coatings.".

He stated the language in SB 1591 would incorporate (c)(2)and (3). He also indicated the same corrections be made on page 2 relating to the building standard Section B1750.

PROPOSED SAFETY STANDARDS (continued)

2. Section 1528(c) and B1750 "Spraying of Asbestos" (continued)

Mr. Myers urgently requested the Board to take immediate action on this proposal due to the time limitation of July 1, 1979.

MOTION

A motion was made by Mr. Ray Rodriguez, seconded by Mrs. Margaret O'Grady, to amend 1528(c)(2) and (3); and Section B1750 (c) (2) and (3) to reflect the wording of Senate Bill 1591.

ROLL CALL VOTE

A roll call vote was taken and all Board Members voted "aye". Motion carried unanimously.

At this time, Mr. Rinaldi requested the Board to defer action on this subject until the Board's scheduled Business Meeting. Mr. O'Hara concurred.

3. General Industry Safety Order Section 5208, Asbestos

Dr. Vanneman indicated that the proposed changes to page 1 were prompted by SB 1591; and the changes to the monitoring and medical surveillance provisions were prompted by a letter from Federal OSHA requesting that such changes be made.

Page 1, (c)(3)and (c)(4)

Mr. John Myers of Union Carbide recommended that the phrase "or otherwise handled" be added after the term "ventilated", in Subsection (c)(3).

He also requested that the same changes be incorporated into Subsection (c)(4), Exceptions" as indicated by the Board's action in Section 1528 to use the Senate Bill language.

Mr. Vanneman and Dr. Ottoboni both agreed that there would be no problem in adding Mr. Myers' suggested phrase.

PROPOSED SAFETY STANDARDS (continued)

3. GISO, Section 5208 (continued)

Page 2, (c)(5)

Mr. Myers recommended that this subsection be changed to reflect the Federal wording. He indicated that the proposal as written deletes the "disposal" provisions as contained in the current Federal language. Dr. Vanneman stated he had no objections to using the Federal language in lieu of the present wording.

Page 4, (g)(1)

Mr. Bill Steffan indicated that the Division recommends to retain the original language in existing Subsection (g); and in (g)(1)(A) lower the level from 1 fiber to 1/10 of a fiber. He also requested that (g)(1)(C) be changed to 1/10 of a fiber and to remove the ceiling concentration designation.

Levels of Monitoring Issue

Mr. C. H. Long, Southern California Edison Company, objected to Mr. Steffan's recommendation to reduce from 1 fiber to 1/10 of a fiber. Mr. Long indicated that should the Board consider Mr. Steffan's proposal, the matter should be rescheduled for another public hearing since, in his opinion, this would be substantial change.

Mr. Harry Rhodes of Union Carbide disagreed with Mr. Steffan's proposal to lower the monitoring at 1/10 of a percent. He stated that, in his opinion, there is no absolute standard which could calibrate a measurement. He had no objections in using the Federal language but recommended to define administratively what exposure is.

Mr. Don Hedges of Norris Industries also agreed that a definition should be incorporated for the term "exposure" to clarify the intent.

There was considerable testimony regarding the feasibility of different action levels for monitoring; however, Mr. John Myers of Union Carbide requested an exemption of brake shops due to economic impact on employers, tremendous enforcement difficulties for compliance engineers; and would require massive technical resources in an area of low exposure and low risks.

PROPOSED SAFETY STANDARDS (continued)

3. GISO, Section 5208 (continued)	At this time, Mr. O'Hara recommended that perhaps it would be appropriate to take Board action since the testimony taken at the hearing had the support both from management and labor to change the action level to .5
Page 4	
MOTION TO CHANGE THE ACTION LEVEL TO .5	A motion was made by Dr. Dickerson, seconded by Mr. Ray Rodriguez, to adopt the action level of .5 fibers per cc longer than 5 microns.
ROLL CALL VOTE	All Board Members voted "aye". Motion carried unanimously.
	Dr. Fred Ottoboni requested clarification on the motion as to whether or not the motion intended to mean .5 time-weighted average. Dr. Dickerson replied that it was meant to be the "twa" factor.
Pages 5 through 8	No comments.
Page 9, (j)(3), Annual Examinations	Dr. Ira Monosson, DOSHSA, requested that additional provisions be incorporated to clarify that any examination should be provided for employees exposed above .5 fibers and for employees who are no longer occupationally exposed to asbestos at or above .5 and work with the same employer provided that:

1) Such employee had a total occupational exposure of 5 or more years; or

2) A total of at least 5 years elapsed since initial occupational exposure and that total exposure time exceeded 30 working days.

The Board Chairman indicated that, in his opinion, the proposal of Dr. Monosson would be more appropriate to consider at a future date.

Mr. Rinaldi stated that if the Board elects to incorporate the proposals submitted by Drs. Ottoboni and Monosson, the Board, in his opinion, should reschedule the proposal

PROPOSED SAFETY STANDARDS (continued)

3. GISO, Section 5208 (continued)

Page 9, Annual Exams

for a future public hearing since there were substantive changes recommended to the standard. He also indicated that the Board's staff would work with the Division on the proposals. Mr. O'Hara concurred.

Page 10, Access to Medical Records Issue

Mr. Dave Kandell, Kaiser Steel Corporation, objected to the wording concerning the availability of the employee's personal records to be reviewed by the different agencies without the employee's consent. He proposed that the language stipulate the type of data that could be made available and recommended that the phrase "upon the request of the employee or the former employee" be added to clarify the proposal.

He also requested that clarification of the last sentence be made which states, in part, ". . . and any other medical information. . .". In his opinion, what would be "any other information"?

The Board Chairman agreed with the recommendation that the wording should be rewritten to clarify the intent.

Mr. Ashton, Board Member, recommended that the subsection be rewritten to specify that the "employee's name" be deleted on the medical records; however, Dr. Dickerson, Board Member, stated that the Board's staff should review this matter with the Department's Legal Unit, but agreed that a differentiation should be made between occupational and nonoccupational records.

Page 11, (z)(1)(B) Compressed Air Issue in Brake Shops

Dr. Fred Ottoboni objected to the Division's memorandum in which they proposed deletion of the term "compressed air". He stated that in his opinion, the term should not be deleted for the reasons that there are 2 operations in brake shops where employees may receive harmful doses of asbestos; (i.e., the blowing out of brakes with compressed air; and grinding of brake lining). He stated

PROPOSED SAFETY STANDARDS (continued)

3. GISO, Section 5208 (continued)

that, in his opinion, these operations should be made specific and that deleting the phrase "compressed air" would be detrimental. Mr. O'Hara concurred.

At this time, Mr. O'Hara, Chairman, instructed the Board's staff to review the asbestos standard in view of the issues which were raised by Drs. Ottoboni and Monosson and Art Carter's recent memorandum and the staff to reschedule a future public hearing due to the substantive new testimony on the proposal. At this time, Mr. O'Hara recessed the Public Hearing for one hour.

4. GISO, Section 5209(f)(1), Reporting of Carcinogens

Dr. Vanneman stated these proposals resulted from two appeals court cases in which the employer had neither reported the use of certain substances covered by the Section and had not established a regulated area. The judge ruled that the employer had the need to report only if he established the regulated area. The changes as recommended by the Division are to remove possible misinterpretations in the future.

There were no comments on this proposal; however, Al Libra of California Manufacturers' Association asked if the Board would keep the record open on this proposal for ten days. Mr. O'Hara indicated that is the policy of the Board on all items at Public Hearing.

5. GISO, Section 5216, "Lead" Standard

Mr. O'Hara indicated that the final item on the Board's agenda is the proposed new General Industry Safety Order Section 5216 for the control of occupational exposure to lead. As proposed in the hearing packet, the standard closely parallels, both in content and in language, the corresponding Federal standard which was published in the Federal Register on November 14, 1978.

PROPOSED SAFETY STANDARDS (continued)

5. GISO, Section 5216, Lead (continued)

Mr. O'Hara's comments (continued) On March 1, 1979, the United States Court of Appeals for the District of Columbia Circuit ordered a partial stay of the Federal "lead standard. This stay will continue pending the Court's consideration late this year of the challenge to the standard. It is the Board's intent to limit testimony on proposed Section 5216 to those portions of the standard which were not stayed by the Appeals Court. If the Court acts to reinstate, or otherwise alters in a substantive manner, portions of the Federal standard, this Board will assess the effect of such corresponding changes to Section 5216 at another Public Hearing.

Mr. O'Hara apologized on behalf of the Board for any inconvenience the public may have experienced because the proposed standard did not reflect the Court Order. However, in order to avoid postponing the hearing of the proposed State lead standard until a later date, it was necessary to finalize the Board's Public Hearing "Notice" prior to the outcome of the Court decision. Under the Board's legislative mandate to adopt an "at least as effective as" State standard within 6 months, the Board cannot always await the outcome of legal challenges to Federal occupational safety or health standards.

As in

Union Carbide trial exhibit UC-5237: California Occupational Safety and Health Standards Board, Summary of Apri... Published by AsbestosClaims.Law
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