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(916) 322-3097

September 29, 1976

Honorable Jack R. Fenton
State Assembly
State Capitol
Sacramento, CA 95814

Dear Mr. Fenton:

Your letter of September 16, 1976, requested response to numerous questions stemming from your meeting with the International Chemical Workers delegation; the questions are addressed under the four general areas of your investigation although not altogether in the same order as posed by your letter.

1. Sputum Cytology

Prompted by the International Chemical Workers' strong interest in this test, I have personally reviewed some 20 papers on sputum cytology. At this time, I have reservations as to the specificity and selectivity of the method. Nevertheless, we have formed an advisory committee to formulate recommendations relative to the application of the test to asbestos workers. Aside from Occupational Health Branch personnel including Committee Chairman James Lim, Supervisor of the Standards Development Unit, the following individuals will serve on the Committee.

Arthur Wood, International Chemical Workers Union
Eddy Story, Asbestos Workers Union
W. Clark Cooper, M.D., Equitable Environmental Health, Inc.
James Dahlgren, M.D., Cedars Sinai Medical Center
George Berry, Riverside Cement Company
David Kandel, Kaiser Industries

The initial meeting will be held on October 29, 1976; an earlier date could not be arranged because of prior commitments of various committee members.

Although I have assigned this project top priority with the Standards Unit, I am hesitant to project a final completion date because of the potential controversy which may arise in the developmental stage or in the subsequent public hearing before the Standards Board. Under the best of circumstances, we estimate the committee will have a proposal to submit to the Board within three months of the initial meeting and an additional three months for the Board to promulgate or reject the proposed standard. I shall make every possible effort to facilitate progress on this project.

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In the meantime, we have a proposed, amended standard for asbestos scheduled for public hearing before the Standards Board in Los Angeles on October 28, 1976; a copy is enclosed for your review. Anticipating the possible acceptance of sputum cytology as an appropriate test for asbestos workers, a note has been added to paragraph (j)(2) of subsection (j), Medical Examinations, which puts an employer on notice of a possible requirement, initiated via the special order, to conduct diagnostic tests not otherwise included in the provisions of the standard.

As implied above, if sputum cytology is deemed an advisable diagnostic test to be included in medical examinations of asbestos workers and/or employees exposed to other substances, the most appropriate manner of requiring the test would be to include the provision in the applicable standard. Although we are currently committed only to a determination of its beneficial use in the examination of asbestos workers, the technique would presumably be advantageous wherever an increased rate of lung cancer is known to be associated with occupational exposure. Coke oven workers in the steel industry are a particular example. The method is possibly best applied to those individuals who have been identified high risk. This inevitably will involve men exposed to known carcinogens in the workplace and those who additionally smoke. As I am sure you know, the evidence of synergism between smoking and asbestos in the production of lung cancer is overwhelming.

There apparently will be no need for the development of sputum cytology methodology other than the possible delineation of an appropriate technique for obtaining the sputum sample from the bronchial area. According to the Department's Laboratory Field Service Unit which developed regulations pertaining to clinical laboratories and clinical laboratory personnel (17 CAC 1030-1037) pursuant to the Business and Professions Code (Division 2, Chapter 3, Sections 1200-1522), there are adequate numbers of cytotechnologists, trained in accordance with 17 CAC 1031.2, who are qualified to conduct the laboratory portion of the test. Because of their experience in sputum sampling, those physicians who are proponents of sputum cytology will presumably be the best source of assistance in establishing a standard sampling method. Efforts in this area will need to be coordinated with the Laboratory Field Service Unit.

It has not been our practice to include methodology for biologic tests, or even industrial hygiene sampling and analytical procedures, in occupational health standards to avoid conflict with other standard-setting groups and/or to permit continuing utilization of advances in technology. Consequently, it is unlikely that we would incorporate either guidelines or specific procedures for sputum sampling in the asbestos standard.

2. Annual Physical Examinations for Employees

The Occupational Health Branch has recently investigated the Lompoc and Long Beach plants of Johns-Manville and found both facilities to be in

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compliance with the asbestos standard although excessive exposure to silica dust was found at Lompoc. (A recommendation for a special order, requiring medical examinations for all affected employees, has been submitted to the Division of Industrial Safety for processing.) The relatively small number of employees who are still occupationally exposed to asbestos are continuing to receive medical examinations under the provisions of the existing standard, but medical examinations have been discontinued for those former asbestos workers who are now otherwise employed. With regard to the respective responsibilities of the employer and Cal/OSHA compliance personnel, it is the responsibility of the employer to determine which employees must be given medical examinations under the provisions of 8 CAC 5208, and it is the responsibility of the DIS (and OHB), in response to an employee complaint or in the conduct of a self-initiated investigation, to determine that the employer has complied with the medical examination provisions of the standard.

I have requested Johns-Manville to return all x-rays from Denver; Johns-Manville contends that the unavailability of x-rays at a particular time in the past was occasioned by the need for their review in Denver. Dr. Lackner and I plan to visit both Johns-Manville plants, accompanied by physicians expert in the interpretation of x-rays, at which time a cursory evaluation of the quality of the x-rays and the competence/training of personnel taking the x-rays will be made. If any apparent discrepancies or deficiencies exist, the matter will be directed to the Department's Radiologic Health Section for further investigation. (Under the Radiologic Technology Act, Chapter 7.4, Division 20 of the Health and Safety Code, it is unlawful for any person, other than a licentiate of the healing arts, to use x-rays on human beings unless such person is acting under the supervision of a licentiate of the healing arts and has either been certified or been granted a permit by the Department's Radiologic Health Section. The latter's administrative regulations appear in Title 17, Chapter 5, Subchapter 4.5, beginning with Section 30400.)

Medical examinations for asbestos workers without concurrent monitoring of exposure levels can only serve to detect irreversible occupational disease. While revising the asbestos standard earlier this year to reduce the permissible exposure limit from 5 fibers/cc to 2 fibers/cc, an amendment was also incorporated requiring exposure measurements to be performed at maximum intervals of six months when exposures exceed 1 fiber/cc. The standard had previously mirrored the federal standard in permitting the discontinuance of exposure measurements following a determination that an employee's exposure did not exceed the permissible exposure limit. Thus, the State criteria for the initiation and continuation of both medical examinations and exposure measurements are now identical. I consider this combination of monitoring and medical surveillance to be the proper means for protecting the health of the worker and I consider the exposure level at which monitoring and medical surveillance must be implemented to be appropriate on the basis of the current permissible limit.

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3. Employee Access to Medical Records

As indicated under 2, above, Johns-Manville contends that the unavailability of x-rays cited by the International Chemical Workers Union was of a temporary nature prompted by a need for their review in Denver. It is problematical whether this particular need for review was prompted by requirements of 8 CAC 5208 (j)(3) or, as alleged, because of impending suits by some employees. I will confirm Johns-Manville's concurrence with my request for their return from Denver upon my visit to the Lompoc plant.

The present wording of 8 CAC 5208 (j)(3) may be interpreted to mean that access to an employee's medical record can be restricted to the employer's place of business. The corresponding statement in the federal standard (Section 1910.93(n)(i)(6)(ii)) reads as follows: "Access. The contents of the records of the medical examinations required by this paragraph shall be made available, for inspection and copying, to the Assistant Secretary of Labor for Occupational Safety and Health, the Director of NIOSH, to authorized physicians and medical consultants of either of them, and, upon the request of an employee or former employee, to his physician."

Thus, 8 CAC 5208 (j)(3), promulgated in early 1973, does not differ significantly from the federal standard. Although it may not appear to reflect the exact same intent of Labor Code 142.3(c), enacted in late 1973, we interpret 8 CAC 5208 (j)(3) to mean that the employer shall provide the employee's medical record to the employee's physician for the latter's inspection and/or copying or, alternatively, to provide a copy of the medical record. Your question is pertinent and it raises serious doubts as to whether the amended language of the 8 CAC 5208 (j)(3) requirement, scheduled for hearing on October 28, 1975, is any better than the current statement. We will refer your question and the proposed amended standard to the Department's legal staff for their advice and assistance.

4. Health Hazard Studies

The proposed death certificate study would review about 250 certificates of former employees of the Johns-Manville Lompoc plant to determine whether the causes of death were more frequently occupationally related than usual. This information would primarily provide historical data but might uncover instances where a worker's family may be eligible for Worker Compensation.

The more comprehensive proposed study of the working environment and health status of workers could provide a baseline for prospective studies over the next 20 to 30 years to verify or deny the validity of prevailing standards for asbestos and/or diatomaceous earth. The medical status and environmental measurements could then be followed for each worker. The study could also hopefully identify workers with early occupational dust disease who should be removed from further exposure to dust and/or require treatment.

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Both of these studies are in the planning stages and are contingent upon obtaining the necessary funds.

I hope these answers are in sufficient detail. If you have any questions, please give me a call.

Sincerely,

ORIGINAL SIGNED BY
DR. DAVID K. PARKINSON

David K. Parkinson, M.A., B.M., B.Ch.
Chief, Occupational Health Branch

Enclosure

cc: Senator Arlen Gregorio
Art Carter, Chief, Division of Industrial Safety
Art Wood, Vice President, ICWU
Jerry Levine, ICWU
Leonard Perryman, President, ICWU Local 255
Frank Garcia, Chairman, Safety Committee, ICWU Local 146

bcc: Director's Office
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