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PLAINTIFF'S
EXHIBIT
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Organization Resources
Counselors, Inc.

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Memorandum

(Bolded sections on pages
2, 5, & 8 have been
revised, 1/29/87)

To: ORC Asbestos Task Force

From: Darrell K. Mattheis and W. *William* Ament

Subject: Report of January 13, 1987 Asbestos Task Force Meeting
and Announcement of Two New Subgroup Task Forces

The Asbestos Task Force Meeting was essentially an unofficial question and answer session between ORC Asbestos Task Force members and OSHA representatives, Dave Smith, Roy Gibbs, and Joe Hopkins, from OSHA's Office of Health Compliance Assistance.

The following is ORC's account of the concerns expressed by the task force, and responses given by OSHA representatives. Any errors or misinterpretations are the responsibility of ORC. Views expressed by the OSHA representatives are not necessarily OSHA policy and should not be stated as such. OSHA's official positions may differ from those expressed, and these comments should not be used to show discrepancies in the Agency's views!

ASBESTOS STANDARD QUESTIONS/ANSWERS

- Q. When does the General Industry Standard Apply and When does the Construction Standard come into play?
- A. The General Industry (GI) standard was designed for industries that use asbestos to manufacture products. It applies to workers who are exposed as a result of primary or secondary manufacturing of asbestos products. Exceptions to the "determination by process" rule include service industries such as automotive brake and clutch repair and replacement, and shipbuilding, which fall under the General Industry Standard.

The Construction Standard applies to workers who are exposed as a result of removal, demolition, new installation, maintenance, or new construction.

The main difference between the compliance requirements of the two standards is found in the medical surveillance requirements. The engineering control requirements of both standards will require a lot of thought to determine the exact application for each particular situation.

Q. What is a small Job?

A. Examples of small jobs include; maintenance related removal of asbestos containing insulation where the removal of the asbestos is secondary to the job, maintenance of asbestos containing equipment or machinery, whether it is located in a manufacturing facility or an office building, and jobs where a glove bag can be used. In these cases, under the appropriate Appendix G category, the employer is exempt from having to construct an enclosure but must comply with the rest of the requirements of the Construction Standard.

Q. On a small job what kind of restrictions apply to the use of respirators.

A. Technically, respirators are not required when working with glove bags, if you are below the PEL despite provisions of Appendix G. However, if there is a possibility that a rupture of the glove bag would allow concentrations to exceed the permissible exposure level, OSHA recommends the use of appropriate respirators.

Q. The requirement to establish regulated areas is not clear when a small job is being done.

A. If the level of airborne asbestos generated goes above 0.1 f/cc (the action level) you must establish a regulated area around the job. There are two types of regulated areas, 1) for the installation of new materials, and 2) for removal and demolition jobs.

Q. How does OSHA intend to deal with the problems of applying Appendix G requirements to the work done by telephone and utility industry installers?

A. Under Appendix G exemptions, the employer does not necessarily have to construct an enclosed area, but the rest of the Construction Standard applies. Appendix G is non-mandatory in the sense that, if you are already complying with the standard, you do not have to follow Appendix G. If all of your jobs are "small" however, you must follow Appendix G requirements.

- Q. In the case of telecommunication and utility installation and service, the costs and practicability of monitoring for potential exposures is horrendous. Installers are in and out of a large number of buildings every day, and at present there is no way to determine if they do or do not contain asbestos. At the same time it would be virtually impossible to monitor each and every job over the course of the day! How can we approach this problem?
- A. If you have sampling data on the "typical" exposure found you can extrapolate to decide whether monitoring is necessary. You must, however, have statistically sound sampling data from which to extrapolate.
- Q. What does OSHA consider a statistically reliable or acceptable historical data base from which to extrapolate to an analogous situation the probability that asbestos is not present above the action level, and therefore sampling for asbestos is unnecessary.
- A. There are presently no guidelines by which to make this determination. OSHA will review such decisions based on statistical data to make a subjective determination of whether the analogies drawn between the data and specific job are sound and prudent. Specific guidance in this area is being developed and will be included in the final guidelines.
- Q. If, after it has been determined on the basis of what is considered adequate historical data that it is statistically improbable that asbestos is present above the action level and that sampling is unnecessary, an OSHA inspection reveals otherwise, is the employer liable for citation?
- A. Yes.
- Q. In the particular case of service industries such as telecommunications and utilities where the employee's job consists primarily of installing material on sites which are owned by persons other than his employer, who is liable for citation if the employee is exposed to asbestos - the employer, or the owner or occupier of the site?
- A. The employer.
- Q. Under the Construction Standard the need to monitor daily is very expensive and many believe not necessary, what is OSHA's interpretation?

- A. Under the Construction Standard, daily monitoring is required until asbestos fiber concentrations are under the action level. If you are over the action level, then you must monitor.
- Q. To meet the requirement to analyze down to the 0.1 percent level must we use the Transmission Electron Microscope (TEM)?
- A. This is a requirement picked up from the Hazard Communication Standard because asbestos is a proven carcinogen. As such it applies only to new insulation or asbestos containing products, not to insulation or equipment already in place. Use of the light microscope technique to detect the presence of asbestos to the 1 percent level in old, in place, insulation is adequate for compliance with the General Industry Standard.

Even when the Hazard Communication Standard is applied where the Construction Standard is being followed, it does not apply to pipes already in place. The Hazard Communications standard applies to new installation; Under some circumstances chemical manufacturers must label what is IN the pipes.

- Q. Are labels always required or can an employer establish a marking or color coding system to identify asbestos containing materials to employees who have been made aware of the coding system through mandatory training sessions.
- A. The intent of both standards in this regard is to assure that employers identify asbestos containing materials to workers. A coding system coupled with employee training would meet the intent of the standards.
- Q. In the case of asbestos sprayed over a large area (for example, sprayed on asbestos containing insulation in air return plenums or extensive piping), would prominently displayed signs indicating the presence of asbestos on the walls in the area, or on the entire piping system, be considered as adequate compliance with the standards labeling requirements?
- A. Again, notification of employees of the presence of asbestos is the primary intent of the labeling requirements. If labeling of the actual asbestos containing materials is infeasible, and the posting of signs in combination with the training of all employees who would be expected to come into contact with the asbestos containing material accomplishes this, the intent of the standard has been met.

The more extensive labeling requirements are intended to relate more directly to the production of material containing asbestos as opposed to in-place material. OSHA is concerned that labels indicating the presence of asbestos be prominently displayed on all newly manufactured asbestos containing material.

- Q. Can an employer comply with the labeling requirements by posting signs which instruct its employees, who are trained to deal with asbestos containing materials, to treat everything in the facility as if it contains asbestos?
- A. Yes, that is an acceptable means of compliance.
- Q. What is considered an adequate training program to qualify as a "competent person" under the standard. Are the courses provided by the EPA the only accepted means of training.
- A. The standard doesn't set a specific time frame for a training program, nor does it rule out in house training. A course which is equivalent in content to the EPA courses would be acceptable. However, some sort of certification to document the training would be necessary. The EPA does not now, and does not intend to certify private sector training programs. EPA's regional training centers will provide courses to industry which could be tailored to meet specific needs.
- Q. Can the function of the "competent person" be spread among several individuals i.e., can a "competent person" delegate some authority to other individuals with lesser background for specific tasks?
- A. Yes. As long as the intent of the standard, which is that employees working with asbestos be supervised by a person who has the requisite training in the hazards of asbestos, is met. OSHA advises, however, that there be one primary person who would be ultimately responsible.
- Q. Especially in the case of the petro/chemical industry, is the physical hazard created by enclosing an area, accepted by OSHA as a factor in determining the feasibility of complying with the standards enclosed area requirements?
- A. Yes. If it can be shown that enclosing an area creates a hazard greater than that of exposure to asbestos.
- Q. Is it necessary to set up enclosures on reactor towers in a refinery or chemical plant, even when they are 100 feet or more up in the air?
- A. Yes. Enclosures should be set up on a reactor tower or distillation tower, and the job done piecemeal. Employers must use negative pressure in each of the enclosures. Technically, if an employer can demonstrate that the asbestos level will be below the PEL, an enclosure is not required. OSHA, however, believes that it is virtually impossible to demonstrate conclusively that the level will be below the PEL.

Again, if it can be shown that construction of such an enclosure poses unacceptable risks, OSHA may accept an alternative means of reducing exposure.

- Q. Is it necessary to build an enclosure even if area monitoring shows that the Action Level has not been exceeded?
- A. Area monitoring is not acceptable, and even if it shows less than 0.1 f/cc you must build an enclosure.
- Q. If an employee has been offered informed of the requirements and has refused to undergo medical surveillance, is the employer still liable for not meeting the medical surveillance requirements?
- A. No, but the employer must obtain and have on record a signed statement of the employee's refusal to allow medical surveillance.
- Q. Is the requirement that an employee be subject to the medical surveillance requirements of the Construction Standard, if he is exposed above the action level but below the PEL for more than 30 days, activated by length of the job or the amount of time a single employee is exposed.
- A. The length of exposure of the individual determines whether medical surveillance is required.
- Q. Can an employer legitimately avoid the medical surveillance requirements by rotating employees on a long job so that no one individual is exposed for longer than the 30 day limit?
- A. The use of such administrative controls expressly to avoid OSHA regulation is not acceptable and such action will result in citation. If, however, such rotation can be shown to be standard operating procedure, the employer cannot be cited for noncompliance.
- Q. Is it mandatory that an employer use OSHA's Medical Questionnaire or can he use a substitute questionnaire which provides material which is comparable to, or more comprehensive than that requested on the OSHA form?
- A. Use of the OSHA asbestos specific health questionnaire is mandatory under all circumstances.
- Q. Are state regulations on asbestos (in non state plan states) which are more stringent than those of OSHA, preempted by Federal regulation?

- A. It is likely that state regulations would be preempted, at least in part. It would depend on the purpose of the state regulation. If the Federal and state regulations have the same purpose or intent, Federal regulations take precedence.
- Q. Under the Construction Standard, are showers mandatory after each and every exit from a negative pressure regulated area even for a short period of time such as a 15 min break or lunch?
- A. Yes. Employees must shower before they leave an enclosed area, regardless of how short a time. There are no exceptions.
- Q. Where it is physically not feasible to have a shower on the scene of a removal, is it possible to use a negative pressure equipment room for the gear, and a HEPA vacuum to clean up the protective clothing before removing it, and then have the employees go to a centrally located shower facility?
- A. OSHA would be reluctant to allow an enclosed removal job to proceed without on site showers unless all of the obvious options to the requirements of the standard could not be met. A remote shower facility is acceptable, however, if it can be shown that it is not feasible to construct an appropriate decontamination unit adjacent to the site. Employees must, however, either dispose of contaminated clothing, or thoroughly clean their outer clothing with a HEPA vacuum before proceeding to the central decontamination unit.
- Q. Does the General Industry Standard require that an employee shower after leaving a regulated area, prior to entering a regulated positive pressure lunch room or break area?
- A. No. It is not necessary to shower if the employee is going to a specific break area and will return to the site. It is sufficient that the employee vacuum off before entering the break area.
- Q. Under the General Industry Standard, must employees working in regulated areas have lunch rooms separate from other employees?
- A. No. As long as the lunch room or break area meets the regulatory requirements i.e., positive pressure, and the asbestos exposed employees either remove asbestos dust or remove the contaminated clothing by approved means prior to entering the break area.

- Q. Can the HEPA vacuum be used to clean up protective clothing sufficiently for reuse?
- A. Yes
- Q. The standard states that qualitative fit tests may be used for testing the fit of a half-mask respirator where they are allowed (i.e., not in excess of 2 f/cc). Is qualitative rather than quantitative fit testing also considered adequate for testing full-face piece respirators if the employer choose to use them rather than half-masks at exposure levels below 2 f/cc.
- A. Yes. At levels above 2 f/cc, however, quantitative fit testing is required.
- Q. Can disposable respirators ever be used to meet mandatory respirator requirements?
- A. No, under no circumstances.
- Q. Does OSHA include Powered Air Purifying Respirators (PAPRs) in the positive pressure category for asbestos removal work?
- A. Yes.
- Q. In the earlier, 1986, draft field guidelines, there was a formula, relating to the number of square feet of material being removed, used to determine whether it was a large or small job, does this formula still apply?
- A. OSHA determined that the formula discussed in the early draft guidelines was not a practical way to make a determination. For instance, the formula would not have been reasonable if a glove bag could be used.
- Q. Is it possible to break up big jobs into small ones on which a glove bag can be used, and still not violate the standard.
- A. On long runs of piping, for instance, it is allowable to break the job into several segments so that it can be done with a glove bag, and no enclosure is necessary. It can be treated as a small job. On small jobs where a glove bag is used, unless the air concentration is below 0.1 f/cc, you must take a shower. However, you do not necessarily have to shower on the site. You can clean up and remove protective equipment on the site, within the regulated area, and then go to showers at a regular location.

Please return to:

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() I will attend the Telecommunications and Utilities Task
Force Meeting on February 18, 1987 at the ORC Washington
Office, National Place, North Lobby - Suite 911, 1331
Pennsylvania Avenue, N.W., Washington, D.C. 20004.

Time: 9:30 A.M.

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Please return to:

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() I will attend the Data Collection and Survey Task Force Meeting on February 17, 1987 at the ORC Washington Office, National Place, North Lobby - Suite 911, 1331 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

Time: 9:30 A.M.

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