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PLAINTIFF'S EXHIBIT

UC-4724

OSHA fines Carbide's S.C. plant $90,000

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STAFF WRITER

Citing record-keeping violations by Union Carbide for the second time this year, the Occupational Safety and Health Administration Tuesday proposed a $90,000 fine at the company's South Charleston plant.

The fine is OSHA's second-largest ever for recordkeeping. On April 1, the agency proposed a $1.37 million fine at Carbide's Institute plant, including $1.28 million for recordkeeping.

OSHA actually found that Carbide failed to record a greater number of injuries at South Charleston. At Institute, OSHA found 164 injuries not recorded on OSHA forms, which inspectors look at to see if further inspections are needed. At South Charleston, the agency found 335 injuries — including strains, burns and chemical exposure — not listed.

"We believe the flagrant violations at South Charleston are less flagrant than they were at Institute," said OSHA Area Director Perry Jones. He said the South Charleston plant, unlike Institute, had no history of previous "willful" record-keeping violations. Also, at Institute, OSHA heard admissions of management's deliberate efforts not to report injuries, Jones said.

South Charleston plant Manager Bob Link said that the company had not decided whether to appeal the citations. The plant has 15 days to do so. "It's important to note that none of the alleged violations relate to physical or chemical hazards to our employees or to the community," he said.

"We're not totally surprised," Link said. "We essentially used the same record-keeping system as Institute." At Institute, plant manager Rudy Shomo said Carbide considers "first aid" what OSHA terms "medical treatment."

OSHA calculated the two record-keeping fines differently. At South Charleston, the agency cited nine "willful" violations, with the 335 injuries grouped into nine types. At Institute, OSHA cited 128 "willful" violations at $10,000 each, one for each of 128 injuries.

In the Institute citations, the agency changed its policy to allow fines for each injury, rather than a group. (Another 36 unrecorded injuries were part of one "other than serious" citation). Carbide has contested the fine, OSHA's largest ever. A trial before an administrative law judge should begin in March.

The South Charleston inspection began March 16, as part of a new program to inspect manufacturing plants with historically low injury rates. Jones said the South Charleston plant was chosen at random. Six plants in West Virginia have been inspected under the program, he said.

"We were unable to compute the lost workday injury rate because of apparent violations," Jones said. Two OSHA inspectors then reviewed about 600 injury records covering incidents from 1983 to February 1986. They also interviewed injured employees. About 1,060 people work at the plant.

"We have never done a comprehensive review of injury and illness rates to the extent we did," Jones said. "Typically, in the past, we did not review medical records."

The plant's stated lost workday injury rate, Jones said, was 0.86 percent. He said OSHA calculates the rate at 4.45 percent, which is above the national average of 4.3 percent for manufacturing. The chemical industry average is traditionally about half that.

"We have already given a strong message to the company and chemical industry at Institute," Jones said. Because the South Charleston inspection began before the Institute fines were announced, he said, the plant was not on notice of OSHA's more thorough review of recordkeeping.

Link said that before April, the plant did not follow injury recording guidelines set out by the Bureau of Labor Statistics. Rather, it used guidelines from the American National Standards Institute, a non-governmental organization. Jones said OSHA believes Carbide knew it should have used BLS guidelines.

OSHA now intends to expand the inspection at South Charleston. The agency, Jones said, will conduct an inspection at the plant similar to its Special Emphasis Program for the chemical industry. OSHA will choose one chemical and inspect its trail of production.

OSHA defines a "willful" violation as one in which an employer either knew that what he or she was doing constituted a violation or was aware that a hazardous condition existed and made no reasonable effort to eliminate it.

Jones said the South Charleston plant union had not filed any complaints about improper record-keeping with OSHA. The Institute plant union had done so several times.

Also Tuesday, OSHA proposed $15,660 in fines at Carbide's Linde Division plant in West Mifflin, Pa. The plant was cited $10,000 for one "willful" failure to record five workplace injuries on OSHA forms.

OSHA also alleged fire hazard violations, slipping hazards, improper storage of compressed gas cylinders and inadequate inspections, maintenance and written procedures for respirators.

The inspection was part of OSHA's Special Emphasis Program, agency spokesman Jack Hord said. About 20 people work at the plant.