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TO: Safety Directors

FROM: T. G. Grumbles
DATE: April 3, 1986

Interoffice Communication

VISTA

SUBJ: OSHA REQUIRED RECORDKEEPING

Enclosed is an article describing a 1.3 million dollar fine assessed to Union Carbide for 221 OSHA violations. It is known that many of the citations were for recordkeeping violations such as incomplete OSHA Form 200's.

Regardless of the specifics of this inspection or the ultimate resolution of the fine assessed, it is recommended that we all review our OSHA required recordkeeping for completeness and accuracy.

Tom

Thomas G. Grumbles

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cc Plant Managers
R. D. Gamblin
R. E. Lehmkuhl

OSHA Plans to Fine Carbide $1.4 Million, Alleges Violations at West Virginia Plant

By Cathy Trost

Staff Reporter of The Wall Street Journal

WASHINGTON — The Occupational Safety and Health Administration proposed a $1.4 million fine, the biggest penalty in its history, against Union Carbide Corp. for 221 alleged health and safety violations at its Institute, W. Va., plant.

Labor Secretary William Brock said that an extensive six-month inspection of the plant showed a "situation characterized by complacency and what we believe to be a willful disregard for health and safety."

Mr. Brock said he referred the case to the Justice Department. A spokesman for the department said the agency would review alleged violations of record keeping rules involving injuries and illnesses to determine whether there were any criminal violations of federal law prohibiting false statements to the government. "What we will have to look at is whether the records were willfully improperly kept," the spokesman said.

Among an array of problems, inspectors found "employees without respirators being asked to detect the presence of deadly gas by sniffing the air after alarms indicated a leak," the labor secretary said. "We used to use canaries for that."

Mr. Brock said inspectors found "very serious problems" with the plant's safety systems, its record keeping, its safety and health programs and its safety management systems. "We were just surprised to find conscious, overt, willful violations on such a widespread basis," he added.

Union Carbide, based in Danbury, Conn., vowed to appeal the proposed fine through OSHA's administrative review process. Robert D. Kennedy, president, said, "OSHA has grossly distorted the actual safety conditions and attitudes in the plant."

After an Institute accident last August, Union Carbide said it would undertake a multimillion-dollar program to improve safety at Institute and its other chemical factories. Mr. Kennedy, who at that time headed Carbide's chemical and plastic unit, was given a major role in that program.

Mr. Kennedy said that "there is no justification for citing Union Carbide for any willful violation." He added, "the allegation of complacency with respect to safety is an outrageous misrepresentation of the truth." He added that the concern's methyl isocyanate unit was "given a clean bill of health" by the government agency.

He said the company was "keenly disappointed that OSHA has elected to take a confrontational view" of the investigation. Union Carbide had fully cooperated with the investigation, he said.

Focus of Attention

Last September, OSHA dispatched several teams of specialists to conduct a "wall-to-wall" inspection of the Institute plant after the toxic chemical aldicarb oxime leaked there last summer, injuring about 140 people. The plant earlier had been the focus of attention and inspections after a leak at a Union Carbide plant in Bhopal, India, killed more than 2,000 people in December 1984.

The Institute plant also makes methyl isocyanate, the chemical released in the Bhopal disaster. But Mr. Brock said there were "virtually no problems with that segment of the plant."

The agency's aggressive action drew plaudits from critics who believe the Reagan administration has retreated from tough enforcement of worker health and safety laws. Sen. Howard Metzenbaum (D., Ohio) said he hopes "this indicates a change of heart after six years of neglect." And Margaret Seminario, an AFL-CIO health and safety official, said it "clearly marks a change in policy by the Reagan administration."

Taking a Hard Line

The labor secretary reiterated the administration's policy of seeking a "reasonable, balanced approach" to workplace safety. But in a news conference, he took a hard line against employers who "blatantly or repeatedly violate the safeguards

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U.S. Agency Proposes Fine of $1.4 Million For Union Carbide

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necessary to protect American workers."

Although he said there was no reason to suspect that such conduct was widespread in the chemical industry, Mr. Brock said the job-safety agency, in a program begun several months ago, is targeting chemical companies involved with high-hazard substances for comprehensive inspections. "We will be looking at this industry with a great deal of depth," he said.

In the Union Carbide case, OSHA cited the company for allegedly failing to provide respiratory protection to certain employees exposed to phosgene, which the agency called "an extremely deadly gas." The agency specifically noted that an employee "was required to determine the source of phosgene gas leaks by sense of smell."

Citations were also issued for alleged deficiencies in record keeping on injuries and on cases of asbestosis, an asbestos-related illness. The agency said 128 cases of injuries weren't recorded during a three-year period.

These deficiencies were described as "willful" violations, in which the employer either knew that actions constituted a violation or was aware that a hazardous condition existed and made no reasonable effort to eliminate it.

The agency said the company failed to record on OSHA injury and illness logs worker injuries that resulted in lost work days, restricted work activity and medical treatment. They included fractures, sprains, back injuries, hernias, abrasions, contusions and chemical inhalations.

Consequently, the agency said, "little if any progress has been made over the last three years in improving plant injury and illness rates, largely because record keeping violations make the company's goal-setting and corrective action programs meaningless."

Other Charges

A separate group of serious violations charged by OSHA involved the company's ability to detect chemical leaks and to prevent or control major releases, its failure to provide adequate backup systems in the event of major chemical spills or releases, potential hazards of fire and explosion, potential exposures of employees to highly toxic materials, and others.

The agency said that the plant's safety management system is inadequate and that the company's effectiveness in preventing "catastrophic chemical releases" is impaired by deficient equipment design and selection, failure to install or maintain early warning devices in critical areas and inaccurate maintenance records.

Among chemical industry facilities, Mr. Brock said "this plant appears to be far worse than others." But he played down concerns about any immediate threat to the Institute area, saying "the fact that we have identified these problems is going to raise peoples' sensitivities." He described the company's attitude as "constructive."

Bhopal Talks Are Scheduled

A Wall Street Journal *News Roundup*

India's attorney general, K. Parasaran, is expected to arrive in the U.S. soon to review the Bhopal gas disaster case with attorneys at Robins, Zelle, Larson & Kaplan, a Minneapolis law firm that represents India interests in the litigation.

The meeting is expected to explore legal action by India aimed at blocking distribution of proceeds from the pending sale of Union Carbide's consumer product units, said one source close to the case.

Bruce Finzen, a Robins Zelle attorney, confirmed that the meeting is set for early next week. He said it was part of a "regular" review of the case, but declined to elaborate.

Union Carbide has said that any proceeds from the sale of its consumer businesses in excess of the $1.1 billion book value will go to shareholders as a one-time dividend. Final bids by interested acquirers of those units were made Friday, said a source familiar with the sale.

Both the Indian government and private U.S. attorneys for individual disaster victims have said they might move to block the distribution of those assets on the ground that such a plan would deplete funds available to Bhopal victims. The legal move would be an attempt to apply pressure on Carbide to raise its settlement offer, lawyers outside the case have said.

Last week, Indian officials rejected a $350 million tentative settlement of Bhopal-related claims between Union Carbide and

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