



**Diamond Shamrock
Chemicals Company**

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PLAINTIFF'S EXHIBIT

CEL-1131

Mr. James F. Foster
Director, Information and Consumer Affairs
OSHA
U. S. Department of Labor, Rm. N-3637
200 Constitution Avenue, N.W.
Washington, D. C. 20210

RE: 29 CFR Part 1910.1001
Occupational Exposure to Asbestos -
Final Rules

Dear Mr. Foster:

The revised standard which addresses occupational exposure to asbestos, published in the Federal Register on June 20, 1986 (pp. 22611 - 22790), establishes a Permissible Exposure Limit (PEL) of 0.2 fibers/cc and an "Action Level" of 0.1 fiber/cc, 8-hr. time-weighted average. If the action level is reached or exceeded, it triggers monitoring, medical, and employee information and training requirements. As is pointed out in the Supplementary Information section (Page 22679), this does not represent a change in the previous standard regarding the medical surveillance provision, but is rather a clarification of OSHA's policy.

We would appreciate OSHA's further clarification of the medical surveillance requirements. Assume that a medical surveillance program has been instituted at a given worksite because of exceedance of the action level for identified employees or occupations. The standard then requires that (a) periodic medical examinations shall be made available [29 CFR 1910.1001 (e)(3)(i)], and (b) a termination of employment examination shall be made available to employees exposed previously at or above the action level [29 CFR 1910.1001(e)(4)].

The question we have is, who must be offered the annual examinations under the standard? It seems clear that if an employee continues working in an occupation exposed to asbestos (even though wearing personal protection), ongoing annual medical examinations must be provided. What is not clearly defined is the employer's obligation to those employees who subsequently cease working with asbestos (eg., transfer to another plant or worksite), or whose asbestos exposure is reduced below the action level through

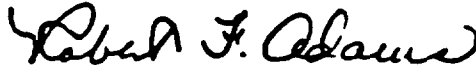
engineering controls or substitution of other materials. Must these employees be followed as long as employed by the company? If so, why is a termination of employment examination specified (not required if offered in previous 12 months)? If an ongoing obligation is incurred from past exposures, the termination examination would always be redundant.

The discussion on "action level" in column one, Page 22680, of the Supplementary Information section indicates that medical surveillance and other activities may be discontinued:

" ... The action level concept thus provides an objective test for OSHA and employers to permit the discontinuance of certain activities, such as medical surveillance, training, and periodic monitoring when exposures are low."

I would appreciate your response regarding OSHA's intent for this section of the asbestos standard.

Sincerely,



Robert F. Adams
Industrial Hygiene Manager
Health and Environmental Affairs

RFA/bh