PLAINTIFF'S EXHIBIT

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UNION CARBIDE

INTERNAL CORRESPONDENCE

P. O. BOX 8361, SOUTH CHARLESTON, WEST VIRGINIA 25303

POLYOLEFINS DIVISION

To (Name) Division SHARE Managers

Division

Location

Date March 6, 1980

Originating Dept. Polyolefins SHARE

Copy to Division Safety/Health Managers
Mr. R. H. Blackmore
Mr. D. A. Dechman
Mr. R. S. Greeson
Mr. R. T. Jackson
Mr. R. R. Murphy, Jr.
Mr. B. H. Thomas
Mr. J. W. Whittlesey
Mr. D. L. Wiley
Mr. R. C. Wise

Subject Safety and Health Requirements for Contractors

Off File
Contractor Employees

Attached is the final copy of Procedure Guideline - Safety and Health Requirements for Contractors which was endorsed by locations in the latter part of 1979.

Sample safety and health language for maintenance and construction contract agreements are included as attachments. These have been endorsed by Messrs. R. R. Murphy, Jr. and J. W. Whittlesey of the Law Department. Mr. R. H. Blackmore, Corporate Purchasing, will arrange to incorporate the contractor requirements into the appropriate purchasing procedures and forms for contracts at locations.

R. E. Graebert

REG/map

Attachment

PROCEDURE GUIDELINE

SAFETY AND HEALTH REQUIREMENTS FOR CONTRACTORS

Purpose

To specify requirements to be followed when contract work is performed for Union Carbide Corporation, in chemicals and plastics-type facilities, that will assure:

1. The protection of Union Carbide facilities.

2. The safety and health of Union Carbide and contractor employees from potential hazards associated with Union Carbide operations, chemicals, or other products.

Philosophy

It is the intent of Union Carbide to meet this objective through proper practices and contract provisions; the furnishing of required safety and health information; and requiring contractors to follow, where applicable, all relevant safety and health rules in force at the particular location.

Under no conditions shall Union Carbide undertake the responsibility for supervision of contractor's employees or facilities. The contractor is expected to fully communicate with and enforce contract, statutory or other legally required safety and health requirements on his employees.

Upon request and written agreement Union Carbide will provide safety and health related advice and service to a contractor who lacks expertise in any given situation in the form of procedures, training, and technical support. Union Carbide will monitor the contractor's compliance with the contractual agreement on a periodic basis.

Where a contractor believes that certain safety and health requirements are not applicable, a written permission to deviate therefrom should be received from the Union Carbide management representative involved prior to initiating any work affected thereby.

GUIDELINE FOR HANDLING MAINTENANCE/ CONSTRUCTION CONTRACT AGREEMENTS

Specific Objective

To ensure that Union Carbide employees and facilities are protected from accidents arising from contracted maintenance, construction or other work at Union Carbide chemicals and plastics-type facilities and to inform contractors of potential hazards associated with Union Carbide operations and chemicals which may affect their operations at any site.

Procedure

All maintenance contract and construction contract work performed at Union Carbide chemicals and plastics-type locations shall follow these guidelines:

1. Major safety and health rules and procedures which could substantially affect the cost of a contract shall be included in the specifications in the invitation to bid, and reviewed with the bidder upon request.

2. These requirements shall be so specified in all standard contract articles and appendices (see Attachments pgs. 1 to 3).

3. Information, advise and consultation, such as procedure documents, training, and technical skills to be provided by Union Carbide shall be set forth in special exhibits to the contract appendix (see Attachment pg. 4).

4. A full set of applicable safety and health rules and procedures shall be given the contractor when the contract is signed.

5. A designated Union Carbide location representative shall be appointed when functions shall, in part, include those set forth in items 6 and 8.

6. The Union Carbide representative shall instruct contractor representatives on specific safety and health rules and procedures for that location and review detailed information on special safety and health concerns (chemical or other) and what precautions to take.

7. The contractor shall describe how safety and health information will be communicated to and enforced with his workers and subcontractors.

8. The Union Carbide representative shall monitor the contractor's compliance with the contract as deemed necessary.

Minimum Standards

Contractors shall abide by certain minimum safety and health requirements, set forth in Union Carbide rules as follows regardless of the nature or location of contract performance.

1. Location Work Permits - Work permits shall be obtained by the contractor, and signed by an authorized Union Carbide supervisor to confirm his acceptance of precautions specified for the following operations:

   a. Use of ignition sources in restricted areas.

   b. Entering of vessels or confined spaces.

   c. Opening process equipment.

   d. Performing electrical hot work.

   e. Making excavations and trenches.

   f. Moving radioactive sources.

   g. Performing hot pipe tapping.

   h. Operating heavy equipment around electrical power lines.

2. Master Card Procedure - The master card procedure for tagging and locking critical equipment isolation points shall be followed by the contractor prior to commencement of work on such equipment.

3. Location Safety and Health Rules - All location safety and health rules furnished by owner to contractor shall be adhered to by the contractor.

4. Personnel Protection Equipment - Personnel protective equipment shall be provided by the contractor unless otherwise agreed to in this contract, as follows:

   a. Hard hats and industrial grade safety glasses shall be worn at all times.

   b. Chemical splash goggles and hearing protection shall be worn in posted areas.

   c. Safety shoes, respiratory protection, harnesses and lifelines, and other necessary protective equipment will be worn based on location regulations furnished by owner and contractor needs.

d. Respirators shall fit snugly against the face. Persons wearing beards shall be clean shaven where respirator makes a facial seal.

5. Emergencies - Contractors shall be trained in those emergency procedures which directly affect their own employees' personal safety and health. In the event of an emergency (fire, explosion, vapor cloud, spillage, or related hazards) arising in the immediate vicinity, contractor agrees that he shall cause its employees to leave the area immediately and remain at a safe distance until the emergency is over.

6. Safe Tools - Scaffolds, stages, rigging equipment, electrical tools, ladders, hoists, and other tools, machinery or equipment used in the work will meet specifications of ANSI and the Occupational Safety and Health Administration for such items employed in the construction industry.

7. Accidents - The contractor will be responsible for investigating all accidents involving his employees and reporting all details to owner's safety representative at the location of the work. When such accident investigation is complete, the contractor will provide such Union Carbide representative with a copy of the completed injury report. The contractor is also responsible for compliance with the Occupational Safety and Health Administration requirements for reporting or communicating injuries.

8. Safety and Health Program - Contractor shall maintain his own safety and health programs. However, it may be necessary at times for the Union Carbide representative to make recommendations to assure the protection of Union Carbide employees.

9. Contractor shall review with all of its employees assigned to the work, prior to their commencing any of the work, all safety and health regulations, requirements and programs applicable to the work, and contractor shall cause its subcontractors to make such a review with their employees.

10. Special Rules for Harmful Exposure - Contractor represents that he is familiar with the Occupational Safety and Health Administration Regulations concerning harmful exposure to toxic substances, and is capable of providing, and will, unless and to the extent otherwise agreed to in writing by owner, provide respirators and/or other protective equipment, exposure monitoring, medical surveillance, employee training, recordkeeping and other services, to the extent required by said regulations in connection with the work.

ATTACHMENTS

SAMPLE SAFETY AND HEALTH LANGUAGE FOR
MAINTENANCE AND CONSTRUCTION CONTRACT AGREEMENTS

Instructions Safety and Health Appendix:

Add to the contract or order the following sentence: The Appendix attached hereto entitled "Safety and Health" is hereby made a part hereof.

APPENDIX

SAFETY AND HEALTH

Contractor shall take all necessary precautions to protect employees of contractor, employees of its subcontractor and employees and facilities of owner from hazards arising in the course of the performance of this contract or in connection with owner's operations or chemicals located at or adjacent to the construction site.

Contractor shall comply with, and shall cause its employees and all subcontractors to comply with (1) all Union Carbide safety and health regulations and requirements which are furnished to contractor by owner and (2) all applicable laws and governmental rules and regulations relating to safety and/or health. In the event that contractor fails to so comply or to cause such compliance, Union Carbide may suspend all or any part of the work on which contractor or his subcontractor is engaged, until contractor proves to owner's satisfaction that contractor has corrected said failure. Contractor shall not be entitled to any extension of time or compensation or damages by reason of, or in connection with, such work stoppage.

Contractor shall review all safety and health regulations and requirements which it is obligated to comply with hereunder and any applicable hazards which it is obligated to protect against hereunder, prior to the performance of the portion of the work which is applicable thereto. Contractor shall notify owner how said regulations, requirements and hazards will be communicated to, and enforced with, its employees and all subcontractors.

Contractor shall include in all of its subcontracts involved in the performance of the work at the construction site, the provisions of this Appendix, with subcontractor being obligated to contractor to the same extent as contractor is obligated to owner. However, such provisions in the subcontracts shall not relieve the contractor of its obligation to assure compliance with the provisions of this Appendix for all aspects of the work.

Union Carbide safety and health regulations and requirements include the following and may include others which are unique to a particular Union Carbide location. Where contractor believes any safety or health regulation or requirement is not applicable, a

written permission to deviate therefrom must be received from owner's management representative at the location of the work, prior to initiating the work.

1. Location Work Permits - Work permits shall be obtained by the contractor, and signed by an authorized Union Carbide supervisor to confirm his acceptance of precautions specified for the following operations:

   a. Use of ignition sources in restricted areas.

   b. Entering of vessels or confined spaces.

   c. Opening process equipment.

   d. Performing electrical hot work.

   e. Making excavations and trenches.

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9. Contractor shall review with all of its employees assigned to the work, prior to their commencing any of the work, all safety and health regulations, requirements and programs applicable to the work, and contractor shall cause its subcontractors to make such a review with their employees.

10. Special Rules for Harmful Exposure - Contractor represents that he is familiar with the Occupational Health and Safety Administration regulations concerning harmful exposure to toxic substances, and is capable of providing, and will, unless and to the extent otherwise agreed to in writing by owner, provide respirators and/or other protective equipment, exposure monitoring, medical surveillance, employee training, recordkeeping and other services, to the extent required by said regulations in connection with the work.

Instructions Special Exhibit for Safety and Health Appendix

Add only when requested by contractor and approved by the Plant Manager or other manager who is responsible for the location at which the work is being performed.

SPECIAL EXHIBIT FOR APPENDIX

SAFETY AND HEALTH

Owner agrees that, during the performance of the work, where employees of contractor and/or employees of subcontractors of contractor are working on the construction site in an area required by Occupational Safety and Health Act regulations, to be designated as a "Regulated Area" or other similarly intended designation where special controls and/or monitoring are required because of the presence or potential presence of certain chemicals or conditions therein, if requested by contractor and agreed to by the owner, it will, as agent for contractor, (1) provide said employees with respirators, (2) undertake necessary monitoring of said employees and area, (3) provide the required training for said employees in applicable hazards, and (4) supply information and data to contractor for maintaining appropriate records; all as required by said regulations and all at owner's expense. However, it is understood that contractor will provide or cause to be provided medical surveillance and any other service or equipment as required by Occupational Safety and Health Act regulations, for said employees during the performance of the work in said area.

The above undertaking by owner in no way constitutes the transfer to, or assumption by owner of, any of contractor's or its subcontractor's duties and obligations under federal, state or local laws or regulations, including but not limited to the above-described regulations; no liability to contractor, any of its employees or other person, firm or corporation will thereby be assumed by owner; and contractor agrees to save owner harmless, to the extent valid and enforceable under applicable law, from any and all liability, penalties and claims of whatever kind, including but not limited to claims of contractor or any of its employees, agents, vendors or subcontractors, or of governmental agencies, based on owner's failure or alleged failure to comply with any federal, state or local law or regulation, or based on any act or omission of owner, its employees or agents, in performing any of the above services.