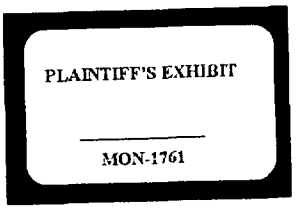
Monsanto

LAW DEPARTMENT Dan A. Samford - AA2A - 4-5433

June 3, 1983 T. F. Evans - G3WG

Contract Employees Safety Concerns



TO G. W. Bostic - 1890

George I understand that from time to time contractors or contractor employees fail to utilize personal safety equipment (hard hats, safety glasses, etc.) or otherwise violate plant safety conditions or regulations while on the plant premises. Aside from presenting a potential risk of injury to such personnel, such non-compliance is counter productive to the plant wide safety program as it could or does raise questions by those that do comply, i.e. "why me if he doesn't?" You have asked for my thoughts relative to this matter.

George the issue you raise is a difficult one and of course is not new. I find that in 1980 Tom Evans headed up an Ad Hoc committee to develop guidelines to deal with this broad area. I attach a packet of material he has provided which I believe should be very helpful to you.

The only comments that I have beyond these are as follows:

1. Enforce the contracts you have - that is, if a contractor or a contractor's employee fails to comply with plant safety regulations, call the contractor to "heel". Point out the reason for the rules - that failure to comply is a breach of contract, etc., etc.

2. For vendors not under contract, (truck lines, railroads, etc.) communicate with vendor management pointing out to them the plant safety requirements and Monsanto's expectation that they cause their personnel to be properly equipped and to comply with Monsanto regulations.

3. In the past several years I know this has presented a dilemma to several other plants (Everett, J.F.Q. and El Dorado). You may want to talk to appropriate personnel at these or other plants for any insights they may have.

4. From a legal perspective you obviously can't force a person to wear a hard hat or safety glasses, etc. If he refuses, you of course can take action against the contractor (if he has obligated himself to comply) and you can cause the individual to be removed from the area or plant.

5. Another basic legal question that might be asked is: What is Monsanto's potential liability if a contractor is injured for failure to wear the prescribed safety equipment? The possible scenarios here make it impossible to give a black and white answer.

Monsanto is not an insurer of the safety of a business invitee and our duty is only to exercise reasonable care for their protection. It is frequently held that reasonable care requires nothing more than a warning of danger, i.e. warning signs, etc. There is no obligation to protect the invitee against dangers which are known to him, or which are so obvious that he may reasonably be expected to discover these.

George I know this does not give you a "blue point" to follow, but I trust it will be helpful. Please call if you care to discuss further.

Dan A. Samford

attachs.

nf/3904

EXHIBIT "B"

Format:

This Exhibit is submitted to define the conditions of the working procedures as used, understood, required and/or suggested by Monsanto Company for all contract maintenance or project work for the Texas City Plant.

Work Day:

Monsanto's normal work day for the day shift begins at 8:00 A.M. and ends at 4:30 P.M. The time that workers report to their assigned units or departments and are available to start work is 8:00 A.M. The time for clocking out of the plant is 4:30 P.M. Work will continue up to 4:20 P.M. with the balance of ten minutes allowed for clean-up of tools and equipment, and wash-up. Lunch period begins at 12:00 Noon and ends at 12:30 P.M.

No work shall be performed on the following holidays without specific agreement with Monsanto.

New Year's Day
Washington's Birthday
Good Friday
Monday following Easter
Memorial Day
Fourth of July
Labor Day
Thanksgiving Day
Friday following Thanksgiving Day
Christmas Eve (or last working day prior to Christmas)
Christmas Day

Contractor Safety Guide:

In addition to Item 9 under General Agreements, the Contractor will be expected to adhere to procedures as outlined in Monsanto's contractor safety guide.

Safety:

Safety glasses and safety hats will be worn by all persons. If the Contractor is unable to obtain these items from a regular supplier, he can purchase them through Monsanto. The necessary request for this purchase should be made to the field representative in charge of Contractor's work.

Fire and Work Permits:

Fire permits are required for all work in the plant that might provide a source of ignition, such as the use of flame or spark-producing tools or equipment. This will include such things as impact tools, torches, trucks, welders, and compressors, etc. Entry permits are required for any entry inside any vessel that has a restricted opening or restricted ventilation or any open vessel deeper than five feet. Special fire permits will be required for welding or any other heat or spark-producing work performed on closed vessels (pipes, tanks, separators, etc.). A closed vessel is any vessel with a restricted opening or restricted ventilation

Fire and Work Permits (Continued):

In some areas, work permits will be required for all work in that area regardless of the tools or equipment. This includes work being performed in the vicinity of overhead electrical lines.

An attempt will be made to have all permits ready at the beginning of the work day. When there are abnormal amounts of heavy welding and open-flame work, it may be impossible to have all permits ready at 8:00 A.M. It should be stressed that these permits are for the protection of Contractor and his employees.

Alarms:

There are two alarm systems in use at Monsanto. The one most familiar to everyone is the fire and spill alarm. The other, more recent alarm system is the Emergency Procedure Alarms. So that contractors may understand and recognize these alarms, the two systems are briefly explained below. All contractors shall explain these alarms to all their personnel.

Fire and Spill Alarms:

This alarm will signify that a fire or spill has occurred in some part of the plant -- either very minor or major in magnitude. In case of plant fires and spills, the alarm (described below) will sound, and all trucks, cars or other mobile equipment in the entire plant will pull off the road and engines will be killed. All smoking in the plant will cease. All permits are automatically cancelled in that group of units designated by the first number of the alarm code. Cancellation of permits and work stoppage in other areas is the responsibility of the Monsanto department supervisors of the respective departments. All work will stop in specific area designated by the code. All heat and spark-producing equipment in the code designated area will be shut down. Workers will leave the code designated area to an area pre-designated by the Monsanto field representative in charge of contractor's work. After sounding of the plant "all clear" alarm or after Monsanto clearance is given, all work not requiring fire permits may be resumed. All fire permits must be countersigned by the Monsanto supervisor who signed the original permit before that work may be resumed.

One blast by the plant siren will indicate that a fire or spill has occurred. This will be followed by a repeated three-digit code on the code horns throughout the plant to indicate the area in which the fire or spill has occurred. The first digit of the code designates a group of units or general location in the plant in which the fire or spill has occurred. These are as follows:

a one (1) code designates the east plant from the Shops Building to the bay waterfront.

a two (2) code designates the west plant from the Shops Building (including this building) to Monsanto's Fourth Avenue West.

a three (3) code designates the west plant west of Fourth Avenue West.

a four (4) code designates the "North 68" area. This is the area north of the north outfall ditch between Bay Street and the waterfront.

a five (5) code designates the Administration, Locker, Application and Research buildings.

A fifteen-second blast on the work whistle will represent an all clear signal.

Each Monday at 1:00 P. M. a test alarm 1-1-1 will be sounded. Other tests will be communicated in advance.

Emergency Procedure Alarms:

A special Emergency Procedure Plan has been adopted at this Plant which outlines a planned procedure for safe handling of the personnel and equipment in the event of a major emergency. This emergency could be created from outside Monsanto Company property line.

When a state of emergency has been declared, personnel will be notified through the same siren and horn system but the horn signal will be thirty (30) beeps on and off over a minute but without a code. In the event that this Emergency Procedure Plan is activated, Contractor's people should immediately make their work safe to leave and go to the Instruction Point of that area (they are marked) and a Warden or Chief Operator will give Contractor's people direct instructions.

Housekeeping:

Good housekeeping should be kept in mind during all work. Access ways to all fire plugs, fire hoses, extinguishers, indicator valves, safety showers, and eye baths shall be kept open. Also the Contractor should acquaint his personnel with the locations of this emergency equipment. No obstructions to the plant traffic signals and/or signs should be formed, temporarily or otherwise.

First Aid:

The treatment and care of injuries sustained by Contractor's employees shall be and remain the responsibility of Contractor; however, Company's first aid facilities will be made available to Contractor's employees in emergency cases which are the direct result of accidents occurring on Company's plant site during authorized work hours. Company shall incur no liability for, and Contractor hereby agrees to indemnify Company against, any causes of action, claim, liability or cost, including attorney's fees, arising in whole or in part out of the furnishing of such first aid facilities to Contractor's employees or out of the failure to furnish such facilities.

Monsanto's First Aid facilities are located on the first floor of the Main Office Building. The Contractor may utilize these facilities by furnishing medical information on forms provided by the Purchasing Department at the time of contract acceptance.

Charges for medical services will be as follows:

First Aid Treatment	$ 6.00
Re-dress	4.00
Doctor Case	10.00
Injection	7.00

In case of major injury, an equitable fee will be charged based on time, equipment and services provided.

If Monsanto First Aid facilities are not used, all medical cases requiring services of a physician shall be reported to the Monsanto Field Representative, and a copy of the Employer's First Report of Injury shall be mailed to the plant Capital Projects supervisor.

OSHA:

The Contractor is required as part of this agreement to be knowledgeable of and remain in compliance with the Occupational Safety and Health Act (OSHA) and its application to any work performed in this plant. No contractor or subcontractor shall require any worker employed in the performance of the contract to work in areas which are unsanitary, hazardous, or dangerous to his health and safety. The contractor will take the necessary steps to prevent any unsanitary, hazardous, or dangerous conditions from developing on his work. If a situation develops which is beyond his control, he will immediately report it to the Monsanto field representative. The contractor will notify Monsanto's field representative of any OSHA complaint, compliance inspection or citation.

Receipt of Materials:

All materials brought into this Plant by contractors on "cost plus" contracts will be processed through the Monsanto Receiving and Shipping Department. A receiving report will be made against the purchase order under which the contractor is performing work. The receiving report will validate the invoice for payment at the completion of the job. Accordingly, all material not used on the job will also clear through the Receiving and Shipping Department on leaving the Plant. No payment will be made unless this procedure is followed.

Shipping Papers:

Any Monsanto-owned material or equipment to be taken out of the plant by a contractor must be accompanied by shipping papers to be picked up at the Shipping and Receiving Department enroute to the gate.

To save time, the contractor should make all requests for shipping papers in advance to the Monsanto field representative in charge of the work so that he may initiate a request for shipping papers to be on hand at the Receiving and Shipping Department when they are to be picked up.

Unloading:

It will be necessary for the Contractor to make arrangements to unload or load all material to be used in connection with the job.

Utilities, Tools, and Equipment:

In general, utilities of steam, water and electricity will be furnished by Monsanto. Compressed air will be furnished by the Contractor. However, it will be necessary in all cases to prearrange the use of all utilities with the Monsanto field representative.

There may also be occasions when, say, special dies or gauges owned by Monsanto would be required for which it would be uneconomical to purchase these for one use only. Arrangements can be made in advance for these special items with the Monsanto field representative.

To obtain Monsanto's tools from its toolroom, the Monsanto field representative will obtain a signed requisition to be presented at the toolroom. The location of our toolroom is on the first floor center section of the Monsanto shops building. Contractor will reimburse Monsanto for all tools not returned.

Small tools, valued less than $500 each will be furnished by the Contractor.

Gate Passes:

Contractors carrying their own tools and equipment and other items out of the plant must first obtain a gate pass from the Monsanto field representative. These gate passes in duplicate are presented to the guards at the gate when leaving.

Contractor agrees and shall cause each of his employees to agree that Company shall have the right to search any of Contractor's equipment, the persons of Contractor's employees and the content of any boxes or packages of Contractor or his employees upon entering and leaving Company's premises.

Gates for Entering and Leaving:

In order not to interrupt Company traffic and other business, gates will be designated by the Maintenance zone coordinator or Projects supervisor to be used for entering and leaving. Also, routes to be used through the plant will be explained.

A clock alley provided by Monsanto is to be used by the employees of those contractors who normally work in the plant on a continuing basis.

The plant main gate is not to be used without specific permission.

Work Delays:

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Limited work delays may be expected. These delays will generally be for permits, fires, spills, or inspections. It will be the Contractor's responsibility to minimize these delays by keeping the Monsanto representative informed of the future job requirements or problems.

Sanitary:

Drinking water, trash cans, change rooms, and rest room facilities will be provided by the Contractor, keeping up the practice of good housekeeping.

There will be instances involving small work forces when Monsanto facilities could be used when arrangements have been made in advance.

Eating Facilities:

Contractor is responsible for providing eating facilities for his personnel. Monsanto cafeteria is not to be used by contractor personnel.

Monsanto Supervision:

All work performed by contractors will be coordinated by a Monsanto representative.

Cost:

A. Invoices: Invoices will be submitted to Monsanto Accounting Department.

B. Time Sheets: On cost-plus contracts, following Monsanto's approval of men and equipment to be used on a job, time sheets will be submitted in duplicate daily to the Maintenance representative. The original copy will be signed by the Contractor's representative and the Monsanto representative, and will be retained by the Monsanto representative. A carbon copy will be retained by the Contractor and submitted with his invoice at the time of billing.

   Equipment and Tool Rental Sheets, and Extras will be handled in the same manner, and presented not later than the morning of the next working day.

C. Change of Scope: Any changes of original scope including any extras, will be verified in writing by Contractor and Monsanto and filed with the Monsanto Purchasing Department and other interested parties.