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Shell Oil Company
Interoffice Memorandum

APRIL 15, 1980

PLAINTIFF'S EXHIBIT

SH-1280

FROM: BRYNN F. AURELIUS, ATTORNEY
ENVIRONMENT AND LABOR DEPARTMENT
HEAD OFFICE LEGAL

TO: A. J. GONZALEZ, MANAGER
HS&E SUPPORT

SUBJECT: MEDICAL SURVEILLANCE FOR ASBESTOS WORKERS

Pursuant to your request I have reviewed your most recent draft Shell policy. My conclusions are the same as expressed in my memo of December 10, 1979 which reviewed an earlier draft.

I might note that since then OSHA seems to have recognized the problem of requiring medical surveillance for employees who are only subject to exposure to carcinogenic substances on an intermittent basis. See OSHA's generic carcinogen regulations at 45 FR 5231, 5291. There OSHA refers with approval to how the coke oven emission standard dealt with this problem. In the latter standard OSHA required that temporary employees and employees performing certain repair work in regulated areas would have to be exposed for at least 30 days per year for the medical surveillance requirements to apply. See 41 FR 46777-79. There is a similar provision in the lead standard for employees whose exposure exceeds the action level for more than 30 days per year. See 43 FR 52995.

In short while some might argue that if OSHA had intended to give some consideration to the intermittent exposure problem for asbestos it would have done so explicitly as it did for coke oven emissions and lead, I would attribute OSHA's silence to the fact that the basic issue was probably not well enough understood to address in 1972 when the standard was first promulgated. Of course if you feel you need absolute certainty as to OSHA's intentions with respect to intermittent exposure to asbestos you might consider petitioning for an amendment to the standard based on OSHA's expressed policy in the other standards noted above.

If you have any questions on the above, please just give me a call.

Brynn F. Aurelius

BFA:pmcf

cc: C. E. Ross ✓

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