

GEORGIA-PACIFIC

INTERDEPARTMENTAL COMMUNICATION

TO: Mr. E. B. Hollingsworth

FROM: J. D. Rauch

SUBJECT: OSHA INSPECTION - AKRON, N. Y. PLANT

DATE: June 18, 1973

LOCATION: Wilmington

LOCATION: Akron

PLAINTIFF'S EXHIBIT

GP-1907

On Friday, June 15, 1973 we received our "Notification of Proposed Penalty" from the U. S. Department of Labor - Occupational Safety and Health Administration, (OSHA), regarding three "Serious Violations" and seven "Other Violations." The three serious violations each carry a proposed penalty of \$800.00 each and four of the seven other violations carry a proposed penalty of \$90.00 each, making a total penalty for all violations of \$2,760.00.

A Xerox copy of this document was mailed to you on 6/15/73. Additional copies were mailed at the same time to Messrs: G. E. Wilson, John DiLorenzo, George Turner. It would appear to me that the first order of business regarding this matter is our decision whether to pay the assessment or whether we should contest the citations. We have until July 2, 1973 to advise OSHA if we intend to contest the citations. Otherwise we should issue a check in the amount of \$2,760.00. The OSHA requirements on this matter are as follows:

"The payment of penalties is to be made by certified check or money order, payable to the order of "Occupational Safety and Health-Labor." Remit to the Area Director.

YOU ARE FURTHER NOTIFIED that the aforesaid Citation(s), this Notification, and the proposed assessment shall be deemed to be the final order of the Occupational Safety and Health Review Commission and not subject to review by any court of law unless, within 15 working days from the date of receipt of this notice you notify the official named below in writing that you intend to contest the Citation(s) of this Notification of Proposed Penalty before the Review Commission. The Review Commission is an independent quasi-judicial agency with authority to issue decisions regarding citations and proposed penalties."

In order to assist in a decision on this matter I will go over each violation, the proposed penalty, and my thoughts regarding each of them.

1. SERIOUS VIOLATIONS

<u>Citation Number 1</u>		
<u>Standard or regulation allegedly violated</u>	<u>Description of alleged violation</u>	<u>Proposed Penalty</u>
29 CFR 1910.93a (b) Page 22142	Failure of the employer to maintain employee exposure to airborne concentrations of asbestos fibers below acceptable levels:	\$800.00
	1) Concentrations below 5 fibers, longer than 5 microns, per CC, based on an 8 hour Time Weighted Average,	
	2) Concentrations, at any time, below 10 fibers, longer than 5 microns, per CC.	

SGP 0006864

Citation Number 2

<u>Standard or regulation allegedly violated</u>	<u>Description of alleged violation</u>	<u>Proposed Penalty</u>
29 CFR 1910.93a (d) (2) Page 22143	Failure of the employer to provide, and for the employees to use, U.S. Bureau of Mines approved respirators to prevent inhalation of airborne asbestos dust fibers (within the dry mixing and packout area).	\$800.00 <i>same as #3</i>

Citation Number 3

<u>Standard or regulation allegedly violated</u>	<u>Description of alleged violations</u>	<u>Proposed Penalty</u>
29 CFR 1910.93a (d)(2)(iv) Page 22143	Failure of employer to establish a respiratory program throughout the dry mixing area in accordance with the American National Standard Practice for Respiratory Protection Z38.2-1969, for employees who are exposed to excessive asbestos dust concentrations.	\$800.00 <i>Employee advised 6/18/73 Respirator effective 6/25/73. Only to allow all questions to be answered and all employees to be supplied before dropping action taken (VCR)</i>

In order to abate these three serious violations we must first, pay the proposed penalty or advise OSHA that we intend to contest the citations. If contested we would then have to appear before the Review Commission and enter our reasons and evidence why we do not think we should be fined. At this time we do not possess such evidence. All we have in the test results from the New York State tests which were unfavorable and the tests results from Union Carbide that were run 1/18/73. While these tests results are more favorable to us, they point out areas of high asbestos dust concentration that have not been monitored or tested by OSHA or New York State. Introduction of the Union Carbide Report could possibly do more harm than good.

If we do not contest the OSHA Report we must do the following:

1. Immediate Temporary Administrative Controls

Initiate immediate temporary administrative controls to prevent employee exposure to excessive asbestos dust concentrations by July 1, 1973. A Compliance Officer will determine if these temporary controls are preventing employee exposure.

- (1) Provide U.S. Bureau of Mines approved respirators for all employees working within the joint compound dry mixing and pack out areas of the main plant. Continue the use of respirators until the installation of permanent engineering controls.
- (2) Establish a complete respirator program in accordance with the provisions of the American National Standard Practices for Respiratory Protection Z38.2-1969.
- (3) Establish a program for maintaining the joint compound dry mixing and pack out areas of the main plant in a clean, orderly and sanitary condition to prevent asbestos dust contamination of the air. This program will include utilizing sealed impermeable bags for the storage of waste asbestos.

- (4) Provide employees with protective clothing that can be maintained in a sanitary and reliable condition from becoming contaminated with asbestos. In addition, provide employees with individual clothes lockers to prevent their personal clothing from becoming contaminated with asbestos dust.
- (5) Establish a personal monitoring program to determine, at six month intervals, the concentrations of asbestos dust. *Done 6-18-73 M*
- (6) Post asbestos "Caution" signs at all approaches to the work area to prevent unprotected persons from entering. *Done 6-18-73 M*
- (7) Affix asbestos "Caution" labels on all raw materials, mixtures, scrap, waste, debris and other products containing asbestos to prevent exposure to asbestos dust.

II. Permanent Engineering and Administrative Controls

- (1) By July 27, 1973, submit a plan for approval to the U.S. Department of Labor, Occupational Safety and Health Administration, 203 Midtown Plaza, 700 E. Water Street, Syracuse, New York 13210, Mr. Chester C. Whiteside, Area Director, showing a timetable for the installation of engineering controls to prevent employee exposure to asbestos dust concentrations above allowable limits.
- (2) Incorporate items (3) through (7) (listed as temporary administrative controls in Part I) as permanent administrative controls to prevent employee asbestos dust exposure.

II. OTHER VIOLATIONS

<u>Standard or regulation allegedly violated</u>	<u>Citation Number 1</u>	<u>Description of alleged violation</u>	<u>Proposed Penalty</u>
29 CFR 1910.93a (d)(3) Page 22143		Failure of the employer to provide and require use of special clothing, such as coveralls or similar whole body coverings, gloves, and foot coverings to prevent skin contact with asbestos fibers, of employees within the dry mix and packout area.	\$ 90.00

In order to abate this violation, according to OSHA we must:

"Provide employees with protective clothing that can be maintained in a sanitary and reliable condition from becoming contaminated with asbestos. In addition, provide employees with individual clothes lockers to prevent their personal clothing from becoming contaminated with asbestos dust."

This would be a very great expense to our operation. As it has been explained to me, each employee would require head to toe covering. This would be so uncomfortable in the weather that keeping employees on the job would be nearly impossible. They all complain now that the face masks we require them to wear are too hot.

The soiled clothing would have to be gathered in marked plastic bags and cleaned in laundry that has special equipment to wash asbestos contaminated materials. We could purchase and provide special throw away clothing that could be disposed of at the end of each shift. We have not investigated the cost of either of these solutions, but I have no doubt at all that we would find the additional costs very high.

Citation Number 2

<u>Standard or regulation allegedly violated</u>	<u>Description of alleged violation</u>	<u>Proposed Penalty</u>
29 CFR 1910.93a (d)(4) Page 22143	Failure of the employer to provide change rooms, two separate clothes lockers for work and street clothes, and the laundering and handling of work clothes for all employees exposed to airborne concentrations of asbestos fibers in excess of prescribed limits, within the joint compound mixing and packout area.	\$ 90.00

In order to abate this violation, according to OSHA we must follow the provisions as outlined in number 1 above. As explained to me, we must provide two separate change rooms and two separate clothes lockers. This is to prevent contamination of street clothes from asbestos that would be in work clothes change area. Also the street clothes change area must have an outside entrance so the employee does not have to pass through the asbestos work area in his street clothes.

At this time I do not know where we could place such a change area. The wash and rest room facility required would make placement of such a change room almost impossible to install under existing conditions. This would almost require an additional building. We have not investigated the cost of this requirement, but feel that the cost would be prohibitive.

Citation Number 3

<u>Standard or regulation allegedly violated</u>	<u>Description of alleged violation</u>	<u>Proposed Penalty</u>
29 CFR 1910.93a (f)(2)(ii) Page 22143	Failure of the employer to establish a personal monitoring program at intervals not greater than 6 months within the joint compound mixing and packout areas where asbestos exposure may reasonably be foreseen to exceed prescribed limits.	\$ None <i>Done 6-18-75 AK</i>

In order to abate this violation, according to OSHA, we must:

"Establish a personal monitoring program to determine, at six month intervals, the concentrations of asbestos dust."

This can be accomplished without much problems. We have located an individual who can and will run the required monitoring tests. However this would require an expenditure of about \$400.00 every six months. If we were to purchase the equipment for self testing we would have to invest about \$1,500. in equipment. And about \$150. every six months to have all test filters analyzed. The equipment outlay of \$1,500. would be on a one time basis. We have only to decide which way to go on this for total OSHA abatement of this violation. The Union Carbide tests were run over 6 months ago and cannot be counted as a required test.

Citation Number 4

<u>Standard or regulation allegedly violated</u>	<u>Description of alleged violation</u>	<u>Proposed Penalty</u>
29 CFR 1910.93a (g)(1)(i) Page 22143	Failure of employer to post "Caution" signs at all approaches to the joint compound mixing and packout area where airborne concentrations of asbestos fibers may be in excess of prescribed limits.	\$ None <i>Done 6/18/73</i> <i>27</i>

In order to abate this violation, according to OSHA, we must:

"Post asbestos "Caution" signs at all approaches to the work area to prevent unprotected persons from entering."

We now have these signs at the Plant. They were ordered in April and arrived late in May. We have yet to install the signs. They read as follows:

"Asbestos Dust Hazard. Avoid Breathing Dust. Wear Protective Equipment. Do not remain in area unless your work requires it. Breathing asbestos dust may be hazardous to your health."

This leads us to believe that all employees entering the area must have complete protection, such as face masks, protective clothing, etc. So we have not installed the warning signs until we are ready to provide this total protection to the employees in the department, maintenance employees, supervisors, quality control employees, and any other possible visitors including OSHA inspectors. If you think we should install these signs, please advise and this can be accomplished within an hours time. These signs are bright yellow and are 14" x 20" with up to 1" lettering. So they are quite visible.

Citation Number 5

<u>Standard or regulation allegedly violated</u>	<u>Description of alleged violation</u>	<u>Proposed Penalty</u>
29 CFR 1910.93a (g)(2)(i) Page 22144	Failure of the employer to affix a "Caution" label to all raw materials mixtures, scrap, waste, debris and other products containing asbestos fibers to prevent exposure to concentrations above prescribed limits during any reasonably foreseeable use.	\$ None

In order to abate this violation, according to OSHA, we must:

"Affix asbestos "Caution" labels on all raw materials, mixtures, scrap, waste, debris and other products containing asbestos to prevent exposure to asbestos dust."

We now have a stamp for our finished product bags and all future bags for finished product will have the required caution label factory printed. However, this could be read to include Ready Mix as it reads "all raw materials, mixtures, etc." If this is the case, we have made no preparations to so label one and five gallon pails or one gallon cartons.

Citation Number 6

Standard or regulation
allegedly violated
29 CFR 1910.93a (h)(1)
Page 22144

Description of alleged violation
Failure of the employer to maintain
all external surfaces within the
joint compound, dry mixing and
packout area, free of accumulations
of asbestos fibers (dry sweeping is
to be discouraged, utilize vacuum
sweeping methods).

Proposed Penalty
\$ 90.00

In order to abate this violation, according to OSHA, we must:

"Establish a program for maintaining the joint compound dry mixing and pack out areas of the main plant in a clean, orderly and sanitary condition to prevent asbestos dust contamination of the air. This program will include utilizing sealed impermeable bags for the storage of waste asbestos."

This would be a nearly impossible task until total dust control is accomplished. Keeping "all external surfaces within the Joint Compound, dry mixing and pack out area, free of accumulations of asbestos fibers", would mean all walls, support beams, tank tops, etc. free of dust. We could clean this all up, but could not prevent the reoccurrence of dust build-up until the dust is under control. We have inquired into power sweepers and have found one that has asbestos control features. This model also has a sweeper hose attachment so that hand as well as floor sweeping could be accomplished. This would cost about \$8,000.

Citation Number 7

Standard or regulation
allegedly violated
29 CFR 1910.93a (h)(2)
Page 22144

Description of alleged violation
Failure of the employer to collect
and dispose of all asbestos waste,
scrap, debris, bags, containers,
contaminated clothing in sealed
impermeable bags to prevent any
forseeable airborne concentrations
of asbestos fibers above the allow-
able limit.

Proposed Penalty
\$ 90.00

In order to abate this violation, according to OSHA, we must:

"Establish a program for maintaining the joint compound dry mixing and pack out areas of the main plant in a clean, orderly and sanitary condition to prevent asbestos dust contamination of the air. This program will include utilizing sealed impermeable bags for the storage of waste asbestos. Affix asbestos "Caution" labels on all materials, mixtures, scrap, waste, debris and other products containing asbestos to prevent exposure to asbestos dust."

We have no ready solution to this problem. We can collect the empty paper in plastic bags and dispose of them underground at the mine. But, other methods such as floor sweepings and dust collector waste would be of such weight that this method would not be possible. We have a question on an incinerator that would burn on empty asbestos bags. This would cost about \$8,000.00 plus installation. We need some ideas on this matter.

SGP 0006869

This covers all of the OSHA violations regarding our use of asbestos. In addition from the "Multi-Step Abatement" many of these controls have to be completed and our total plans have to be submitted by July 27, 1973. This is not valid.

I think our future operations depend on how the reply to these citations is handled. I would suggest first that the Portland Engineering Office send someone to Akron to make a complete study of the problem and make their recommendations. Then I would request that some expert legal assistance be used to reply to OSHA. It would appear that an improper reply could result in a very high violation penalty or plant closure. As stated in the OSHA citation,

" Initiate immediate temporary administrative controls to prevent employee exposure to excessive asbestos dust concentrations by July 1, 1973. A Compliance Officer will determine if these temporary controls are preventing employee exposure."

On this basis I would expect another OSHA inspection on or about 7-1-73. Please advise what our next step should be.



J. D. R.

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att.