

TOG. ~~EL~~: ~~MMG~~: ~~RP~~
XF: Groundwater
Phase III

TO: Distribution

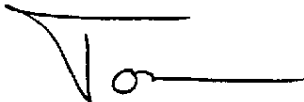
FROM: T. G. Grumbles
DATE: January 27, 1987

Interoffice
Communication

SUBJ: GROUNDWATER CONTRACT

VISTA

Attached is the final (finally) copy of the Phase III contract with IT.



Thomas G. Grumbles

ajo/10

Attachment

DISTRIBUTION:

Jack Neeld
Mike Hayes
Gary Wojnowski
Ron Truelove
Bill McClain

VVV 000009253

~~TO:~~ ~~FROM:~~ ~~DATE:~~ ~~SUBJ:~~
RE: Ajo

TO: Distribution

FROM: T. G. Grumbles
DATE: January 26, 1987

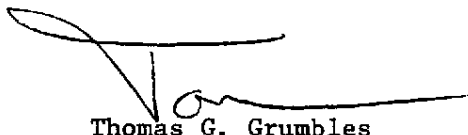
Interoffice
Communication

SUBJ: PVC LABELING

VISTA

As a follow up to my memo of January 6 regarding PVC labeling, I would like to have a meeting Wednesday, February 4, 1:30-3:00 in Conference Room 2A to discuss the issues involving PVC labeling.

Please let me know if you cannot attend.



Thomas G. Grumbles

ajo/10

DISTRIBUTION:

H. R. Flammer
R. E. Swantkowski
E. L. Kieschnick
J. F. Nelson
D. F. Harman
S. K. Saborsky
W. L. McClain

VVV 000009254

Thomas G. Grumbles

VISTA

Thomas G. Grumbles

VISTA

To Gary Draper

Date 1/24

OSHA has recently been inspecting records of accidents (OSHA Form 200's) and assessing large fines for record keeping violations. (i.e. 240,000 for Shell Oil in Deer Park)

OSHA is applying strict interpretations of the record keeping guidelines to determine compliance, and most facilities probably would be found with some violations. Mansfield is in the area of the program described, and has the potential to be visited.

To

Date

This could be a retained liability issue if we get fined!

TGG

TGG: ~~AK~~ ~~MMG~~ RF
MF: Mansfield 132

VVV 000009255

it, making one director the coordinator and supervisor of the 10 regional administrators, while creating another position with responsibility for field support, including field directives and interpretations, White told BNA. Any changes made will be contingent on various negotiations inside and outside the agency, he added.

Asked about reorganization plans, Carey said, "It's too premature to even comment on anything."

Carey said the role of director of field operations "is a tough job, no doubt about it."

"I look at the position as a challenge and I look forward to meeting that challenge," he added. "The goal I have is to best represent the field's interests and work with the assistant secretary [Assistant Labor Secretary John A. Pendergrass] to see that his programs are implemented."

Carey will oversee the agency's compliance officers and its safety and health inspections. OSHA's field staff consists of 1,700 employees in 10 regional and 72 area offices. In fiscal 1986, the field operations staff conducted more than 64,000 inspections, according to OSHA.

Carey, 38, is a certified industrial hygienist with more than 13 years' experience at OSHA. He became deputy director of field operations in August 1985. He holds a bachelor's degree in chemistry from Allentown College and a master's degree in occupational health from Temple University.

Right-To-Know

COURT RULES AGENCY INTERPRETIVE NOTICE CANNOT BE ATTACKED BY NON-AFFECTED PARTIES

An Occupational Safety and Health Administration notice of interpretation that makes a distinction between mild and severe hydrotreating of lubricating oils, for the purpose of enforcing the hazard communication standard, may not be challenged by oil manufacturers that do not utilize the hydrotreatment process, the U.S. Court of Appeals for the District of Columbia Circuit ruled Dec. 19.

This decision in *Calumet Industries Inc. v. Brock* (No. 86-1203) dismissed a suit by the lubricating oil manufacturers on the ground that the companies lacked standing — the legal right to bring their lawsuit.

According to the appeals court, to allow lubricating oil manufacturers that make vacuum distillate and acid-treated oils to contest a notice that does not affect them would allow competing manufacturers to use the Occupational Safety and Health Act for the impermissible purpose of protecting their "market position."

In order to obtain judicial review of the interpretive notice, the oil manufacturers must show that the interest they seek to protect falls within the zone of interests protected by the Occupational Safety and Health Act, the court ruled. Review of the OSH Act led the court to conclude that the statute protects worker safety. After reviewing the oil manufacturers' arguments, the court held that the companies were seeking to protect "their competitive interests," and not worker safety.

The opinion written by Circuit Judge Laurence H. Silberman, who was joined by Circuit Judge Stephen F. Williams, and Senior District Judge William J. Jameson, sitting by designation, will be published in a future Decisions issue.

Chemical Labeling

Under the hazard communication standard, all chemicals manufactured or imported must be assessed for hazards and appropriately labeled to reflect their hazard potential. To

help manufacturers determine if a chemical is carcinogenic, the standard lists several authoritative sources for carcinogenicity information, including the International Agency for Research on Cancer (IARC).

A 1984 monograph by IARC concluded that all vacuum-distilled and acid-treated lubricating oils are carcinogenic. That monograph also stated that mildly solvent-refined and mildly hydrotreated oils are carcinogenic. However, the monograph concluded that severely solvent-refined oil was not carcinogenic and that the evidence was inconclusive as to the carcinogenicity of severely hydrotreated oil.

Failure of the monograph to define the terms "mild" and "severe" caused OSHA to issue the notice of interpretation, which defined mildly hydrotreated oil as oil "processed at a pressure of 800 pounds per square inch (psi) or less, at temperatures up to 800° F." The agency did not define mild and severe solvent-refining (Current Report, Jan. 2, 1986, p. 843).

Suit then was brought by Calumet Industries, Macmillan Ring-Free Oil Co., and Seaview Lubricants, all of which make either vacuum-distillate or acid-treated lubricating oils, seeking to contest that interpretative notice (Current Report, Jan. 30, 1986, p. 918).

Recordkeeping

NOTICE TO OSHA REGION, AREA STAFF — DESCRIBES PILOT RECORDKEEPING AUDIT

A pilot audit of employee injury and illness records at a random sampling of 200 manufacturing establishments in Massachusetts and Missouri will begin Jan. 12. The program, which was designed by the Bureau of Labor Statistics, will be carried out by inspectors from the Occupational Safety and Health Administration.

The goal of the pilot study is to serve as a foundation for a larger, long-term auditing project to assist BLS and OSHA in assessing the accuracy and comprehensiveness of establishments' injury and illness records, and to eventually improve such records, the safety and health agency announced in a Dec. 22, 1986, directive to its regional and area staff.

The directive, which was previewed in draft form at a November meeting of two BLS advisory panels (Current Report, Nov. 26, 1986, p. 653), will be published in a future Reference File supplement.

VVV 000009256

CORRECTION

An article on p. 827 of the Dec. 24, 1986, Current Report incorrectly stated that a Manville Corp. trust fund to pay asbestos disease victims "would be funded in part by \$615 billion in Consumption Data Value from Manville's insurance policies." The correct figure is \$615 million.

The article also erroneously stated, "Another \$150 million in Consumption Data Value added to the trust would consist of \$800 million in cash and \$70 million in receivables from Manville." The article should have said "\$80 million" rather than "\$800 million."

Eight OSHA compliance officers in the two states have received additional training from BLS and will conduct inspections at businesses selected by the bureau, according to Joanne L. Goodell, manager of the project at OSHA.

Citations May Result

Among the documents to be examined are daily injury and illness reports, employee medical records, workers' compensation reports, company and insurers' accident reports, absentee reports, and laboratory test results maintained during 1986. Citations will be issued for recordkeeping violations under 29 CFR 1904, and detection of above-average lost-workday injury rates may result in subsequent full safety inspections, according to the directive.

OSHA's goal is to complete the inspections within six months, at which time the data collected will be turned over to BLS for evaluation, Goodell told BNA. The bureau has indicated its desire to complete the recordkeeping assessment "within several months" after the safety and health agency completes its work, she added.

The audit procedures followed will be similar to those followed in generally scheduled inspections except that the pilot study will entail more detailed scrutiny of records and no "walkaround inspections," according to Goodell and agency documents.

Compliance officers will "reconstruct" a log of work-related injuries and illnesses and compare the reconstruction with the employer's existing log to assess compatibility. Compliance officers will attempt to reconcile inconsistencies with employers, if possible.

In addition, employers and employees responsible for recordkeeping will be interviewed to determine their understanding of agency requirements, and a random sample of other employees, as well as their representatives, will be interviewed to determine if injuries or illnesses were not recorded.

Medical Records Access

Recognizing that concern exists about the confidentiality of employee medical records, OSHA has addressed the question of access in detail in its field directive, providing notice to employers that OSHA Administrator John A. Pendergrass approved a "formal written access order" requiring that "personally identifiable" portions of records be available to OSHA for examination and possible copying.

However, agency access to personally identifiable medical information is limited to the on-site compliance officer, a principal investigator in Kansas City, and two compliance officers, the project manager, and a technical expert in Washington.

Information subsequently submitted to BLS for appraisal will not include medical records information that includes employee identities, the directive states.

All inquiries regarding access to medical records as outlined in 29 CFR 1913.10 are directed to OSHA's medical records officer, Ralph Yodaiken, M.D., at the national office.

Enforcement

OSHA CITES TEXAS SHELL OIL COMPLEX FOR ALLEGED WILLFUL RECORDKEEPING VIOLATIONS

A Shell Oil complex near Deer Park, Texas, was cited Dec. 23, 1986, by the Occupational Safety and Health Administration for 61 alleged instances of failing intentionally to record employee injuries.

A penalty of \$4,000 for each instance was proposed by the safety and health agency.

The company also was cited for three alleged serious violations of respirator, hazard information, and shower and wash facility requirements carrying a proposed penalty of \$960, for a total of \$244,960.

The citations resulted from an inspection that began June 16, 1986, at Shell's hydrogen sulfide manufacturing units at Deer Park as part of OSHA's chemical industry special emphasis program (Current Report, Oct. 24, 1985, p. 421). According to the agency, the alleged violations involved several types of injuries, including burns; back, cervical, groin, and shoulder strain; contusions; and inhalation of toxic substances.

Contending that it does record and analyze all work-related injuries and illnesses, Shell stated Dec. 23 that it denies and will "vigorously challenge" OSHA's allegations. The alleged violations, the company said, "represent a difference in interpretation of what is required to be drawn from the Shell data and reported on to the Department of Labor."

Shell said that this is the first challenge of the company's recordkeeping procedures after 32 previous OSHA inspections spanning 10 years.

The action is the latest in a series of citations against major companies for alleged violations of OSHA recordkeeping requirements. In December 1986, the agency cited Monsanto Corp. for 11 instances of alleged violations at its Nitro, W.Va., plant, and USX Corp. for 98 instances of alleged violations at its Clairton, Pa., coke works (Current Report, Dec. 17, 1986, p. 796).

The citations are part of an effort by the agency to emphasize the importance of keeping accurate injury and illness records in response to concerns about its policy of exempting some workplaces from comprehensive inspections based on inspections of firms' records (Current Report, Nov. 12, 1986, p. 614).

VVV 000009257

Variances

FLORIDA CHIMNEY CONSTRUCTOR SEEKS ALTERNATE PERSONNEL HOISTING METHODS

Comment was sought Jan. 2 by the Occupational Safety and Health Administration on a petition by Zurn Industries Inc., Tampa, Fla., for variance from provisions of OSHA standards for boatswain's chairs and personnel hoists (52 FR 184).

Zurn, a builder of chimneys, towers, and other tall concrete and steel structures, requested that it be allowed to use alternate methods of transporting employees to and from elevated work platforms.

The company argued that compliance with current OSHA standards poses hazards to workers engaged in the construction of tall, narrow structures that may taper at the top.

Employers are required under 29 CFR 1926.451(i)(5) to provide and enforce the use of a block and falls with a boatswain's chair to provide a suspended employee with a method to control ascent, descent, and stopping locations. Additional provisions under paragraph (c) of the standard require that employers anchor hoist towers to the structure being built, provide electrically interlocking entrance doors or gates, provide emergency stop switches, and use a minimum of two wire ropes for drum-type hoists.

The notice of application for variance is published in the Full Text section of this Current Report.

Rope-Guided Hoist System Proposed

The company contended that erecting and bracing a hoist tower inside chimneys and similar structures is hazardous

PGD: ~~SL~~: MMG: RF

XF: LPA

Thomas G. Grumbles

VISTA

To Pat Quinlan

Date 1/24

Recent court decision
on the carcinogenic
oil issue.

Who else should see
this?

Please distribute.

TGS

VVV 000009258

it, making one director the coordinator and supervisor of the 10 regional administrators, while creating another position with responsibility for field support, including field directives and interpretations, White told BNA. Any changes made will be contingent on various negotiations inside and outside the agency, he added.

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VVV 000009259

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