Plaintiff's Exhibit
S-UC-159

UNION CARBIDE

INTERNAL CORRESPONDENCE

MINING AND METALS DIVISION • P. O. BOX 579, NIAGARA FALLS, NEW YORK 14302

To (Name) Messrs. R. E. Byrne, Jr.
Division G. L. Dickson
Location R. F. X. Fusaro
B. L. Ingalls
E. J. Kleber
J. L. Myers
Copy to T. P. Norris
W. C. Thurber
J. E. Walsh
File ✓

Date November 14, 1973

Originating Dept. "Calidria" Asbestos

Answering letter date

Subject Revision of Emergency Temporary Standard on Certain Carcinogens

Over the past several months we have had a number of inquiries that asked the question, "Is asbestos a carcinogen?" Further probing brought out the fact that the question concerned a recent OSHA regulation (copy attached) where carcinogen is defined as any of fourteen specific substances included in a given list or any mixture containing one percent or more of these substances by weight. The fourteen substances are organic compounds and do not include asbestos.

Obviously, asbestos is not a carcinogen under this definition or under this regulation. You may state this to any customer who inquires. In some cases, a written confirmation is requested. A form sheet to provide such a confirmation is attached. You may use this as appropriate. Do not change any wording without prior approval of our Law Department.

As you know, the answer to the same question in the broad sense is not as clear-cut. Medical opinion varies across the broad range from:

1. Asbestos is a very dangerous carcinogen to

2. Under certain exposure conditions certain types of asbestos may be carcinogenic.

You have an obligation not to mislead or misrepresent the true situation to the customer. Use your best judgment as to how detailed an answer should be provided.

H. B. Rhodes

H. B. Rhodes

HBR:cjb
Attachments

PLAINTIFF'S EXHIBIT WV-08303

PLAINTIFF'S EXHIBIT 43922:00

A20869

Dear Mr. _____:

This is in reply to your letter of _____.

Our asbestos does not contain any of the materials listed on page 20074 of Federal Register, Vol. 38, No. 144 - Friday, July 27, 1973 nor any derivatives of those materials nor any potential for degrading to form one of the listed materials or their derivatives.

Please contact _____ if you have any questions.

Very truly yours,

_____

A20870

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Revision of Emergency Temporary Standard on Certain Carcinogens

On May 3, 1973, an emergency temporary standard on certain carcinogens was promulgated under section 6(c) of the Williams-Steiger Occupational Safety and Health Act of 1970 (38 FR 10929). The standard is based on the findings that the substances listed in the standard are harmful, that exposure to any of the substances poses a grave danger, that employees are being exposed to them, and that the emergency temporary standard is necessary to protect the employees from grave danger.

Since the publication of the standard, numerous comments, objections, and recommendations have been received. A whole range of issues has thus been raised. The finding that all the listed substances are harmful to humans has been questioned, as well as the wisdom of regulating on a common basis fourteen substances of varying properties and uses, and the necessity of all the requirements of the standard.

The emergency temporary standard has been reexamined in the light of the new comments and arguments. And it has been determined that certain changes in the standard are necessary to tailor the requirements for different types of workplaces and work operations, and to clarify the standard.

Therefore, pursuant to section 6(c) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and Secretary of Labor's Order No. 12-71 (36 FR 8754), 29 CFR 1910.93c is revised to read as set forth below.

The principal changes made by the revision are:

(1) The standard as revised deals more particularly with different work operations, such as isolated environment operations, closed system operations, and open vessel operations;

(2) The particularization of the standard has permitted the specification of different control measures necessary to protect employees engaged in the different categories of operations. Compare paragraph (c)(1) with paragraph (c)(2); and,

(3) The legend on the warning sign and label is changed to apprise employees more accurately of the hazards to which they are exposed. The original findings concerning the toxicity of all the fourteen substances listed in the standard, the grave danger resulting from exposure to any of them, and the exposure of employees to them, are reconfirmed. And the standard as revised is considered necessary and sufficient to protect employees from the grave danger from exposure to any of the substances.

§ 1910.93c Carcinogens.

(a) *Scope and application.* This section applies to any workplace in which a carcinogen is manufactured, processed, used, repackaged, released, handled or stored, but shall not apply to any workplace involving transshipment of carcinogens in sealed containers.

(b) *Definitions.* (1) "Carcinogen" means any of the substances listed below, or any mixture containing 1 percent or more of such substances, by weight.

Compound No.	Chemicals	Chemical Abstract Registry No.
1	2-Acetylaminofluorene	53-96-3
2	4-Aminodiphenyl	92-67-1
3	Benzidine and its salts	92-87-5
4	3,3'-Dichlorobenzidine (and its salts)	91-94-1
5	Dimethylaminoazobenzene	60-11-7
6	alpha-Naphthylamine	134-32-7
7	beta-Naphthylamine	91-59-8
8	4-Nitrobiphenyl	92-93-3
9	N-Nitrosodimethylamine	62-75-9
10	beta-Propiolactone	57-57-8
11	bis-Chloromethyl ether	542-88-1
12	Methyl Chloromethyl ether	107-30-2
13	4,4'-Methylene(bis)2-chloroaniline	101-14-4
14	Ethyleneamine	151-56-4

(2) "Controlled area" means an area to which access or egress by employees is required to be restricted and controlled by the employer under this section.

(3) "Decontamination" means the removal or inactivation of a carcinogen.

(4) "Isolated environment" means a fully enclosed structure, which is impervious to the passage of a carcinogen, which is not the vessel of containment of the carcinogen, and which prevents the dispersion of a carcinogen into areas or atmospheres where employees would be exposed to contact with that carcinogen, even if leakage or spillage from the vessel of containment occurs.

(5) "Closed system" mean an operation or equipment involving a carcinogen where the containment precludes, under normal conditions, the exposure by any route of employees to a carcinogen.

(6) "Laboratory type hood" means a device enclosed on three sides, and the top and bottom, ventilated to withdraw air inward and away from the open side, designed and constructed in such a way that an operation involving a carcinogen within the hood does not require the insertion of any portion of any employee's body other than his hands and arms.

(c) *Requirements for areas containing carcinogens.* A controlled area shall be established by the employer where a carcinogen is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved:

(1) *Isolated environment operations.* Where a carcinogen is contained within an isolated environment, such as a "glove box," employees working with such environments shall, upon each exit from the area, be required to wash their hands and arms at the point of exit from the area containing the isolated environment.

(2) *Closed system operations.* Where a carcinogen is stored in sealed containers, or contained in a closed system, such as fully enclosed process or transfer equipment, including pipes, and sample ports or openings are not used while a carcinogen is contained within:

(i) Access to the controlled area shall be restricted to only employees who work in that area.

(ii) Upon entering the controlled area at the first entry of the work day employees shall be provided with and be required to put on and wear clean work clothing, such as smocks, coveralls, or long-sleeved shirt and long pants.

(iii) Such employees shall be required to remove and leave that clothing at the point of exit upon each exit from that area.

(iv) Such employees shall be required to wash hands and face upon each exit from that area, not necessarily at the point of exit, but in the establishment.

(v) Such employees shall be required to shower after last daily exit from that area, not necessarily at the point of exit, but in the establishment.

(3) *Closed system transfer or charging or discharging point operations.* In operations involving "laboratory type hoods," or in locations where a carcinogen is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers with venting to the atmosphere:

(i) Access to the controlled area shall be restricted to only employees who work in that area.

(ii) Continuous local exhaust ventilation shall be maintained to prevent the dispersion of the carcinogen to areas where employees could, without such ventilation, be exposed to the carcinogen.

(iii) Upon entering the controlled area at the first entry of the work day all employees shall be provided with and be required to put on and wear clean work clothing, such as smocks, coveralls or long-sleeved shirts and long pants.

(iv) Employees in the controlled area involved in carcinogen handling operations shall be provided with and be required to wear personal protective equipment adequate to prevent exposure to a carcinogen.

(v) Such employees shall be required to remove and leave that clothing at the point of exit upon each exit from that area.

(vi) Such employees shall be required to wash hands and face upon each exit from that area, not necessarily at the point of exit, but in the establishment.

(vii) Such employees shall be required to shower after last daily exit from that area, not necessarily at the point of exit.

(viii) Employees in the controlled area shall be required to remove and leave all protective equipment at the head site or charging, discharging or transfer point after work at that site or point.

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(4) *Open vessel operations.* Where a carcinogen is contained in a vessel open to the work environment:

(i) Access to the controlled area shall be restricted only to employees who work in the area.

(ii) Continuous local exhaust ventilation shall be maintained at such operation locations sufficient to prevent the dispersion of the carcinogen to areas where employees could, without such ventilation, be exposed to contact with the carcinogen.

(iii) Clean work clothing shall be provided to employees whenever they enter such a controlled area and shall be required to be worn by employees working in the controlled area. Such garments shall include footwear, socks, underwear, outerwear, and head covering.

(iv) Employees working in the controlled area shall be provided with and be required to wear personal protective equipment adequate to prevent exposure to a carcinogen.

(v) Employees working in the controlled area shall be required to remove and leave all work clothing and protective equipment at the point of exit from the controlled area, and shall shower at that point, upon each exit from the controlled area.

(vi) Toilet and drinking facilities may not be used in the controlled area.

(5) *Other Operations.* In operations involving the decontamination of surfaces containing a carcinogen, either as a part of cleanup of leaks or spills, maintenance or repair operations on systems or equipment, or any operation involving work in an area where direct contact with a carcinogen could result without protection, each employee entering an affected area where operations of that type are being performed shall:

(i) Be provided with a clean, full, impervious, pressurized, air-supplied suit;

(ii) Be required to put on the suit before entering the affected area and engaging in such operation;

(iii) Be required to wear the suit in such an area and during the operation;

(iv) Be decontaminated before leaving the area and before removing the suit; and

(v) Be required to shower after removing such suit.

(6) "*Out-of-doors operations.*" In an operation described in paragraphs (c) (1) through (5) of this section that is out-of-doors, rather than being confined in an enclosed structure, general mechanical ventilation is not required.

(d) *General controlled area requirements.* In addition to the controlled area requirements for types of operations listed in paragraph (c) of this section the following requirements apply to all controlled areas.

(1) Each employer shall establish and maintain a list of employees entering a controlled area. The list shall be made available on request to authorized representatives of the Secretary of Labor.

(2) The employer shall provide all work clothing, protective clothing, equipment and wash and shower supplies, including towels, required by this section.

(3) Any required shower rooms shall be provided in accordance with § 1910.141. Shower supplies may be introduced into a shower room only through a noncontaminated area.

(4) No food or beverage shall be permitted within a controlled area.

(5) No smoking or smoking materials or tobacco products shall be allowed within a controlled area.

(6) Appropriate instructions and signs shall be posted to inform employees of the procedures that must be followed in entering and leaving a controlled area.

(7) Any equipment, material, or any other items that are to be taken into or removed from a controlled area shall be taken in or removed from such area in a manner which does not contaminate any employees outside the controlled area.

(8) When only removal of outer clothing or personal protective equipment is required under paragraph (c) of this section at point of exit from a controlled area, an employee must be able, upon exit from the controlled area, to enter the change room, remove outer work garments and equipment and leave them in that room.

(9) When change and shower facilities are required under paragraph (c) of this section at point of exit from a controlled area, they shall be arranged so that upon exit, an employee must be able to enter a separate dirty change room where he can undress completely and leave every item of clothing and equipment. He must then be able to shower in an adjacent room which he can enter through an entrance designed to prevent the escape of carcinogens from the dirty change room to the shower room. Thereafter, he must be able to enter a clean change room where his street clothes are in his locker.

(10) When work area garments or protective clothing and equipment are required under paragraph (c) of this section to be worn in a controlled area, a clean change room must be provided so that before entering the controlled area the employee can change into clean work area garments or protective clothing and equipment in an area not containing contaminated or used work clothing or equipment and without passing through such a contaminated area to enter the controlled area. The clean change room shall have individual storage facilities for storage of street clothes and clean protective clothing and equipment.

(11) Continuous general mechanical exhaust ventilation shall be provided in controlled areas, or other positive means provided, so that air from the controlled area does not flow to non-controlled areas. Local exhaust ventilation may satisfy this requirement. Clean makeup air shall replace air removed.

(e) *Signs and labels.* (1) Entrances to controlled areas shall be posted with legible signs bearing the legend:

CANCER-SUSPECT AGENT
In this area
This agent may be hazardous to your health
AUTHORIZED PERSONNEL ONLY

For isolated environment operations, the sign shall be posted on or near the isolated environment structure.

(2) Equipment, material, and clothing contaminated with a carcinogen shall not be removed from a controlled area, unless it is either decontaminated or sealed in impervious containers bearing the legend:

DANGER
Contaminated with
CANCER-SUSPECT AGENT
This agent may be hazardous to your health

(3) Entrances to every controlled area for operations described in paragraph (c) (5) of this section shall be posted with legible signs bearing the legend:

CANCER-SUSPECT AGENT
EXPOSED IN THIS AREA
This agent may be hazardous to your health
FULL IMPERVIOUS PRESSURIZED AIR-SUPPLIED SUIT REQUIRED AT ALL TIMES
AUTHORIZED PERSONNEL ONLY

(f) *Cleaning.* Controlled areas involving open vessel operations or other operations, as described in paragraph (c) (4) and (5) of this section, shall be cleaned thoroughly not less than once each working day. Employees engaged in the cleaning shall be provided, and shall be required to wear, personal protective equipment adequate to prevent exposure to a carcinogen. Such employees shall be required to wash down carefully before removing protective equipment, and then shower.

(g) *Decontamination.* Decontamination processes shall be established and implemented to remove carcinogens on surfaces of equipment, materials, and the decontamination facility, that are known to be contaminated with a carcinogen.

(h) *Waste disposal.* Waste disposal methods and processes shall be established and implemented which will not permit carcinogens to be introduced into noncontrolled areas.

(i) *Medical surveillance programs.* Each employer subject to this section shall report in writing to the Occupational Safety and Health Administration, Office of Standards, Room 5Ø4, 400 First Street, NW., Washington, D.C. 20210, information as to any kind of medical surveillance program that has been voluntarily instituted by the employer.

(j) *Monitoring.* All employers subject to this section shall report in writing to the same office information as to the type of monitoring system that has been instituted.

(k) *Reporting.* Every employer subject to this section shall report in writing to the Occupational Safety and Health Administration, Office of Standards, the following information:

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(1) The address of each of his controlled areas;

(2) The name and other identifying information as to the particular carcinogens present in each of his controlled areas;

(3) The approximate number of employees entering each of his controlled areas during a representative week of normal operations in the controlled area; and

(4) The manner in which the carcinogens are present in each of his controlled areas, e.g., whether a carcinogen is manufactured, processed, used, repackaged, released, or otherwise handled.

Effective date. This section shall become effective on July 30, 1973.

(Sec. 6, Public Law 91-596, 84 Stat. 1593 (29 U.S.C. 653). Secretary's Order No. 12-71 (36 FR 8754))

Signed at Washington, D.C., this 24th day of July 1973.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.73-15510 Filed 7-26-73;8:45 am]

Title 32A—National Defense, Appendix

CHAPTER X—OFFICE OF OIL AND GAS, DEPARTMENT OF THE INTERIOR

[Oil Import Reg. 1 (Reg. 5), Amdt. 59]

O.I. REG. 1—OIL IMPORT REGULATIONS

Miscellaneous Amendments

Correction

In FR Doc. 73-15193 appearing at page 19318 in the issue for Tuesday, July 24, 1973, in the 9th and 10th lines from the end of Sec. 11(c) the figures "15 percent" should read "25 percent".

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 143—PRECANCELED STAMPS

Philatelic Sales

Regulations dealing with the sale of precanceled stamps have been amended with respect to the quantity of such stamps that may be sold to philatelists and the conditions under which they will be sold. Publication of the following amendments in the FEDERAL REGISTER is effective immediately.

1. Paragraphs (f) (1) and 2nd (g) of § 143.2 *Sale and use of precanceled stamps* are amended to read as follows:

§ 143.2 Sale and use of precanceled stamps.

* * * * *

(f) *Philatelic sales*—(1) *Nonpermit holders.* (i) A maximum of one sheet of stamps of each of the precanceled denominations in sheet form which are available at a post office may be purchased in person or by mail by nonpermit holders for collection purposes only. Complete rolls of precanceled coil stamps may not be broken for philatelic sales. Instructions for selling plate blocks are as provided for in § 257.1(c)(1) of this chapter.

(ii) Precanceled stamps are available at post offices which have them on hand or have a hand stamp for precanceling purposes. It is not necessary to be providing stamps for a permit holder before honoring a philatelic request involving the use of a hand stamp. Hand stamps, once acquired, should be retained by post offices to fill requests from philatelists.

(iii) Each mail order must be accompanied with a stamped, self-addressed envelope for use in returning the stamps to the purchaser.

(2) *Permit holders.* Precancel permit holders may buy any quantity of precanceled stamps for philatelic purposes. Other precanceled stamps may be purchased only for the purpose of paying postage. Unused precanceled stamps may not be sold for philatelic purposes by permit holders.

(g) *Precanceling for collectors.* Postmasters will comply with requests for imprints of a precanceling device on their own stamp stock but not for imprints on blank sheets of paper or on stamps submitted by a collector or other individual. (39 U.S.C. 401)

LOUIS A. COX,
General Counsel.

[FR Doc.73-15451 Filed 7-26-73;8:45 am]

PART 154—CONDITIONS OF DELIVERY

Checks Issued by the Federal Government

Regulations dealing with the delivery of Federal Government checks have been amended to specify the delivery schedules for such checks. Accordingly, paragraph (d) *Checks issued by the Federal Government* of § 154.1 is amended by the addition of subparagraphs (4) and (5) as set forth below. Publication of the amendments in the FEDERAL REGISTER is effective immediately.

§ 154.1 Delivery to persons.

* * * * *

(d) * * *

(4) Treasury checks enclosed in envelopes which do not indicate a date of delivery will be delivered on the first scheduled delivery after receipt.

(5) Treasury checks enclosed in envelopes which indicate a date of delivery will be delivered on that date or the first scheduled delivery after that date. In emergency or other infrequent situations, customers receiving delivery service may request pre-delivery of their mail at the office of delivery, providing withdrawal of the mail does not interfere with the carriers' delivery schedules.

(39 U.S.C. 401)

LOUIS A. COX,
General Counsel.

JUNE 20, 1973.

[FR Doc.73-15452 Filed 7-26-73;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER C—MEDICAL CARE AND EXAMINATIONS

PART 37—SPECIFICATIONS FOR MEDICAL EXAMINATIONS OF UNDERGROUND COAL MINERS

Second Round of Chest Roentgenographic Examinations

On February 12, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 4263) to revise the subpart of Part 37 of Title 42, Code of Federal Regulations, entitled "Chest Roentgenographic Examinations" by setting forth the specifications for giving, reading, classifying, and submitting the second round of chest roentgenograms required to be given to underground coal miners by section 203 of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 843). Specifications for pulmonary function tests were also proposed.

Interested persons were invited to participate in the rule making through the submission of comments and comments were received from the United Mine Workers of America, the Bituminous Coal Operators' Association, a number of hospitals and clinics, physicians, manufacturers of pulmonary function equipment, coal operators, the Pennsylvania Bureau of Occupational Health, and this Department's Bureau of Radiological Health in the Food and Drug Administration. Due consideration has been given to all material presented, with the result that a number of changes have been made in the rules which were proposed.

Both the United Mine Workers of America and the Bituminous Coal Operators' Association, in addition to other commenters, objected to the proposed requirement of the conduct of a pulmonary function test. The Union's objections were grounded upon the lack of comparability between the pulmonary function examinations and any disability criteria for black lung benefits and the fear that adoption of the proposed specifications would stifle future development of more refined pulmonary function tests or their use when they become available. The Bituminous Coal Operators' Association argued that a pulmonary function test, while a tool for measuring lung impairment, is of little value in diagnosing pneumoconiosis for transfer purposes. Both the Union and the Association supported the continuance of these tests in the Institute's National Study of Coal Workers' Pneumoconiosis. In addition, the Institute is presently not in a position to relate the test results to pneumoconiosis and miner transfer. In view of the comments, the requirements of a pulmonary function test (§§ 37.30-37.33) have been deleted. The Institute will continue the conduct of such tests

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