PLAINTIFF'S EXHIBIT

KG-288

Gypsum Association

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TO ALL MEMBERS OF THE BUILDING CODE
AND TECHNICAL COMMITTEES

September 16, 1975

Gentlemen:

The attached copies of pages from the CCH, Inc. "Employment Safety and Health Guide" are forwarded for your information. Please forward them to others in your company who may be concerned. They refer to recent activity about exposure to asbestos fibers.

Yours very truly,

GYPSUM ASSOCIATION

H. B. Carlsen, Secretary
Technical Committee

HBC:ch

Enc.

The OSHA response noted that the AVD system is now being used by field staff, but it has not been in effect long enough to determine whether it is effective. "We do know, however, that after field testing the technique and using model AVD's, we can expect a much improved description of an alleged violation. In addition, we believe that it will enable us to advise the employer and employees more rapidly of the hazardous conditions in the workplace."

Additional information on this and other responses made to recommendations by the House subcommittee appear at ¶ 9865. Other subcommittee recommendations concerned the complexity of OSHA standards, economic feasibility of OSHA requirements, jurisdictional conflicts and the variance procedure.

Background Sought Information on Conklin and Miller

The Health Research Group has asked Secretary of Labor John Dunlop to make public detailed information on the backgrounds of Bert Conklin and Marshall Miller, newly appointed deputy assistant secretaries for occupational safety and health.

The public interest group is seeking information on the education, work experience and any actual or apparent conflicts of interest included on regular Civil Service forms and special reports. "Neither inexperience nor conflicts of interest should be permitted to infect the mandated protections of the Act," the August 18 request said.

The information was sought under the Freedom of Information Act. Conklin and Miller were authorized to run OSHA in the place of former Assistant Secretary John Stender shortly after Dunlop became Secretary of Labor.

Asbestos Subcommittee Drafts Standard for Construction Industry

A draft standard setting a ceiling concentration for employee exposure to asbestos at 10 fibers per cubic centimeter of air over a 15 minute period has been drawn up by the asbestos subgroup of the Standards Advisory Committee on Construction Safety and Health. The Committee set the average maximum exposure of an eight hour day, time weighted average, at two fibers longer than five micrometers per cubic centimeter of air, which is the limit that will apply to general industry beginning on July 1, 1976. The present OSHA standard sets the maximum at five fibers per cc of air.

The subgroup is redrafting § 1910.1001, the general industry standard on asbestos, to adapt it to the particular needs of the construction industry. The draft contains a different measurement for asbestos fibers than is found in the Part 1910 standard. Other provisions in the proposal apply to particular tools, products and operations; spraying, demolition or removal; loading, unloading and storing asbestos cargo, and production operations. The draft standard requires use of personal protective equipment, housekeeping, waste disposal, recordkeeping, employee notification of excess exposures, medical exams and maintenance of medical records.

In a hearing on the draft standard in San Francisco on Auguet 13, Paul C. Boettcher of the Pacific Gas and Electric Co. said that because of the "transitory nature of the industry" the provisions on monitoring, medical surveillance,

and recordkeeping would be burdensome to employers. He said that personal protective equipment, engineering controls and work practices should be adequate substitutes for these requirements.

Additional details appear at ¶ 9864.

Citation Was Improperly Issued to One Member of a Joint Venture

An OSHRC Judge's finding of violation by one party of a joint venture was set aside and remanded by the Third Circuit Court of Appeals, so that the Review Commission could decide on the applicability of a Federal Rule of Civil Procedure allowing parties to be added to a case even though the statute of limitations has run. When the citation and penalty notice were served on *Bloomfield Mechanical Contracting, Inc.*, the Secretary was unaware that *Bloomfield Blumin*, a joint venture, was actually the employer on the site where [illegible]

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equipped with an interlocking device that will prevent the inside cylinder from moving when the outer door on the case or shell is *open*, and also prevent the door from being opened while the inside cylinder is in motion. This device should not prevent the movement of the inner cylinder under the action of a hand-operated mechanism or under the operation of an inching device.

5. *Interpretation*

A micro switch installed on the door shuts off the power when the door is opened. Therefore, the inner cylinder cannot be operated under power when the micro switch is in the *off* position. The intent of the standards is met by this micro switch.

This interpretation is supported by ANSI Z8.1-1961, Z8.1-1972 (the source standard for 1910.264(c)(2)(iii)(a)). The source standard provides that a tumbler shall be equipped with an interlock that will prevent energizing the drive motor which rotates the cylinder unless the shell door is closed. Therefore, properly installed and operating micro switches satisfy the standards.

¶ 9964 CONSTRUCTION SAFETY ADVISORY COMMITTEE CONSIDERS ASBESTOS STANDARD

Back reference: ¶ 7600.8.

A draft standard on asbestos limiting employee exposure to 10 fibers per cubic centimeter of air is being considered by the asbestos subgroup of the Standards Advisory Committee on Construction Safety and Health, which met August 13 and 14 in San Francisco. The subgroup is redrafting § 1910.1001, the general industry standard on asbestos, to adapt it to the particular needs of the construction industry.

The § 1910 standard on asbestos limits employee exposure to five fibers per cc. The draft includes a specification that asbestos fibers longer than 5 micrometers have a length to diameter ratio of at least 3 to 1 and a maximum diameter of 5 micrometers. The general industry standard specifies only the 5 micrometer limit.

Other provisions in the construction standard but not in the general industry standard apply to particular tools; particular products and operations; spraying, demolition or removal; loading, unloading and storing asbestos cargo; and production operations. The standard drafted by the subgroup also requires use of personal protective equipment, housekeeping, waste disposal, recordkeeping, employee notification of excess exposures, medical exams and maintenance of medical records.

In a hearing on the draft standard held on August 13, 1975, in San Francisco, Paul C. Boettcher of the Pacific Gas and Electric Co. opposed adoption of § 1910 provisions on monitoring, medical surveillance and recordkeeping into the new construction standard. A problem with such provisions is "the transitory nature of the industry where employees move between employers and geographical areas at frequent intervals," he said. He argued that personal protective equipment should be permitted in the place of environmental monitoring and medical surveillance. Further, if engineering controls and work practices as required by the standard are adhered to, monitoring would not be necessary, and use of approved respirators would preclude the need for medical examinations, he said. "Medical examinations would not be feasible for most of the construction industry because of the transitory na-

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ture of the work force engaged in asbestos application, demolition or removal. Recordkeeping under these circumstances would become an impossible task for the employer with employees moving from employer to employer and from job site to job site."

¶ 9965 OSHA RESPONDS TO HOUSE REPORT ON EFFECTS OF ACT ON SMALL BUSINESS

Back reference: ¶ 518.

OSHA has responded to a number of recommendations on changes in procedures to help small businessmen, made in a report of the Subcommittee on Environmental Problems Affecting Small Business of the House Permanent Select Committee on Small Business.

Standards

In response to a recommendation that standards be set out in clear, concise language, the statement said that OSHA recognized this problem. It has asked field agents to make recommendations on improving vague standards, and language is being clarified as existing standards are revised or new standards are promulgated. Further, new and revised standards will have preambles with easily understood summaries of requirements.

Separating out standards applying to particular industries would be difficult because about 10,000 industries are affected by the standards. Separate publications for each one would be too expensive and too time consuming, the response said. However, the agency does offer pocket sized digests of health and safety regulations, written in laymen's language, for general industry and construction. OSHA is preparing similar digests for the maritime industry, as well as an index of standards by industry.

The subcommittee had recommended an end to the practice of promulgation of standards by reference to consensus standards, rather than reprinting the applicable standards. In response, OSHA said it was minimizing use of that practice. Where possible, it was either paraphrasing or reprinting such standards when they are retained. If standards are promulgated by reference, the private group must have ample supplies of such standards on hand and the cost for obtaining them must be reasonable.

Citations

In response to criticism that citations do not always state what stages of a process or pieces of equipment do not comply with standards, OSHA said it has developed an "alleged violation description system" (AVD) to make citations more understandable. AVD models have been developed for the 200 most frequently cited standards. The system requires identification of specific items or equipment or procedures which cause hazards, locations of hazards, descriptions of the hazardous conditions or practices, and notifications that employees have been or could be exposed to the hazards.

Costs of Implementation

The subcommittee had recommended that cost of implementing standards should be considered in the formulation of standards except in situations of serious or imminent danger. Businesses in the industries affected should be able to afford implementation, and the competitive position of small businesses should not be harmed by those costs, the House panel stated. OSHA said that compliance with this recommendation would be difficult because this would permit varying degrees of compliance among employers. Further, the response said, all violations arise out of hazardous situations, and the degree of hazard—ranging from nonserious to imminent danger—determines the amount of penalty.

In response to a suggestion that employers be allowed to phase out

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