U.S. Department of Labor

Occupational Safety and Health Administration
525 South Griffin Street, Room. 602
Dallas, Texas 75202
Phone: (214) 767-4731

Reply to the Attention of: 6OSHA (FSO-RFB)

August 28, 2000

MEMORANDUM FOR: DWIGHT D. CHAMBERLAIN, Director
Division of Nuclear Materials Safety

FROM: JOHN B. MILES, JR.
Regional Administrator

SUBJECT: OSHA at Fan Steel Corporation
of Muskogee, Oklahoma

In May 2000, personnel from our Oklahoma Area Office responded to a request from your agency to provide technical assistance at the Fan Steel Corporation worksite located in Muskogee, Oklahoma. An incident at Fan Steel in February 2000, where two employees were exposed to hydrogen fluoride, caused your agency to have concern with Fan Steel Corporation's ability to comply with OSHA's regulations. Respiratory protection matters and the possibility that Process Safety Management (PSM) regulations might apply formed the bases for the concern.

As our agencies have infrequent interactions, it might be helpful to explain that, for OSHA to prove a violation of a standard, we must be able to show that the employer knew that the hazard existed or could be predicted to exist in the workplace and that employees could be exposed to the hazard. The employer has affirmative defenses they can raise, including isolated incident, greater hazard, and misconduct on the part of employees where the employer had a clearly stated work rule; training of the employees in safe work practices, and enforcing the work rules to insure compliance.

While at that facility, we validated the following:

1. That OSHA standards could apply to the non-radioactive areas of the worksite unless your agency claimed a 4(b) exemption.

2. That where OSHA Standards could apply:

   a. The employer had work rules and had provided adequate training to inform and protect employees from the hazards of hydrogen fluoride.

   b. The manual loading of the tanks and subsequent exposure to hydrogen fluoride was the result of supervisory misconduct. This provides the employer with an affirmative defense which would defeat a proposed OSHA citation.

   c. The employer had adequately trained its supervisory staff and they were aware of the hazards of hydrogen fluoride and knew how to protect their employees.

   d. We evaluated the respiratory protection program and determined that it met the requirements of our standards.

   e. During our time at the site we determined that the employer could not have reasonably anticipated that a venting fan was operating to create a positive pressure in the tank where the employees were exposed.

   f. We also determined that the employer could not have known of the supervisor's misconduct when he, after having evacuated the building, decided on his own to go back in to determine if it was safe to reenter.

   g. We determined that the quantities of anhydrous ammonia were less than the threshold limits which would trigger application of the PSM standard.

As we were unable to document any violations at the time of our assistance visit with you, we have not proceeded further. Should you have any questions regarding the results of this assistance visit, please contact Mr. William White, Area Director in our Oklahoma City Area Office at 405-231-5351.

cc: William W. White, Area Director
Oklahoma City Area Office