

PUBLICATION

Was Asbestos Used in Your Drilling Mud Program?

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With the bankruptcy of dozens of traditional defendants in asbestos litigation, plaintiffs' attorneys have been creative in pursuing claims in previously untapped areas. One such area is alleged oilfield worker exposure via asbestos-containing drilling mud additives. These were specialty products used to raise viscosity in a well (bentonite or "gel" was by far the most common viscosity producer used by the drilling industry). Asbestos-containing drilling mud additives were first introduced to the market in the mid-1960's and production ceased in the mid-1980's. While mass screenings by plaintiffs' lawyers have largely ceased in others areas of asbestos litigation, they are alive and well in the context of drilling mud litigation.

Lawyers will typically advertise for former oilfield workers to be "screened" free of charge by their hand-picked physicians generating numerous plaintiffs who file product liability suits against the manufacturers and distributors of the products in addition to the plaintiffs' former Jones Act employers. The plaintiffs' bar appears undeterred by numerous, historic air monitoring tests on offshore and land based rigs that show exposures to oilfield workers, if any, were minimal and well below OSHA standards at the time (OSHA applied to land based rigs while the Coast Guard regulated offshore safety). Moreover, the products were made from short fiber, chrysotile asbestos, which as several scientific studies have shown, does not cause mesothelioma (a cancer associated with asbestos).

Many companies have been taken by surprise when a long forgotten merger has implicated them in a latent disease case. The laws of many states hold that the policy in force at the time of the exposure governs. Many insurers have destroyed their older policies, and it is up to the insured to locate them or, at the very least, locate information identifying the policies' terms and limits. Well records and location reports may also be helpful in the defense of claims. Defense experts have been able to search historic databases to determine which additives were used in a given well. Several plaintiffs' claims have been derailed by such research.