

INTERNAL CORRESPONDENCE

Plaintiff's Exhibit
S-UC-147

RECEIVED

JUL 31

MINING AND METALS DIVISION

P. O. BOX 579, NIAGARA FALLS, NEW YORK 14302 WM. C. THUR

To (Name) Mr. J. L. Myers
Division UCC Mining & Metals
Location Niagara Falls, NY 14302

Date July 2, 1973
Originating Dept. "Calidria" Asbestos

Answering letter date

Copy to Messrs. P. J. Morgan
W. C. Thurber ✓
R. E. Byrne, Jr.

Subject Minnesota Asbestos
Regulations

File

Dear John:

This letter provides our comments on the recently enacted Minnesota asbestos regulation. As usual, there are a number of grey areas and advice of counsel is needed as to what it really says.

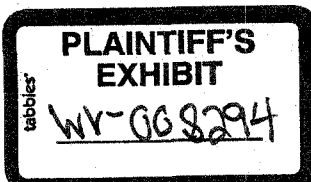
In the attachment, the act has been arranged in sections. Questions and comments relative to each part have been placed beside the sections to which they refer.

It is quite clear that the act applies only to construction, remodeling, and improving building structures in the state of Minnesota and then only if asbestos dust will emanate due to handling, mixing or cutting. Unfortunately, "asbestos dust" is not defined. It would seem to cover only free asbestos fiber not fiber coated with binder so it loses its fiber form. It is also not clear whether the act covers the situation where asbestos dust emanates during the manufacture of a product but does not emanate during the "handling, mixing, or cutting" of the product "for purposes of constructing" a "building structure."

The foregoing point can be extended a step further. Certain building products which give off asbestos dust during manufacture could be produced outside of Minnesota. They would not give off asbestos dust when used in the state of Minnesota. Would the act cover this situation?

Products containing "Calidria" Asbestos that go into the building industry that could be affected by this regulation include:

1. Dry and ready-mix tape joint compounds.
2. Wall and ceiling texture sprays.
3. Ceiling board.
4. Roof coatings.
5. Architectural caulks and sealants.
6. Molded plastic panels, particularly polyester.



Dry-mix tape joint compounds normally contain powdered asbestos and do give off some asbestos dust when compounded at the manufacturing plant and when mixed with water on the job site. If "applied in its molded form" means that the material must be in a fixed form, like pipe insulation for example, when it is applied the regulation would not seem to cover this product. It is trowelled on as a thick mud. If the words "molded form" mean "molded on" it would seem to be covered.

Ready-mix TJC differs from dry-mix in that it is already wet and no dust occurs at the job site. It should be noted, however, that either type of TJC is sometimes sanded after it is hardened and small amounts of asbestos dust can occur. Unless this constitutes "cutting," the regulation does not seem to fit.

Texture sprays are almost universally supplied dry in bags. They are mixed with water just before use and applied with a pressure sprayer. The limited data we have on this application show that the mixing is a very dusty operation with high fiber counts. Most of the fiber appears to come from the fibrous talc used. This looks like a problem application in Minnesota.

It is important to add, however, that our recent contacts with a small portion of this industry indicate that there are strong economic incentives to go to ready-mix, latex-based texture sprays. A cheaper, better, more consistent product can be made this way. It would also save the applicator 1 - 2 hours per day of valuable spraying time now spent on mixing if he could drive his truck to a central location and get his tanks filled with paint.

The ceiling board application has a number of complicating factors. Such board normally contains several percent of asbestos strongly bonded to the mineral wool with starch. Pelletized not powdered asbestos is used in the manufacturing step but a small amount of asbestos dust is given off during the initial mixing and during the board finishing operation. It is expected that the installation of the board on the job site would ordinarily be dustless but we have not collected any data.

The general questions raised previously fit here plus there are a number of others. Specifically:

1. Are pellets covered?
2. Does the law cover the manufacturing operation of building materials that do not emanate asbestos dust when applied?
3. Can the manufacture of building products covered by the law be carried out in the state of Minnesota as long as they are not used in any building structure in the state of Minnesota?

The roof coating application has been commented on by the National Paint and Coatings Association who feel it would be prohibited. It would seem that this is true for on-site mixing of asbestos into asphalt except if it were trowelled on instead of sprayed. It would not seem to apply to a case where the material is manufactured in some other state or under conditions controlled so that dust does not emanate.

July 2, 1973

Architectural caulks and sealants can give off asbestos dust during manufacture but are not applied with a spray or in molded form. They would thus appear not to be covered.

Molded plastic panels often contain asbestos. If cut, they are very likely to give off a small amount of free-fiber asbestos. It seems doubtful if this is what Minnesota intended to cover but it seems to fit.

As a final point, the use of the words "building structure" rather than just "building" could have some significance. "Building structure" has the connotation of the structural, weight-bearing portion of the building. Spraying of asbestos insulation on the steel structure has been the chief cause of all of the publicity and regulations. Could it be that they did not intend to include such things as the curtain walls, roof, etc. as part of the building structure?

In summary, the crucial question seems to be whether the act covers the manufacturing of building products or only applies "if asbestos dust will emanate due to handling, mixing or cutting for purposes of constructing, modeling, or improving any building structure in this state." The answer to this will show what needs to be done to be in compliance.

Very truly yours,

H. B. Rhodes

H. B. Rhodes

HBR:cjb
Attachment

AN ACT

a. No person, corporation, partnership, joint venture, firm or association

b. shall use sell, deliver or receive, or contract to use, sell, deliver or receive

c. powdered asbestos
in powdered form or mixed with any other substance

d. and to be applied
with a pressure spray
or in its molded form

IF

e. asbestos dust will emanate from it due to
handling
mixing or
cutting

FOR PURPOSES OF

f. constructing, remodeling, or improving

g. any building structure in this state.

COMMENTS AND QUESTIONS

a. Seems virtually all inclusive.

b. Seems virtually all inclusive.

c. Covers powdered asbestos itself or mixed with any other substance. This would seem to include powdered asbestos mixed with water and/or a resin binder.

Pelletized asbestos is not powdered asbestos or mixed with a binder. This could be clean. Generally contains some broken pellets, however.

d. Does "applied in its molded form" mean that it must be in the molded form when applied? Would it apply to a "mud" which is trowelled on?

Note that both c and d must occur for the regulations to apply.

e. Asbestos dust must be generation for the regulation to apply. "Asbestos dust" is not defined. Bound fiber or free asbestos only covered?

f. Would painting be considered as construction, remodeling, or improving?

g. Obviously limited to building structures in the state of Minnesota. Is there any particular significance in the use of the words building structure instead of just building? If this means just the structural portion of this building as opposed to the non-weight bearing walls, it has a crucial bearing on the type of products covered.

H.B. FULLER COMPANY

ASSEMBLY PRODUCTS DIVISION
5220 N.E. MAIN ST. • MINNEAPOLIS, MINNESOTA 55421 • TELEPHONE 612 560-4350

JUN 28 1973

WM. C. THURBER

June 18, 1973

Union Carbide Company
120 South Riverside Plaza
Chicago, Illinois 60606

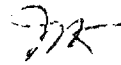
Attention: Mr. Tom Norris

Dear Tom:

Enclosed is a copy of the Act which passed the State of Minnesota Legislature this session.

We certainly would appreciate your interpretation.

Sincerely,



Maynard J. Kelsey
Technical Director
Assembly Products Division

MJK/dk

Encl. - Copy Powdered Asbestos Act/H.F. No. 1585

*John - How do you feel the act
will affect H.B. Fuller, Conner
Please advise.*

*CC. W.C. Thurber
6/27/73*

Tom

RECEIVED

JUN 25 1973

MINNEAPOLIS

AN ACT

H.F.No. 1585
CHAPTER No.

742

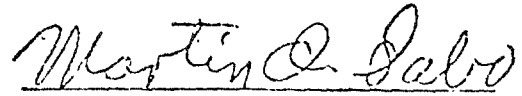
relating to commerce; prohibiting the
use of powdered asbestos in the
construction or improvement of
buildings; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [POWDERED ASBESTOS; BAN; PENALTY.]

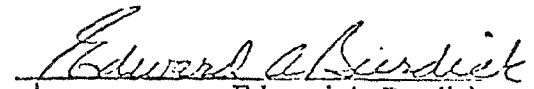
Subdivision 1. No person, corporation, partnership, joint
venture, firm or association shall use, sell, deliver or
receive, or contract to use, sell, deliver or receive
powdered asbestos, whether in its powdered form or mixed
with any other substance, and to be applied with a pressure
sprayer, or in its molded form if asbestos dust will emanate
from it due to handling, mixing or cutting, for purposes of
constructing, remodeling or improving any building structure
in this state.

Subd. 2. Any violation of the provisions of
subdivision 1 shall constitute a misdemeanor.


 Martin O. Sabo
 Speaker of the House of Representatives.


 Alec G. Olson
 President of the Senate.

Passed the House of Representatives this 17th day of May in the year of Our Lord one thousand nine hundred and seventy-three.


 Edward A. Burdick
 Chief Clerk, House of Representatives.

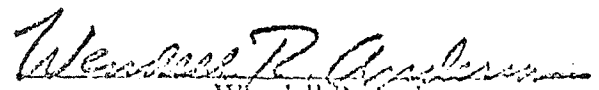
Passed the Senate this 16th day of May in the year of Our Lord one thousand nine hundred and seventy-three.


 Patrick E. Flahaven
 Secretary of the Senate.

Approved

5-24-73

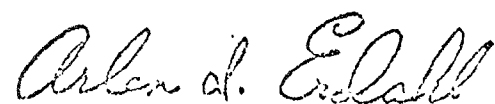
1973


 Wendell R. Anderson
 Governor of the State of Minnesota.

Filed

May 24,

1973


 Arlen I. Erdahl