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GRACE

Zonolite
Construction Products Division

PERSONAL & CONFIDENTIAL

To: J. A. Danneker

Date: September 16, 1983

From: T. P. Feit

Subj: California Administrative Code — Occupational Safety and Health

Although I've discussed this previously with Bob Merther, I remain anxious that this matter may not have received the necessary consideration.

Section 5194 of California's General Industry Safety Orders provides that each employer shall have on hand and make available upon request by an employee, employee's physician, or collective bargining representative, a MSDS for each hazardous substance in use at the place of employment. (It has been determined that our vermiculite products are "hazardous substances" because of their potential for producing nuisance dust.)

Except as our role as employers, we have no obligation to provide a MSDS for our products — except when asked by employers or the user (our customers) and employers of others who may be exposed (employees of subcontracting firms on the job site). From time-to-time we have been requested (either by a customer or general contractor) to provide a MSDS. Although initially we found it a cumbersome process to have the MSDS come through the Cambridge office (delays in responding; personnel not available, etc.) the procedures have improved and, I believe, are working.

My concern has to do with the obligations of our customers and general contractors who are responsible for such a large portion of our business. Attached is Section 5194 (with current proposed ammendments to include "Emergency Response Personnel"). Because most users and all others would have no reason to believe that our products would be defined as "hazardous substances", they do not typically request a MSDS from us and, accordingly, may not be fulfilling their obligations.

I am concerned, therefore, that our silence could be interpreted as having prevented a customer in meeting his duties as an employer in California.

I previously proposed that we voluntarly make available a MSDS to all customers and for every job start (all products) in California. I believe the initial response was based on our specific obligations and that not enough consideration was given to our relationship with customers and contractors. I'd appreciate, therefore, another review of this matter.

TPF/jdy