



DOW CHEMICAL U.S.A.

PLAINTIFF'S EXHIBIT

DOW-744

February 10, 1989

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ST00037543

ASBESTOS: TITLE 49 CFR REQUIREMENTS / INCL. PLACARDING

We are in receipt of your note accompanying the February 1989 volume of "ASBESTOS ISSUES" and the article titled "IT'S THE LAW." You questioned if Asbestos when transported in commerce required placarding as implied in the article.

NO - even the selected types of Asbestos that are regulated under 49 CFR, DO NOT REQUIRE PLACARDING. Further, there are a broad range of Asbestos materials that are not subject to any regulatory requirements in 49 CFR; see page 2.

The author of the article, Daniel M. Steinway, is on the Editorial Board of this publication and a partner in a Washington, D.C. law firm.

We only had to review his reference to Title 49 CFR 172.101, - the U.S. DOT's HAZARDOUS MATERIALS TABLE - to see that any and all forms of Asbestos require;

No DOT Placarding

No Hazard Class Labeling, and

No U.S. DOT Identification Number.

We read a good deal of the article after seeing this first misapplication. We feel the article is misleading and a poorly directed application of Title 49 CFR. The implied contention that any type of Asbestos is regulated and those that are must be placarded is wrong.

It may be that the exceptions in 49 CFR excluding many Asbestos materials were not considered relevant by the author. We found no discussion on this. As a result, there are few references or applications made to 49 CFR in this article that we feel comfortable with.

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RESTRICTED FOR USE WITHIN THE DOW CHEMICAL COMPANY

Quality
Performance
Means More At Dow

Gordon Roush, Asbestos, Placarding

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ASBESTOS - AS DEFINED IN TITLE 49 CFR

1. Not all Asbestos is regulated by the U.S. DOT.

2. THE COMMERCIAL TEST

- a. Asbestos (as a WASTE or a PRIME material) which is immersed or fixed in a natural or artificial binder material (such as cement, plastic, asphalt, resins, or mineral ore) and,

Manufactured products containing Asbestos or ANY materials or products whose COMMERCIAL VALUE is NOT dependent on their Asbestos content are excluded and NOT SUBJECT TO ANY of the requirements of Title 49 CFR.

49 CFR 173.1090(c)

- b. ASBESTOS INCLUDES ANY OF THE FOLLOWING HYDRATED MINERAL SILICATES:

Chrysotile,
Crocidolite,
Amosite,
Anthophyllite asbestos,
Tremolite asbestos,
Actinolite asbestos, and every product containing any of these materials.

173.1090(a)

- c. COMMERCIAL ASBESTOS is regulated and is a Hazardous Substance or Waste (RQ = 1 lb). It includes any material or product containing Asbestos (above) that has or had COMMERCIAL VALUE because of its Asbestos content.

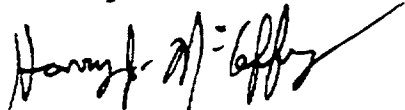
As WASTE or PRIME it is subject to the following U.S. DOT Regulations found in Title 49 CFR:

Shipping papers = 172.202

Marking = 172.301(a), 172.316(a) & (a)(4)

Packaging/Transport = 173.1090(c), (d)

Please give me a call with any questions.



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