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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 191]

ASBESTOS-CONTAINING GARMENTS FOR GENERAL USE

Proposed Classification as Banned Hazardous Substance

Inhalation of asbestos fibers for as little as 3 months has been reported as causing lung cancer, mesothelioma, and lung fibrosis. To provide an emergency standard dealing with the exposure of employees to asbestos dust, the Occupational Safety and Health Administration of the Department of Labor promulgated 29 CFR 1910.93a in the FEDERAL REGISTER of December 7, 1971 (36 F.R. 23207), which reads in part "The 8-hour time-weighted average airborne concentration of asbestos dust to which employees are exposed shall not exceed 5 fibers per milliliter greater than 5 microns in length, as determined by the membrane filter method at 400–450 × magnification (4 millimeter objective) phase contrast illumination."

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Said promulgation was based on recent studies by the National Institute for Occupational Safety and Health, recommendations by the American Conference of Governmental Industrial Hygienists, and other relevant material.

On the basis of reports and investigations, the Commissioner of Food and Drugs learned that certain garments made from an imported fabric containing 8 percent of asbestos have been marketed. An ad hoc committee of five experts in the field of asbestos toxicity was appointed to evaluate the health significance of asbestos in such garments. The committee concluded that the use of asbestos in garments for the general public was inappropriate and presented an unwarranted hazard of toxicity.

Accordingly, the Commissioner finds that asbestos-containing garments marketed for general use, other than those having a bona fide application for fire-fighting, are hazardous substances, that cautionary labeling is inadequate to protect the public health and safety, and therefore, that such articles should be kept from interstate commerce.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (sec. 2(q) (1)(B), (2), 74 Stat. 374, as amended 80 Stat. 1304–5; 15 U.S.C. 1261) and of the Federal Food, Drug and Cosmetic Act (sec. 701(e), 52 Stat. 1055, as amended; 21 U.S.C. 371(e)), and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that a new subparagraph (6) be added to § 191.9(a), as follows:

§ 191.9 Banned hazardous substances.

(a) Under the authority of section 2 (q)(1)(B) of the act, the Commissioner declares as banned hazardous substances the following articles because they possess such a degree or nature of hazard that adequate cautionary labeling cannot be written and the public health and safety can be served only by keeping such articles out of interstate commerce:

* * * * *

(6) General-use garments containing asbestos (other than such garments having a bona fide application for firefighting purposes).

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: February 12, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

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