PLAINTIFF'S EXHIBIT
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INTERNAL CORRESPONDENCE

MINING AND METALS DIVISION • P. O. BOX 579, NIAGARA FALLS, NEW YORK 14302

To (Name) Mr. J. L. Myers
Division Niagara Falls, NY
Location

Date May 1, 1973
Originating Dept. "Calidria" Asbestos
Answering letter date
Subject EPA Regulation

Copy to Dr. H. B. Rhodes
File ✓

Dear John:

As requested, based on my interpretation of the Environmental Protection Agency's latest regulation, Federal Register Friday, April 6, 1973, Volume 38, No. 66, Part II pertaining to asbestos, I would opine the following:

"The promulgated standard does not cover fabrication operations. Of all fabrication operations, only those operations at new construction sites are considered to be major sources of asbestos emissions." (Reference: page 882, second column, second paragraph.) Based on this, it is reasonable to assume that end use application of asbestos-contained materials consisting of liquid polymers, plastics, or any suitable binder, are not considered a major source of asbestos emissions and do not come under the compliance of these regulations. In other words, the customers of our customers should not be affected by any contingencies of these regulations. However, manufacturing operations which utilize asbestos or asbestos-contained materials are another issue altogether and are covered by these regulations. The regulations state "the promulgated standard prohibits visible emissions which contain asbestos and provides the option of using specified air cleaning methods." (Page 8821, column 3, paragraph 1.)

Manufacturing operations are specifically defined as (1) the manufacture of cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap, or other textile materials; (2) the manufacture of cement products; (3)the manufacture of fireproofing and insulation materials; (4) the manufacture of friction products; (5) the manufacture of paper, millboard, and felt; (6) the manufacture of floor tile; (7) the manufacture of paints, coatings, caulks, adhesives, and sealants; (8) the manufacture of plastics and rubber materials; and (9) the manufacture of chlorine. (Note: There are special considerations and contingencies for demolition, spraying, and fireproofing applications.) Manufacturing operations included in statements 4, 5, 6, 7, and 8 virtually blanket the vast majority of our applications with the possible exceptions of ceiling tile, drilling muds, and paper products.

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With regard to manufacturing applications, the regulations state that there shall be no visible emissions to the outside air from any building or structure in which the operations are conducted or directly from any operation if conducted outside of a building or structure. Visible emissions is defined as any emissions which are visibly detectable without the aid of instruments and which contain particulate asbestos material. Furthermore, the regulations define a source of emissions as meaning any building, structure, facility, or installation which emits or may emit any air pollutant.

Within 90 days of the issuance of these regulations promulgated as of April 6, 1973, no manufacturing operation listed shall operate in violation of the standards unless exempt by waiver as requested by the owners of the operation. It is specified that the owner or operator of any existing source to which these applications apply shall within 90 days after the effective date provide specific information with regard to his operation and the use of asbestos. The report is specific in content, requiring the identification of the application, the company utilization of the hazardous material and provisions provided to prevent emissions.

In the opinion of the writer, most of our customers, with the possibility of a few exceptions, are required within 90 days of April 6, 1973 to report to the EPA the knowledge of their utilization of an asbestos material, the conditions of use and provisions for emission control equipment.

B. L. Ingalls

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