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PLAINTIFF'S EXHIBIT
UC-2917

September 27, 1971

Mr. J. W. Rawlings
Mining and Metals Division
38th Floor

cc: Messrs. E. Epremian
B. L. Ingalls
R. J. Klotzbach
P. W. McDaniel
J. L. Myers
H. B. Rhodes
G. E. Grayson/File

Re: "Information Package on Asbestos Safety and Control"

Dear Mr. Rawlings:

I am enclosing herewith a synopsis of existing and proposed legislation on this subject as per the request in your September 10, 1971 letter.

As we discussed with Mr. Beverly yesterday, H.R. 2516 entitled "Asbestos Workers Health Protection Act" appears to overlap the Occupational Health and Safety Act. It is my understanding that Mr. Beverly will bring this apparent overlap to the attention of Mr. Kinney in our Washington office, and there will be no need for me to contact Mr. Kinney directly on the matter.

Very truly yours,

Patrick J. Morgan

PJM:ld
Enclosure

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II. Legislation

A. Summary of existing legislation

On May 29, 1971 Occupational Safety and Health standards with respect to asbestos were published in the Federal Register pursuant to authority of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1600; 29 U.S.C. 655,657) Part 1910.93(a) of Title 29 of the Code of Federal Regulations which provides that "Exposure by inhalation, ingestion, skin absorption, or contact to any material or substance at a concentration above those specified . . . shall be avoided, or protective equipment shall be provided and used." The concentration level for asbestos is set at 12 fibers per milliliter greater than 5 microns.

Part 1910.93(b) of Title 29 of the Code of Federal Regulations provides that to achieve compliance with the exposure limits specified in subparagraph (a), feasible administrative or engineering controls must first be determined and implemented in all cases. In cases where protective equipment, or protective equipment in addition to other measures is used as the method of protecting the employee, such protection must be approved for each specific application by a competent industrial hygienist or other technically qualified source.

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II. Legislation

B. Outline of new laws under consideration

1. Clean Air Act - The Environmental Protection Agency (EPA) plans to publish standards for asbestos emission on or before September 30, 1971.

2. S. 1478, to amend the Federal Hazardous Substances Act, as amended. This proposed legislation would give EPA jurisdiction over the use and distribution of existing and new "chemical substances" to the extent necessary to protect health and the environment. A "chemical substance" is defined in section 202(b) of S. 1478 as "any organic or inorganic substance which are of no public health or environmental significance as determined by the Administrator of the Environmental Protection Agency."

The bill contains the following features:

(a) Sec. 203 authorizes the EPA to publish, after consultation with the Toxic Substances Board, proposed regulations for standards for test protocols for various classes and uses of chemical substances to the extent necessary to protect health and the environment.

(b) Sec. 207 authorizes EPA to summarily seize any chemical substance which constitutes an "imminent hazard." An "imminent hazard" is considered to exist when there is reason to

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believe that the manufacture, use, or distribution of a chemical substance will result in serious damage to human health or the environment prior to the completion of an administrative hearing or other formal proceeding held pursuant to the Act. Those affected by the seizure may file objection to it and request a public hearing.

(c) Sec. 209(b) provides that to the extent chemical substances are subject to regulations by other Federal laws, including the Occupational Health and Safety Act of 1970, EPA shall not regulate the use or distribution of a new or existing chemical substance on the basis of any possible hazard to employees in their place of employment or the hazard directly to consumers resulting from household use of marketed products which contain or might contain the substance. However, if it appears to EPA that any such substance may pose a hazard when transported, or when used on or in food or as a drug or cosmetic, or may be a hazard to employees in their place of employment, or, may pose a hazard directly to consumers resulting from household use of marketed products which contain or might contain the substance, he shall transmit any data received from manufacturers or processors relevant to such hazards to the Federal department or agency with authority to take legal action if a hazard is found to exist.

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(d) Sec. 213(a) of the bill provides that it does not apply to exports of chemical substances, unless EPA determines that a chemical substance will produce a significant direct or indirect hazard to human health or the environment in the United States.

(e) Sec. 213(b) makes the bill applicable to imports of chemical substances.

(f) Sec. 216 provides that violations of the Act are subject to a fine of not more than $25,000 or imprisonment for not more than one year or both.

(g) Sec. 217 authorizes any person to commence a civil action for injunctive relief on his own behalf either against any person alleged to violate the Act or against EPA for alleged failure of EPA to perform any act or duty under the Act which is not discretionary with EPA.

The Subcommittee in the Environment of the Senate Committee on Commerce has scheduled hearings on this bill on October 1, 4 and 5, 1971.

3. H.R. 2516 - Asbestos Workers Health Protection Act - introduced by Rep. Patton on January 29, 1971. It is still in the Committee on Interstate and Foreign Commerce. Section 3 of this bill requires the Secretary of Health, Education and Welfare

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to publish in the Federal Register within one year after the date of enactment of this Act rules and regulations for the protection of the health of persons handling asbestos or asbestos products or engaged in the manufacturing of such products, including (1) rules and regulations for the labeling of asbestos products so as to fully inform handlers and ultimate users of such products of the health hazards of such products and any measures which should be taken with respect thereto and (2) standards establishing limits on the number of particles of asbestos which may be in suspension in the air breathed by humans. Sec. 4 of the bill authorizes the conduct of inspections to determine conformity with standards prescribed in the rules and regulations published pursuant to the Act and provides that a written report be given before leaving the premises setting forth any conditions or practices which are in violation of the rules and regulations. Section 6 provides for the issuance of cease and desist orders which are subject to judicial review. Violations of final cease and desist orders result in a civil penalty of $5,000 for each violation.

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