FILE NAME: Flooring Defense Exhibits (FLDX)

DATE: 1977 Aug

DOC#: FLDX006

DOCUMENT DESCRIPTION: Letter from CA Dept of Health to CA Employers Who Use Asbestos

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

EDMUND G. BROWN JR., Governor

DEPARTMENT OF HEALTH
714-744 P STREET
SACRAMENTO, CALIFORNIA 95814
(916)843-7900 Ext. 306

August 1977

LETTER TO CALIFORNIA EMPLOYERS WHO USE ASBESTOS

SUBJECT: Reporting Asbestos Use to Cal/OSHA

The purpose of this letter is to make you aware that California employers who use asbestos or certain asbestos-containing materials are required to report such use as part of an expanded State program to prevent job-related cancer. Such reports must be filed in writing prior to September 1, 1977, with the State Division of Industrial Safety, 455 Golden Gate Avenue, San Francisco, CA 94102. After September 1, employers face a $500 fine for failing to report asbestos use.

The State's new Occupational Carcinogens Control Act, which took effect on January 1, 1977, requires State government to exercise strong leadership to prevent exposing employees, employers and others to asbestos and 15 other State-regulated cancer-causing substances in the work place. Asbestos is included in this group of substances, because it is a known cause of cancer in humans.

REPORTING ASBESTOS USE

The new Occupational Carcinogens Control Act directed the State Occupational Safety and Health Standards Board to adopt regulations requiring employers using cancer-causing substances, including asbestos, to submit a written report regarding such use or any incident which results in the release of a potentially hazardous amount into any area where employees may be exposed. As a result, the Standards Board amended Section 5208 of Title 8 of the California Administrative Code by adding a new subsection (l). This subsection, which describes the new reporting requirements, is reproduced below. We urge you to carefully read this new requirement and report any uses covered on or before September 1, 1977.

> (l) Report of Use. Not later than September 1, 1977, employers shall report the information required by Subsection (l) (2) to the Chief of the Division of Industrial Safety, 455 Golden Gate Avenue, San Francisco, California 94102. After September 1, 1977, the information required by Subsection (l)(2) shall be reported prior to the commencement of any new, unreported operation or process covered by these Orders.
>
> NOTE: It is not intended that each activity listed in paragraph (l)(1) involving asbestos or asbestos-containing products be reported upon each use or activity. Anticipated present and future use reported initially is sufficient to comply with this section.
>
> (l) Operating and Processing Requiring Reporting.
>
> (A) Any use, handling disposal, processing, manufacturing, packaging or repackaging of asbestos or asbestos-containing products which require labeling by Subsection (i)* of this section.
>
> (B) Brake repair and clutch repair operations where asbestos-containing frictional materials are processed in a manner which may product airborne asbestos fibers, such as grinding, sanding, drilling, brake shoe arcing and beveling, or removing asbestos-containing dust with compressed air. Automotive repair facilities which are registered with the State Bureau of Automotive Repairs meet the registration requirements of this subparagraph, but are not otherwise exempt from this Section.
>
> (C) Maintenance, construction, repair, renovation, demolition or salvage activities in which any materials containing more than 1% asbestos (dry weight) are sanded, ground, abrasive blasted, sawed, cut, shoveled, removed, or otherwise handled in such manner that asbestos dust would be raised.
>
> (D) Any other use where employee exposure exceeds the concentrations of airborne fibers given in Subsection (a)."

*See State General Industry Safety Orders Section 5208.

NOTE: The ordinary use, handling, or installation of products which do not require labeling under Subsection (i)* are exempt from the reporting requirements. Examples of non-labeled products include, but are not limited to, vinyl-asbestos floor tile, resilient sheet flooring, packing, and gaskets, fibrated asphalt coatings and coated asbestos cloth.

Operations such as retail, wholesale, warehousing, transportation or distribution of products requiring labeling are exempt from reporting requirements providing such products are handled or stored in sealed or unbroken containers.

(2) Reporting Requirements.

(A) The name of the employer and the address(es) of the place(s) of employment.

Where there are multiple locations where employees may be exposed to asbestos-containing materials infrequently (such as public utility vaults), the employer may provide a general description of such potential exposures and the nature and type of such locations in lieu of identifying each separate location.

(B) A brief description of the way(s) in which the asbestos or asbestos-containing product(s) are to be processed, handled, used or transported.

(C) The estimated number of employees potentially exposed.

(D) The asbestos-containing product(s) being used or manufactured or the type(s) of structure(s) being constructed, demolished or repaired.

(E) The names and addresses of any collective bargaining representatives or other representatives of the affected employees.

(F) Employers with temporary jobsites, such as construction or demolition need register with the Division only once. Such registration is valid only on condition that the work is performed by the same employer and that prior to the commencement of each work when known in advance, the employer notifies the appropriate District Office by telegram, letter, or a telephone call which shall be confirmed in writing indicating the location and commencement of the activity.

(3) Incidents. Any incident, accident or emergency resulting in a known exposure of an employee, unprotected by an appropriate respirator, to asbestos fibers in excess of the limits prescribed by Section 5208(a),* shall be reported in writing to the Chief of the Division of Industrial Safety within 15 days of the incident. The report shall include the following information:

(A) The number of employees over-exposed.

(B) The circumstances surrounding the over-exposure, including the process, operation or job involved.

(C) The result of any environment analyses done to monitor employee exposure or to define the hazard.

(D) The steps taken, or being taken to prevent a recurrence or to avoid future over-exposures.

(E) The product being manufactured or the type of structure being repaired, constructed or demolished.

(4) Posting. A copy of each report required by this Subsection shall be posted by the employer in the location or locations where asbestos is used, or where other notices are normally posted, which shall be conspicuous to affected employees.

*See State General Industry Safety Orders Section 5208.

THE REPORTING PROCESS

As you will note from the regulation, the reporting process is not complicated. All an employer must do is send a letter to the Chief of the Division of Industrial Safety, 455 Golden Gate Avenue, San Francisco, CA 94102. Depending upon your particular operation, include the following information.

- Name and address of location(s) where asbestos is used.
- Number of employees working with asbestos, including maintenance personnel.
- Manner in which asbestos or asbestos-containing products are used or handled.
- Names and addresses of any collective bargaining representatives or other representatives of affected employees.

If you prefer, forms for reporting are available from the Chief of the Division of Industrial Safety at the above address.

NO–FEE CONSULTATION

The State is not attempting to penalize employers for using asbestos or the other regulated substances. Asbestos is an important ingredient in many products where substitutes are not readily available.

To help employers achieve compliance with the provisions of the law and to work safely with asbestos, both the Division of Industrial Safety and the State Department of Health will provide penalty-free, no-charge consultative services and educational programs. These services will be provided on request by any employer, employee or employee group.

Employers who prefer not to contact a State agency for consultative services may wish to refer their questions to their asbestos suppliers, compensation insurance carriers, or someone else in the private sector. For example, some major asbestos suppliers and insurance companies provide industrial hygiene assistance with asbestos-related problems as part of their customer service.

PENALTIES

The safety regulations for asbestos are in Section 5208 of Title 8 of the California Administrative Code and have been in effect for a number of years. They are designed to protect workers from harmful exposures to asbestos and violations of these regulations have been subject to fines when discovered by Cal/OSHA compliance personnel. These safety regulations have not been changed. The only changes are that fines for violations of safety standards involving asbestos are higher after July 1 ($1,000 for serious violations and $5,000 for repeat violations), and there is a new fine of $500 for failure to report use of asbestos after September 1, 1977.

FOR REGULATIONS AND MORE INFORMATION

Free copies of the safety regulations covering asbestos (Section 5208) and information on how to protect workers may be obtained by contacting one of the State Health Department Offices listed below:

In Northern California

State of California
Occupational Health Branch
Occupational Cancer Control Unit
2151 Berkeley Way
Berkeley, CA 94704

(415) 843-7900, Ext. 306

In Southern California

State of California
Occupational Health Branch
Occupational Cancer Control Unit
1449 West Temple Street
Los Angeles, CA 90026

(213) 620-4290

EMPLOYEE COMPLAINTS

The law requires the State Department of Health and the Division of Industrial Safety to respond to complaints from employees regarding potentially unlawful use of the regulated cancer-causing substances in their work places. Priority is given to investigation of such complaints.

ROUTINE INSPECTIONS

The law also requires the State Department of Health to conduct self-initiated inspections of work places where asbestos and other regulated cancer-causing substances are used. These inspections are to ensure that the safety regulations for these substances are followed. Responsibility for enforcement of these regulations, as with all other safety and health regulations rests with the State Division of Industrial Safety. These routine inspections will follow Cal/OSHA procedures with no advance notice to employers and first-instance penalties.

DISPOSAL

The Department of Health, Vector and Waste Management Section, has designated asbestos-containing wastes as hazardous wastes. Accordingly, such wastes must be transported and disposed of in accordance with State laws and regulations on hazardous waste. Wastes in a form which can release dust should be put into a tightly closed bag or other container from which the dust cannot escape.

The Cal/OSHA regulations (Section 5208 (i)(2) require this caution label to be attached to containers of asbestos waste:

CAUTION
Contains Asbestos Fibers
Avoid Creating Dust
Breathing Asbestos Dust May Cause
Serious Bodily Harm

For more information on requirements for disposing of asbestos-containing wastes, write to the following address:

State Department of Health
Vector & Waste Management Section
714 P Street
Sacramento, CA 95814

The State Department of Health and the State Department of Industrial Relations provide this information to employers now to alert them to their major legal responsibilities under the Occupational Carcinogens Control Act and to give maximum lead time to planning to achieve health and safety standards mandated by the law. Both Departments will work cooperatively with employers and employees in the interests of improved worker safety and health.

Sincerely,

Jerome A. Luckner, M.D.
Director of Health

Donald Vial,
Director of Industrial Relations and
Designated Administrator for Cal/OSHA