UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
100 CALIFORNIA STREET
SAN FRANCISCO, CALIFORNIA 94111

PLAINTIFF'S EXHIBIT

KG-278

Mr. John Sheahan
Kaiser Gypsum Co.
P. O. Box 460
Antioch, CA 94509

Dear Sir:

Pursuant to Section 112 of the Clean Air Act, as amended (42 U.S.C. 1857c-7), the Administrator of the United States Environmental Protection Agency promulgated National Emission Standards for Hazardous Air Pollutants on April 6, 1973. These emission standards are applicable to certain sources of asbestos, beryllium, and mercury emissions. We believe that your company may be such a source.

The purpose of this letter is to notify the owners or operators of affected sources of the requirements of the regulations. A copy of these regulations is included as Enclosure (1). The requirements include:

Prohibited Activities*

1. No person may construct any new source or modify any existing source to which a standard is applicable after December 7, 1971, without first obtaining approval from EPA.

2. No person shall operate any new source in violation of any applicable standard after April 6, 1973.

3. No person shall operate any existing source in violation of any applicable standard after July 5, 1973, except under a waiver granted by the EPA Administrator.

*The President may exempt any source from compliance with the standards for a period of not more than two years (renewable) if he finds that the technology to implement such standards is not available and the operation of such source is required for reasons of national security. Inquiries regarding this exemption should be addressed to this office.

4. No person shall fail to report or source test as required by these regulations.

Penalties

Any person who knowingly violates the requirements of the regulations shall be punished by a fine of not more than $25,000 per day of violation or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after the first conviction, punishment shall be by a fine of not more than $50,000 per day of violation or by imprisonment for not more than two years, or by both.

Initial Source Reporting

Owners or operators of existing sources subject to the regulations must report certain information to this office on or before July 5, 1973. A standard form to be used for reporting is included as Enclosure (2).

Waivers of Compliance

Waivers of compliance from the standards may be requested by owners or operators of existing sources. EPA may allow a period of up to two years after the date of promulgation for the installation of necessary controls if such period is necessary for the installation of controls and if the health of persons will not be subject to imminent endangerment during the waiver period. EPA is unaware at this time of any present situations of imminent endangerment being created by existing sources of asbestos, mercury, and beryllium. For this reason Section IIA2.b. of the reporting form (Enclosure 2) need not be completed unless you are specifically advised to do so by this office. EPA will condition any waiver of compliance granted on the source taking those steps that EPA may in the future determine are necessary to assure that the health of persons will be protected from imminent endangerment.

Requests for waivers of compliance should be submitted by May 18, 1973, to be assured that action will be taken on the waiver request prior to July 5, 1973. Continued operation in excess of a standard after July 5, 1973, without a waiver of compliance is a violation of the Clean Air Act, as amended. The standard form to be used for requesting a waiver of compliance is included as part of the reporting form, Enclosure (2).

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Waivers of Source Testing

Source emission tests using test methods approved pursuant to Section 61.14(a) of the regulations are required before July 5, 1973, for existing sources of beryllium and mercury and within 90 days after startup of new sources. You must notify this office at least 30 days in advance of the required test. Emission tests may be waived upon written application to EPA if EPA determines that the source is meeting the standard, or if the source is operating under a waiver of compliance or has requested a waiver of compliance. Generally, an indirectly heated mercury extraction process (retort) producing less than 76 pounds/day of mercury (1 flask) or a directly heated mercury extraction process processing less than 20 tons/day of mercury ore will be considered to be meeting the standard. The standard form to be used for requesting a waiver of source testing is included as part of the reporting form, Enclosure (2).

If you do not own or operate an affected source as described in the regulations, would you please notify this office. If you have questions concerning the regulations, do not hesitate to contact our Permits Branch (415/556-3450).

Sincerely yours,

R. L. O'Connell
Director, Enforcement Division

Enclosures

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