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

PLAINTIFF'S EXHIBIT
tabbies
KM-400

In Reply Refer
to: E-4-1

MAR 25 1976

Paco Textures Corp.
1057 Commercial St.
San Carlos, CA 94070

Dear Sir:

Pursuant to Section 112 of the Clean Air Act, as amended (42 U.S.C. 1857-C-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 emissions. On October 14, 1975, these standards were revised to cover additional sources of asbestos emissions, including the waste disposal of asbestos-containing waste material. Standards for asbestos now apply to sources defined in Section 61.22, as revised. Section 61.25 describes specifications for acceptable waste disposal sites.

The purpose of this letter is to notify the owners or operators of affected sources of the requirements of the revised regulations. A copy of the latest regulations is enclosed. Requirements of the NESHAPS standards include:

Prohibited Activities*

1. No person may construct any new source or modify any existing source to which a standard is applicable after October 25, 1974, without first obtaining approval from EPA.

2. No person shall operate any new source in violation of any applicable standard after October 14, 1975.

*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.

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

4. No person shall fail to report 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 revised regulations must report certain information to this office. A standard form to be used for reporting is enclosed. Those parts of your operation for which a source report was previously submitted, under requirements of the original April 6, 1973, regulations, need not be reported again.

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 a 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. For this reason Section IIA2.b. of the reporting form (Enclosure 3) 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 immediately. Continued operation in excess of a standard,

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.

If you do not own or operate an affected source as described in the revised regulations, would you please notify this office of this fact in writing, stating the basis for your determination. If you have questions concerning the regulations, do not hesitate to contact Mr. Raymond Seid of our Permits Branch (415) 556-3450.

Sincerely yours,

Stan Leibowitz

Stanley Leibowitz, Chief
General Services Section
Permits Branch
Enforcement Division

Enclosures

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS
COMPLIANCE STATUS INFORMATION

Form Approved
OMB No. 158-R0131

I. SOURCE REPORT

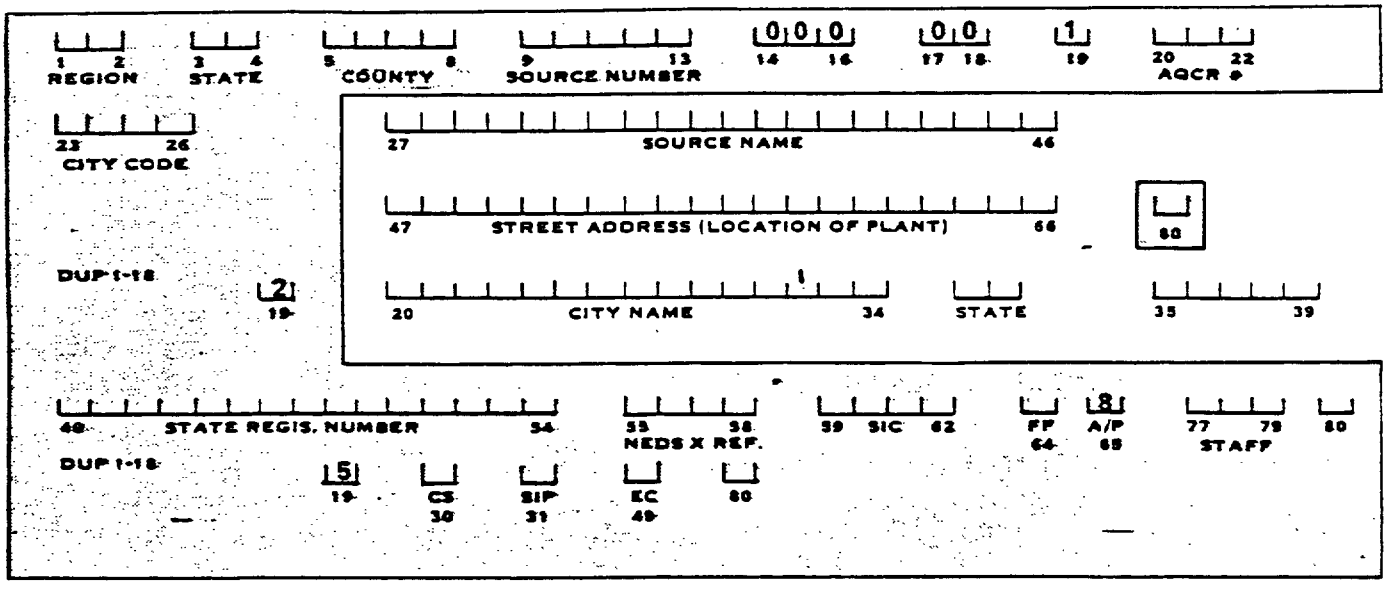
INSTRUCTIONS: Owners or operators of sources of hazardous pollutants subject to the National Emission Standards for Hazardous Air Pollutants are required to submit the information contained in Section I to the appropriate U. S. Environmental Protection Agency Regional Office prior to 90 days after the effective date of any standards or amendments which require the submission of such information.

A listing of regional offices is provided in §61.04.

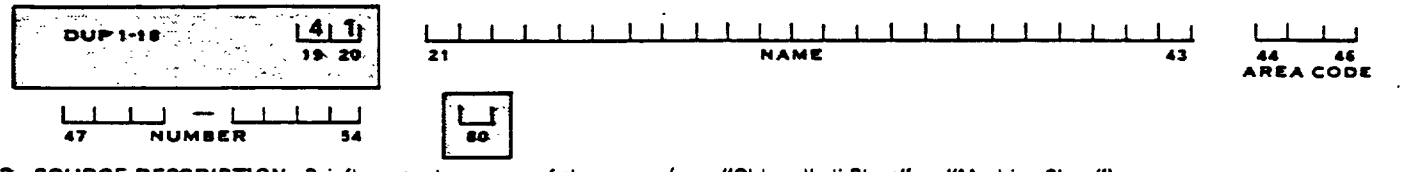
PLEASE NOTE: Do not write in shaded areas.

A. SOURCE INFORMATION

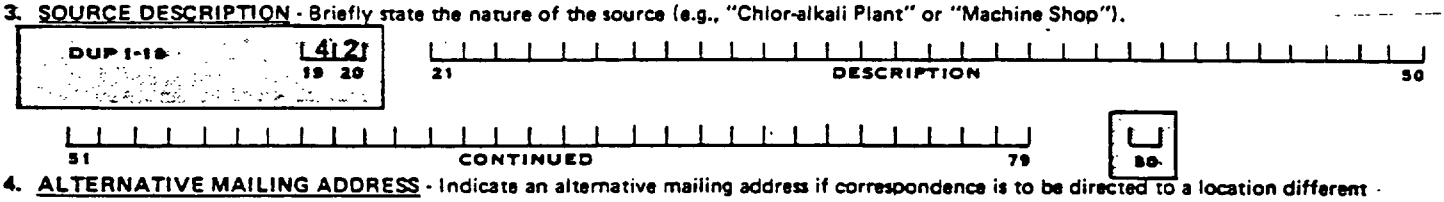
1. **IDENTIFICATION/LOCATION** - Indicate the name and address of each source.



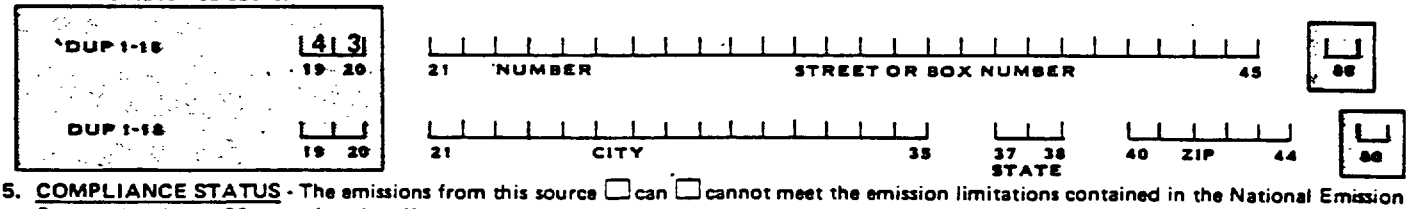
2. **CONTACT** - Indicate the name and telephone number of the owner or operator or other responsible official whom EPA may contact concerning this report.



3. **SOURCE DESCRIPTION** - Briefly state the nature of the source (e.g., "Chlor-alkali Plant" or "Machine Shop").



4. **ALTERNATIVE MAILING ADDRESS** - Indicate an alternative mailing address if correspondence is to be directed to a location different than that specified above.



5. **COMPLIANCE STATUS** - The emissions from this source ☐ can ☐ cannot meet the emission limitations contained in the National Emission Standards prior to 90 days after the effective date of any standards or amendments which require the submission of such information.

Signature of Owner, Operator or Other Responsible Official

NOTE: If the emissions from the source will exceed those limits set by the National Emission Standards for Hazardous Air Pollutants, the source will be in violation and subject to Federal enforcement actions unless granted a waiver of compliance by the Administrator of the U.S. Environmental Protection Agency. The information needed for such waivers is listed in Section II of this form.

I. B. PROCESS INFORMATION. Part B should be completed separately for each point of emission for each hazardous pollutant. [Sources subject to 61.22 (1) may omit number 4. below.]

DUP 1-13 | 14–16 | 17 0 18 0 | 19 5 | 20 SCC 27 | 28 29 NEDS X REF | 30 CS | 31 SIP

1. POLLUTANT EMITTED - Indicate the type of hazardous pollutant emitted by the process. Indicate "AB" for asbestos, "BE" for beryllium, or "HG" for mercury.

32 33 POLLUTANT | 34 REGULATION 48 | 49 EC

2. PROCESS DESCRIPTION - Provide a brief description of each process (e.g., "hydrogen end box" in a mercury chlor-alkali plant, "grinding machine" in a beryllium machine shop). Use additional sheets if necessary.

50 PROCESS DESCRIPTION 74 | 80

DUP 1-18 | 19 6 20 1 | 21 50

51 79 | 80

DUP 1-18 | 19 6 20 2 | 21 50

51 79 | 80

3. AMOUNT OF POLLUTANT - Indicate the average weight of the hazardous material named in Item 1 which enters the process in pounds per month (based on the previous 12 months of operation).

DUP 1-18 | 19 6 20 3 | 21 27 | 29 LBS./MO. 36 | 80

4. CONTROL DEVICES

a. Indicate the type of pollution control devices, if any, used to reduce the emissions from the process (e.g., venturi scrubber, baghouse, wet cyclone) and the estimated percent of the pollutant which the device removes from the process gas stream.

DUP 1-18 | 19 6 20 4 | 21 PRIMARY CONTROL DEVICE: 42

45 PRIMARY DEVICE NAME 64 | 66 70 PERCENT REMOVAL EFFICIENCY | 72 % EFFIC. 79 | 80

DUP 1-18 | 19 6 20 5 | 21 SECONDARY CONTROL DEVICE: 45

47 SECONDARY DEVICE NAME 64 | 66 70 PERCENT REMOVAL EFFICIENCY | 72 % EFFIC. 79 | 80

b. Asbestos Emission Control Devices Only

i. If a baghouse is specified in Item 4a, give the following information:

- The air flow permeability in cubic feet per minute per square foot of fabric area.

  Air flow permeability = _____ cfm/ft^2

- The pressure drop in inches water gauge across the filter at which the baghouse is operated.

  Operating pressure drop = _____ inches w.g.

- If the baghouse material contains synthetic fill yarn, check whether this material is ☐ spun ☐ or not spun.

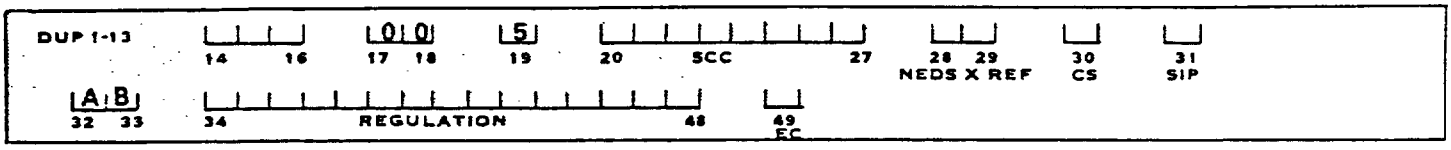
If the baghouse utilizes a felted fabric, give the minimum thickness in inches and the density in ounces per square yard.

Thickness = _____ inches Density = _____ oz/yd^2

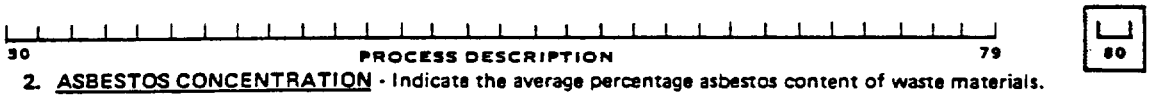
ii. If a wet collection device is specified in Item 4a, give the designed unit contacting energy in inches water gauge.

- Unit contacting energy = _____ inches w.g.

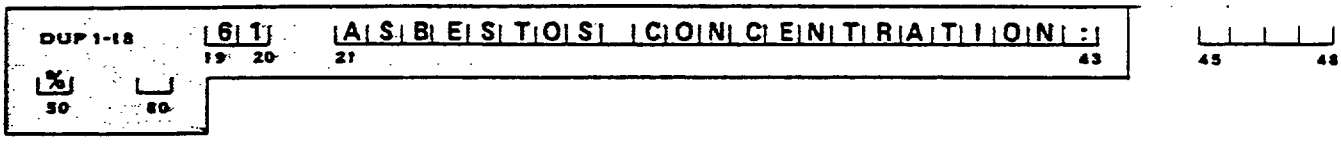
C. DISPOSAL OF ASBESTOS-CONTAINING WASTES. Part C should be completed separately for each asbestos-containing waste generation operation arising from sources subject to § 61.22 (a), (c), (e), and (h).



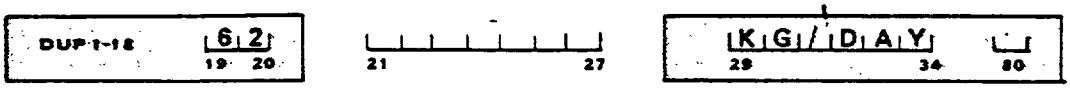
1. WASTE GENERATION - Provide a brief description of each process that generates asbestos-containing waste (e.g., disposal of control device wastes).



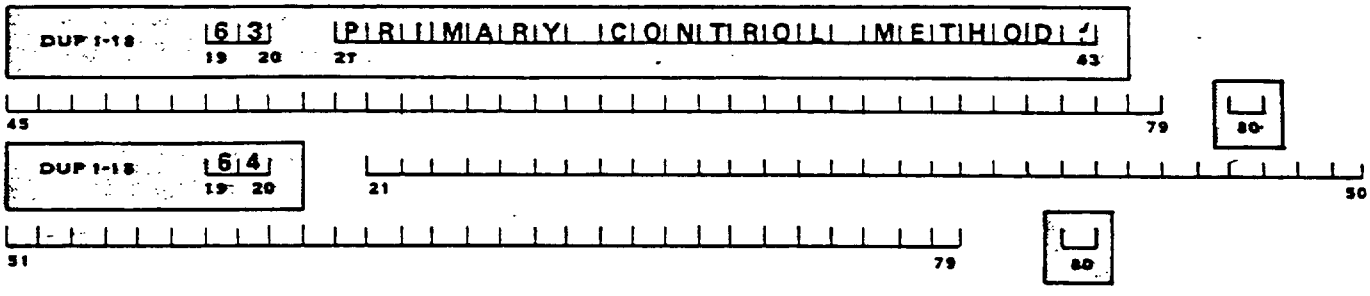
2. ASBESTOS CONCENTRATION - Indicate the average percentage asbestos content of waste materials.



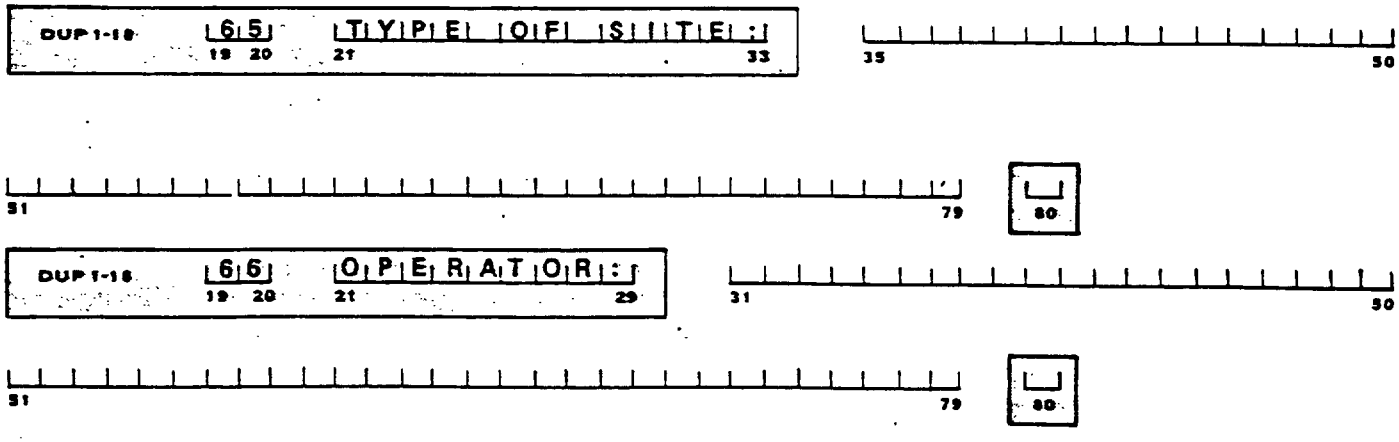
3. AMOUNT OF WASTES - Indicate the average weight of asbestos-containing wastes disposed of, measured in kg/day.

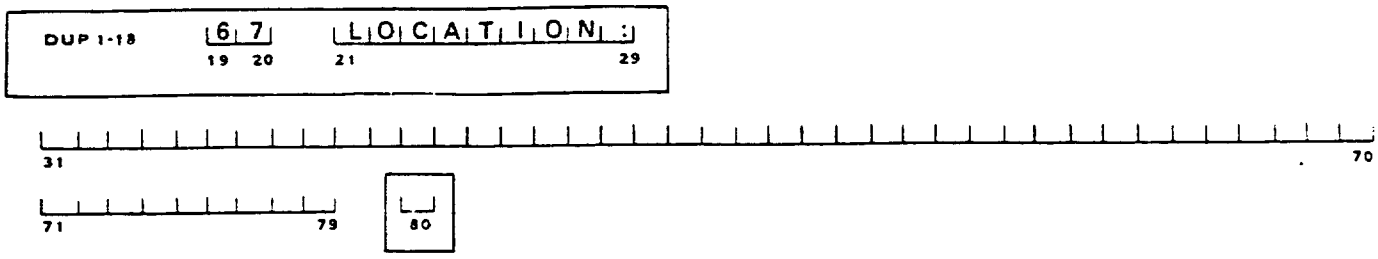


4. CONTROL METHODS - Indicate the emission control methods used in all stages of waste disposal, from collection, processing, and packaging to transporting and disposition.

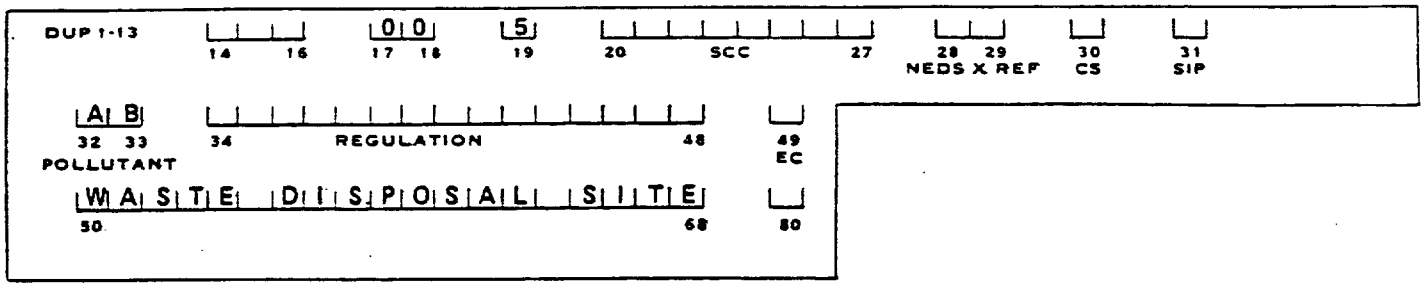


5. WASTE DISPOSAL - Indicate the type of disposal site (sanitary landfill, open, covered) or incineration site (municipal, private) where the waste is disposed of and who operates the site (company, private, municipal). State the name and location of the site (closest city or town, county, state).

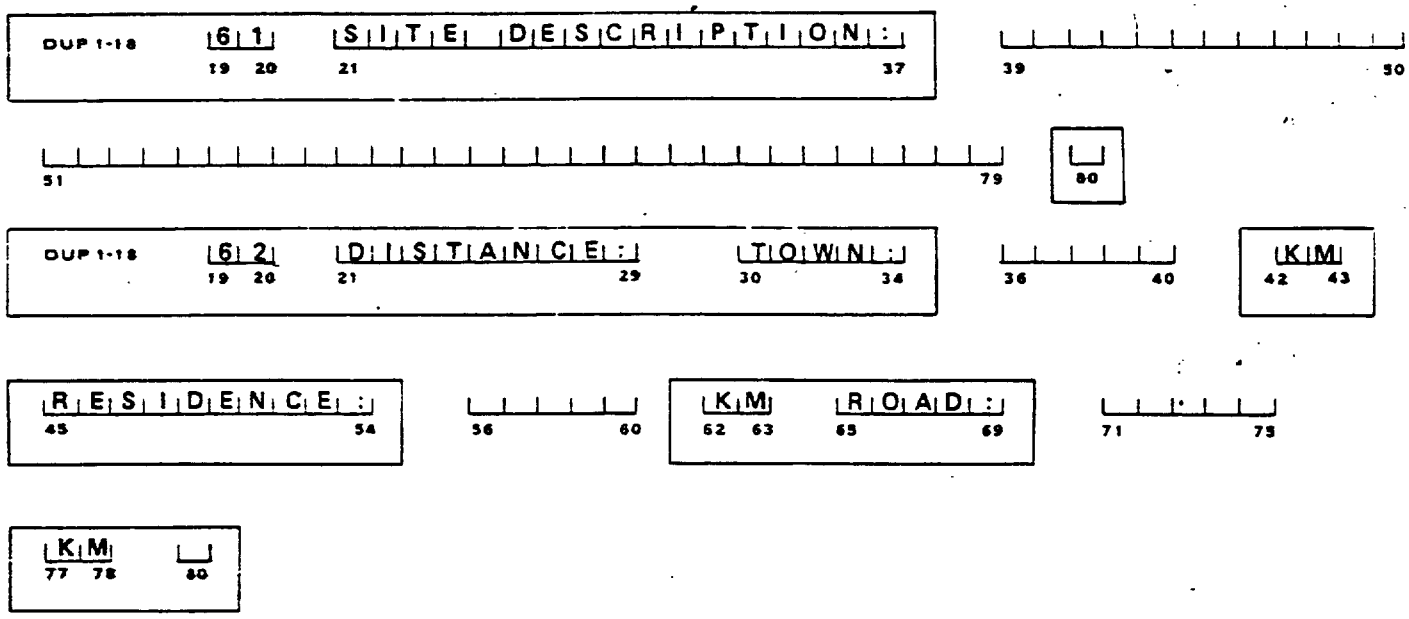




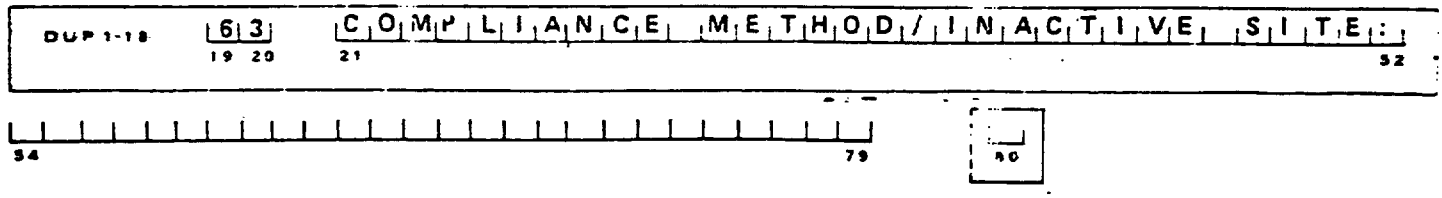
D. WASTE DISPOSAL SITES. Part D should be completed separately for each asbestos waste disposal site subject to section 61.22 (l).



1. DESCRIPTION - Provide a brief description of the site, including its size and configuration, and the distance to the closest city or town, closest residence, and closest primary road.



2. INACTIVATION - After the site is inactivated, indicate the method or methods used to comply with the standard and send a list of the actions that will be undertaken to maintain the inactivated site.



PART II – WAIVER REQUESTS

A. WAIVER OF COMPLIANCE. Owners or operators of sources unable to operate in compliance with the National Emission Standards for Hazardous Air Pollutants prior to 90 days after the effective date of any standards or amendments which require the submission of such information may request a waiver of compliance from the Administrator of the U.S. Environmental Protection Agency for the time period necessary to install appropriate control devices or make modifications to achieve compliance. The Administrator may grant a waiver of compliance with the standard for a period not exceeding two years from the effective date of the hazardous pollutant standards, if he finds that such period is necessary for the installation of controls and that steps will be taken during the period of the waiver to assure that the health of persons will be protected from imminent endangerment.

The reporting information provided in Section I must accompany this application. Applications should be sent to the appropriate EPA regional office.

1. PROCESSES INVOLVED - Indicate the process or processes emitting hazardous pollutants to which emission controls are to be applied.

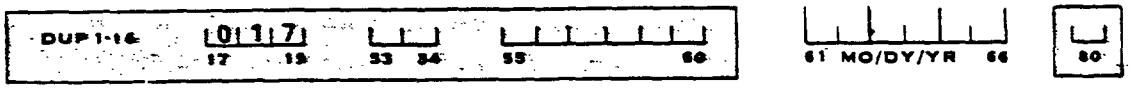
2. CONTROLS

a. Describe the proposed type of control device to be added or modification to be made to the process to reduce the emissions of hazardous pollutants to an acceptable level. (Use additional sheets if necessary.)

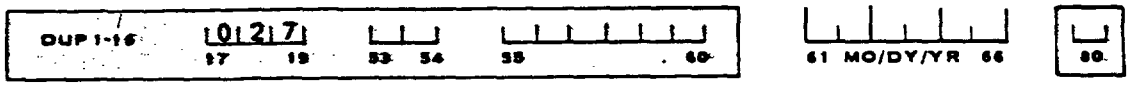
b. Describe the measures that will be taken during the waiver period to assure that the health of persons will be protected from imminent endangerment. (Use additional sheets if necessary.)

3. INCREMENTS OF PROGRESS - Specify the dates by which the following increments of progress will be met.

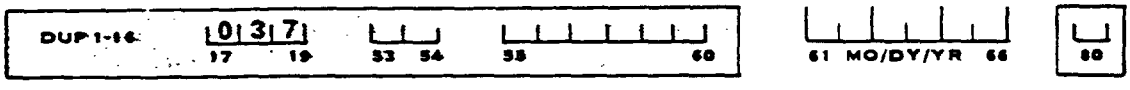
- Date by which contracts for emission control systems or process modifications will be awarded; or date by which orders will be issued for the purchase of the component parts to accomplish emission control or process modification.



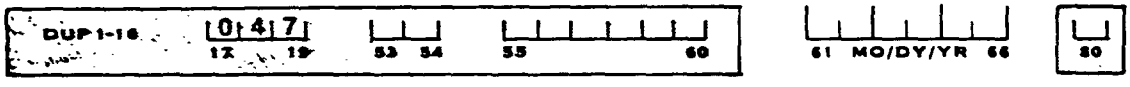
- Date of initiation of on-site construction or installation of emission control equipment or process change.



- Date by which on-site construction or installation of emission control equipment or process modification is to be completed.



- Date by which final compliance is to be achieved.



B. WAIVER OF EMISSION TESTS. A waiver of emission testing may be granted to owners or operators of sources of beryllium or mercury pollutants if, in the judgment of the Administrator of the U.S. Environmental Protection Agency the emissions from the source comply with the appropriate standard or if the owners or operators of the source have requested a waiver of compliance or have been granted a waiver of compliance.

This application should accompany the reporting information provided in Section I.

1. REASON - State the reasons for requesting a waiver of emission testing. If the reason stated is that the emissions from the source is within the prescribed limits, documentation of this condition must be attached.

SIGNATURE OF OWNER OR OPERATOR	DATE

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
CONSUMER PROTECTION AND ENVIRONMENTAL HEALTH SERVICE
FOOD AND DRUG ADMINISTRATION

1. DISTRICT ADDRESS: 50 Fulton St.

2. NAME OF INDIVIDUAL: Mr. D.W. Merrill

3. TITLE OF INDIVIDUAL: Research + Prod. Manager

4. DATE: 5-4-71

5. FIRM NAME: Kelly-Moore Paint Co. Inc. (Paco Textures Div.)

6. SAMPLE NUMBER:

7. NUMBER AND STREET: 1015 Commercial St.

8. CITY AND STATE (Include Zip Code): San Carlos, Calif.

9. SAMPLES COLLECTED

The following samples were collected by the Food and Drug Administration and receipt is hereby acknowledged pursuant to Section 704(c) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 374(c)] and/or Section 511(d) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 360a(d)]* and/or Section 11(c) of the Federal Hazardous Substances Act [15 U.S.C. 1270(c)]* or Section 151.227(a) of Narcotic Regulation No. 5 (26 CFR 151.227(a))*.

Approx. one pound of each product:

K-340 Decorative Ceiling Texture
lot "6301A"

No. 5563 Wall Texture Extra-White
lot "6307"

No. 5521 Taping Compound
lot "6281"

No. 5530 Finishing Compound
lot "6209"

*See reverse of this page.

10. SIGNATURE (Food and Drug Administration Inspector): David W Thorpe

FD FORM 484 (1/69) REPLACES FD FORM 484 (12/67) AND FD FORM 1552 (1/67) WHICH ARE OBSOLETE.

RECEIPT FOR SAMPLES

Section 704(c) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 374(c)] is quoted below:

"If the officer or employee making any such inspection of a factory, warehouse, or other establishment has obtained any samples in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained."

Section 511(d) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 360a(d)] is quoted in part below:

"If a sample is thus obtained, the officer or employee making the inspection shall, upon completion of the inspection and before leaving the premises, give to the owner, operator, or agent in charge a receipt describing the sample obtained."

Section 11(c) of the Federal Hazardous Substances Act [15 U.S.C. 1270(c)] is quoted below:

"If the officer or employee obtains any sample, prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained. If an analysis is made of such sample, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge."

Section 151.227(a) of Narcotic Regulations No. 5 (26 CFR 151.227(a) is quoted below:

"Special agents and customs agents, for the establishment of drawbacks under customs laws and regulations, inspectors of the Food and Drug Administration, Department of Health, Education, and Welfare, in connection with their duties in enforcing the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040; 21 U.S.C. Chapter 1) and State or Federal officials engaged in their duties in enforcing any State or Federal narcotic drug law, are entitled to procure from any person registered under section 4722, samples of narcotics, and registrants may lawfully furnish to any such persons for the purposes stated, the required samples, taking a receipt therefor, which shall be filed with their order forms and records."

Report of analysis will be furnished only where samples meet the requirements of Section 704(d) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 374(d)] which is quoted below:

"Whenever in the course of any such inspection of a factory or other establishment where food is manufactured, processed, or packed, the officer or employee making the inspection obtains a sample of any such food, and an analysis is made of such sample for the purpose of ascertaining whether such food consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise unfit for food, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge."