Asbestos Information Association/North America

22 East 40th Street
New York, N. Y. 10016
(212) ~~661-8296~~
689 3378

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July 12, 1972

TO: AIA/NA MEMBER COMPANIES
AIA/NA ENVIRONMENTAL CONTROL SUB-COMMITTEE
AIA/NA LEGAL COUNSEL

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Clifford Seymour	- The Carborundum Company
J. R. Stetson	- Congoleum Industries, Inc.
Philip Weinstein	- Evertex Incorporated
G. W. Wright, M.D.	- St. Luke's Hospital

Gentlemen:

Inadvertently, the list of non-locked-in asbestos containing products which was to have been attached to our July 5 mailing was not included. Attached, therefore, is the list as originally promised.

It has come to our attention that a number of companies still have questions concerning whether certain asbestos-containing products which they manufacture should or should not be labeled. The standard is rather indefinite in that it calls for warning lables on products which "during any reasonably foreseeable use" may create airborne concentrations of asbestos in excess of prescribed limits. The Occupational Safety and Health Act itself states that "any standard promulgated ... shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatments, and proper conditions and precautions of safe use or exposure." Quite obviously, the rather simple

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warning label prescribed in the regulations does not meet all of the criteria described in the law, which only adds to the problem.

Each company will have to decide for itself whether a particular product requires a label or not. Obviously, there should be uniformity on this subject, because if one company decides to label a certain product, and another company decides not to label the same product, the latter company whould be placed in a most untenable position with OSHA. It is our understanding that OSHA is planning to use the list of non-locked-in products submitted by Dr. Fred Pundsack of J-M at the March hearing as its labeling criteria. If this list is followed, difficulties with OSHA should be few.

Nevertheless, there are always products which do not fit any list, or which may produce levels in excess of the standard at one step in the application or handling process. For example, the field cutting or trimming of asbestos-cement pipe might produce levels in excess of the standard, but only for the man doing the actual cutting and only very intermittently or rarely. Thus, to place a warning label on asbestos-cement pipe would be quite misleading in that it would alarm all those handling the product, when only one man has a potential excess exposure.

Our recommendations to you on labeling would thus be as follows:

1. If the product is included on the list of non-locked-in products, it should be labeled.

2. If a product is <u>not</u> included on the list of non-locked-in products but you consider it to be a border line case, or if the product has an occasional handling or fabrication problem, the following options are open:

   a. Label it and be on the safe side.

   b. Do not label it and hope OSHA doesn't question your decision.

   c. Conduct tests to determine if the use of the product does indeed produce levels in excess of the standard. Chances are that

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most product uses of this type will meet the eight hour TWA standard of five fibers, and that most problems will be in meeting the ten fiber ceiling standard. If tests determine that neither standard is exceeded, the product obviously need not be labeled. The test results should be kept in readiness in case an OSHA inspector questions your decision.

d. If the eight hour time weighted average is above five fibers per cc, then the product should be labeled.

e. If the ceiling value is above ten fibers per cc, which is the more likely of the two possibilities, then the use of the product should be examined to determine (1) how far above ten fibers per cc is the ceiling value, (2) does this particular work practice or use of the product occur frequently, intermittently, or only rarely, (3) can the product be applied, cut, trimmed, etc. in another fashion such that the ceiling level does not exceed ten fibers per cc. After these questions have been answered, it will be up to the individual company involved to weigh each answer carefully and to arrive at a decision based on the simple proposition: Does this product or its use place the health of workmen in jeopardy? Obviously, if the answer is "yes," the product should be labeled. If, on the other hand, you honestly believe that the answer is "No!" then you should not feel constrained to label the product, nevertheless you must be prepared to defend your position with OSHA should they question it.

There are a number of ways that you can place your company in a better defensive position should OSHA challenge your decision not to label a particular product. The basic idea would be for you to alert the purchasers of this particular product that one or more operations in the handling, application, cutting, etc. of the product might produce levels in excess of the standard and that

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precautions should be taken. This could be done through personal contact between industry salesmen and customers, or in the form of an instruction sheet delivered with the order that might specify certain work practices or types of machinery that should be used to keep dust levels low. The instruction sheet, for example, might say nothing more than "Powered bench saws without collectors should not be used in cutting this product. If this is impractable, operator should be provided with a U.S. Bureau of Mines approved respirator."

An approach of this type, or one somewhat similar, would indicate to OSHA, should the question arise, good faith on your part.

With regard to the coordination of industry labeling practices, if your company has decided to label a product not included on the attached non-locked-in list, I would appreciate being notified of this decision and the rationale behind it as soon as possible, so that a uniform position can be established with other companies in the industry manufacturing the same product.

If you have any questions or problems with regard to labeling, please feel free to contact us at any time. I would not advise your asking OSHA for a decision on whether or not to label a certain product. Almost assuredly they will tell you to label any border line product, and that decision will become binding for the rest of the industry as well.

Very truly yours,

Matt

Matthew M. Swetonic
Executive Secretary

Enclosure