ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

2200 Churchill Road
62706
Springfield, Illinois
Phone:

Dr. Richard H. Briceland, Director

PLAINTIFF'S EXHIBIT
Union Carbide 325

April 17, 1975

Mr. W. C. Thurber
Products Manager-Asbestos
Union Carbide Corporation
Mining and Metals Division
270 Park Avenue
New York, N. Y. 10017

Re: Yours of April 1, 1975

Dear Mr. Thurber:

Your above referenced letter states that based on a definition of "spraying" you "presume that the above-mentioned uses of paints and coatings containing small quantities of well-bound asbestos would fall outside this regulation since the purpose of these coatings is neither fireproofing nor insulation but rather for decorative purposes or surface protection." Without more information the Agency cannot concur that this presumption is correct with respect to all end-use applications produced by your company.

In the back of the Air Pollution Control Rules and Regulations of the Pollution Control Board is an opinion by Mr. Samuel Lawton entitled "In the Manner of the Asbestos Regulations #R71-16 Opinion of the Board on Adoption of Regulations." On page 3 of Mr. Lawton's opinion is the following:

> "Asbestos paint and coating fillers utilize asbestos 'shorts' recovered from the milling process where their relative indestructibility increases the density or opaqueness of paint. Where asbestos bearing paint is used in the spraying operation, the potential for emissions is substantial. Likewise, the wearing and aging of the paint becomes an additional source of emissions." (Emphasis added)

This statement indicates that "spraying" may have a more general definition than that provided in Rule 603.

As a responsible enforcement official for the Agency I cannot provide you, in advance of a specific set of facts, with an interpretation that

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could be used as a defense in any future enforcement case. However desirable an opinion might be, I cannot in good conscience foreclose the Agency from taking whatever action is necessary to protect the people of the State of Illinois and in carrying out the purpose of the Illinois Environmental Protection Act and Rules and Regulations adopted thereunder.

In addition, your letter presented a number of ambiguities which would have prevented an answer under any circumstance. These ambiguities include: 1) the specifics of each of the applications, i.e., paints, coatings, roofing compounds, etc.; 2) the amount of asbestos material contained in each of the coatings; 3) what is meant by "well-bound asbestos"; 4) what is meant by "decorative purposes" or, more importantly, "surface protection."

While I am not sure that it would be helpful, the dust sampling report to which you refer in your letter may be of some assistance in the event this question is broached in a more specific form in the future. I am sorry that my office is unable to provide the interpretation you are requesting.

Very truly yours,

Ronald A. Linick

Ronald A. Linick, Attorney
Enforcement Services Section
Division of Air Pollution Control

RAL:jg

cc: K. Conklin
T. Casper

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