PLAINTIFF'S EXHIBIT
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INTERNAL CORRESPONDENCE

MINING AND METALS DIVISION • P. O. BOX 579, NIAGARA FALLS, NEW YORK 14302

To (Name) Mr. W. C. Thurber
Division UCC Mining and Metals
Location 38th Floor
270 Park Avenue
New York, NY 10017

Date November 15, 1973

Originating Dept. "Calidria" Asbestos

Answering letter date

Copy to Messrs. R. E. Byrne, Jr.
R. F. X. Fusapo
J. L. Myers
File

Subject Proposed Rulemaking - Asbestos Particles in Food and Drugs - Fed. Reg. Vol. 38, No. 188, Friday, September 28, 1973

Dear Bill:

John Myers has asked me to review the proposed rulemaking noted above and let you have my comments.

The move by the FDA is a result of further pressure and petitions by environmentalists. Although the FDA has backed off considerably from the total prohibition requested, they are continuing to treat asbestos as an extremely toxic substance.

From a strictly legal sense, the regulation does not seem in the main to apply to us. In my opinion, however, from business and possibly ethical considerations it is highly probable that it will shut us out from any paper or plastisol coating applications that come in contact with food. The use of acid-leached asbestos to treat beer may also be in jeopardy in the U.S.A.

We know that much of the talc industry and at least J-M are actively fighting this regulation. I don't see where UCC has any real solid place to attack in an original way. Possibly we could "me too" some of the arguments already presented if this would be helpful.

I am scheduled to attend a NIOSH seminar on the effects of ingested asbestos in Durham, N.C. on November 18 and 19. The talc industry will be present and I will try to learn what they plan to do. In the interim, it is suggested that you contact the AIA and see what their plans are. We should then discuss the whole picture on November 21 to settle on a course of action for UCC.

Very truly yours,

H. B. Rhodes

HBR:cjb
Attachment

A 10802

COMMENTS

PROPOSED RULEMAKING - ASBESTOS PARTICLES IN FOOD AND DRUGS

" §121.2006 (b)

Good manufacturing practice requires that talc be free from asbestos fibers to the maximum extent practicable. Accordingly, any food or food-packaging material containing talc that is not free from asbestos fibers as determined by the method set out in paragraph (c) shall be deemed to be adulterated in violation of section 402(a)(1) of the act. "

This paragraph requires that any food or food-packaging material containing talc not free of asbestos is prohibited. Mr. Fusaro has stated previously that this regulation is worded so it applies only to talc contaminated with asbestos not to "pure" asbestos used alone. This is obviously correct in a legal sense but I feel that we would have a very considerable problem convincing a potential customer that he could hide behind such a thin line. It is also the type of thing that makes newspaper headlines and New Yorker feature articles.

If we assume that this regulation will sooner or later be applied to "pure" asbestos, it will have the effect of ruling us out of paper or plastisol coatings for any food packages and out of the use of acid-leached asbestos for beer processing. On this basis we have a very real and direct interest to protect.

§133.6 Components

This paragraph covers talc in the manufacture and packaging of drugs. It also presents problems but seems to represent too small a market to fight for.

§133.8 Production and Control Features

The paragraph severely limits the use of asbestos containing filters in the manufacture of parenteral drugs. The market here is small and the arguments harder to come up with compared to the food area. We should probably forget it.

H. B. Rhodes
11/15/73

A 16303