PLAINTIFF'S EXHIBIT
UC-843

UNION CARBIDE

Calidria ASBESTOS

UNION CARBIDE CORPORATION • METALS DIVISION • P. O. BOX 579 • NIAGARA FALLS, N.Y. 14302 • TEL: 716-278-3376

November 16, 1982

On July 30, 1982, the EPA published a final asbestos reporting rule under Section 8 (a) of the Toxic Substances Control Act (TSCA).

A copy of the notification letter we received and a copy of the regulations (Federal Register/Vol. 47, No. 147/Friday, July 30, 1982/Rules and Regulations) are enclosed. You may have already received these mailings directly.

Also enclosed are an "Assistance Alert" (which the EPA has issued to note frequent errors made by early filers), and a summary of the reporting requirements issued by the Asbestos Information Association/North America (AIA/NA).

We are advising you of this new rule in the event you have not submitted your information by the deadline of October 29, 1982. As noted on p. 33207, "(b) Subsection 15 (3) of TSCA makes it unlawful for any person to fail or refuse to submit information required under this rule". Our customer and/or mailing lists will not be made available to the EPA.

If you are required to report, you should contact EPA (800-424-9065) for the appropriate forms. This is an Industry Assistance toll-free number and they can answer any questions you may have.

The AIA/NA is a valuable source of information and assistance for users of asbestos or asbestos-containing products. If you would like additional information about this assosciation, please contact Mr. B. J. Pigg at the address on the enclosed AIA letterhead.

Very truly yours,

UNION CARBIDE CORPORATION

R. E. Byrne, Jr.

R. E. Byrne, Jr.
Manager-Asbestos Sales

/dac

A-1043

REB:dac

Encs.

UC 149-2

1C

CC: Robin Hsyutin

UNION CARBIDE **INTERNAL CORRESPONDENCE**

METALS DIVISION • P.O. BOX 579 - 4625 ROYAL AVE., NIAGARA FALLS, NEW YORK 14302

To (Name) Messrs.
Division G. M. Lincoln
Location J. L. Myers
T. P. Norris
J. B. Rouse
W. C. Thurber
Copy to J. E. Walsh

File

Date November 16, 1982

Originating Dept. "Calidria" Asbestos

Answering letter date

Subject EPA Mailing

In the absence of Bob Byrne, the following literature regarding the recent EPA ruling on asbestos reporting has been sent to all of our commercial customers.

Twenty-five copies have been mailed to Jack Walsh for distributor sales.

G. L. Dickson

GLD:dac

Enclosures

A 16472

:al Slurry, Inc.
'. O. Box 72
)inuba, CA 93618
lr.. Charles Jones

Tremco Mfg. Company
10701 Shaker Blvd.
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Gulf Oil Company
Industrial Asphalt Co. Div.
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Mr. Dean Hansen

remco Mfg. Company
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ernon, CA 90058
r. Don Montagner

Carboline Company
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Mr. John Henehan

Chemical Sealing Corp.
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Mr. A. J. Paradise

ighland Stucco Products
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hoenix, AZ 85019
r. Don Atkinson

Fields Enterprises, Inc.
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Mr. Dick Hancock

World Asphalt Company
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Mr. Norman Pugh

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r. Sidney Allen

RCA Rubber Company
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Mr. Eli Lines

J. W. Mortell
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Mr. Bruce Davis

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s. Barbara Main

Roppe Rubber Company
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Mr. Doyle Dillon

Tremco Mfg. Company
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Mr. William Mishkind

ichael Walter Industries
ilier, IL 62891
'. Gary Bruce

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Ms. Bettie Ficklin

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yton, OH 45403
'. Paul Ahlquist

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Mr. Dash Nahabedian

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58 Second Avenue
Brooklyn, NY 11215
Mr. Andrew Kennedy

'anite Rock Company
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easide, CA 93955
'. Tony Warman

Rogers Corporation
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Rogers, CT 06263
Mr. Carl Welshman

Kamex Energy Corp.
800 Cawthon
Louisville, KY 40203
Mr. Churl Wang

CUSTOMER MAILING LIST -- MAILED EPA LITERATURE 11/16/82

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federal register

Friday
July 30, 1982

Part VII

Environmental Protection Agency

Asbestos Reporting Requirements

AR0475

Published by AsbestosClaims.Law
asbestosclaims.law/library/16055/4

determine that labelling of products would sufficiently reduce the risk.

If the Agency determines that regulatory measures are warranted under the authority of section 6 of TSCA, the Agency will use information from this rule to support regulatory impact analyses required under Executive Order 12291. A complete data base will allow the Agency to choose and document better the most cost-effective regulatory approach. The Agency will consider all relevant information that it can reasonably obtain from the current manufacturers and processors who would be most affected by regulations.

A. Need for the Data

This reporting is being required because adequate data are not otherwise available for the present investigation to determine where unreasonable risks from asbestos exist and the appropriate approaches to reduce those risks. Information that is currently available to the Agency is sufficient as the basis for qualitative generalizations about both the value of using asbestos in its various application and the risks from those activities. Yet, the Agency has no set of information that it can reference in quantifying either the risk from or the value of the various products and product subcategories. Before drawing any final conclusions about asbestos, the Agency needs a data base that it can use to characterize the current situation with a greater degree of accuracy.

EPA has examined all information presently available to Federal agencies and solicited information from industry prior to the issuance of this rule. Agency personnel and contractors reviewed the extensive literature concerning asbestos; obtained information from other Federal agencies; and developed new data and made site visits when possible. The search for information is described in an internal EPA document entitled, "Technical Information Summary" (TIS), which is part of the public record for this rule. The TIS summarizes the various sources of available information both in published literature and from Federal agencies, and it evaluates the usefulness of the information to the Agency. Additionally, the TIS describes efforts by EPA contractors to conduct necessary analyses and the problems they have encountered.

Briefly, the "Technical Information Summary" contains the following conclusions about Government and industry documents that are available: While information is available generally to characterize the industries that make products from bulk asbestos, very little data exist on secondary processors. Further, all of the information that is available is inadequate in several respects. The basic data source of asbestos consumption patterns is from the Bureau of Mines. Many of the documents concerning industrial and commercial uses of asbestos cite the Bureau of Mines data. However, the data used by the Bureau of Mines to determine asbestos consumption are from an annual voluntary survey of only a portion of asbestos processors and, for instance, do not count 40 percent of the bulk asbestos we know is imported. The Bureau of Mines estimates that the asbestos consumption figures are accurate only to ±50 percent. EPA expects to attain a higher degree of accuracy because virtually all of the processing of bulk asbestos will be reported under this rule and this production will be reported according to well-defined categories of both companies and products. In addition, EPA will be able to characterize all industry segments with greater confidence from data obtained in the representative survey. Agency contractors who have developed the preliminary analyses for the asbestos investigation participated in the design of these information requirements to ensure that any gaps and shortcomings of existing information will be corrected to the extent possible.

Available information provides general characteristics of the industries which make and process asbestos products. However, the information is already in an aggregated form and discrete components cannot be separated from the totals. For instance, at this time the Agency cannot characterize many products because data about the asbestos products are mixed in aggregates with data about similar, non-asbestos products. The underlying data of the aggregates, which are needed for the Agency analyses, are not available in most cases. For example, the Bureau of the Census is precluded under Title 13, U.S. Code, from disclosing individual reports it receives. Further, the information is too superficial to analyze separately subcategories of products. In some areas, as is the case for most secondary processors, existing information is too sparse to enable the Agency to make any but the most general estimates.

The lack of detail in available information means that the Agency is not able to analyze the effects that regulatory or voluntary actions on a single product may have on a multi-product industry and to quantify expected reductions in risk. This rule will characterize activities at the plant-site level, which will permit the Agency to analyze how specific actions would affect various elements of the analyses.

Most of the existing information consists of estimates that are based on data which may not reflect the current situation because the data were gathered many years ago. The most comprehensive information available covers the years 1975–1976, and it was generated to support and respond to OSHA's proposal in 1975 to lower the asbestos workplace standard. Present information indicates that significant changes have occurred. For instance, the U.S. Bureau of Mines reports that apparent consumption in the United States of raw asbestos fiber declined 36 percent in 1980, with a drop in consumption from 658,647 short tons in 1976 to 358,703 short tons in 1980. Changes have also occurred in the number of employees and the patterns of asbestos use. Information gathered through this rule will ensure a representative picture of the present situation and it will update or verify where possible data that already exist.

The TIS reviews EPA's search for information within EPA and from other Federal agencies. Data have been acquired from the EPA Compliance Data System Asbestos National Emission Standard For Hazardous Air Pollutants (NESHAP) file, inspection data from both the Occupational Safety and Health Administration (OSHA) and the Mine Safety and Health Administration (MSHA), reports from CPSC's General Order (see the following paragraphs), and importer data from the U.S. Customs Service. The Agency has acquired and evaluated information from these agencies, and concluded that these data do not adequately substitute for the information to be gathered by this rule.

A significant source of information on exposure levels in industry is the Occupational Safety and Health Administration (OSHA), which has performed workplace inspections since it promulgated the workplace exposure level standard in 1972. OSHA records contain a great deal of anecdotal information but, for the following reasons, few generalizations can be drawn about industry-wide exposure levels or the number of workers that are exposed. Because OSHA does not uniformly inspect all industries, it is difficult to make statistically valid extrapolations for all of industry. Moreover, approximately 80 percent of OSHA's inspections are in response to complaints, and cannot be extrapolated to make industry-wide estimates.

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principal economic measures that will be determined from data obtained through this rule are the value of production, the importance of the asbestos activity to the total value produced at the reported sites, the number of employees, the relative value of imports to exports, and the relative value of production to the Gross National Product. These measures will illustrate the monetary importance of the product to the plant site, to the company, to the total asbestos market, to the nation, and to the balance of trade.

Primary processors will report the value of their production for the last three years, describing the amount made for both export and domestic markets. Data from three years will permit analysts to use a multi-year average that is more reliable than data from a single year. Primary processors will report their consumption of bulk asbestos each year and estimate the relative value of their asbestos activity to total production at the plant site. Secondary processors will report the production of end products in which they incorporate the asbestos material and the purpose of including that material in the product. Both types of processors will report the total number of employees at the plant site as well as the number of production employees making subcategories of end products. With this detailed information, the Agency will be able to predict the future value of production and to establish what might be the economic effects of regulation.

Where the Agency finds that regulatory proceedings are appropriate, it will, through this rule, already have collected information necessary to describe fully the expected effects of the possible alternatives and to perform the analyses required by E.O. 12291. Thus, a complete data base provided by this rule will preclude the need to obtain additional data later in the investigation, which would delay resolution of the investigation. Timely action will benefit the Agency, industry, and the public by providing a means to take immediate action that protects public health and by removing a cloud of uncertainty over other uses of asbestos.

The primary purpose of gathering these data is to support the TSCA investigation. However, as noted earlier, other EPA offices and Federal agencies may also utilize the data base in any studies that involve the commercial and industrial uses of asbestos. EPA's Office of Air Quality Planning and Standards (OAQPS) is reviewing the Asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP). Data from this rule that characterize and quantify emissions from stationary sources, the current economics of the industry, and its pollution control practices will be of value during the appraisal of this 1973 standard. EPA's Office of Solid Waste (OSW) may develop guidelines for the handling and disposal of asbestos-containing wastes. OSW expects to use data from this rule that quantify the kinds of waste presently generated by manufacturers and describe how and where those companies currently dispose of their wastes. Information that characterizes the kinds of asbestos-containing waste and current waste disposal practices will permit analysts to determine the relative degree of hazard posed by waste disposal activities. The Consumer Product Safety Commission (CPSC) is examining consumer products to determine what products may pose a chronic hazard to consumers. EPA has coordinated the data requirements of this rule with CPSC to eliminate duplication and to ensure that the reports will be useful to the CPSC investigation. This rule will provide a listing and quantification of imported and domestically produced consumer products containing asbestos which is not presently available. OSHA and MSHA have supported this rule throughout its development, because a current listing of companies, products, numbers of employees, and exposure levels would be very useful in reviews of the asbestos workplace exposure standards.

III. What to Report

EPA has developed two forms which are to be completed by respondents. The composite form, EPA Form 7710-36, "Reporting Commercial and Industrial Use of Asbestos," (hereafter referred to as the "Primary Form"), has individual sections for reporting data about products, production, asbestos consumption, employees, workplace exposures, waste and disposal, pollution control equipment, and estimated quantities of asbestos emissions. Production and importation from 1979–1981 will be reported by category of product, rather than by individual product lines. Respondents will fill out the sections that apply to them. Each respondent is to complete the relevant sections of the form depending on the activities of the reported plant site. The instructions to the form clearly list the sections that are to be completed by miners and millers, importers of bulk asbestos, and primary processors respectively. Those persons will complete all applicable sections of the Primary Form, and will report all asbestos importation and processing activities in the first reporting phase. In addition, the Primary Form contains separate sections to be completed in a second reporting phase by a sample of persons who are only secondary processors and importers of asbestos-containing products. Persons from those segments who are selected to complete the Primary Form during the sample survey will complete the applicable sections (see discussion below in unit VI, "Reporting Procedures").

EPA Form 7710-37, "Secondary Processing and Importation of Asbestos Mixtures," (hereafter referred to as the "Secondary Form"), is a short survey form which requires identification of asbestos mixtures or components, the amounts consumed or imported in 1981, and the products into which these mixtures and components are incorporated. The Secondary Form, to be completed by secondary processors and importers of asbestos-containing products, will serve several purposes for the Agency. The procedural purpose of the Secondary Form is to permit EPA to identify the companies in these groups in the least burdensome manner so that only a representative sample of the groups will be required to complete the Primary Form. The information from the Secondary Form, because it identifies firms and products and production amounts, will in itself provide EPA with valuable information. Data from the Secondary Forms will show the breadth of the secondary processor population and the variety of asbestos-containing products that are presently manufactured or imported. Finally, the reports of the quantities of asbestos mixtures that were consumed or imported in 1981 will permit EPA to gauge the present levels of processing and importation of asbestos products. These data will be used in estimating potential worker and consumer exposure and in judging the economic consequences of alternative options. In addition, knowing the products of secondary processing will support determinations of the availability of substitutes.

IV. Who Reports

This rule defines who must report and what to report according to the industrial activity of the respondent during 1981. The Primary Form must be completed by all persons who mine, mill, import, or process bulk asbestos. The Secondary Form must be completed by secondary processors or persons who import asbestos mixtures or articles containing asbestos components. Some

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"true" pre-formed brake linings during assembly with brake foundations to get a better fit. In this case, reports from manufacturers of the pre-formed brake linings will sufficiently quantify production of the friction material product subcategories. Exposure scenarios for the excluded industries can be quantified by relating expected exposure levels with the quantities of products that are made. Therefore, reports from these excluded industries are not essential.

This rule also exempts persons who repair articles, repackage asbestos mixtures without modification, or who engage in construction work. The Agency proposes to exempt these persons from reporting primarily because so many persons are in these categories, the workforce is constantly changing, and they are generally composed of many small businesses, such as brake repair shops and construction companies. Also, as is the case with other excluded industries, exposure scenarios for the construction and brake repair industries can be developed by relating expect exposure levels with production levels reported by product manufacturers.

Section 8(a) of TSCA does not apply to distributors of chemical substances or mixtures. Therefore, persons who are solely distributors, and do not manufacture, process, or import, are not covered by this rule.

Reporting is not required by persons who are "end users" of bulk asbestos or asbestos products and do not further distribute such items in commerce. The most common example of this is in the manufacture of chlorine, where some persons use asbestos as a diaphragm to separate chlorine and caustic soda. While much bulk asbestos is consumed annually by this industry and much waste generated, asbestos fiber is not present in the resultant products which are distributed in commerce and these activities are therefore not "processing" of asbestos.

VI. Reporting Procedures

Companies must report the activities of each plant site on an individual reporting form with one exception. That exception is that respondents have the option to report all of their company imports or exports on a single form. The form instructions explain further how this is to be done.

Miners, millers, primary processors, and importers of bulk asbestos must submit all appropriate portions of the Primary Form within 90 days after the effective date of the final rule. If the respondent's activities include "secondary processing" or importing of asbestos mixtures or articles containing asbestos components, all such activities, including those at other plant sites, must be reported at the same time the person reports as a miner, primary processor, or importer of bulk asbestos.

EPA will require reporting in a different way for persons who are solely secondary processors or importers of asbestos mixtures. Apparently there are many thousands of persons who are secondary processors or importers of asbestos-containing mixtures. EPA has devised a scheme to reduce the reporting burden for these companies. Persons who are solely secondary processors or importers of asbestos mixtures or articles containing asbestos components will report to EPA in phases. First, they will submit the Secondary Form within 60 days after the effective date of the rule. The Secondary Form reports will be used by EPA to improve the Agency's knowledge of the products being made with asbestos, the number of companies making the products that contain asbestos and the amounts of asbestos mixtures they use, and the kinds and amounts of mixtures and products being imported.

Further reporting of the information on the primary form by some respondents will be necessary to develop more complete profiles and projections for regulatory analyses. The Secondary Form will not ask all respondents (estimated to comprise 5,750 reports) for the detailed information the EPA would like to consider in the risk and economic analyses. Instead, the Agency plans to have a representative sample of Secondary Form respondents report more detailed information. The Agency wants to account for 100 percent of asbestos usage, but for purposes of this analysis, and to reduce the reporting burden, the Agency has determined extrapolations can be made from less than 100 percent. EPA believes that a sampling technique can provide information that would adequately describe secondary asbestos processing and products. Sampling to decrease the number of processors required to submit additional detailed information will reduce the overall burden of additional reporting substantially. In unit VIII, "Reporting Burden", EPA estimates that Phase 2 reporting will be required from approximately 1500 of the Phase 1 respondents. The objective is to sample only the number necessary to meet the goal of attaining a reliable sample.

EPA plans to use a stratified random sampling method as the basis for the sample survey. That is, the respondents to the Secondary Form will be divided into non-overlapping and reasonably homogeneous strata and then sampled by stratum. The strata will be defined by all or an appropriate subset of the following variables: reported asbestos-starting material, reported asbestos end product, and the volume of asbestos-starting material annually consumed. Additionally, the population may be further stratified according to size (the amount of asbestos mixture processed or imported) and geographic location, which will ensure that any sample fully represents the whole population. The type of asbestos-starting material and the asbestos end product would permit EPA to analyze a representative portion of each product category application. Consideration of the amount of the asbestos-starting material that is consumed will better ensure representation of both larger and smaller processors of asbestos materials.

The Agency can make the final decision on which variable(s) to use in stratifying and how large the sample will be only after examining the composition of the Secondary Form respondents, since the actual numbers of respondents and the products they report in the first phase will not be known until the first phase reports are submitted. The Agency will use standard statistical techniques in conducting the sample survey.[1] The Agency will stratify and sample respondents with the goal of minimizing the reporting burden as much as is practical. To extrapolate an estimate about a population from a sample survey requires obtaining reports from enough respondents to represent the whole population. To make an estimate about a stratum composed of a few respondents may require sampling a larger percentage than would be necessary to make an estimate of the same reliability about a stratum composed of a greater number of respondents. EPA will use one or a combination of the variables listed in the preceding paragraph to stratify respondents for the sample survey. The Agency will select the stratifying variable(s) which will result in the fewest number of respondents while still ensuring a reliable statistical sample.

The Secondary Form respondents selected for more detailed reporting will be notified by certified letter. These persons will have 90 days to complete relevant portions of the Primary Form.

Some persons subject to reporting under this rule may be exempted from reporting certain information already

[1] Kish, Leslie. Survey Sampling. New York: John Wiley. 1965.

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goods that contain asbestos and, therefore, would not fully comply with the rule. This rule provides that importers need report information relating only to the types of products listed on the form, which should cover most such imports. Second, importers asserted that the requirement to provide "reasonably ascertainable" information on the Primary Form during the second phase of reporting could require them to seek information from foreign manufacturers, possibly at considerable cost. The final rule requires importers to provide information "in their possession" during both phases of reporting.

IX. Reporting Burden

In order to assess the clarity of the form and to ensure that data are reported in the most effective manner, the Agency conducted a pre-test of the form through the Institute for Survey Research, Temple University. The respondents were members of the Asbestos Information Association. This pre-test was quite valuable to EPA in improving the clarity and coherence of the form. In addition, the respondents estimated the cost of completing each section of the form. The final report by the Institute for Survey Research, "Design and Testing of Asbestos Use Reporting Form", is part of the public record for this rule. The pre-test was not a statistically-based sample and only eight companies were asked to participate. Therefore, the resultant cost estimates could not be used directly to compute the reporting impacts of this rule. However, the pre-test results helped EPA arrive at an impact estimate. A detailed description of the reporting burden estimates can be found in a report by Arthur Young & Company, "Economic Impact Analysis for the TSCA Section 8(a) Rule, Reporting Commercial and Industrial Uses of Asbestos", which is part of the public record for this rule. The results of the pre-test and the reporting burden calculations are summarized in the "Reports Impact Analysis", an internal EPA report that is available in the OPTS Reading Room. The documents cited above may be acquired by writing or calling the Industry Assistance Office at the address and telephone number given at the beginning of this notice.

In unit XII of this preamble—"Regulatory Flexibility Act"—EPA calculates that 40 percent of the secondary processors will be small businesses and will be exempt from this rule. Therefore, in this section costs are calculated for 5,385 secondary processors, while we estimate there may be a total of 8,974 secondary processors if small businesses are counted. (These estimates are derived from a formula used in 1976 by the Asbestos Information Association, which is described in the "Reports Impact Analysis.") In addition, EPA calculations exclude primary processors who are known to be small businesses. However, the Agency does not calculate the cost reduction from excluding small importers because the composition of that segment is not well-defined, although it does expect that this group will contain some small businesses. Therefore, the actual reporting costs may be less than our present calculations.

As already discussed, two reporting forms will be used for this rule. The Primary Form will be completed by miners, millers, primary processors of asbestos, and importers of bulk asbestos in a first reporting phase. EPA estimates that for this group of respondents, a total of 487 reports would be received by the Agency. Completion of these reports would require a total of 7,500 hours, and cost approximately $230,000.

Secondary processors and importers of asbestos mixtures or articles containing asbestos components will be required initially to complete the Secondary Form. The Agency estimates that it will take four hours to complete each form, at a cost of $120 per form. The Agency anticipates receiving 5,750 such reports. Therefore, the Secondary Form reporting would require a total of 23,000 hours, and would cost approximately $690,000.

The Agency expects that approximately 1,500 of those persons who initially complete the Secondary Form will be selected, in a sample survey, to complete the Primary Form. The sample survey will require a total of 36,000 hours, and would cost $1,100,000.

Based on these cost estimates, and assuming a small business exclusion, EPA estimates the total cost of reporting for this rule would be $2 million, requiring 66,500 reporting hours.

Using available data, an economic impact analysis of the proposed rule was performed for primary processors. Using the measure of the one-time cost as a percent of annual gross profits, the estimated impact was found to be minimal (around 0.1 percent) for even the smallest primary processors (the ones most likely to be impacted).

Such an economic impact analysis was not possible for the other industry segments affected by this rule due to unavailability of data. EPA did compare the average value of shipments for four-digit SIC codes for primary processors and other SIC codes likely to contain asbestos secondary processors. This comparison suggested no significant difference between primary processors and other industry segments in the size ranges of 10–19 employees and 20–49 employees. These size categories are the smallest establishments likely to be impacted by this proposed rule and the ones most likely to experience adverse effects. On this basis, EPA feels that the potential impacts on secondary processors and others in the asbestos industry will be of a similar small magnitude as the impacts estimated for the primary processors. Refer to two documents in the public record: (1) "TSCA Section 8(a) Rule Reporting Commercial and Industrial Uses of Asbestos: Economic Impact on Secondary Processors," memorandum from Regulatory Impacts Branch, December, 1980, and (2) "Economic Impact Analysis for the TSCA Section 8(a) Rule Reporting Commercial and Industrial Uses of Asbestos," Arthur Young & Company, Washington, DC, October, 1980.

X. Sunset Provision

The general requirements of this rule will expire 5 years after the effective date of the rule. The selection and notification of sample survey participants for Phase 2 reporting (see unit VII of this preamble and § 763.71(c) of the rule) will take place within three years after the effective date of the rule. If EPA determines that any requirements of this rule should be continued, a notice to that effect will be published for comment.

XI. Public Record

EPA has established a public record for this rulemaking as defined in section 19(a)(3) of TSCA (docket number OPTS-84004). The public record, along with a complete index, is available for inspection in the OPTS reading room, E-107, from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays, (401 M St., S.W., Washington, D.C. 20460). This record contains the basic information that the Agency considered in developing this rule. The Agency will supplement the record with additional information as it is received. This record includes the following:

1. The proposed rule, published in the Federal Register of January 26, 1981, (46 FR 8200).

2. Comments received in response to the proposed rule, including any comments received from the Office of Management and Budget during Paperwork Reduction Act of 1980 review.

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763.65 Who must report.
763.71 Schedule for reporting.
763.74 Confidential business information.
763.76 Reporting commercial and industrial use of asbestos.
763.77 Reporting secondary processing and importation of asbestos mixtures.
763.78 Sunset provision.

Authority: Sec. 8(a) Toxic Substances Control Act (TSCA), Pub. L. 94-469, 90 Stat. 2029, (15 U.S.C. 2607(c)).

Subpart D—Reporting Commercial and Industrial Uses of Asbestos

§ 763.60 Scope and compliance.

(a) This rule requires reporting by persons who manufacture, import, or process asbestos. Different reporting requirements are imposed depending on the person's activity. Manufacturers, importers and processors of commercial and industrial asbestos fiber must report quantity, use, and exposure information. Importers of mixtures and articles containing asbestos and processors of asbestos mixtures will report to EPA in two phases. They initially must report limited information about processing or importation. Some must subsequently report additional information if they are selected as respondents in a sample survey.

(b) Subsection 15(3) of TSCA makes it unlawful for any person to fail or refuse to submit information required under this rule. Section 16 provides that a violation of section 15 renders a person liable to the United States for a civil penalty and possible criminal prosecution. Under section 17, the district courts of the United States have jurisdiction to restrain any violation of section 15.

§ 763.63 Definitions.

The definitions in section 3 of TSCA and the following definitions apply for this rule:

(a) "Asbestos" means the asbestiform varieties of: chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite); anthophyllite; tremolite; and actinolite.

(b) "Asbestos mixture" means a mixture which contains bulk asbestos or another asbestos mixture as an intentional component. An asbestos mixture may be either amorphous or a sheet, cloth fabric, or other structure. This term does not include mixtures which contain asbestos as a contaminant or impurity.

(c) The term "bulk asbestos" means any quantity of asbestos fiber of any type or grade, or combination of types or grades, that is mined or milled with the purpose of obtaining asbestos. This term does not include asbestos that is produced or processed as a contaminant or an impurity.

(d) "EPA" means the United States Environmental Protection Agency.

(e) "Importer" means anyone who imports any chemical substance, including a chemical substance as part of a mixture or article, into the customs territory of the U.S. and includes the person liable for the payment of any duties on the merchandise, or an authorized agent on his behalf. Importer also includes, as appropriate:

(1) The consignee.

(2) The importer of record.

(3) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(4) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR Part 144. For the purpose of this definition, the customs territory of the U.S. consists of the 50 states, Puerto Rico, and the District of Columbia.

(f) "Known to or reasonably ascertainable by" means all information in a person's possession or control, plus all information that a reasonable person might be expected to possess, control, or know, or could obtain without unreasonable burden or cost.

(g) "Manufacture for commercial purposes" means to import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer and includes, among other things, such "manufacture" of any amount of a chemical substance or mixture:

(1) For commercial distribution, including for test marketing, and

(2) For use by the manufacturer, including use for product research and development, or as an intermediate.

"Manufacture for commercial purposes" also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including both byproducts and coproducts that are separated from that other substance or mixture, and impurities that remain in that substance or mixture. Byproducts and impurities may not in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemical product for a commercial purpose.

(h) "Miner of asbestos" is a person who produces asbestos by mining or extracting asbestos-containing ore so that it may be further milled to produce bulk asbestos for distribution in commerce, and includes persons who conduct milling operations to produce bulk asbestos by processing asbestos-containing ore. Milling involves the separation of the fibers from the ore, grading and sorting the fibers, or fiberizing crude asbestos ore. To mine or mill is to "manufacture" for commercial purposes under TSCA.

(i) "Person" means any natural person, firm, company, corporation, joint venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body, and any department, agency, or instrumentality of the Federal Government.

(j) "Primary processor of asbestos" is a person who processes for commercial purposes bulk asbestos.

(k) "Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included. If a chemical or mixture containing impurities is processed for commercial purposes, then those impurities are also processed for commercial purposes.

(l) "Secondary processor of asbestos" is a person who processes for commercial purposes an asbestos mixture.

(m) "Site" means a contiguous property unit. Property divided only by a public right-of-way shall be considered one site. There may be more than one manufacturing plant on a single site.

(n) "Small manufacturer, processor, or importer" means a manufacturer or processor who employed no more than 10 full-time employees at any one time in 1981.

§ 763.65 Who must report.

(a) Persons who were miners or primary processors of asbestos, or importers of bulk asbestos in 1981 must complete and submit a separate EPA Form 7710-36, Reporting Commercial and Industrial Use of Asbestos (see § 763.76), for each site and for each company activity not elsewhere reported, according to the schedule in § 763.71. When two or more persons meet the definition of "importer" for the same shipment, the principal in the transaction, not his agent or agents, shall report.

(b) Persons who were secondary processors of asbestos in 1981 must complete and submit Parts I and II of EPA Form 7710-37, Reporting Secondary

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O.M.B. No. 2070-0070. Approval Expires June 30, 1985

EPA United States Environmental Protection Agency

REPORTING COMMERCIAL AND INDUSTRIAL USES OF ASBESTOS

Where completed send this form to:

U.S. Environmental Protection Agency
P.O. Box 2070
Rockville, MD 20852

Please read the accompanying instruction booklet before completing this form. Note that a separate form must be submitted for each plant site, except that total imports or exports of bulk asbestos may be reported in a consolidated corporate report. The instructions provide further directions.

When this form is complete, enclose it in the preaddressed envelope provided. Should you have any questions, please contact the Industry Assistance Office toll-free at (800) 424-9065 or in Washington, D.C. at (202) 554-1404.

All persons who are solely secondary processors, importers of asbestos mixtures, or importers of articles containing asbestos components will report in the first phase on EPA Form 7710-37, titled "Secondary Processing and Importation of Asbestos Mixtures." These persons will report in this form, EPA Form 7710-36, only upon receipt of notice to that effect from EPA (see 40 CFR 763, part D).

A(1). RESPONDENT IDENTIFICATION

1. Company name | Plant site name

Address (Number and street)

City | County | State | ZIP code

2. Person technical contact person | Name | Job title | Office telephone (Area code, number, extension)

3. If applicable — Record state identification number ——

4. If applicable — Record the name and address of the parent corporation which is responsible for the fiscal management of the reporting site.

Name of parent corporation

Address (Number and street)

City | County | State | ZIP code

5. Record the total number of years during which the manufacture and/or processing of asbestos has been conducted at the reporting site. —— | Number of years

A(2). RESPONDENT ACTIVITY

6. Identify your activity from the definitions in the instruction booklet and mark (X) the box next to the category below that best describes your activity/ies. Mark (X) next to all activities that you are reporting on this form. You must at least complete the portions of this report that are indicated next to the box you mark, and you must complete other sections if you conduct that activity. For example, if at the same plant site you process bulk asbestos to produce an asbestos mixture and you also process an asbestos mixture that is made at another location, then you as a primary processor must also complete part D as a secondary processor.

All persons who are miners, millers, primary processors, or importers of bulk asbestos must report their asbestos activities at all plant sites.

Mark (X) your activity/ies that is reported on this form.

- ☐ Mine and mill — Complete parts A, B(1), G, H, I, J, K (B(3), if applicable)
- ☐ Primary processor — Complete parts A, C, G, H, I, J, K (B(3), if applicable)
- ☐ Importer of bulk asbestos — Complete parts A, B(2) (B(3), if applicable)
- ☐ Secondary processor — Complete parts A, D, G, H, I, J, K
- ☐ Importer of asbestos mixtures — Complete parts A and E
- ☐ Importer of article(s) containing asbestos component(s) — Complete parts A and F

A(3). CERTIFICATION FOR CLAIMS OF CONFIDENTIALITY

You may claim as confidential any information you submit on this form. The instructions provide specific instructions on how to assert claims of confidentiality. For information which you submit in attachments to the form, provide a copy which clearly indicates the information you wish to claim confidential.

Space is provided at the end of each line to claim information on that line confidential.

For any information on this form you claim as confidential, you must certify that the information is confidential. The signature below will attest to the truth and accuracy of the following statements. All four statements must be true about any information you claim confidential.

1. My company has taken measures to protect the confidentiality of the information, and it will continue to take those measures.
2. The information is not, and has not been, reasonably obtainable by other persons (other than governmental bodies) by using legitimate means (other than discovery based on a showing of special need and in a judicial or quasi-judicial proceeding) without my company's consent.
3. The information is not publicly available.
4. Disclosure of the information claimed as confidential would cause substantial harm to my company's competitive position.

7. Signature of authorized official | Date

B(1). PRODUCTION OF BULK ASBESTOS

QUANTITY OF BULK ASBESTOS MINED OR MILLED

Enter, in short tons, the amount of bulk asbestos you produced (mined or milled) for 1979 through 1981.

Year	Report in short tons						
	Chrysotile	Crocidolite	Amosite	Anthophyllite asbestos	Tremolite asbestos	Actinolite asbestos	Confidential Mark (X)
1979							
1980							
1981							

B(2). IMPORTATION OF BULK ASBESTOS

QUANTITY OF BULK ASBESTOS IMPORTED

Enter, in short tons, the amount of bulk asbestos you imported for 1979 through 1981. Mark (X) one: ☐ This is a corporate consolidated report. ☐ This is a plant site report.

Year	Report in short tons						
	Chrysotile	Crocidolite	Amosite	Anthophyllite asbestos	Tremolite asbestos	Actinolite asbestos	Confidential Mark (X)
1979							
1980							
1981							

B(3). EXPORTATION OF BULK ASBESTOS

QUANTITY OF BULK ASBESTOS EXPORTED

Enter, in short tons, the amount of bulk asbestos you exported for 1979 through 1981. Mark (X) one: ☐ This is a corporate consolidated report. ☐ This is a plant site report.

Year	Report in short tons						
	Chrysotile	Crocidolite	Amosite	Anthophyllite asbestos	Tremolite asbestos	Actinolite asbestos	Confidential Mark (X)
1979							
1980							
1981							

EPA Form 7710-36 (6-12-82)

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U.S. ENVIRONMENTAL PROTECTION AGENCY

REPORT OF COMMERCIAL AND INDUSTRIAL USES OF ASBESTOS
Continued

COMPANY NAME AND ADDRESS
(Same as reported in item 1 on page 1)

Page 3

F. IMPORTATION OF ARTICLE(S) CONTAINING ASBESTOS COMPONENTS

Enter the following information for each article that you imported in 1981. Classify your imports according to the lists in section C or D.

Article name (Enter one article per row) (1)		Total amount imported (2)				Asbestos component(s) (Use one line per component(s)) (3)	Confidential (4)
Code number	Generic name	Year	Quantity	Unit of measure	Value (U.S. dollars)		
		1979					
		1980					
		1981					
		1979					
		1980					
		1981					
		1979					
		1980					
		1981					

G. EMPLOYEES

Record the number of employees at the reporting site in each of the categories below. Count each employee in one category only.

	Number of employees	Confidential (2)
(1) TOTAL number of employees at plant site (Sum of 2, 3, 4, and 5)		
(2) Number of production employees		
(3) Number of employees in shipping, receiving, and moving		
(4) Number of maintenance employees		
(5) Number of other employees		

H. SUMMARY OF CURRENT WORKER EXPOSURES

This section requires you to report, by category of production workers, the arithmetic mean of the 8-hour time weighted average (TWA) and ceiling concentration exposure levels for all employees at the reporting site. Report for all employees for whom you have determined a TWA and according to each production line making the reported products. The instructions include a worksheet for making necessary calculations (see Appendix B).

End product (Enter name) (1)		Respondent activity (2)	Production work category (3)	Number of employees (4)	8-hr time weighted average				Ceiling concentration over 30 min (9)	Confidential (Item 2)
Code number	Generic name				Arithmetic mean of detectable measurements (5)	Standard deviation (6)	Total number of measurements (7)	Number of non-detectable measurements (8)		
	Not applicable	Miners and millers	Fiber operations (includes all employees working in mine, including entrepreneurs)							
			Mill operations (includes all employees working in production areas of mill)							
		Primary processors	Fiber operations (operations includes blending, mixing, bag opening, fluffing, weighing, etc.)							
		Primary processors and secondary processors	Wet machine operations (includes machining, sawing, drilling, cutting, grinding, pulverizing, weaving, etc.)							
			Dry machine operations (includes machining, sawing, drilling, cutting, grinding, pulverizing, weaving, etc.)							
			Other production employees							
		Primary processors	Fiber operations (includes blending, mixing, bag opening, fluffing, weighing, etc.)							
		Primary processors and secondary processors	Wet machine operations (includes machining, sawing, drilling, cutting, grinding, pulverizing, weaving, etc.)							
			Dry machine operations (includes machining, sawing, drilling, cutting, grinding, pulverizing, weaving, etc.)							
			Other production employees							
		Primary processors	Fiber operations (includes blending, mixing, bag opening, fluffing, weighing, etc.)							
		Primary processors and secondary processors	Wet machine operations (includes machining, sawing, drilling, cutting, grinding, pulverizing, weaving, etc.)							
			Dry machine operations (includes machining, sawing, drilling, cutting, grinding, pulverizing, weaving, etc.)							
			Other production employees							

(10) Sampling and analysis methods

☐ Mark this box if you use the NIOSH method to sample airborne concentrations of asbestos fibers in the workplace and analyze measurements (DHEW (NIOSH) Pub. No. 79-127).

If you utilize other sampling and analysis methods, enter the appropriate codes for these methods listed in the instruction booklet under part I. _____

(11) Enter the lowest detectable level of the measurements that your company expects to obtain by the sampling and analysis methods (Measurements below this level should be considered as "nondetectable" for the purposes of this rule.)

I. MEASURING ASBESTOS EMISSIONS OR FIBER RELEASE

NPDES Permit number _____ Date

☐ Yes, enclosed is a separate report for this section concerning measuring asbestos emissions. ☐ No separate report

EPA Form 7710-36 (6-12-82)

A:042

Instruction Booklet—Reporting Commercial and Industrial Uses of Asbestos, EPA Form 7710–36

I. Introduction and Reporting Schedule

A. Introduction

These instructions are for companies that mine and/or mill commercial asbestos, or process or import an asbestos product, and are required to submit EPA Form 7710–36 under 40 CFR Part 763, Subpart D. Data must be reported to the extent that they are known to or reasonably ascertainable by the submitter based on factual information that either is available in company files, or can be obtained without unreasonable burden or cost. Importers must report information in their possession, but need not contact foreign manufacturers for missing information.

1. *Fill in all blocks.* Fill in all blocks in the portions of the form that must be completed. Write "N/A" (not applicable) in large, bold letters on the first line of any section that does not have to be completed.

If data for a portion of the form that must be completed are not available, consult part II of these instructions, "Missing Information."

EPA will check all forms for completeness. Incomplete forms may be returned for completion. If only a few items are incomplete, EPA may call the designated Technical Contact to determine the correct answer rather than return the form.

2. *Relevant Definitions.* Reporting requirements are determined by the company's asbestos activity in 1981 (i.e., miner and/or miller, importer of bulk asbestos, primary processor of asbestos, secondary processor of asbestos, importer of asbestos mixtures, or importer of articles containing asbestos components). Definitions for reporting activities and other terms used in this form may be found in Appendix A.

3. *Appropriate Number of Forms.* A separate form must be submitted for each *site*. For example, a miner and/or miller at one site who is a primary processor at a different site must submit a form for each site.

All asbestos activities conducted at each site must be reported. A primary processor who also imports asbestos at a single site must report both the primary processing and importing activities on the same form.

4. *Additional Space.* If additional space is needed to report all required information, responses can be entered on a reproduction of the pertinent portion of the form and the continuation should be noted on that part of the form.

B. Portions of the Form To Complete and Reporting Schedule

1. *Miners and/or Millers.* Miners and/or millers must complete parts A, B(1), G, H, I, J, and K of the form. Complete B(3) if applicable. Report for each plant site on a separate EPA Form 7710–36 and submit within 90 days of the effective date of the rule.

2. *Primary Processors of Asbestos.* Primary processors must complete parts A, C, G, H, I, J, and K of the form. Complete B(3) if appticable. If a facility processes an asbestos mixture that is made at a different plant site, part D must also be completed. Report for each plant site on a separate EPA Form 7710–36 within 90 days of the effective date of the rule.

3. *Secondary Processors of Asbestos.* Persons who are *solely* secondary processors must submit EPA Form 7710–37, "Reporting Secondary Processing and Importation of Asbestos Mixtures" within 60 days of the effective date of the rule. If the company is selected and notified by certified letter to complete EPA Form 7710–36, complete parts A, D, G, H, I, J, and K of the form for submission within 90 days of receiving notification.

4. *Importers of Bulk Asbestos.* Importers of Bulk Asbestos must complete *at least* parts A and B(2) of the form. Complete B(3) if applicable. Report all activities that involve asbestos on EPA Form 7710–36 within 90 days of the effective date of the rule.

5. *Importers of Asbestos Mixtures.* Importers of Asbestos Mixtures must submit EPA Form 7710–37 "Reporting Secondary Processing and Importation of Asbestos Mixtures," within 60 days of the effective date of the rule. If the company is selected and notified by certified letter to complete EPA Form 7710–36, complete parts A and E of the form and submit within 90 days of receiving notification.

6. *Importers of Article(s) Containing Asbestos Component(s).* Importers of Article(s) Containing Asbestos Component(s) must submit EPA Form 7710–37 "Reporting Secondary Processing and Importation of Asbestos Mixtures," within 60 days of the effective date of the rule. If the company is selected and notified by certified letter to complete EPA Form 7710–36, complete parts A and F of the form and submit within 90 days of receiving notification.

II. Missing Information

It is important to fill in all blocks in the portions of the form that must be completed. If the required information either cannot or need not be provided, enter one of the notations described below. Write "N/A" (not applicable) in large bold letters on the first line of any section that is not required. Only use "0" to report a quantity of zero.

Enter the following notations if the requested data are unknown, previously submitted to EPA or CPSC, or submitted as a corporate report.

UNK—The requested data are *unknown* and not reasonably ascertainable; or, not in the possession of the importer. This may be the case for information from a specific year or about a specific type of data that is required.

CPSC—The requested data have been previously reported to the Consumer Product Safety Commission (CPSC) in response to the December 22, 1980 **Federal Register** notice "Consumer Product Containing Asbestos; General Order for Submission of Information," (45 FR 84384). Use this notation only for the specific items of information that were submitted to CPSC. *Do not* use this notation in lieu of reporting of CPSC was instructed not to share the submitted information with EPA at the time of response to the CPSC General Order.

CORP—The requested data have been submitted for sections B(2) and B(3) (importation and exportation), in a corporate consolidated report. Inform the plant site management that a corporate consolidated report has been submitted and instruct those plant site(s) to enter "CORP" in sections B(2) and B(3).

EPA—The requested data have already been submitted to EPA in the format of the reporting form as proposed or promulgated.

III. Specific Instructions for Form 7710–36

A(1). Respondent Identification

1. Enter company name, and name and complete address of plant site.

2. Enter name, job title, and telephone number of the principal technical contact person to be contacted by the EPA for answers to any questions about the submitted form.

3. Miners must record the mine identification number assigned by the Mining Safety and Health Administration.

4. Enter name and address of the parent corporation responsible for fiscal management of the reporting site.

5. Enter the total number of years asbestos has been manufactured or processed at this plant site, through the date of this report.

A(2). Respondent Activity

Review the definitions in Appendix A of these instructions to ascertain required reporting activity(ies). Check the appropriate activity(ies) that is performed at this site. Complete the portions of the form listed next to the activities checked.

For example, a primary processor who makes an asbestos mixture and then processes the asbestos mixture at the same site to make a different end product should report the production of the final end product in part C. Only complete part D of the form if the facility processes an asbestos mixture that is made elsewhere.

A(3). Confidential Business Information

Any reported information may be claimed as confidential business information. When submitting the form, mark (X) in the space provided on each line of the form that contains confidential information. Additionally, an authorized company official must sign the "Certification for Claims of Confidentiality" to certify that the four statements on the form apply to all information claimed as confidential.

B(1). Production of Bulk Asbestos

Enter, in short tons, the amount of bulk asbestos produced (mined or milled), in 1979, 1980, and 1981.

B(2). Importation of Bulk Asbestos

Enter, in short tons, the amount of bulk asbestos imported in 1979, 1980, and 1981. Report all imports entering the U.S. Customs territory that are declared under Tariff Schedule of the United States, Annotated (TSUSA) Number 518.1110–518.1160. Mark in the appropriate box the source of this information.

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1980, and 1981. Quantities will be reported in the unit of measure that was used to declare the merchandise upon entry into the U.S. or by the U.S. Bureau of Census for the 1977 Census of Manufacturers. Enter the value of the imported merchandise in U.S. dollars.

(3) *Asbestos Component(s).* List all asbestos components contained in the imported article by name, or by describing the mixture making up the component. Use one block for each asbestos component. If the imported article contains more than one asbestos component, list the component in the next block and note the continuation in column 1. *Do not* list the same article twice.

G. Employees

Classify all employees as of January 1981 into the following categories. In items 2–5, COUNT EACH EMPLOYEE IN ONLY ONE CATEGORY. In this section, report numbers of individuals without regard to the number of hours worked.

(1) *Total Number of Employees.* Enter the total number of employees (the sum of items 2, 3, 4, and 5) who worked at the reporting plant site as of January 1981. If you employed seasonal workers in 1981, add the number of those workers to the total.

(2) *Number of Production Employees.* Enter the number of production employees who work in areas where ASBESTOS IS MANUFACTURED OR PROCESSED. Do not include plant site production employees who work in separate areas where no asbestos fiber or asbestos product is processed. This number must equal the total number of employees reported in Section H, for all product lines.

(3) *Number of Shipping, Receiving, and Moving Employees.* Enter the number of employees involved with shipping, receiving, or moving asbestos fiber or asbestos-containing products.

(4) *Number of Maintenance Employees.* Enter the number of maintenance employees who perform maintenance tasks in work areas where asbestos fiber, asbestos products, or asbestos waste are processed, stored, or moved.

(5) *Number of Other Employees.* Enter the number of other employees at the location that are not counted in items 2–4.

H. Summary of Current Worker Exposures

Report, by category of production workers, the arithmetic mean of the 8-hour time weighted average (TWA) exposure level for all employees at the reporting site for whom a TWA has been determined. Appendix B describes how to perform the calculations and includes a worksheet.

Summarize Only *Existing Monitoring Data;* Additional Monitoring Is Not Required

Submit a single TWA value (arithmetic mean) to summarize existing monitoring data that will describe current exposure levels that employees in general production categories may experience while working on each production line. Summarize and report monitoring data separately for workers on the production line for each end product subcategory that has been reported as either "Primary Processor Production" (part C) or "Secondary Processor Production" (part D). Miners and millers, must provide a single, separate TWA value for the mine and for the mill.

For each *End Product Subcategory*, enter the number of workers who perform the production operations listed below. Only count employees who were counted as production workers in item 2 of part G of the form. Each employee is to be counted *only one time*, in the operation and product line that is the employee's primary assignment.

After grouping the 8-hour TWAs, follow the detailed instructions in Appendix B to find the mean, standard deviation, number of measurements, and ceiling ranges for each group.

Note.—The sum of all production employees listed in column 4 *must equal* the number of production employees entered in item 2 of part G.

(1) *End Product.* Primary or secondary processors must enter the same code number(s) and generic name(s) they listed in part C or D of the form. Miners and/or millers *do not* complete this block.

(2) *Respondent Activity.* Determine applicable category of activity.

(3) *Production Work Category.* Divide production employees into the Production Work Categories for each end product subcategory. Count mine workers under *Mine Operations* and mill workers under *Mill Operations.*

Fiber Introduction Operations are operations where bulk (raw) asbestos is mixed with or added to a combination of other materials. Primary processors will list employees who handle bulk or raw asbestos fiber. Secondary processors do not use bulk asbestos as a starting material.

Wet Mechanical Operations are operations where asbestos fiber, asbestos mixtures, or asbestos-containing materials are fabricated, modified, or altered, and the asbestos component is wetted to reduce the release of airborne asbestos fiber. This category includes such activities as: machining, sawing, drilling, cutting, grinding, or pulverizing. Count employees whose principal job is to control or work with the tool or machinery performing the operation. Count all asbestos textile workers involved with wet operations here, whether involved in spinning, twisting, or weaving operations.

Dry Mechanical Operations are operations where asbestos fiber, asbestos mixtures, or asbestos-containing materials are fabricated, modified, or altered without any intentional wetting of the material during the operation. This category includes activities such as: machining, sawing, drilling, cutting, grinding, or pulverizing. Count employees whose principal job is to control or work with the tool or machinery performing the operation. Count all asbestos textile workers in dry operations here, whether involved in spinning, twisting, or weaving operations.

Other Production Employees are production employees involved in operations that require handling of asbestos fiber or materials in a manner not covered in the operations described in the other categories. This category will include workers who perform an operation that involves handling an asbestos mixture, such as bonding asbestos-felt-backing for vinyl sheet flooring or injecting asbestos-reinforced plastic into a mold. Other production workers who are to be counted in this category include (but are not limited to) employees who take products off a production line, assemble parts, oversee drying or rolling operations, or inspect, weigh, or package asbestos mixtures or asbestos-containing products.

(4) *Number of Employees.* Enter next to the appropriate job classification the number of employees working in jobs meeting the general descriptions provided. Count employees *only one time* and only under the job description that best describes their primary duties.

(5) *Arithmetic Mean of Detectable Measurements.* Locate monitoring data for any employees counted in column 4 and group those monitoring data according to the employee's general job classification. Determine the arithmetic mean of those detectable TWA values for each work category. Calculate the mean only to the nearest one-hundredth (e.g., 0.05). The arithmetic mean is the sum of the time-weighted averages divided by the number of time-weighted averages. (See Appendix B for instructions and worksheet for determining the arithmetic mean.) If there are no measurements for workers in a particular work category, write in "No measurements."

(6) *Standard Deviation.* Enter the standard deviation for each arithmetic mean you calculate in column 5. (See Appendix B for instructions and a worksheet for determining the standard deviation.)

(7) *Number of Measurements Used.* For each work category, enter the total number of actual observations (filters) used to determine all of the employee's TWAs in the category. This includes the number of all non-detectable measurements.

(8) *Number of Non-detectable Measurements.* For each work category, enter the number of measurements that are below detectable levels. (Non-detectable levels may not be greater than 0.1 f/cc.)

(9) *Ceiling Concentration Level.* For each work category, enter the range of ceiling concentration levels that were determined. Provide the low and high measurements.

(10) *Sampling and Analyses Methods.* If the company used the NIOSH methodology to sample airborne concentrations of asbestos fibers in the workplace and to analyze measurements [DHEW (NIOSH) Pub. No. 79–127], check the corresponding box on the form.

If the company used other sampling and analysis methods, enter the appropriate codes for those methods listed in the next section of these instructions.

The reporting company has the option to describe in an attachment any additional information that will better describe work practices or other measures instituted to reduce the levels of airborne fibers or to protect workers from exposure to asbestos. Attach any additional materials to this form at the time of submission.

(11) Enter the lowest detectable level of the measurements the company expects to attain by the sampling and analysis methods. (Measurements below this level are considered "non-detectable" for the purposes of this rule.)

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(b) *Location of Disposal Facility*—For each end product subcategory (or form of waste), mark (X) whether wastes are disposed of at this plant site (on-site) or at another site (off-site).

(c) *Ownership of Disposal Facility*—For each end product subcategory (or form of waste), mark (X) whether this disposal facility is owned by reporting company (company), another private company (private), or a municipality (municipal).

(d) *Permitted Hazardous Waste Facility*—For each product subcategory (or form of waste), mark (X) whether the disposal facility is permitted under any applicable State or Federal hazardous waste regulation.

(6) *Method of Disposal.* Briefly describe the specific methods used to dispose of asbestos waste. For example, if you wet the waste and place it in a bag or drum prior to disposal, that should be noted here.

(7) *Additional Information.* Submit any additional information to describe any steps taken during waste disposal to reduce the release of airborne asbestos fibers. If enclosing a separate description, check "Yes" on the form; if not, check "No" in the space provided.

K. Pollution Control Equipment

In this section, provide information on all air pollution equipment located at the plant site to control or remove airborne asbestos fiber. List each piece of equipment on a separate line on the form, even though identical units may be used at the plant site. Use the codes listed in this section for each piece of equipment being reported. For additional space, fill in and attach additional copies of the form. If the company has submitted portions of the required data to EPA previously and the data are still current, enter "EPA" in place of those data, and reference the address where the data were sent and the date they were sent.

(1) *Item Number.* Number each piece of equipment consecutively (one through the total number of pieces of equipment).

(2) *Type of Equipment.* For each item number, enter the appropriate abbreviation from the following list.

- Baghouse (BH)
  - —Reverse Air (RA)
  - —Pulse Jet (PJ)
  - —Shake (S)
  - —Other (O)

For example, if the baghouse used is equipped for both reverse air and shake cleaning, enter (BH) (RA) (S).

- Scrubber (S)
  - —Venturi (V)
  - —Impingement (I)
  - —Spray (SP)
  - —Other (O)

If the scrubber used is the venturi type, also enter the pressure drop in inches of water in parentheses. For example, if the range of pressure drop, is 40–60 inches, enter (S) (V) (40–60).

- Electrostatic Precipitator (ESP)
- Cyclone (C)
- Multiple Cyclone (MC)
- Other (O)

(3) *Gas Stream Volume and Temperature.* For each piece of equipment, enter the gas volume (in cubic feet per minute) and the operating temperature (in °F). Use actual data for these entries, although estimates or design figures may be used if actual data are unavailable. Ranges (ex: 8,000–10,000 ACFM at (40–180 °F)) are also acceptable.

(4) *Equipment Size.* If electrostatic precipitators and/or baghouses are used, enter the total square feet of collecting surface area. For all other types of equipment mark (X) "N/A."

(5) *Estimated Collection Efficiency.* Enter the collection efficiency (percent), or an estimate of this value, of each piece of equipment. Mark (X) either design (D) or actual (A) to indicate basis for response.

(6) *Normal Operating Schedule.* Enter the normal number of operating hours either actual or estimated for each piece of equipment during 1981.

(7) *Quantity Collected Annually.* Estimate the quantity of material in pounds that is (or would be, given the design of the equipment) collected annually by each piece of equipment in 1981. Include all asbestos and non-asbestos materials in the total. If possible, estimate the percent (by weight) of asbestos in the collected material. Mark (X) either design (D) or actual (A) to indicate basis for response.

(8) *Source of Emissions.* Enter a brief description of the source of the emissions such as work area exhaust ventilation, curing oven, mixer, various, etc.

(9) *Stack or Chimney.* Indicate whether the air pollution control device discharges to a stack or chimney: check "Yes" or "No."

(10) *Special Problems.* If there is a special problem with particulate collection or with any specific piece of equipment, discuss it in the space provided. Be sure to indicate which piece of equipment is being discussed.

(11) Estimate the percent of plant exhaust air that is treated by the plant site's pollution control equipment.

Appendix A

Definition of Terms

Several terms are used throughout the reporting form and the instruction booklet to describe the different kinds of asbestos products and how to report them.

Asbestos Mixture: a mixture which contains bulk asbestos or another asbestos mixture as an intentional component. An asbestos mixture can be utilized as a finished product or incorporated into other products.

Bulk Asbestos (or raw asbestos): any quantity of asbestos fiber of any type or grade, or combination of types of grades, that is mined or milled with the express purpose to obtain asbestos. The term does not include asbestos that is produced or processed as a contaminant or an impurity. Asbestos is a group of naturally occurring, inorganic, highly fibrous, silicate minerals, which easily separate into long, thin, flexible fibers when crushed or processed. Included in the definition are the asbestiform varieties of: chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite); anthophyllite; tremolite; and actinolite.

A-0435

III. The "mean" is the sum of the TWA values in column A divided by the number of values (N).

In this example:

$$\text{Mean} = \frac{\text{Sum of TWA Values}}{N} = \frac{6.00}{5} = 1.20$$

IV. To calculate the "standard deviation" of these values, first compute the "variance" according to the following formula.

In this example:

$$(V) = \frac{1}{N-1} \times \left[\text{Sum of Column B} - \frac{(\text{Sum of Column A})^2}{N}\right]$$

$$= \frac{1}{5-1}\ \frac{[8.12-(6.0\times 6.0)]}{5}$$

$$= \tfrac{1}{4}\,[8.12-7.2]$$

$$= \frac{.92}{4}$$

$$V = .23$$

V. Finally, the standard deviation (SD) is the square root of the variance.

In this example:

$$SD = \sqrt{V}$$

$$= \sqrt{.23}$$

$$SD = 0.48$$

The arithmetic mean is entered in column 5 on the form, and the standard deviation is entered in column 6 on the form.

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§ 763.77 Reporting secondary processing and importation of asbestos mixtures.

The following EPA Form 7710-37, Reporting Secondary Processing and Importation of Asbestos Mixtures, will be completed and submitted to EPA as required in §§ 763.65 and 763.71. Information must be reported on this form to the extent that it is in the possession of the respondent. Importers must report imported products only if the imported product is listed on this form.

(a) EPA Form 7710-37 (8-80)

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A 1047

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REPORTING SECONDARY PROCESSING AND IMPORTATION OF ASBESTOS MIXTURES

INSTRUCTIONS

This form is to be completed by persons who, in 1980, were secondary processors of asbestos or importers of asbestos mixtures or articles that contain asbestos components. See "Reporting Commercial and Industrial Uses of Asbestos", 40 CFR Part 763, Subpart D, for a full description of the reporting requirement and reporting schedule.

If additional space is needed, you should use additional copies of this form.

WHO MUST COMPLETE EPA FORM 7710-37

1. Secondary processors of asbestos must complete Part I and II of the form. Each plant site or manufacturing facility must be reported separately. If you process bulk asbestos fiber to make any of your products at this plant site, then you are a PRIMARY PROCESSOR and you should report this plant site on EPA Form 7710-36
2. Importers of asbestos mixture(s) or article(s) containing asbestos components must complete Part I and III of the form. If you import bulk asbestos fiber, then you should report all importation activities on EPA Form 7710-36
3. Those who are both secondary processors and importers must complete Parts I, II and III of the form.

DEFINITIONS

1. Asbestos Mixture - means a mixture which contains bulk asbestos or another mixture. Section 2 below lists typical terms for asbestos mixtures.

2. Asbestos Component—means any asbestos mixture, including any finished product containing an asbestos mixture, which is incorporated into an article. Section 1 below lists typical terms for products made from asbestos mixtures and components. Some examples of asbestos components are: asbestos paper in a hair-dryer, asbestos-reinforced plastic cabinet of a television, asbestos textile that is part of a particular type of garment.
3. Secondary Processor of Asbestos—means a person who processes an asbestos mixture
4. Importer of Asbestos Mixtures or Articles Containing Asbestos Component(s)—means a person who imports merchandise that contains asbestos into the customs territory of the United States. Where there are two or more "importers" for the same shipment, the Principal rather than the Agent should report if possible.

PART I COMPANY INFORMATION

Enter the name, address, and phone number of your company. Enter the name of the principal technical contact who is either responsible for the completion of the form, or has sufficient knowledge of its content to respond to questions posed by EPA. If you are reporting as an importer, check the appropriate box to indicate that you are either the Principal Importer or the Agent for the Principal

PART II SECONDARY PROCESSOR END PRODUCTS

End Product(s)—Locate in Section 1 the name of the product subcategory that most specifically describes your end product. In the column, enter the code number for the end product you make and write in the generic name for the product. If you are reporting a product that is not listed, enter the code for "other" that is listed under the most specific general category of products and write in the generic name. Report each end product on separate lines. For example, if you make appliances and are reporting toasters, enter "114" and "toaster".

Asbestos Mixture(s)—For each end product, locate in Section 2 the name of the asbestos mixture that most specifically describes the asbestos mixture that you incorporate into the end product. In the column, enter the code number for the asbestos mixture and write in the generic name. If you incorporate more than one asbestos mixture into a single end product, then use as many lines as necessary to report all asbestos mixtures in the end product. For example, if you incorporate asbestos millboard into your toaster, your entries would be as follows:

End Product	*Asbestos Mixture*
114 toaster	03 millboard

Quantity of Asbestos Mixture Consumed—Opposite each asbestos mixture that is listed, enter the quantity of each mixture that you consumed in 1980. Specify the quantity according to the unit of measure listed in Section 2. If the unit of measure is not listed, report the quantity in short tons. If your records do not permit you to list the quantities consumed for separate end products, then report the total amount of each type of asbestos mixture and enter "T" (for total) next to the figure.

PART III IMPORTERS OF ASBESTOS MIXTURE(S) OR ARTICLE(S) CONTAINING AN ASBESTOS COMPONENT

Asbestos Mixture or Article—For each type of imported product, locate in either Section 1 or Section 2 the name that most specifically describes the product you import. Enter the code number and generic name for the imported product.

Quantity of Asbestos Mixture(s) or Article(s) Imported—For each product listed, record the total annual quantity imported in 1980. Specify the quantity according to the unit of measure listed in Section 2, if possible, or according to the unit of measure as reported to the U.S. Customs Service upon entry of the merchandise into the United States.

Description of Asbestos Components in Article—List all asbestos components in the imported article by entering the name of the asbestos component opposite the name of the article. If the reported product is an asbestos mixture listed in Section 2, then you should not complete the description.

A-104-3

(b) [Reserved]

§ 763.78 Sunset provision.

All requirements of this rule will terminate five years after promulgation of this rule. This provision is not a defense to any enforcement action based on noncompliance which occurred during the effective period of this rule.

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BILLING CODE 6560-50-M

A-0403

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
PESTICIDES AND TOXIC SUBSTANCES

Dear Miner, Miller, Importer or Processor of Asbestos:

On July 30, 1982, the Environmental Protection Agency (EPA) published a rule in the FEDERAL REGISTER (47 FR 33198-33225) requiring asbestos miners, millers, importers, and processors to report certain information on their industrial and commercial asbestos activities. EPA understands that you are engaged in some industrial or commercial activity involving asbestos. If that is not the case and you are not required to report under this rule, please notify EPA at the address below.

A description of who should report and what to report is found on page 33201 of the July 30, 1982 FEDERAL REGISTER; exemptions from reporting are described on page 33202. Note that all companies with 10 or fewer employees are exempt from reporting under this rule.

The rule requires that miners, millers, importers of bulk asbestos, or primary processors (processors of bulk or raw asbestos fiber) report all required information on EPA Form 7710-36 (4-page form) by November 29. Importers of asbestos-containing materials and articles and secondary processors (processors of asbestos-containing materials) are to report to EPA on Form 7710-37 (one-page form) by October 29. EPA will require a small number of importers and secondary processors of asbestos to file the more comprehensive form 7710-36 at a later date.

.33213
FR Notice

To assist respondents in complying with the rule, we are enclosing a copy of the rule ~~along with the appropriate forms~~ and an instruction booklet for EPA Form 7710-36 entitled "Reporting Commercial and Industrial Uses of Asbestos." (Please note that on FEDERAL REGISTER page 33223 of the rule, the date "1980" on the instructions for EPA Form 7710-37 is incorrect; it should be "1981." A correction notice will be published shortly in the FEDERAL REGISTER.)

For further information or assistance, please contact the Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-511, 401 M Street, S.W, Washington, D.C. 20460. Phone toll free 800-424-9065. In Washington, D.C, call (202) 544-1404. Outside the Continental U.S., call operator 202-554-1404.

Sincerely yours,

RECEIVED
OCT 13 1982
CALIDRIA
N.Y.

Douglas G. Bannerman
Acting Director

A S S I S T A N C E A L E R T ! -- A S B E S T O S !

REPORTING COMMERCIAL AND INDUSTRIAL USES OF ASBESTOS
UNDER THE TOXIC SUBSTANCES CONTROL ACT

DURING THE MONTH OF OCTOBER the Industry Assistance Office's toll-free telephone service will offer SAME DAY "WALK THROUGH" ASSISTANCE to help you complete the TSCA Asbestos reporting form.

This special "walk through" service will be available on TUESDAY AND THURSDAY in the AFTERNOON. It will operate in addition to our regular, continuing question-answering service. You may call anytime to ask for this special assistance - you will be called back during Tuesday and Thursday afternoons. Or you may call direct on those afternoons. Anyone we don't get to on one day will be called back on the next day.

Reporting on the "short form" by secondary processors and importers of Asbestos mixtures and products is DUE OCTOBER 29th! Reporting on the "long form" by primary processors (who make Asbestos mixtures or repackage raw fiber), miners, millers and importers of bulk Asbestos is DUE NOVEMBER 29th!

The Industry Assistance TOLL-FREE TELEPHONE number is 800-424-9065. In Washington, call 554-1404.

September 14, 1982

A-0461

AIA ASBESTOS INFORMATION ASSOCIATION
NORTH AMERICA
1745 Jefferson Davis Highway, Crystal Square 4, Suite 509
Arlington, Virginia 22202 • (703) 979-1150

PRIORITY ATTENTION PLEASE

August 17, 1982

Memorandum For: MEMBERS

Subject: Asbestos Reporting Requirements

INTRODUCTION

The Environmental Protection Agency's (EPA) long-expected asbestos reporting rule was published in the Federal Register on July 30, 1982. It was originally proposed on January 26, 1981; AIA/NA filed comments on the proposal and participated in a pre-test of the data collection form. This is a final rule and the regulation becomes effective August 30, 1982. The rule was issued under the authority of section 8(a) of the Toxic Substances Control Act (TSCA) and has wide applicability to the asbestos industry.

A copy of the July 30 Federal Register notice, instructions for completion of reporting form, ~~and two copies of the forms are enclosed.~~ In addition, EPA will be mailing, within the next few days, the foregoing materials to the U.S. asbestos industry using a master mailing list that has been developed by the Agency. EPA expects to forward essential information both to corporate headquarters of companies concerned and to individual plant sites. It is suggested that members verify with their plants that the latter mailing does, in fact, occur.

It will be recalled that, in expectation of this reporting requirement, the Association engaged the services of Arthur D. Little, Inc. (Opinion Research Corporation) in the fall of 1980 to perform information collection from members using a draft form that was provided by EPA. Although this project was conducted on a voluntary basis, a significant number of AIA/NA members participated. The project was coordinated, because of confidentiality considerations, by the Association's Special Counsel for Regulatory Affairs, the law firm of Kirkland & Ellis. The information already collected by participating members should be very helpful in complying with the reporting requirements of the July 30 final rule. Members wishing to verify whether or not they participated may contact the undersigned; if members wish to obtain copies of the information they submitted to Opinion Research Corporation, arrangements can be made through Tim Hardy, Kirkland & Ellis/(202) 857-5042.

As to schedule for submission of the reporting forms, the primary asbestos industry members must file by November 30, 1982 and the secondary asbestos industry members by October 30, 1982. A-0402

Members are urged to contact EPA's Industry Assistance Office, tollfree at (800) 424-9065 or in Washington, D.C. at (202) 554-1404, should they have technical questions regarding completion of the forms. The completed forms are to be mailed to the following address:

asbestos products who do not further distribute such items in commerce.

2. No information about substitutes is sought.

3. Companies must report the activities of each plant site on an individual reporting form with one exception. The exception is that respondents have the option to report all of their company imports or exports of bulk asbestos on a single form(7710-36).

4. The final rule does not include the proposed requirement to keep lists of customers and to submit the lists at EPA's request.

5. The period for requested information has been reduced in all cases to three years; the proposal was five years for production data and 10 years for importation or production of bulk asbestos.

6. It will be noted that the EPA form(7710-37) to be completed by seconardy processors and the instructions for completion of the form(pages 33222 and 33223 of the July 30 Federal Register notice respectively) are at variance as to the year that information reported is to include. The form states 1981 and the instructions 1980. The correct date is 1981 and a change to the rule will be issued at a later date in the Federal Register.

CONCLUSION

Obviously, this memorandum does not cover all the details included in the final asbestos reporting rule. Members will have to give close attention to the regulation and especially the reporting instructions when completing the appropriate EPA form.

Members are urged to retain a copy of the form and any subsequent information that may be submitted to EPA in response to this rule. This would, among other things, ensure that the information could be made available to the Association if such is needed in connection with any future rulemaking proceeding.

Please let this office know if the Association can be of assistance in any way.

B. J. Pigg
Executive Director

Enclosures

cc: T. S. Hardy, Esq., K&E

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