J-M Manufacturing Company, Inc. **Internal Correspondence**

To: R. K. Chi/W. G. Burnett

Date: July 18, 1983

From: A. A. Verploegh

Dr. E-C. Wang

Copies: C. Bonzo - Stockton Plant; File; Chrono

RECEIVED JUL 18 1983

PLAINTIFF'S EXHIBIT JMMC-10
PENGAD-Bayonne,N.J

Subject: **OSHA PROPOSED ASBESTOS STANDARD**

Please carefully review the attached for information.

ACPPA is formulating a strategy and is considering joint action with AIA if commonality of intersts adequately exist.

We need to discuss before Bill departs for Taiwan.

AAV/sr

Attachment

PLAINTIFF EXHIBIT JMM 5054
AUG. 03 1983

A/C Pipe
Producers Association

Internal Correspondence

TO: Executive Committee

CONFIDENTIAL

FROM: J. C. Jackson, President

DATE: July 12, 1983

SUBJECT: OSHA Proposed Asbestos Standard

REF: (1) JFW correspondence, Occupational Safety and Health Administration (OSHA) Proposed Asbestos Standard - AACPP Options and Recommended Action Plans, June 28, 1983
(2) JFW correspondence, Occupational Safety and Health Administration (OSHA) - Exposure Standard for Asbestos, June 17, 1983
(3) JFW correspondence, same title, April 20, 1983
(4) JFW correspondence, Occupational Safety and Health Administration (OSHA) - Preliminary Risk Assessment for Asbestos, March 21, 1983

ACTION REQUIRED: Review for information, corporate discussion and follow on decision at next Executive Committee meeting

As directed, AACPP Counsel and Staff met on 7-8-83 with Bob Muth (ASARCO), co-chairman of the AIA/NA Steering Committee for OSHA's upcoming rulemaking related to a revised asbestos standard. The two (2) hour meeting could be characterized as cordial and cooperative, yet candid.

At the outset, AACPP's reasons for meeting were outlined with emphasis placed on the criticality of crocidolite fiber to the A/C pipe industry and, its willingness to cooperate with AIA/NA in developing an effective rulemaking strategy. Salient points from the general discussion which ensued are as follows:

1. Mr. Muth confirmed that along with Phil Casgraine, QAMA attorney, he would co-chair AIA/NA's Steering Committee. Ed Warren, K&E, and Bob Pigg, AIA/NA Staff, are the other members of the Committee. While Mr. Muth personally would welcome AACPP participation on the Steering Committee, he acknowledged there were political obstacles within AIA/NA to AACPP involvement. Further, since the Steering Committee is scheduled to meet for the first time on 7/14/83, he could not expand on the limits of authority vested in the Steering Committee or its reporting relationship to the AIA/NA Executive Committee.

2. Canadian fiber interests have agreed to fund "full" industry participation in the pending OSHA rulemaking on a 3:1 dollar basis with AIA/NA. Mr. Muth indicated that current financial resources of AIA/NA were limited and any unencumbered contribution from AACPP would be welcome.

3. Considerable concern is being expressed by the Europeans that OSHA's proposed rulemaking may well result in promulgation of a more stringent occupational standard for asbestos thereby reigniting all of the contentious issues recently resolved through EEC Council approval of DG V.

4. Canadian fiber suppliers are not predisposed to a ban on blue fiber but rather harmonization of worldwide regulations covering asbestos, i.e. promotion and defense of regulations paralleling DG V. Staff indicated that while AACPP preferred no fiber type distinction, it acknowledged that it would be difficult to refute the precedent that has been set and DG V, with a PEL for fiber mixtures based on calculation, i.e. Belgium formula, was acceptable to the industry. However, the ability of the A/C pipe industry to comply with a regulation based on a PEL reduced to 0.5 f/cc. for chrysotile and 0.2 f/cc. for crocidolite was not known at this time.

   A serious bone of contention between the chrysotile and blue fiber suppliers is that the latter are perceived by the former as "hiding" from the legal and financial intanglements created by third party liability suits. This peripheral problem exacerbates present concerns about crocidolite.

5. Mr. Muth stated a guarantee from AIA/NA to AACPP relative to blue fiber, or for that matter any issue raised by special interests, was unrealistic and impractical. The very nature of the rulemaking process precludes rigid constraints since, when push comes to shove, AIA/NA will have to settle for the least onerous regulation which is supported by facts placed in the record and, concomitantly saleable to potential adversaries, e.g. labor, etc.

6. Given the options available to the A/C pipe industry, Mr. Muth was of the personal opinion that there was "a lot to be said" for the industry defending its own special interests, i.e. crocidolite fiber. Mr. Muth cited the advantages of a focused issue and the inherent capacity of AACPP vis-a-vis AIA/NA for rapid decisionmaking because of membership size. Further, as a participant of record, AACPP could introduce counterproposals to "model" standards advocated by OSHA, AIA/NA or other interested third parties.

Based on the aforementioned points, AACPP Counsel and Staff concluded that discounting resource availability options which AACPP might reconsider in order of desirability would include:

A. CertainTeed and J-M Pipe join AIA/NA (Option 2) and simultaneously, AACPP pursue Option 4.

B. AACPP pursue Option 4.

C. CertainTeed and J-M Pipe join AIA/NA (Option 2).

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The relative advantages and disadvantages of each of the above Options need not be repeated. Thus, the fundamental question requiring resolution is what resources, i.e. dollars, can AACPP commit to defend its special interests in blue fiber. In this regard, it is Staff's opinion that unless AACPP is in a position to commit its own resources to Option 4 it would be ill-advised to accept financial support from the South African Asbestos Fiber Producers Advisory Council.

Regardless of what rulemaking option is eventually selected, AACPP should determine as soon as possible what fiber levels, segregated by fiber type, can be met by plant, by station, throughout the industry, including current recommended work practices for field cutting and machining of A/C pipe. Availability of hard data is critical and, in the final analysis, could determine which option is selected, if any. Hard data would also provide the AIA/NA Steering Committee with the degrees of freedom available for developing a standard for asbestos which would be acceptable to the A/C pipe industry both at the plant level and in the field.

Staff will follow up with the Chairman to determine an acceptable time and place to convene another meeting of the Executive Committee to resolve AACPP's future course of action.

JCJ/ajb

cc: A. Kahn, Esq.

copies to: Executive Committee

L. Ambler
L. Taylor
A. Verploegh

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A/C Pipe
Producers Association

Internal Correspondence

Executive Committee

CONFIDENTIAL

J. F. Welch, Vice President

DATE June 28, 1983

SUBJECT Occupational Safety and Health Administration (OSHA) Proposed Asbestos Standard - AACPP Options and Recommended Action Plans

REF: (1) JFW correspondence, Occupational Safety and Health Administration (OSHA) - Exposure Standard for Asbestos, June 17, 1983
(2) JFW correspondence, same title, April 20, 1983
(3) JFW correspondence, Occupational Safety and Health Administration (OSHA) - Preliminary Risk Assessment for Asbestos, March 21, 1983

ACTION REQUIRED: Review for discussion at Executive Committee meeting

Purpose

This "options paper" was prepared at the request of the Chairman, Board of Directors. It discusses the background, current status, asbestos industry strategies, information needs, options and Staff recommendations for A/C pipe industry actions in the forthcoming OSHA rulemaking.

Background

Appendix A summarizes major events in development of OSHA standards for asbestos. The post-1975 events are of particular importance to the current situation. The most recent development is a request by the International Association of Machinists and Aerospace Workers (AFL/CIO) that OSHA issue an emergency temporary standard of 0.1 f/cc. (Appendix B), as an 8 hour time-weighted average.

Current Status of Rulemaking - OSHA Strategy

A. Projected Schedule

Assuming OSHA does not issue an emergency temporary standard, the Notice for Proposed Rulemaking (NPRM) is scheduled tentatively for issuance in late July. It will (a) update the 1975 NPRM with new medical data and risk assessments, and (b) schedule a public hearing date. Most of the components of the NPRM have been drafted so internal review by OSHA could proceed quickly. Prior to publication in the Federal Register, OSHA must submit the NPRM and a regulatory impact analysis to the Office of Management and Budget (OMB). OMB must act on the submission within 60 days. It is not known how long OMB approval might take or whether OMB will approve a major regulatory proposal that uses economic and technological feasibility data that is approximately seven years old.

Assuming the NPRM is issued in late July, a 60 day comment period would follow. Although Kirkland & Ellis (K&E) undoubtedly will request an extension of the comment period, it is unlikely that OSHA will grant it on grounds that the underlying issues have been known since 1975. Thus, written comments would have to be submitted by late September. Public hearings would follow in October, probably for four weeks or

more. OSHA hearings provide for cross-examination of all testifying witnesses, medical and scientific authorities, etc. Afterward, a 60 day deadline would be set for filing post-hearing briefs.

A final rule is tentatively scheduled for promulgation in January, 1984. This entire time schedule is quite optimistic; delays could occur at any juncture in the proceeding.

The potential political content of this proceeding also merits comment. Assistant Secretary Auchter's concern about his political survival catalyzed the current situation. Likewise, it is unreasonable to expect OMB to take the political risk of delaying such a labor-charged, emotion-charged issue. OMB may want this proceeding to move promptly so the Administration can point to tougher worker protection standards by election time.

B. Construction Industry Regulations

The NPRM will address permissible exposure levels (PELs) for general manufacturing and construction industries. OSHA intends to publish in early 1984 a proposal addressing development of "special provisions" of the asbestos standard for the construction industry e.g. work practice controls, recordkeeping, medical surveillance. In sum, the acceptability of controlling construction exposures by means of recommended work practices will be addressed in a separate proceeding in 1984.

C. Health Issues

OSHA has the burden of demonstrating that the existing 2.0 f/cc. standard is inadequate. Since the NPRM effectively reopens the 1975 rulemaking, OSHA will rely on its 1975 justifications plus additional evidence produced since that time. This will include OSHA's in-house risk assessment (Reference 3) as well as the work being done by Dr. Selikoff.

The major issues will be whether permissible exposure levels (PELs) of 0.5 f/cc. (TWA) and 5.0 f/cc. (ceiling) provide adequate margins of safety to protect employees exposed to asbestos. The fact that the Simpson Committee Report (U.K.-1979), the European Economic Community (EEC-1983) and Canadian provincial governments, to name but a few, have reduced PELs to 1.0 f/cc. (chrysotile) and 0.2-0.5 f/cc. (crocidolite) lends strong support to the reasonableness of standards below 2.0 f/cc. Given the vagueries of risk assessment and OSHA's latitude in selecting margins of safety, a 0.5 f/cc. standard probably would be sustainable in court.

The greatest concern to the industry is the threat of a 0.1 f/cc. standard, as OSHA-NIOSH work groups and labor unions have recommended. Although OSHA may be able to develop medical evidence supporting a 0.1 f/cc. standard, demonstrating technological and economic feasibility at that level becomes a much more difficult task where inadequacies may result in a court-reversed standard.

D. Fiber Type Distinctions - Crocidolite

Distinctions between the carcinogenicity of chrysotile and crocidolite were not even raised in the 1975 NPRM. Moreover, neither OSHA staff nor its contractor (Mt. Sinai School of Medicine) favor developing separate standards for chrysotile and amphibole asbestos (amosite, crocidolite). To do so would require OSHA to develop a record supporting such action, which in turn could slow the rulemaking. However, it is possible that OSHA will solicit comment on fiber type distinctions because of the

regulatory precedents set by the EEC, the United Kingdom and other countries. Rather than proposing PELs for amphiboles, OSHA may request public comment on a scheme for regulating amphibole-chrysotile mixtures by an EEC-type formula: Mixture PEL = (% chrysotile)(chrysotile PEL) + (% crocidolite)(crocidolite PEL). *

E. Technological Issues

These will involve definition of asbestos for regulatory purposes, availability/efficacy of substitute fibers and products, feasibility of monitoring and exposure reduction by engineering and work practice controls. OSHA will use the original (1978) and updated (1980) versions of the RTI/CONSAD technological feasibility assessment to support its arguments.

The 1980 RTI report concluded that an "average" level of 0.2 f/cc. can be attained in primary manufacturing operations. This is clearly the weakest portion of OSHA's case as most of the data are 1976 or earlier and of questionable reliability.

F. Economic Issues

To minimize the economic consequences of the 0.5 f/cc. proposal, OSHA will rely on the RTI/CONSAD economic impact analysis. This analysis, like the technological feasibility study, was compiled on a product-by-product basis. It concludes that a 0.2 f/cc. standard can be met in primary manufacturing industries at an annual cost of $17-$60 million. For the A/C pipe sector, the estimates are $1.854 million to comply with 0.5 f/cc. and $6.33 million for 0.1 f/cc. *

Kirkland & Ellis-AIA/NA Strategy

Discussions with both parties indicate that a rulemaking strategy has been discussed but not approved formally or implemented pending acquisition of funding. AIA/NA has approximately $150,000 in a legal contingency fund and expects to receive approximately $250,000 or more from Canadian asbestos interests. K&E has been directed not to initiate any contacts with OMB, the agency with the greatest potential to slow down or reshape the rulemaking. AIA/NA's tax status does not permit it to engage in Congressional lobbying.

Based on discussions with Bob Pigg (AIA/NA), Ed Warren and Tim Hardy (K&E) and industry contacts, the following "preliminary strategy" emerges.

A. Permissible Exposure Levels - Chrysotile and Crocidolite

AIA/NA probably will base its position on a 2.0 f/cc. standard for the asbestos mining industry and a 1.0 f/cc. chrysotile standard for manufacturing and construction industries. AIA/NA will argue for a fiber type distinction, possibly proposing that crocidolite exposures be regulated to 0.5 f/cc. (TWA). It is not known whether AIA/NA will take the extreme position of proposing a ban on crocidolite, as ORC recommended. *

These exposure levels would be considered "nice to have" acknowledging that most manufacturing industries could survive with the 0.5 f/cc. standard likely to be promulgated. In fact, it is the judgment of K&E that a 0.5 f/cc. standard would be a significant victory for the asbestos industry. Likewise, a 0.2 f/cc. or a "mixture formula standard" for crocidolite would be an acceptable "fall back" in the final rules. *

The basic difference between industry's position and OSHA's position will be risks

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posed by exposures to 1.0 f/cc., 0.5 f/cc. and 0.1 f/cc. K&E will use its brief to the Ontario Royal Commission on Asbestos as the primary vehicle to combat a 0.5 f/cc. or lower standard. This will be augmented by a "state of the art" risk assessment by Dr. Kenny Crump and testimony by medical experts. K&E's tact will be to present the medical evidence in its totality to offset the selective, "worst case" scenarios that OSHA and Selikoff are likely to depict.

B. Technological Issues

The weakness of OSHA's case supporting technological feasibility of a reduced standard is matched by the weakness of AIA/NA's case against feasibility. K&E will try to counter the OSHA/RTI/CONSAD report with historical exposure data and industry compliance information ascertained through Opinion Research Corporation's data collection for the EPA TSCA Section 8(a) proceedings. These data, however, are now incomplete, three years old and may not reflect current compliance, for better or worse. They certainly do not take into consideration the closure of A/C pipe plants during that period. The RTI/CONSAD report has not been analyzed by AIA/NA. Engineering or technical information has never been collected on how low workplace exposures can be reduced with available technology.

Of all the technological issues, the most critical is the reliability of the membrane filter method for measuring low-level work exposures. The AIA/NA "Round Robin Study," which demonstrates definitively that this monitoring technique cannot reliably monitor asbestos levels below 0.5 f/cc., should refute NIOSH's 1979 report to the contrary.

C. Economic Issues

need to see this ?

AIA/NA has never critiqued the accuracy and relevancy of the RTI/CONSAD economic impact analysis. As in the case of technological issues, there can be little doubt that the original data base is outdated. To the best of Staff's knowledge, no additional economic information, other than AACPP's economic impact assessment of a ban on asbestos, has been compiled to support an adequate, objective analysis.

AIA/NA will obtain expert economic advice to assess the RTI/CONSAD report and assist in the new data collection and analysis. As in past efforts, heavy reliance would be placed on product sectors gathering and analyzing product-specific information.

In summary, there will be an overall legal/scientific strategy comprised of "sub-strategies" for health, economic and technological feasibility issues. Only the health issue strategy will draw a distinction between chrysotile and the amphiboles. The economic and technological feasibility of complying with a standard for crocidolite was never requested by OSHA and never developed by AIA/NA or AACPP.

Impact of AIA/NA Strategy on A/C Pipe Industry

A. Chrysotile Strategy

* The A/C pipe industry will benefit from all AIA/NA efforts supporting a 1.0 or 0.5 f/cc. standard.

B. Crocidolite Strategy

The only issue that divides the interests of AIA/NA and AACPP is distinguishing

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the carcinogenicity and exposure standards for crocidolite and chrysotile. This has come about because:

1. There is a substantial body of scientific evidence and medical opinion that amphiboles are more closely linked with mesothelioma. Human epidemiologic studies depict worse health evidence for amphiboles. Animal and in vitro studies do not demonstrate fiber type differences.

2. Asbestos regulations in the U.K., EEC, Canada and elsewhere distinguish between chrysotile and crocidolite.

3. There are concerns that chrysotile might be regulated on the basis of the carcinogenicity of crocidolite, i.e. to the lowest detectable level rather than a 1.0-0.5 f/cc level. This concern, however, has never been evinced in world asbestos regulations.

4. There are a variety of "political factors" operating. These include the non-representation of the A/C pipe industry interests on AIA's Executive Committee and the possibility that chrysotile producers (particularly since they will provide substantial financial support) may wish to see crocidolite usage restricted for economic reasons.

   The A/C pipe sector used to account for 20-25% of total chrysotile usage in the U.S. This share slipped to 9.5% in 1982. On the other hand, the sector uses 100% of crocidolite imported into the U.S. So A/C pipe producers do not carry as much purchasing and political clout with chrysotile suppliers as they have in past years.

5. In K&E's judgment, the fiber type issue can be argued either way. However, it believes that by making a fiber distinction argument (assuming that OSHA does not issue a special standard for crocidolite or amosite) the final rule might be judged arbitrary and capricious and reversed in court.

AIA/NA's crocidolite strategy is an attempt to "give away the symbols but retain the substance." Industry concedes that amphiboles are more dangerous but ensures that a mechanism, such as a "livable" standard or an EEC mixture formula, is included in the final rule so industry can continue using crocidolite. The crocidolite issue is at the same time a "throw away card" for AIA/NA (since none of its members use crocidolite) and an important tactic in the K&E legal strategy for chrysotile.

The important question for AACPP is whether the A/C pipe industry can survive with the possible outcomes of a crocidolite standard: 0.5 f/cc., 0.2 f/cc., an EEC type mixture formula or ban. Moreover, acknowledging the "throw away" nature of the issue, is there a possibility that AIA/NA might support a ban on crocidolite to preserve a 1.0 or 0.5 f/cc. exposure standard for chrysotile? It is difficult to believe that the Canadian chrysotile suppliers would be so short sighted as to cause or endorse such action and in so doing impair or obsolete A/C pipe markets in the U.S. and other parts of the world. This possibility, however, cannot be dismissed because Canada and other countries do manufacture A/C pipe without crocidolite.

Options for AACPP Participation in Rulemaking

Option 1: AACPP does nothing.

Advantages:
- o No diversion of AACPP financial resources or Staff time.

Disadvantages:
- o Concedes the crocidolite issue; leaves outcome to companies with little or no interest in its continued use.
- o Does not provide complete A/C pipe industry data on economic/technological feasibility of reduced chrysotile standard.

Option 2: A/C pipe manufacturers (CertainTeed Corp. and J-M Pipe Co.) join AIA/NA

Advantages:
- o Strengthens AIA/NA financially.
- o A/C pipe industry represented in its entirety; industry may be able to influence crocidolite strategy.
- o No need for parallel or conflicting efforts by AACPP.

Disadvantages:
- o Neither AACPP nor A/C pipe manufacturers assured of say in strategy development.
- o A/C pipe interests have few votes among many.
- o A/C pipe industry funds may be used to argue a case (crocidolite) not in its own best interests.

Option 3: AACPP supports AIA/NA strategy; provides financial and informational support with stipulation that AIA/NA endorse a standard or formula permitting crocidolite use.

Advantages:
- o Strengthens AIA/NA legal contingency fund.
- o Cost could be less than CertainTeed and JM joining.
- o Necessary economic and technological feasibility data provided to support AIA/NA strategies.
- o AACPP may be able to influence or moderate the fiber distinction argument.

Disadvantages:
- o May be less effective than Option 2.
- o AACPP concedes fiber distinction issue with the hope that a reasonable standard or a mechanism, such as a formula, can be put into place that allows the A/C pipe industry to continue using crocidolite.
- o Locks A/C pipe industry into strategy that might restrict Congressional, agency or OMB contacts.

Option 4: AACPP supports AIA/NA chrysotile strategy, but opposes crocidolite strategy.

Advantages:
- o Economic and technological feasibility data to support reasonable chrysotile standard are provided to AIA/NA.
- o Finances not given to support crocidolite

distinction.
- o AACPP free to develop and present industry arguments/action plans against fiber distinction.
- o Financial support for crocidolite defense might come from crocidolite producers.

Disadvantages:
- o AIA/NA may find this option unacceptable and decline AACPP information.
- o AACPP and AIA/NA pitted against one another in hearings and cross-examination.
- o Asbestos industry does not present a unified front before OSHA, OMB and others.

Option 5: AACPP proceeds independently.

Advantages:
- o A/C pipe industry has complete control over all strategy and tactics including chrysotile and crocidolite health issues, economic and technological feasibility, and fiber type distinction.

Disadvantages:
- o Duplicative of AIA/NA efforts on chrysotile standard.
- o Extremely costly.
- o AACPP has little time to prepare comprehensive defense.

Staff Recommendations

Staff recommendations are based on the following reasonable assumptions:

1. All U.S. A/C pipe manufacturers can comply with a 1.0 f/cc. chrysotile standard and if necessary, 0.5 f/cc. in manufacturing and construction.

2. Industry can probably comply with a 0.5 f/cc. crocidolite standard or a mixture standard. Ability to comply with 0.2 f/cc. is not known, but unlikely.

3. Prohibiting the use of crocidolite would result in severe economic impacts and possible closure of U.S. A/C pipe plants.

4. Since A/C pipe industry exposure levels are around 0.5 f/cc., AACPP information on current compliance and economic/technical feasibility are not likely to be used (other than for background information) in AIA/NA's case for a 1.0 f/cc. standard. If AIA/NA changes its strategy to support a 0.5 f/cc. standard, which seems unlikely, A/C pipe industry data would be valuable.

5. AIA/NA will not change its crocidolite strategy. This is because it has already submitted to CPSC's Chronic Hazards Advisory Panel on Asbestos comments arguing for fiber type distinction. That position cannot be reversed without irreparable loss of face and credibility. Proceeding with the crocidolite strategy may also be a stipulation of Canadian funding.

Staff recommendations are phased. Option 3, supporting AIA/NA strategy, should be explored with AIA/NA, K&E and Canadian chrysotile interests. Financial and

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informational support should be predicated on a "guarantee" that AIA/NA will not concede a crocidolite standard less than 0.5 f/cc. or a formula-type standard that makes A/C pipe manufacturing impractical. The lowest acceptable crocidolite level needs to be determined through industry or independent studies.

If discussions with AIA/NA, K&E and Canadian chrysotile interests are not constructive and the crocidolite assurances are not made, then Staff recommends Option 4, supporting the AIA/NA chrysotile strategy, but opposing the crocidolite strategy. This is the safest and most conservative option as it permits the A/C pipe industry to safeguard both its major interests in the rulemaking: a reasonable chrysotile standard and no separate standard for crocidolite. AACPP also would not decrease in any way K&E's chances of reversing the final standard in court. As a matter of fact, this option would increase those chances by reaffirming OSHA's predisposition on the crocidolite issue thereby setting up the agency for a court reversal.

Information Needs and Projected Costs

Information needs will be dictated by final option selected.

Option 3: AACPP supports AIA/NA strategies; provides financial and informational support.

Issue	Information Needs	Costs
Financial Support for AIA/NA	None	$40-50,000
Health	None	None
Technical Feasibility	Exposure profiles (chrysotile and crocidolite; past and current)	
	- manufacturing plants (all work stations)	$1200-$1800
	- construction (crocidolite only);	$2400-$3000
	industrial hygiene studies	$3-$5000
	Effectiveness or ineffectiveness of control techniques recommended by RTI/CONSAD	
	- engineering	
	- work practices	$1200-$1800
	Engineering/technical information on how low exposures can be reduced	$1800-$2400
	Data/comments on substitutes (characteristics, costs, suitability)	
	- asbestos	
	- product	$1200-$1800

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Economic Feasibility	Historical costs of compliance for 2.0 f/cc., 1.0 f/cc.and current exposure levels - capital investment - annual operating costs - medical/industrial hygiene costs	$1200-$1800
	Estimated costs of 0.5 and 0.1 f/cc. standards	$1200-$1800
Liaison with AIA/NA or AIA/NA for tasks related to information needs		$4200-$6000
OSHA hearings		$1800-$3000
	Total costs	$59,200-$78,400

included in budget

Option 4: AACPP supports AIA/NA chrysotile strategy, but opposes crocidolite strategy.

Issue	Information Needs	Costs
Health	Scientific/medical evidence supporting non-distinction of crocidolite - epidemiologic studies - animal studies - in vitro studies - new evidence	$2400-$3000
Technical Feasibility	Same as Option 3	$10,800-$15,800
Economic Feasibility	Same as Option 3	$2400-$3600
Liaison with K&E, AIA/NA and/or other attorneys		$4700-$6000
Legal Services	Preparation of/assistance with: - written comments - testimony of medical expert - cross-examination of opposing witnesses - post-hearing brief	$40-$50,000
OSHA hearings		$1800-$3000
	Total Costs	$61,600-$81,400

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Action Plans - Lobbying

In addition to AACPP support of or participation in the rulemaking proceedings, alternative action plans should be considered. The most obvious is a lobbying program coordinated by AACPP.

Lobbying against the OSHA standard would involve several tiers of government. From the bottom up, these are:

(1) OSHA
(2) OMB
(3) Vice Presidential Task Force of Regulatory Relief
(4) Congress
(5) White House

A. OSHA

If AACPP pursues Option 3 (AIA/NA support) there is no reason to lobby OSHA. If Option 4 (Oppose crocidolite strategy) is accepted, AACPP's interests would be served well by tracking agency opinion and input on the crocidolite issue.

B. OMB

There are two opportunities to lobby OMB — during its review and approval of the proposed regulation and during the same process for the final standard. K&E has excellent contacts within OMB and, if permitted, will use them effectively to advance AIA/NA positions.

The same line of reasoning applies to OMB lobbying as for OSHA: no for Option 3, yes for Option 4. The need to lobby OMB on crocidolite would be predicated on OSHA proposing a separate standard for amphiboles or issuing a separate amphibole standard in the final rulemaking. Thus, any OMB lobbying plans should be contingent on these developments.

C. Vice Presidential Task Force on Regulatory Relief

Simply stated, the Task Force's mission is to find a balance between achieving the goals of regulation and avoiding excessive costs. In that respect it is an adjunct to OMB, although OMB is more important in day to day review of the economic impacts of pending regulations. Any OMB contacts by AACPP would almost automatically require comparable lobbying with the Vice Presidential Task Force.

D. Congress

It also is possible to mount a lobbying campaign with Senators or Congressmen representing states where A/C pipe plants are located. The objective would be to persuade these Members of Congress that OSHA's proposed standards would adversely affect the A/C pipe industry, possibly resulting in plant closures, unemployment and lost tax revenues. This effort might include:

(a) AACPP Staff contact with Members of Congress and their staffs to describe firsthand the potential adverse impacts of further OSHA regulations. Urge the Members to intervene on the industry's behalf

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with Assistant Secretary Auchter.

(b) Congressional visitations by senior managers in the A/C pipe industry.

(c) Asking sympathetic labor unions to send letters endorsing industry's position to Congressman and Senators.

(d) Other.

E. White House

To the best of Staff's knowledge, the A/C pipe industry's only potential entre to the White House or Presidential Staff would be through Ed Harper, a former officer with CertainTeed Corporation. While this is a distinct possibility, practically speaking it is not known (a) whether Harper is in a position to affect the outcome and (b) whether Harper would be receptive in meeting with industry representatives in the first place. Regardless, this is a lobbying resource that should not be ignored.

Any AACPP lobbying program should commence after the proposal is issued and must be based on foreknowledge of the A/C pipe industry's current compliance levels. If all A/C pipe plants are at or below 0.5 f/cc., it obviously will not be possible to lobby a 1.0 f/cc. standard with any of the executive agencies or Congress. On the other hand, the prospect of a 0.1 f/cc. standard is real enough to justify "preventive lobbying." The same rationale applies to the possibility of a separate standard for crocidolite.

Staff has lobbied executive agencies and served as a member company resource in corporate lobbying programs. A broad-based lobbying program on this issue is not priced easily or accurately as it dimensions are still unknown. A "ballpark" estimate for lobbying the manufacturing standard would be $12,000-$18,000 plus direct costs for briefing packages, entertainment, etc.

A summary of options, tasks and estimated costs is attached as Appendix C. If you have any questions prior to the Executive Committee meeting, please do not hesitate to call.

JFW/ajb

Enclosures

cc: A. Kahn, Esq.

copies to: Executive Committee

L. Ambler
L. Taylor
A. Verploegh

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APPENDIX A

Major Events in Development of OSHA Standards for Occupational Exposure to Asbestos

May 29, 1971	12 f/cc (TWA) standard promulgated.
November 4, 1971	AFL/CIO petitions for emergency temporary standard of 5 f/cc. OSHA publishes standard on December 7, 1971.
January 12, 1972	OSHA issues Notice of Proposed Rulemaking for permanent standard of 5 f/cc.
February 1, 1972	National Institute for Occupational Safety and Health (NIOSH) recommends 2 f/cc. standard.
July 7, 1972	5 f/cc. standard goes into effect.
October 9, 1975	OSHA proposes to lower standard to 0.5 f/cc. and to develop separate standard for construction industry.
July 1, 1976	2 f/cc. standard goes into effect.
December 15, 1976	NIOSH recommends to OSHA that standard be lowered to 0.1 f/cc. ("lowest detectable level").
February 7, 1980	AACPP and AIA/NA transmit to OSHA a "Recommended Standard for Occupational Asbestos Exposure in Construction and Other Non-Fixed Work Operations," culminating twelve months work on the Recommended Work Practice Program.
April 17, 1980	NIOSH/OSHA Asbestos Work Group endorses 0.1 f/cc. standard. Dr. Eula Bingham, Assistant Secretary for OSHA says that a new rule could be in place within 6 months.
May 16, 1980	OSHA Advisory Committee on Construction Safety and Health endorses AACPP/AIA/NA position paper on work practices; monitoring and medical surveillance requirements for construction are not resolved.
January 2, 1981	OSHA-NIOSH accept Advisory Committee recommendations that separate health standards be developed for construction industry.
March 12, 1981	K&E, AIA/NA and AACPP representatives meet with Assistant Secretary Auchter to request "relief from overzealous government regulation." A joint government-industry program is proposed to: (a) reject NIOSH recommendations and withdraw 0.5 f/cc. OSHA proposal, (b) implement workable standards for the construction industry and (c) coordinate plan for

	government regulation of asbestos.
March 10, 1982	"Suggested OSHA Program on Asbestos Regulation" prepared by K&E and informally transmitted to OSHA. Document recommends beginning regulatory proceeding to issue cost effective construction standard and reaffirm efficacy of 2.0 f/cc. standard.
March 21, 1983	During unrelated litigation, OSHA inadvertantly releases "Preliminary Risk Assessment for Asbestos." Document endorses reduction of standard to 0.5 or 0.1 f/cc.
April 7, 1983	At meeting with K&E and AIA/NA, Assistant Secretary Auchter announces that OSHA will propose a new standard by early summer, 1983. Auchter's actions clearly prompted by "political survivorship" on the heels of EPA Administrator's resignation and strong Congressional inquiry into OSHA inaction.
May, 1983	OSHA contracts with Dr. Irving Selikoff (Mt. Sinai School of Medicine) to prepare medical evidence supporting standard reduction.
May 31, 1983	International Association of Machinists and Aerospace Workers petitions OSHA to issue emergency temporary standard of 0.1 f/cc.
June 14, 1983	Organization Resources Counselors (ORC) recommends that OSHA lower standard to 0.5 f/cc. and prohibit use of crocidolite.

APPENDIX B

ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS

MACHINISTS BUILDING, 1300 CONNECTICUT AVENUE, WASHINGTON, D. C. 20036
Area Code 202—857-5200

GL15 - Asbestos

May 31, 1983

3301353

Mr. Raymond J. Donovan
Secretary of Labor
U. S. Department of Labor
Washington, DC 20210

OFFICIAL CORRESPONDENCE
PLEASE RETURN TO ROOM S-2519

Dear Secretary Donovan:

On behalf of our 900,000 members, the International Association of Machinists and Aerospace Workers requests an Emergency Temporary Standard to reduce the permissible exposure level for asbestos to 100,000 fibers per cubic meter air. This unusual response of an Emergency Temporary Standard is necessary to meet the exceptional circumstances presented by continued worker exposure to asbestos.

Assistant Secretary Thorne Auchter has been sitting on a Risk Assessment for Asbestos and the recommendations of a joint OSHA/NIOSH committee since he took office. The time for action is long overdue.

It is our understanding that Assistant Secretary Auchter is planning to propose a reduction in the permissible exposure limit to 500,000 fibers per cubic meter, as an eight hour time-weighted average. We know that Doctor Irving Selikoff has told him that this level of asbestos exposure is dangerously high--indefensibly high. The only exposure level that can be honestly supported is the lowest detectable level.

We request the 100,000 fiber level on an emergency basis not because it is "safe"... no asbestos exposure is safe... but because it represents the lowest reliably detectable level using current measurement techniques. In the rulemaking hearings which will follow the issuance of the Emergency Temporary Standard pursuant to Section 6(c) of the Act, OSHA should give very careful consideration to requiring measurement technology which permits reliable detection of asbestos concentrations below 100,000 fibers per cubic meter.

From our experience, we believe that for the majority of work settings an exposure limit of 100,000 fibers per cubic meter can be met using a combination of engineering and work practice control measures.

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Because it is well understood that the permissible exposure limit alone will not fully protect workers from the risk of asbestos cancer, we request that in your emergency rulemaking you make the work practice provisions of 1910.1001(c)(2) mandatory for all operations exposing workers to asbestos, regardless of level. The specific minor wording changes we request to accomplish this are shown in the Attachment to this letter.

The IAM is sponsoring a series of medical screening programs for asbestos-exposed workers and their spouses. The results have been devastating. 50% of our members who participated in the screening were found to have abnormal chest x-rays. We have also seen evidence of asbestos disease among spouses participating in this program. A national review of deaths among IAM railroad members conducted by Dr. Thomas Mancuso, IAM medical consultant, identified 42 cases of mesothelioma (see Mancuso Study attachment). These findings and the host of similar findings by the scientists at Mt. Sinai, document beyond questions the horrible risk of asbestos cancer faced by workers and their families. Unfortunately, these serious qualitative health risks were unappreciated at the time of the 1972 revision of the asbestos standard. However, the scientific evidence is now clear. There is a documented risk to workers and their families, demonstrating a significant risk of grave danger for all exposed workers.

It is therefore of the utmost importance that OSHA take steps to require full protective clothing, showers and separate change areas to protect all asbestos-exposed workers and their families as soon as possible, regardless of exposure level. We request that these measures be included in the Emergency Temporary Standard, by means of minor wording changes in 1910.1001 (d)(3). The specific minor wording changes necessary to accomplish this are shown in the Attachment.

As you are no doubt aware, the danger of cancer from workplace exposure has been well documented in the scientific literature in recent years. These references have been enumerated by the Department of Labor at 40 F.R. 47653 (October 9, 1975), by NOISH in Revised Recommended Asbestos Standard, DHEW (NIOSH) Publication No. 77-169 (December, 1976,) and by the NIOSH-OSHA Asbestos Work Group in Workplace Exposure to Asbestos, DHHS (NIOSH) Publication No. 81-103 (April, 1980).

The scientific evidence requires that immediate regulatory action be taken. The Reagan Administration has consistently attacked the basic fiber and web of the Occupational Safety and

Health Act by developing no new standards, weakening existing standards, and destroying enforcement. This neglect of Congressional intent of the law dealing with worker health and safety must stop. The IAM demands that the Occupational Safety and Health Administration move in this direction by issuing an Emergency Temporary Standard for asbestos.

Sincerely,

William W. Winpisinger
INTERNATIONAL PRESIDENT

W/sm
cc: Dr. Thomas F. Mancuso
Dr. Irving Selikoff
AFL-CIO IUD
Thorne Auchter

D 003616

APPENDIX C

SUMMARY OF OPTIONS, TASKS AND ESTIMATED COSTS

	Option 3: Support AIA/NA strategies provide financial and information support	Option 4: AIA/NA chrysotile strategy; oppose crocidolite strategy
Contribution to AIA/NA	$40,000-$50,000	-0-
Health Issues	-0-	$2,400-$3,000
Feasibility Issues		
-Technical	$10,800 to $15,800	$10,800 to $15,800
-Economic	$2,400 to $3,600	$2,400 to $3,600
K&E-AIA/NA Liaison	$4,200 to $6,000	$4,200 to $6,000
OSHA Hearings	$1,800 to $3,000	$1,800 to $3,000
Legal Services	-0-	$40,000 to $50,000
Total	**$59,200 to $78,400**	**$61,600 to $81,400**