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August 13, 1981

Edward A. Klein, Esquire
Director
Chemical Control Division
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345 East Tower
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Dear Ed:

On behalf of the Asbestos Information Association/North America ("AIA/NA"), I would like to thank you, Dr. Todhunter and Deputy Assistant Administrator Clay for taking the time to meet with us on Monday.

The enclosed outline of points attempts to respond to the questions raised by Dr. Todhunter and to include additional points raised by you in our meeting on July 10.

I hope the enclosed materials are helpful to your deliberations. I will be on vacation starting tomorrow until the first week of September, but if you have any questions please don't hesitate to call Bob Pigg or Tim Hardy.

Sincerely,

Ed Warren

Edward W. Warren

Enclosure

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OUTLINE OF POINTS
POSSIBLE ANPRM FOR ASBESTOS

I. UTILITY OF A NEW ASBESTOS ANPRM

A. EPA-Industry Discussions over the Past Six Months Have Proved Fruitful.

1. Discussions have broken down much distrust on both sides.
2. Both sides have a better understanding of the risks and benefits of asbestos than previously.
3. Industry has backed off a "no regulation is needed" posture and EPA is no longer talking about the draconian "ban" alternatives listed in the October 1979 ANPRM.
4. Both sides have suggested constructive steps to reduce unnecessary and potentially hazardous asbestos exposure in the workplace and non-workplace environment.
5. At least the outlines of an EPA asbestos regulatory package are beginning to emerge.
6. Both sides recognize that any EPA regulation of asbestos under TSCA is closely tied to how asbestos is regulated at the beginning of the asbestos "life cycle", namely how asbestos is regulated by OSHA in the occupational setting.

B. The Current ANPRM is Outdated.

1. The ANPRM, issued in October 1979, is nearly two years old and does not reflect EPA's current thinking or the many developments related to asbestos that have occurred since 1979.
2. The ANPRM was (perhaps understandably) diffuse in focus; now EPA knows far more and can state its regulatory intentions and data needs more specifically.
3. The public, including industry, environmental groups, labor, and governments regulating asbestos around the world, could participate far more effectively in the regulatory process if EPA issues a new ANPRM reflecting its current thinking.

C. A Joint EPA-OSHA ANPRM is Necessary for the Government to Regulate Asbestos Effectively.

1. There is no natural cutoff between occupational and environmental exposure to asbestos; to consider occupational and environmental exposure separately inevitably leads to overlapping jurisdiction and duplication of effort by OSHA and EPA.
2. Governments around the world (the British "Simpson Report" is a good example) have begun to look at all aspects of asbestos as parts of a single problem.
3. The "work practice" approach which has been the subject of much EPA-industry discussion could only be implemented effectively if done jointly with OSHA.
4. A joint EPA-OSHA ANPRM for asbestos could set a far more useful precedent for interagency cooperation than the highly touted, but largely ineffectual, efforts of the Interagency Regulatory Liaison Group.

D. A New Asbestos ANPRM Would Help Coordinate EPA's Own Asbestos Regulatory Efforts.

1. Apart from TSCA, EPA is regulating or considering regulation of asbestos under the Clean Air Act, the Clean Water Act, the Resource, Recovery and Conservation Act, the Safe Drinking Water Act and Superfund.
2. There is currently little coordination among these activities and considerable duplication of effort.
3. A new ANPRM could coordinate these disparate activities and allow EPA to speak with one voice on asbestos matters.
4. A new asbestos ANPRM could set an important precedent for how EPA can regulate across program lines in an efficient and cost-effective manner.

II. POSSIBLE CONTENTS OF A NEW ASBESTOS ANPRM

- A. State New EPA Direction on Asbestos - Withdraw October 1979 EPA-CPSC ANPRM and the Ban Alternatives under Consideration at That Time.
 - 1. Focus on work practices, labeling, possible use restrictions, and substitution through market-place incentives under TSCA.
 - 2. Make focused data requests keyed to regulatory alternatives under active consideration by EPA.
- B. Announce Joint EPA-OSHA Regulatory Effort.
 - 1. Set forth possible regulatory alternatives, emphasizing the benefits of a joint EPA-OSHA regulatory effort - a good example would be the benefits of joint EPA-OSHA work practices for construction industry use of asbestos-containing products.
 - 2. Explain why a joint EPA-OSHA regulatory effort makes sense. - See I-C supra.
- C. Establish Interagency Peer Review Process to Review Asbestos Health Evidence.
 - 1. Solicit from the public comprehensive literature reviews of all asbestos health evidence, including risk assessments for occupational and environmental exposure to asbestos.
 - 2. Establish an interagency mechanism for peer review of the asbestos health evidence by independent scientists, including but not limited to epidemiologists and biological scientists who have conducted the key asbestos studies.
- D. Coordinate All EPA Regulation of Asbestos Through One EPA Office.
 - 1. Assign one EPA office the lead responsibility to coordinate all asbestos regulatory activities.
 - 2. Withdraw asbestos water quality criteria and any similar documents or risk assessments that purport to be a comprehensive review of the asbestos health evidence until completion of the scientific peer review process described above.

E. Set Timetable for Completion of Joint EPA-OSHA Regulatory Process.

1. The public, including, industry, labor, and the environmental groups, has a common interest in completion of the asbestos regulatory process by a date certain.
2. The issuance of a joint EPA-OSHA ANPRM need not slow and could accelerate the current EPA and OSHA timetables for regulating asbestos.
3. A possible timetable might be something like the following:
 - a. EPA-OSHA ANPRM - October 1981
 - b. Comments due on ANPRM including data base for independent peer review of scientific evidence - February 1982
 - c. Initiation of independent scientific peer review process - April 1982
 - d. EPA-OSHA proposal - July 1982
 - e. Comments and any hearings required by law on EPA-OSHA proposal - July-October 1982
 - f. Completion of independent scientific peer review - October 1982
 - g. Final OSHA and EPA rules - March 1983