



ASBESTOS INFORMATION ASSOCIATION

NORTH AMERICA

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TO: Directors
Associate Member Representatives

Gentlemen:

For some time now, there has been growing concern within the AIA/NA as to what response should be made to asbestos regulations proposed by OSHA. In order to offer informed recommendations and guidance, your Executive Committee has held discussions with persons who have intimate knowledge of OSHA and its functioning. As a result, we believe that the industry will soon have to make some very difficult and serious decisions. Following is a summary of the points highlighted by those discussions and a course of action we recommend to you.

OSHA is greatly influenced by labor interests and is oriented nearly exclusively toward their desires. Consequently, regulations are proposed almost entirely on the basis of labor's recommendations. Adverse economic effects and problems of compliance within affected industries have little weight in the bureaucratic decision-making process. In fact, OSHA appears dedicated to imposing on the asbestos industry a "lowest feasible exposure level," regardless of its impracticability and economic costs to the businesses involved and the country as a whole.

While government regulators must go through the formality of holding public hearings and soliciting comment from the public on proposed regulations, the agency, in effect, has already determined what standard will be adopted. All too often, the only real hope of reversing or modifying unnecessarily stringent, scientifically unsupported, or otherwise unjustified industry regulations lies in court action.

To lay the necessary basis for effective legal action, it is essential that members of the industry thoroughly and carefully prepare their views for presentation at the hearings. This will require in-depth legal, scientific and economic research, leading to the preparation of detailed testimony. Only in this way can the industry's position be presented fully and effectively. If litigation becomes necessary, we estimate that the entire process will require an expenditure of about a million dollars.

Grover Wrenn, Director of Health Standards Programs of OSHA, spoke at the December Board of Directors Meeting. The question and answer period following his prepared remarks reaffirmed some points and underscored the need for our industry to undertake the program we recommend. Those points include the following:

1. OSHA does not appear to be in a hurry to promulgate new asbestos regulations. At this time, there is a higher priority to set standards for other substances that are presently unregulated. However, OSHA believes that the current asbestos standard is inadequate and there is strong political pressure being applied to reorder priorities to focus attention on asbestos. This pressure is evidenced, for example, by ongoing HEW activities.
2. The CONSAD and RTI technological feasibility and economic impact studies have been completed and submitted to OSHA. However, the government does not intend to release the studies prior to proposing a new standard.
3. The standard that was proposed in October, 1975, to cover asbestos in manufacturing will probably be withdrawn and, in its place, two new regulations (one for manufacturing and one for construction) likely will be issued simultaneously. No indication was given at the December luncheon as to the content of the new proposals.
4. Mr. Wrenn said that a minimum of 90 to 120 days notice will probably be given prior to the start of public hearings on the new proposals.

Clearly, we need to decide upon a course of action to take with respect to the anticipated proposed standards. If litigation becomes necessary, a heavy commitment, in terms of both time and money, will be required. Of course, much of the work must await publication of the new proposals, but planning and preparatory efforts should begin right away since the period between publication and the start of hearings does not allow time for indecision or uncertainty.

We, therefore, request each member of the Association, regular and associate, to ask your top management to weigh carefully the impact that more stringent regulatory restrictions would have on your company. This pertains equally to both manufacturing

and construction businesses. Your company should determine what, in its view, would be unacceptable exposure levels, monitoring requirements, medical surveillance regulations, and other aspects of the anticipated proposals. Your company should decide now whether it will support litigation against what it considers to be an unacceptable proposed standard. This should be a continuing process to take into account changing conditions. Such forethought and planning will allow us to act quickly and positively whenever OSHA publishes new proposals.

We do not wish to know what specific provisions your company considers acceptable in a standard. We would, however, like you to advise us when your company has made these determinations so that it is prepared to respond quickly to government initiatives. This can be done either by letter or at the next Directors meeting in March.

In the meantime, please let us know if you have any questions or recommendations. Your continued cooperation and efforts are most appreciated.

Best regards,

Tom Dougherty
T. A. Dougherty
President

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