A/C Pipe Producers Association

ADVISORY

PLAINTIFF'S EXHIBIT

CAP-450

Volume I, Issue 18

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CONCERNS ABOUT INGESTED ASBESTOS "LAID TO REST," COMMENTS INDUSTRY GROUP

The international asbestos-cement pipe industry has urged the U.S. Environmental Protection Agency (EPA) to "close the book on asbestos in water, assure the public that it need fear no adverse health effects, and declare that a primary drinking water regulation for asbestos is unwarranted." The recommendation is part of a sixty-nine page document comprising comments of the Association of Asbestos Cement Pipe Producers (AACPP) to EPA's Advance Notice of Proposed Rulemaking (ANPRM) on National Revised Primary Drinking Water Regulations.[1] AACPP is the trade association representing all North American companies that produce and market asbestos-cement (A/C) pipe, as well as twenty-five other firms manufacturing A/C pipe products throughout the world.

EPA's ANPRM, issued under authority of the Safe Drinking Water Act (SDWA), is part of a comprehensive reassessment of requirements and implementation experience of the National Interim Primary Drinking Water Regulations. The basic questions raised are (1) which contaminants should be regulated, (2) what recommended maximum contaminants levels (RMCLs) and maximum contaminant levels (MCLs), if any, would be appropriate and (3) what monitoring and reporting requirements would be appropriate? The notice invites comment on forty-four, non-regulated organic, inorganic, microbial and radionuclide substances, including asbestos. EPA cautions that "inclusion on the list does not necessarily mean that regulations will be developed."

AACPP's comments point out that a ten year, $30 million program of government and independent research has laid to rest any prior doubts about public health risks of ingested asbestos. Tentative conclusions that there is no cause for concern made by many independent scientific groups in the mid-1970's, have been confirmed. Substantial scientific data now show that there is no reason to believe adverse human health effects will result from drinking water containing asbestos, the comments assert. The following is a brief of the AACPP comments submitted to EPA.

CAPCO JEN 0002276

Animal Studies

Numerous state-of-the-art animal bioassays, many of them conducted as part of the National Toxicology Program, have confirmed that even very high levels of ingested asbestos cause no adverse health effects, including cancer, in animals. Rat and hamster lifetime bioassays performed by McConnell et al (1983, 1982, 1981), Smith (1980), Donham (1980), Ward (1980), Hilding (1981), Bolton (1982) and others demonstrate that ingested asbestos is not an animal carcinogen. Moreover, all recent reviews of these bioassays agree that the ingestion studies provide no evidence for concern about potential human health effects of asbestos in water.

Human Studies

Similarly, many epidemiology studies of populations exposed for many years to relatively high concentrations of asbestos in drinking water have typically found no increased cancer risks. Some commentators have been unwilling to conclude definitively on the basis of these studies that ingested asbestos is not a human carcinogen. However, the studies clearly demonstrate — especially when the massive doses and sensitivity of animal bioassays are considered — that it would be unreasonable to conclude that ingested asbestos is likely to cause adverse human health effects. Continuing research also has confirmed the unlikelihood that any significant number of fibers migrate from the gastrointestinal tract into gastrointestinal tissue where they might potentially pose carcinogenic risks.

Exposure Studies

The absence of any likelihood that asbestos ingestion will cause adverse health effects is confirmed by the de minimis human exposures from United States drinking water. Monitoring data compiled by EPA demonstrate that all but a small percentage of U.S. drinking water contains asbestos concentrations below 1 million fibers/liter, which on a weight basis is roughly equivalent to 1 part-per-trillion. These very low concentrations — significantly lower than any maximum contaminant levels ever set by EPA for other chemicals — are due primarily to natural erosion. Preliminary EPA studies find such concentrations represent but a small fraction of total human gastrointestinal asbestos exposures.

Costs of Monitoring and Treatment

Finally, even were there reason to believe asbestos in drinking water causes health effects, neither monitoring nor treatment techniques are economically and technically feasible or generally available, as is required for drinking water standards under the Safe Drinking Water Act. The only available monitoring technique, transmission electron microscopy (TEM), is very expensive. Assuming that 20% of the 60,000 community water systems to which a regulation might apply have asbestos in their water supplies, the total cost of putting into place asbestos analytical capability would be $3 billion plus $600 million in yearly operational and maintenance costs. Moreover, the precision and accuracy of TEM, especially at the low asbestos concentrations found in most water supplies, do not meet acceptable criteria for legally enforceable standards.

Only six communities throughout the nation treat drinking water for asbestos, indicating the absence of generally available treatment techniques. The limited data from these facilities indicate such treatment is very expensive. Assuming again that 12,000 water systems might be required to undertake the least burdensome treatment technique — modification of existing facilities — EPA's own data show that total construction costs would be in excess of $12 billion. Thus, no reasonable justification exists for diverting scarce public resources from control of the many potential health hazards in drinking water to the monitoring and treatment of asbestos.

AACPP therefore urges EPA to close the book on asbestos and declare in its next national drinking water standards proposal that no standard is warranted. EPA should join the World Health organization, other nations and numerous states in determining that no regulations need be established for monitoring or control of asbestos in drinking water. The Agency should fulfill its obligation to assure the American public that it need not fear any adverse health effects from the prevailing levels of asbestos in drinking water.

REFERENCES

1. U.S. Environmental Protection Agency, National Revised Primary Drinking Water Regulations; Advance Notice of Proposed Rulemaking, Federal Register, Volume 48, Number 174, page 45502, Wednesday, October 5, 1983.

Donna –

Both are for your A/C Advisory file

Mary

A/C Pipe Producers Association

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CAPCO JEN 0002280

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A/C Pipe Producers Association

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AN OPEN LETTER TO CUSTOMERS

Dear Customer:

As you may be aware, the October 4, 1983 issue of Wall Street Journal reported that the U.S. Environmental Protection Agency (EPA) is considering a ban on the use of A/C pipe. We, the manufacturers of A/C pipe in the United States and Canada — CAPCO Pipe Co., Inc., CertainTeed Corporation, J-M Manufacturing Co., Inc. and Atlas-Turner, Inc. — are publishing this advisory to give you the facts and industry's position on this announcement.

The Situation

EPA recently notified the A/C Pipe Producers Association that under the authority of the Toxic Substances Control Act it plans to publish in the next year a proposed rule banning certain asbestos products. Categories under consideration for a product ban are roofing and flooring felts, asbestos felt-backed vinyl flooring, vinyl-asbestos floor tile and A/C pipe and fittings.

The Toxic Substances Control Act (TSCA)

TSCA is a far-reaching law. It authorizes EPA to obtain data on production and health effects of chemicals and mixtures. It may require manufacturers to test potentially harmful chemicals before marketing them. And if warranted, it empowers EPA to regulate the manufacture and distribution in commerce of chemical substances. One section of TSCA provides that any person may petition EPA to start a proceeding to require testing or regulation of chemicals and mixtures.

Before EPA may impose any regulatory requirements under TSCA, it must show that the manufacture and use of a substance or product, A/C pipe for example, presents an "unreasonable risk or injury to health or the environment." That burden can be upheld only if supported by substantial evidence and only after considering a wide range of risk and benefit factors. Finally, EPA must use the least burdensome requirements to regulate "unreasonable risks."

What It All Means

This recent action reopens a TSCA rulemaking started in 1979 when EPA published an Advance Notice of Proposed Rulemaking on Commercial and Industrial Use of Asbestos Fibers (Federal Register, pg. 60061, October 17, 1979; as amended by Federal Register, pg. 73127, December 17, 1979; EPA Docket No. OTS-61005).

An advance notice is the first step in the regulatory process. It describes EPA's concerns about an issue, discusses generally how it will be studied, defines regulatory options and invites comments on questions raised in the notice. An advance notice is followed by a proposed rule, wherein EPA presents scientific, technical and economic data supporting its proposal. There is a comment period and a public hearing for interested parties. Then, all this input is analyzed by EPA and a final rule issued.

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The 1979 advance notice expressed concern that sources of human exposure to asbestos may present unreasonable health risks. Three regulatory options were mentioned: (1) declining limits on asbestos processing or imports, (2) bans on specific products, and (3) a ban on all but essential uses of asbestos.

EPA did not intend to include A/C pipe in its initial rulemakings in 1979. However, before the advance notice was published, a citizen petitioned EPA "to initiate a proceeding for the issuance of a rule to prohibit the manufacture and distribution of asbestos cement pipes." TSCA requires EPA to grant or deny a citizen's petition within 90 days. And since the agency was investigating asbestos-containing products anyway, the petition was granted and incorporated into the Advance Notice of Proposed Rulemaking on Commercial and Industrial Use of Asbestos Fibers. EPA cautioned, however:

> Granting a petition to initiate a proceeding to issue a rule does not mean that EPA will promulgate or even propose a rule (for A/C pipe). Such a decision will depend on the outcome of the regulatory analysis.

Why A/C Pipe Now?

We're asking the same question. One thing is clear: EPA's action is based on a **theory** that airborne occupational and environmental exposures from A/C pipe manufacture and use create an "unreasonable risk." **The potential ingestion of asbestos that may be released from A/C pipe into drinking water is not a concern in this matter.** Top officials in the Office of Toxic Substances have stated this without equivocation.

In the U.S., A/C pipe manufacturers are already regulated by a number of federal and state laws. Comparable laws exist in Canada. The Occupational Safety and Health Act (OSHA) regulates employee exposures to airborne asbestos. The Clean Air Act controls emissions to the outside air from A/C pipe plants and also imposes disposal requirements for asbestos-containing wastes. The Clean Water Act regulates effluent discharges from A/C pipe manufacturing facilities. These worker, air and water protection laws have been in place since the mid-1970's. Many, the Clean Water Act for example, require use of best available technology or "zero discharge."

In the spirit of industry-government cooperation, we not only complied with these regulations, but bettered them. A/C pipe manufacture became virtually a closed system: asbestos fiber handling and pipe machining are automated; process water and solid waste are recycled; state-of-the-art filtration systems eliminate 99.9% of asbestos in air discharges to the environment. And now, without any scientific justification, EPA theorizes that its own regulations, and those of OSHA as well, are not enough.

Industry's Position

For over a decade, the A/C pipe industry has shared EPA's interests that the manufacture and use of asbestos and A/C pipe be as safe as scientifically and economically feasible. We have labored responsibly and continuously to comply with the agency's evolving environmental regulations.

During this ten year period, the following facts formed the basis of industry's position on the safe manufacture and use of A/C pipe:

- o asbestos is unique and irreplaceable in the manufacture of A/C pipe
- o the risk, if any, from occupational exposures to asbestos have been minimized through manufacturer's compliance with OSHA standards and use of industry-recommended work practices for A/C pipe field operations
- o there is no evidence that current environmental discharges from A/C pipe plants, if they occur at all, result in unreasonable risk
- o a ban on A/C pipe is not supported by medical/scientific evidence
- o prohibiting the use of A/C pipe would adversely affect water utilities by reducing competition and increasing costs of piping materials.

These same facts are the basis of industry's position today. The A/C pipe industry cannot support and indeed, will strongly oppose EPA's newest theory that A/C pipe may present an unreasonable risk to health and the environment.