Asbestos Information Association/North America

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July 5, 1972

TO: AIA/NA MEMBER COMPANIES
AIA/NA ENVIRONMENTAL CONTROL SUB-COMMITTEE
AIA/NA LEGAL COUNSEL

James Armstrong	- Bendix Corporation
E. C. Bratt	- H. K. Porter Company, Inc.
G. G. Gabrielson, Jr.	- Nicolet Industries, Inc.
Bernard Gross	- American Bilt Rite Rubber Company
J. Hall	- GAF Corporation
H. M. Jackson	- Johns-Manville Corporation
W. N. Johnson	- Union Carbide Corporation
A. R. Hooker	- The Flintkote Company
C. A. Neumann	- Kentile Floors Incorporated
G. W. Nickel	- Armstrong Cork Company
Clifford Seymour	- The Carborundum Company
J. R. Stetson	- Congoleum Industries, Inc.
Philip Weinstein	- Evertex Incorporated
G. W. Wright, M.D.	- St. Luke's Hospital

Gentlemen:

A meeting was held in Washington last Thursday between the AIA/NA and representatives of the OSHA standards development and compliance sections. Attending on behalf of the AIA were John Marsh, Raybestos-Manhattan; Paul Weiner, GAF; Hugh Jackson, Johns-Manville; Frank Zimmerman, National Gypsum; Bradley Walls, AIA/NA Legal Counsel, and M. M. Swetonic, AIA/NA Executive Secretary. OSHA was represented by John O'Neill and Harry Gilbert of Standards Development; and Ray McClure of Compliance.

The purpose of the meeting, as was discussed at the Association meeting on June 22, was to clarify a number of points with regard to the interpretation and enforcement of the asbestos standards. Because the standards are to go into effect this week, we considered it imperative to provide you with the basic points of interpretation and compliance established at the meeting. A more complete report on the meeting will be forthcoming in the near future.

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The following are the main areas discussed and the decisions reached:

1. LABELING: The AIA/NA is applying for a temporary industry-wide variance on the exact wording of the labeling requirements of the standards, in order that existing supplies of boxes, cartons, bags, etc. containing a label with wording somewhat different than that called for in the standards will be permitted until they are used up. As long as the label currently being used contains basically the same information as the required one, it will be acceptable to OSHA until stocks are used up.

   Products to be labeled should follow the listing submitted by Dr. Fred Pundsack of Johns-Manville to OSHA following the March hearings. A copy of Dr. Pundsack's list, with minor alterations, is attached for your information.

   No product which requires labeling will be permitted to be used without any label until existing stocks of non-labeled bags, etc. are used up. A stick-on label of some type would be satisfactory.

   The size, color, placement, etc. of the label is left to the discretion of the employer, as long as the label is "readily visible and legible." A good rule to follow would be: if you are trying to hide the label, OSHA will probably not accept it.

2. CLOTHES LOCKERS: Separate clothes lockers are required only for employees working at levels in excess of the five fiber TWA.

3. It was the intention of OSHA to require Type "C" supplied-air respirators and protective clothing only for insulation and fireproofing spray applications. AIA/NA will apply for a modification of the law to exclude other types of asbestos-spray applications from these requirements.

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4. RESPIRATORS: There is a mistake in the standards in paragraph (d)(2)(ii) "Powered Air Purifying Respirators." The first sentence of that paragraph now reads:

> "A full facepiece powered air purifying respirator, or a powered air purifying respirator, or a respirator etc."

The sentence should read:

> "A full facepiece powered air purifying respirator, or a respirator etc."

The phrase "or a powered air purifying respirator" should be deleted.

5. MONITORING AND PHYSICAL EXAMINATIONS: Company monitoring and physical examinations should be conducted on all employees who regularly work with asbestos and are exposed to airborne fiber, as well as on maintenance men, company industrial hygienists and other employees that the company feels require monitoring and physical examination because of the nature of their work or because of their close proximity to dusty asbestos operations. This would exclude office personnel, most people working in non-asbestos using sections of an asbestos manufacturing operation, etc.

6. CITATIONS: A company's own monitoring or other records will not be used as evidence to issure citations, nor will they be used to give a plant a clean bill of health.

7. OSHA INSPECTIONS: OSHA industrial hygienists will take dust samples, if at all possible, for a full eight hours, perhaps divided into two four hour samples. In addition, samples will be taken on more than one day, so that a more accurate count can be produced. Ceiling sampling periods will be at the discretion of the OSHA hygienist. Ceiling samples as short as five minutes may be taken if deemed appropriate. Under some circumstances

(an obviously very heavy dust concentration), only ceiling samples may be taken, but this would not be normal practice. Employers will be given specific dust counts only if they are in excess of the standard. Counts taken by NIOSH hygienists will be reported to OSHA, but will not be used by OSHA for purposes of issuing citations.

8. EMPLOYEE NOTIFICATION: On the question of notifying employees if they are found to be working in dust concentrations above the limit, neither O'Neill or McClure would make a decision whether the notification clause in the standard would be satisfied by the posting on a plant bulletin board of stations above TWA, or whether a more individualized approach, such as sending the employee a registered letter, would be required. To answer this question, we were asked to write to the solicitors office in OSHA for a ruling. Unfortunately, a prior informal conversation between Paul Weiner of GAF and a member of the legal staff of OSHA indicated that the answer to such a question would be in favor of the registered letter approach. As a result, we have decided not to submit this question for a ruling, but will leave it up to each company in the industry to decide in what manner it wishes to abide by this requirement, and wait to see if bulletin board notification will be challenged by OSHA regional inspectors.

In general, the concensus of the AIA group that attended the Washington meeting was that the industry could expect reasonable treatment from OSHA as long as the industry did not try to circumvent the intent of the regulations. For example, the various requirements in the standard for protective clothing, change rooms, separate lockers, etc. have as their purpose the preventing of excessive amounts of asbestos dust being carried home on an employee's clothes from work. As long as this purpose is achieved, the industry will be given wide latitude as to the types of protective clothing, footwear and headgear required; the location and size of change rooms;

FMSI 06570

the distance between separate lockers, etc. In short, the industry is free to interpret many sections of the regulations as it sees fit, as long as the spirit and intent of the law is observed.

Sincerely,

Matthew M. Swetonic
Executive Secretary

NOTE: The following is the new address and telephone number of the AIA/NA effective immediately.

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212- 689-3378

Asbestos Information Association/North America

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July 12, 1972

TO: AIA/NA MEMBER COMPANIES
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James Armstrong	- Bendix Corporation
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Gentlemen:

Inadvertently, the list of non-locked-in asbestos containing products which was to have been attached to our July 5 mailing was not included. Attached, therefore, is the list as originally promised.

It has come to our attention that a number of companies still have questions concerning whether certain asbestos-containing products which they manufacture should or should not be labeled. The standard is rather indefinite in that it calls for warning lables on products which "during any reasonably foreseeable use" may create airborne concentrations of asbestos in excess of prescribed limits. The Occupational Safety and Health Act itself states that "any standard promulgated ... shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatments, and proper conditions and precautions of safe use or exposure." Quite obviously, the rather simple

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warning label prescribed in the regulations does not meet all of the criteria described in the law, which only adds to the problem.

Each company will have to decide for itself whether a particular product requires a label or not. Obviously, there should be uniformity on this subject, because if one company decides to label a certain product, and another company decides not to label the same product, the latter company whould be placed in a most untenable position with OSHA. It is our understanding that OSHA is planning to use the list of non-locked-in products submitted by Dr. Fred Pundsack of J-M at the March hearing as its labeling criteria. If this list is followed, difficulties with OSHA should be few.

Nevertheless, there are always products which do not fit any list, or which may produce levels in excess of the standard at one step in the application or handling process. For example, the field cutting or trimming of asbestos-cement pipe might produce levels in excess of the standard, but only for the man doing the actual cutting and only very intermittently or rarely. Thus, to place a warning label on asbestos-cement pipe would be quite misleading in that it would alarm all those handling the product, when only one man has a potential excess exposure.

Our recommendations to you on labeling would thus be as follows:

1. If the product is included on the list of non-locked-in products, it should be labeled.

2. If a product is <u>not</u> included on the list of non-locked-in products but you consider it to be a border line case, <u>or</u> if the product has an occasional handling or fabrication problem, the following options are open:

    a. Label it and be on the safe side.

    b. Do not label it and hope OSHA doesn't question your decision.

    c. Conduct tests to determine if the use of the product does indeed produce levels in excess of the standard. Chances are that

FMSI 06573

most product uses of this type will meet the eight hour TWA standard of five fibers, and that most problems will be in meeting the ten fiber ceiling standard. If tests determine that neither standard is exceeded, the product obviously need not be labeled. The test results should be kept in readiness in case an OSHA inspector questions your decision.

d. If the eight hour time weighted average is above five fibers per cc, then the product should be labeled.

e. If the ceiling value is above ten fibers per cc, which is the more likely of the two possibilities, then the use of the product should be examined to determine (1) how far above ten fibers per cc is the ceiling value, (2) does this particular work practice or use of the product occur frequently, intermittently, or only rarely, (3) can the product be applied, cut, trimmed, etc. in another fashion such that the ceiling level does not exceed ten fibers per cc. After these questions have been answered, it will be up to the individual company involved to weigh each answer carefully and to arrive at a decision based on the simple proposition: Does this product or its use place the health of workmen in jeopardy? Obviously, if the answer is "yes," the product should be labeled. If, on the other hand, you honestly believe that the answer is "No!" then you should not feel constrained to label the product, nevertheless you must be prepared to defend your position with OSHA should they question it.

There are a number of ways that you can place your company in a better defensive position should OSHA challenge your decision not to label a particular product. The basic idea would be for you to alert the purchasers of this particular product that one or more operations in the handling, application, cutting, etc. of the product might produce levels in excess of the standard and that

precautions should be taken. This could be done through personal contact between industry salesmen and customers, or in the form of an instruction sheet delivered with the order that might specify certain work practices or types of machinery that should be used to keep dust levels low. The instruction sheet, for example, might say nothing more than "Powered bench saws without collectors should not be used in cutting this product. If this is impractable, operator should be provided with a U.S. Bureau of Mines approved respirator."

An approach of this type, or one somewhat similar, would indicate to OSHA, should the question arise, good faith on your part.

With regard to the coordination of industry labeling practices, if your company has decided to label a product not included on the attached non-locked-in list, I would appreciate being notified of this decision and the rationale behind it as soon as possible, so that a uniform position can be established with other companies in the industry manufacturing the same product.

If you have any questions or problems with regard to labeling, please feel free to contact us at any time. I would not advise your asking OSHA for a decision on whether or not to label a certain product. Almost assuredly they will tell you to label any border line product, and that decision will become binding for the rest of the industry as well.

Very truly yours,

Matthew M. Swetonic
Executive Secretary

Enclosure

NON-LOCKED-IN

ASBESTOS-CONTAINING PRODUCTS REQUIRING A WARNING LABEL

ACOUSTICAL PRODUCTS

Dry spray type
Foamed asbestos

CALCIUM-SILICATE SHEETS

Low density sheets (less than 50#/ft^3)

CEMENTS

Dry Gypsum joint cements
Insulating cements

INSULATIONS

Low density calcium silicate binders
Corrugated paper
Low density magnesia binders
High temperature blocks & bricks

PAPERS & FELTS

Commercial grades (unsaturated)
Roofing felts (unsaturated)
Gaskets (unsaturated or not encapsulated)
Millboards (unsaturated or uncoated)

STUCCO & PLASTER

Dry mix cement stucco
Dry mix decorative plaster

TEXTILES (unsaturated or uncoated)

Braided products
Cloth
Listing
Wicks
Yarn

ASBESTOS FIBER BAGS