

FILE NAME: Friction Materials Standards Institute (FMS)

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MINUTES OF MEETING

of the

BOARD OF DIRECTORS

Tuesday, December 4, 1979 at 9:30 AM

at

Marriott Hotel, Saddle Brook, New Jersey

DIRECTORS PRESENT

R. E. Moalli, President

F. E. Messier

M. Simon

J. W. Greenen

Stuart Comins

G. A. Carrigan

Raybestos-Manhattan, Inc.

PM International

Bendix Corporation

Automotive Aftermarket Operations

Brasbestos Manufacturing Corporation

Huturn Corporation

P. T. Brake Lining Company, Inc.

S. K. Wellman Corporation

OTHERS PRESENT

Don Manly

J. W. Armstrong

B. J. Pigg

Tim Hardy (AIA Counsel)

E. W. Brislane

R. P. Gorman (FMSI Counsel)

Abex Corporation

Bendix Corporation

Asbestos Information Association

Kirkland & Ellis, Esquire

Friction Materials Standards Institute

Robert P. Gorman, Esquire

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Mr. Moalli, Chairman, opened the meeting at 9:30 AM.

MINUTES OF PREVIOUS MEETINGS

The Minutes of the Meetings held June 12-13, 1979 had been distributed. No corrections were suggested.

Upon motion duly made, seconded and unanimously passed, it was

RESOLVED: That the Minutes of the June 12-13, 1979 Meetings be accepted as written.

INSTITUTE RESPONSE TO EPA OFFICE OF TOXIC SUBSTANCES INITIATIVES
ON ASBESTOS IN FRICTION MATERIALS

While general questions on the use of asbestos in friction materials were addressed in the advanced notice of proposed rule-making, Mr. Guimond of the EPA proposed eleven specific questions that he would like answers to from friction materials manufacturers. Mr. Guimond asked friction materials manufacturers to answer these questions. He also asked for a date by which the EPA would be advised as to whether manufacturers will answer these questions. At the meeting, the Secretary indicated that he would try to give Mr. Guimond an answer within three weeks but that it would take at least eight to gather any such answers.

A question was asked concerning the deadline for responses. In the Federal Register notice the deadline was December 17, 1979. The Asbestos Information Association had asked for an extension for at least sixty days in order to gather the information needed. The EPA had indicated that they would not extend the deadline for information. (It has subsequently developed that there will be a sixty day extension.) It was stated that the EPA would consider any information they gathered whenever it was received even if it did not hit the deadline.

In review of the eleven questions, it appears that the EPA needs more information before they can proceed with their rule-making. It was suggested that they need more time to build their case. A Director questioned whether the EPA is attempting to get this information directly from the Institute. The Secretary suggested that the eleven questions were prepared for discussion November 16, 1979 at the AIA and they were not prepared specifically with the idea of the Institute making the response. This was discussed in Washington and it was not decided whether the Institute would respond directly or whether it would pass these questions on for individual replies.

It was suggested that the questions be redrafted in order to give the EPA relevant information beyond the areas questioned. A Director asked as to how and when we resolve any deadline for answering these questions. Should the Institute copy the eleven questions and send it out to the Membership right away? It was stated that the Institute should advise the EPA that a response will be made. In addition to answering the eleven questions, there should be information on what are the real problems as seen by the industry. What pertinent questions have not been asked? There may be the need for questions on the availability of substitutes, tooling, and health questions on the substitutes for asbestos. It was suggested also that the Institute ask members to give an explanation as to what problems they see that have not been asked by these questions.

It was asked if the EPA questions are targeted only for automotive disc brake linings. It was replied that while some of these questions pertain specifically to automotive disc brake linings that the questions are general in nature and should apply to all automotive type friction materials. The emphasis on disc brake materials can be inferred from some of the questions that were asked. It would appear that automotive disc brake materials are the first target of EPA, but they have not specifically said that. It was stated that a case be made that disc brake pads are now in a transitional design stage, and do not need EPA regulation.

It was suggested that any information that members might have that would support a position in opposition to this regulation should be sent to the EPA. The EPA will not be subpoenaing information opposing their plans for regulation. It was felt that a persuasive case can be developed for not getting asbestos out of friction materials in anything less than ten years. Any information supporting such a viewpoint should be submitted.

It was stated that many of the individuals working on asbestos control at EPA are new to this field. Not only are they new to the asbestos question but have little background in friction materials. It is for this reason that the lines of communication should be kept open, and it was suggested that one of the industry's jobs would be to educate EPA personnel. The Institute should provide them with data and work in a logical controlled manner to arrive at any regulatory results that are realistic and achievable. While the words "spoon feed" were used the point was made that information should be given which gives the complete story on asbestos in friction materials and this may not necessarily be in the areas that EPA is questioning. It was suggested that with the political realities in Washington, that the Office of Toxic Substances will do their best to ban asbestos in friction materials and probably in automotive disc brake materials at first. A question was asked as to how the Institute or its members could get EPA personnel attuned to our problems. A suggestion was made that a tour of plant facilities might be worthwhile as a first step in the education process. Perhaps plant visits could be scheduled with members from the Northeast.

Questions were raised several times as to whether a ban on asbestos in automotive disc brakes was a foregone conclusion. It was suggested that if it is a foregone conclusion the Institute should try to control it or phase it in in a logical manner with the least damage to the members. This would be a different approach than opposing any such ban.

Mr. Armstrong asked whether the Board of Directors was in favor of these regulations which may come from EPA. He asked whether an asbestos ban in friction materials is inevitable. Perhaps the Institute's approach should be to fight these expected EPA regulatory initiatives.

Mr. Hardy indicated that it was not automatic or a foregone conclusion that asbestos would be banned in friction materials. There are several questions and burdens of proof for which the EPA must develop answers. (1) Is there an unreasonable risk to the health and environment from asbestos in friction materials? (2) Can the risk be reduced by other measures than an outright ban? (3) Is this the least burdensome means of accomplishing Toxic Substances Control Act objectives? (4) Are the substitute materials less adequate than the materials they will be replacing from a safety viewpoint? There is doubt that medical evidence would support the ban on asbestos in friction materials. He suggested that the EPA will have a difficult time documenting such a ban.

Mr. Armstrong suggested that if the industry wished to make strong opposition to a ban it would have to produce medical evidence to refute the unreasonable risk allegation. It was indicated that there was no one at the meeting in favor of regulations to ban asbestos in friction materials. It was suggested at the same time that for members, or the Institute, or others opposed to regulatory initiatives to ban asbestos in friction materials, that this did not in any way prevent us from cooperating with the EPA. It was stated that it is important to keep channels of communication open.

The main thread running through the questions posed by the EPA concerns substitutes for asbestos. There have been several articles in trade magazines concerning the replacement of asbestos. Mr. Guimond earlier showed the Secretary an article from Automotive Industries in May 1979 which was headed "Age of Asbestos on Vehicle Parts Ending." This was based on information primarily sourced from Raybestos-Manhattan. In addition, the EPA had a letter from General Motors in their docket concerning their program for non-asbestos friction materials for brake systems. In that letter, which is a public document, it was noted that General Motors plans that all passenger car disc brake applications will use non-asbestos friction materials by the 1983 model year. In addition it made projections on drum brakes for 1985, with work on light trucks and heavy trucks to follow. This is the type of information that supports possible EPA plans to ban asbestos in automotive disc brake materials. It was stated that while this may be true for General Motors, on an original equipment basis, there would of necessity be a time lag for the replacement market, for other domestic original equipment manufacturers, to say nothing of the imported cars. A question was asked whether current semi-metallic General Motors disc brake linings use asbestos. It was stated that this was not known, but that some Delco-Romaine ads had indicated the use of non-asbestos materials. Further, it was stated that some of the semi-metallic materials used today have asbestos in the backing layer underneath the friction material.

It was stated that the EPA will have difficulty regulating non-asbestos friction materials into some industrial applications. One Director indicated that there would be considerable difficulty in adapting a non-asbestos friction material to certain systems used in overhead cranes. It was indicated that some of the materials that were used for replacing asbestos were iron powder and copper powder. There is a growing shortage of iron powders and copper powders used in friction materials. Another Director stated that there are many problems adapting non-asbestos type materials to applications such as truck disc brakes. It was indicated that some of the non-asbestos types had difficulty with cast iron rotors and that the brake package had to be almost completely redesigned to take steel rotors.

It was suggested that another difficulty might surface at a later date and this is the carcinogenic properties of the materials being used as substitutes for asbestos. Questions along these lines were asked by EPA in their advanced notice of rule-making. However, in many cases the substitutes that are being used in non-asbestos friction materials are fibrous in nature. There has been a question raised concerning the pathogenicity of asbestos and whether it was attributable to its fiber shape rather than its chemical make-up. If it should be developed that fiber structure is the problem, it may be that fiberglass and the metal fibers that are used as substitutes could act as carcinogens when inhaled. It is unlikely that the medical risks involved with fiber substitutes can be evaluated in the short term.

It was pointed out several times that where the information requested by EPA is not provided, that they do have the power under the Toxic Substances Control Act to compel delivery of this information.

As regards requesting the information from the Membership it was suggested that its Health and Environmental Affairs Committee or a Task Force review these questions. It was suggested that in order to organize a response there might be need for new skills on the Health and Environmental Affairs Committee. It was suggested that Public Relations skill might be needed in presenting the Institute's problems to the EPA. It was suggested that a program be outlined as the Committee needs direction. Let the Committee review the request for information from EPA and add their own questions. Additional information should be provided beyond that which has been requested by EPA. Any additional questions over those asked by EPA can be suggested by the Committee. It was suggested that the Committee, when preparing questions, ask that members answer every question and that they indicate their reasons for not answering such as don't know, proprietary, or the like. It was suggested that the questions might be broken down into different categories of friction materials such as disc brake linings, drum brake linings, brake blocks, clutch facings, industrial segments, etc. A Director indicated that while this may or may not be of value, this is a question that should be considered by the Committee when it makes its recommendations.

A Director suggested that it would be worthwhile if the Committee or a Task Force meet with the EPA. In particular, he suggested that a group meet with Mr. Guimond and others in the Office of Toxic Substances who have direct responsibility for rule-making on asbestos friction materials. There could be an informal meeting with the EPA and an Institute Task Force for clarification of the questions submitted by EPA. This would indicate that the Institute is anxious to cooperate and it would be helpful if the EPA could be more definitive and specific on some of the questions. In addition this may also buy some time where the members can be working on the questions and perhaps gathering some preliminary data. It was stated that the questions asked are broad questions and they should be more definitive or ask specifically what they are looking for. While a meeting is being worked out with the EPA, the members would be advised on what is going on so they could start gathering information. It was suggested that any meeting might best be held in the Washington area. Mr. Pigg suggested that it would be well to have the meeting at the EPA offices. An Institute Task Force to be organized by Mr. Armstrong could discuss the technical questions that are involved. They could also get some input to those in the EPA responsible for regulations. In other words, the meeting with the EPA might not just be for clarification of the questions but it could also be for raising issues and indication of industry problems with a ban. The questions to be answered in response to the EPA request will depend upon the answers that the Task Force gets from EPA. Mr. Moalli indicated that he would pursue this further with Mr. Armstrong, Chairman of the Health and Environmental Affairs Committee, to get the Task Force in operation.

It was agreed that the Institute would continue working with the Asbestos Information Association and in particular with its ad-hoc Committee. Correspondence would continue to be interchanged between associations. Mr. Pigg noted that the Asbestos Information Association has given presentations to the EPA. One was on the consumption of asbestos and the other was on medical information as regards asbestos related disabilities.

4. The Health and Environmental Affairs Committee will review and recommend wording for the questions to be asked the Membership.
5. The questions after review by Counsel will then be sent to the Membership for preparation of an Institute response.

It is again suggested that in phrasing the questions that the Committee advise if the questions pertain to the broad range of friction products or to specific product lines.

INSTITUTE RESPONSE TO EPA ON POPULATION EXPOSURE AND
ROUTES, DURATION AND FREQUENCY OF EXPOSURE

The Health and Environmental Affairs Committee drafted a letter to the Environmental Protection Agency concerning their suggested regulations on asbestos. This response was patterned after information gathered to refute an earlier IIT Research Institute report which pointed at asbestos friction materials as having an extremely high population exposed at high exposure rates. This document was prepared by the Committee and revised by the Chairman and was ready for distribution to the EPA. The Directors stated that this letter to the EPA should first be reviewed and approved by Counsel. Then with Counsel review and possible revision of the letter, it must be approved by the Board of Directors before release.

FEDERAL ACTIVITY - ASBESTOS HEALTH HAZARDS COMPENSATION ACT

The Secretary advised that he had written to Senator Gary Hart who was to be the sponsor in the Senate of an Asbestos Health Hazards Compensation Act. It was stated that the Fenwick Bill as drawn up earlier was dead. It was indicated that this bill was never given serious consideration from the onset but it was a stepping stone towards a practical compensation bill. Senator Hart's reply indicated that there was no action being taken on a Senate Bill at this time.

Mr. Pigg advised that he had just received a copy of some draft legislation for a compensation act. He had only received this draft the day prior to our meeting. The recommendation of the Health and Environmental Affairs Committee was that no action be taken on an asbestos health hazards compensation act until the Committee was able to review the content. Mr. Pigg gave this draft to the Secretary who will send it to the Committee for their consideration and comments.

HEALTH AND ENVIRONMENTAL AFFAIRS COMMITTEE REPORT

Mr. Armstrong, Chairman of the Health and Environmental Affairs Committee, reorganized this Committee and expanded the Membership to include new members from H.K. Porter Company, Thiokol and Nuturn. Mr. Armstrong indicated that there was no charter or direction for the Committee as such and that the Committee was drafting a charter which he was now reviewing. The Committee recommended that with no known action in the area of an asbestos compensation act that no action should be taken at this time. The Committee will continue to monitor any activity in this area.

A question was raised about Virginia Friction Products in Virginia run by the Carreras family. The Secretary indicated that he had written to Mr. Bill Axlerod at Krasne over a year ago concerning possible Membership in the Institute. He had also written to Mr. Carreras of Virginia Friction Products. No replies were received. One of the problems with the Virginia Friction Products operation was discussed at the June 12, 1979 meeting. The Secretary at that time was directed to write to Virginia Friction Products which he did. He also called Mr. Joe Goodreau at Midco in Middletown, Connecticut concerning Virginia Friction Products.

A question was asked as regards non-member use of copyrights and whether lack of enforcement of a copyright might be a path to loss of the copyright. Counsel indicated that he was not completely versed on copyright law but that he believed this to be so. The Secretary suggested that before he writes concerning Membership in the Institute and copyright infringement that he have some evidence on these manufacturers' use of the TSI numbers. It was stated that the following would be a program for correspondence and follow-up:

1. Send a letter to the manufacturer suggesting Membership and advising on use of the Institute's copyrights and trademarks.
2. After sufficient time has lapsed, write a follow-up letter and at the same time write to the Membership asking for any evidence of that manufacturer's use of the Institute's copyrights or trademarks.
3. If evidence is available from the Membership on the use of the Institute's copyrights and trademarks write another follow-up letter.
4. If there has been no reply to the follow-up letter (after proof has been provided) the question will be referred to Legal Counsel for his follow-up.

IDENTIFICATION OF METALLIC TYPE LININGS

The Secretary indicated that at the June 1979 Board of Directors Meeting they referred a question concerning metallic linings in Institute Catalogs to the Data Book and Technical Committee. Two members had suggested that there be specific identification of semi-metallic or metallic type linings in the Institute's catalogs. At the October 23, 1979 meeting of the Data Book and Technical Committee the Committee adopted a resolution against listing metallic type friction materials in the Institute's Catalogs. They resolved that the original equipment metallic or other formulation of friction materials not be shown in bulletins or catalogs and supported that resolution with these five items:

1. Metallic composition information is not readily available. Original Equipment manufacturers may consider this information privileged.
2. The Institute should not make recommendations or infer recommendations on formulations for brakes.