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Review of Grace's action program on the legislative, regulatory and public awareness environment surrounding the issue of asbestos-containing materials in buildings.

AGENDA

Friday, February 7, 1986

8:30 - 9:00	Historical overview and outline of current legislative and regulatory initiatives. Implications of the Greenville decision.
9:00 - 10:30	Regulatory, legislative and public education activities undertaken by Grace either alone or in concert with others (i.e., Safe Buildings Alliance).
10:30 - 12:15	Discussion of additional activities that Grace might undertake.

R. J. Bettacchi

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FEDERAL LEGISLATION	OSHA Standard for Product 9m Under Clean Air Act (CAA)	OSHA Standard Expanded EPA Revised - 21/CC Under CAA	Asbestos-Containing Materials in School Buildings (EPA Orange Book)	Toxic Substance Control Act Regulations (EPA)	Guidance for Controlling friable Asbestos-Containing Materials in Bldgs (EPA Blue Book)	Guidance for Controlling friable Asbestos-Containing Materials in Bldg (EPA Purple Book)	EPA Fin on 4 work Asbestos-Containing Products
	OSHA Standard Revised - 51/CC	CPSA Bans Asbestos Patching Compounds and Log Materials	Technical assistance Program (EPA)			OSHA Proposes New Standard - 0.21/CC	Specific Passage of New OSHA Standards
OSHA	CPSA Bans Asbestos Gaskets	Advance Notice of Proposed Rulemaking (EPA)					
STATE LEGISLATION	Removal at Yale A & A Building			Johns-Manville Bankruptcy	Royal Ontario Commission Report	Wellington Agreement Signed	
		Florida Drafts Legislation			SBA Forced	Doll/Peto Report	
FEDERAL LEGISLATION		Asbestos School Hazard Detection Act			School Hazard Abatement Act (Abner-Huddleston)		Florida House Bill (Proposed) Donforth Senate Bill (Proposed)
PROFIT/LOSS DAMAGE LITIGATION		Attorney General Report	National Class Action Filed	USG Settles Greenville County Case	Defendant Verdict in Spartenburg County and Anderson County School Cases (USG, MG)	Plaintiff Verdict in Greenville City Case (MG - \$8.4 Million)	
NRG CASES		First Case filed Against NRG	11 Cases filed Against NRG to Date	30 Cases filed Against NRG to Date	107 Cases filed Against NRG to Date	109 Cases filed Against NRG as of January	
	1971	1972	1973	1974	1975	1976	1977
	1978	1979	1980	1981	1982	1983	1984
	1985	1986	1987	1988	1989	1990	1991

SPECIFIC ISSUES

- Florio Bill
Rep. Florio (D., N.J.) is planning to introduce an asbestos abatement bill which lacks air monitoring standards and is generally pro-removal. It is likely that he will want to tax manufacturers to pay for removal costs.
 - EPA Reinspection
EPA will likely impose a school reinspection order requiring schools to reinspect for asbestos-containing materials in their buildings and to institute an abatement plan.
 - Danforth Bill
Sen. Danforth (R., MO.) has introduced a comprehensive product liability bill. This bill would create an automated claims facility for product liability, codify government contract exclusions, and impose limits on punitive damages.
- The following two regulations do not have a direct impact on the property damage issue. They are listed because of their adverse public relations impact.
- OSHA Regulations
OSHA has proposed lowering occupational exposure from the current 2 fibers/cc (8-hr. TWA) to 0.2 fibers/cc. The 0.1 fiber/cc action level would remain unchanged.
 - EPA BAN
The Federal EPA has proposed an immediate ban on four categories of asbestos-containing products; roofing materials, flooring materials, textiles, and asbestos-cement pipe and fittings. Other uses of asbestos such as brake linings and plastics would be phased out over ten years.

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EPA

- 1973 EPA regulated asbestos as a hazardous air pollutant under the Clean Air Act. These regulations prohibited the spraying of friable materials containing more than 1% asbestos for insulating or fireproofing.
- 1978 EPA expanded regulations under the Clean Air Act to prohibit all spray-on applications of materials containing more than 1% asbestos (with limited exceptions) and banned installation of molded wet-applied insulation if it was friable after drying.
- 1979 EPA implemented a Technical Assistance Program (TAP) under the authority of the 1976 Toxic Substance Control Act to educate officials about the potential hazards of asbestos in schools and to encourage inspection and control activities.
- EPA and the Consumer Product Safety Commission (CPSC) published "Advanced Notice of Proposed Rulemaking" which announced in general terms EPA's intentions to consider rules for all uses of asbestos.
- EPA published "Asbestos-Containing Materials in School Buildings" which raised the concern of possible health effects to children caused by asbestos-containing materials in schools.
- 1982 EPA issued final regulations under the Toxic Substance Control Act requiring public and private elementary and secondary schools to inspect for asbestos.
- 1983 EPA issued the booklet "Guidance for Controlling Friable Asbestos-Containing Materials in Buildings" which provided school officials with methods to abate asbestos.
- 1984 Congress passed the Asbestos School Hazard Abatement Act which extended the asbestos-in-schools program and transferred administration of it from the Department of Education to EPA. In addition, EPA was authorized to provide technical assistance to schools and to establish training centers for contractors, engineers and others on asbestos assessment and evaluation.
- 1985 EPA published "Guidance for Controlling Asbestos-Containing Materials in Buildings" which presented a more balanced, less pro-abatement approach to the issues of asbestos-containing materials in buildings.
- 1986 EPA proposes an immediate ban on four categories of asbestos-containing products: roofing materials, flooring materials, textiles, and asbestos-cement pipe products. Other uses of asbestos such as brake linings and plastics would be phased out over ten years.

Federal Legislation

- 1980 President Carter signed the Asbestos School Hazard Detection and Control Act which provided the Department of Education the authority to make grants to schools for asbestos detection and loans for asbestos control. In January 1981, the Department of Education issued regulations containing testing procedures and evaluation standards for recipients of these grants and loans based on EPA guidance. However, Congress did not appropriate the funds.
- 1984 Congress passed the School Hazard Abatement Act (Abnor/Huddleston) authorizing Federal expenditures for school abatement projects and transferring enforcement authority to EPA.
- 1986 Florio House Bill (proposed). Generally pro-abatement attempt to set Federal standards for the treatment of asbestos-containing materials in buildings. Lacks air-monitoring standards.
- 1986 Danforth Senate Bill (Product Liability). One of a number of product liability and tort reform bills. Danforth restricts punitive awards, defines government contract exclusions of liability, and creates an automated claims facility.

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State Legislation

1979 Florida begins drafting asbestos legislation.

1984 New Jersey Governor's Commission, concerned about widespread, poorly-done removal projects, sets standards for air monitoring and requires contractor certification.

Maryland legislates requirement for contractor certification.

By December 1984, fifteen states have taken legislative action.

1985 California adopts a .01 fibers/cc action level for state funding of school abatement projects after extensive SBA involvement.

Illinois amends a previous "abatement-only" bill after SBA involvement.

SBA included on draft legislation committee in Louisiana.

SBA also involved in draft legislation with the following states:

Connecticut
New Hampshire
Pennsylvania
Rhode Island
Vermont
Wisconsin

By December 1985, twenty-five states have taken legislative action.

1986 State legislative efforts concerning asbestos expected to accelerate.

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OSHA Regulatory History:

- 1971 OSHA establishes exposure standard of 12 fibers/cc (TWA)
- Medical surveillance required for workers
 exposed to >0.1 fibers/cc; monitoring
 requirements; housekeeping and waste disposal
 requirements; protective clothing, respirator,
 and change room requirements in areas where
 engineering and work practice controls are not
 sufficient to lower asbestos to permissible
 levels; sign requirements for regulated areas.
- 1972 OSHA revises its asbestos standard lowering the exposure
 limits to 5 fibers/cc (TWA) and expands the coverage to
 include ship repairing, shipbuilding, shipbreaking, and
 longshore workers.
- 1976 OSHA again revises its standard to 2 fibers/cc (TWA)
 (present limits).
- 1985 OSHA circulates a proposed "final" notice again lowering
 the standard to 0.2 fibers/cc (TWA).

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CPSC Regulatory History:

- 1972 CPSC bans general-use garments containing asbestos which essentially eliminated that type of exposure.
- 1977 CPSC bans patching compounds and gas log emberizing materials containing respirable free asbestos.
(Manufacturers of hand-held hair dryers voluntarily ceased to use asbestos liners.)

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Other

- 1982 Johns-Manville declares bankruptcy.
- 1984 Royal Ontario Commission Report.
- 1984 Safe Buildings Alliance (SBA) formed.
- 1985 Wellington Agreement signed.
- 1985 Doll/Peto Report published.

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Property Damage Litigation

- 1981 Attorney General's Report on recovery against manufacturers.
- 1982 First property damage lawsuit against Grace.
- 1983 National Class Action Complaint.
- 1984 Greenville County v. U.S. Gypsum, National Gypsum and W. R. Grace:
U.S. Gypsum settles out of court for \$27,000.
- 1984 SEIU Petition.
- 1985 SEIU Lawsuit filed.
- 1985 Spartanburg County School District #7 v. National Gypsum and
U.S. Gypsum: Verdict in favor of defendants.
- 1985 Anderson County, TN, v. National Gypsum and U.S. Gypsum:
Verdict in favor of defendants.
- 1986 W. R. Grace settles Pennsylvania school action for \$10,500.
- 1986 City of Greenville and Greenville Water System v. W. R. Grace & Co.:
\$8.4 million award to plaintiffs. Grace to appeal.

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1. EPA: The Federal EPA has consistently taken a pro-abatement stance. While refusing to issue air-monitoring standards or to mandate immediate removal except prior to demolition of a building, EPA has required schools to inspect for asbestos-containing materials and to notify parents and workers of the results.
2. Attorneys: Plaintiff's Bar is clearly involved in removal activities.
3. State and Local Asbestos Regulations: The administrative burden of many state and local regulations (i.e., N. Y. City and State of Maryland) make these regulations strongly pro-abatement.
4. SEIU: The Service Employees International Union is currently suing the EPA in an attempt to force strong pro-abatement asbestos exposure rules.
5. Teachers: Publicity has created concern among teachers and other school employees about non-occupational exposure to asbestos-containing materials in buildings.
6. Parents: Publicity and the long latency period for asbestos-related diseases have caused parents to be concerned about their children's health.
7. Removal Contractors: While stymied by the lack of availability of liability insurance, removal contractors see themselves in a growth industry with generous margins.
8. Consultants: Consultants also share an economic interest in removal projects.

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FAVORABLE ACTION GROUPS

Safe Buildings Alliance (SBA): \$1.5 million	Seven former manufacturers of asbestos-containing building products active with regulators, legislators, and opinion leaders at the national and state levels to prevent unwarranted removal of asbestos-containing products from buildings through a program of public education and promulgation of standards.
Committee for Equitable Compensation (CEC): \$0.5 million	Twelve former manufacturers of asbestos or asbestos-containing products who have thousands of asbestos-related personal injury lawsuits and are attempting to have enacted legislation which will require the federal government to participate in victims' compensation.
Manville Corp.'s "Call to Action": \$1.5 million (est.)	A lobbying effort undertaken by Manville Corp. to create legislation requiring the federal government to participate in victims' compensation.
Wellington Agreement:	An Asbestos Claims Facility created by fifty major companies and insurers to deal with occupational asbestos-related injury compensation.
Asbestos Information Association: \$0.75 million	Trade organization funded by current manufacturers and asbestos miners. Provides information on safety of current asbestos products and is generally a reactive rather than proactive organization.
Asbestos Cement Pipe Association: \$0.25 million	Trade organization funded by the three remaining asbestos cement pipe manufacturers. Provides information on the safety to workers and water supplies from the use of asbestos cement pipe products.
Asbestos Institute: \$5.0 million (est.)	Trade organization funded by asbestos miners, the Province of Quebec Government, and the Canadian Government. Provides substantial efforts worldwide to furnish safety information on the uses of asbestos.