PLAINTIFF'S
EXHIBIT
BIR-60

NATIONAL
ROOFING
CONTRACTORS
ASSOCIATION

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ASBESTOS UPDATE

NRCA continues to be extremely active in addressing the issue of asbestos in roofing. We have met with regulators, obtained additional valuable information, and issued a release to the press announcing that we are seeking exemption for all normal roof removal work from federal and state asbestos handling regulations. Let me update you on this activity.

Environmental Protection Agency (EPA)

We were able to obtain backround information from EPA regarding the National Emissions Standards for Hazardous Air Pollutants and the definition of "friable asbestos materials." This document states, "The use of the word 'friable' is intended to distinguish between such materials as vinyl-asbestos floor tile, in which the asbestos fibers are well bound, and such materials as the common types of molded asbestos pipe insulation, from which the asbestos fibers can be readily released. The intent of the asbestos standard is not to control handling of vinyl-asbestos floor tile, asbestos felt roofing, or other similiar materials, since it is the Administrator's judgement that such activities will not release asbestos in a manner which is dangerous to human health."

The issue of roofing materials being "friable" has been the subject of much debate, and is critical because EPA regulations generally apply only to friable asbestos. This memo certainly seems to clarify EPA's intent. Also, EPA has issued a letter to NRCA indicating that exterior roofing is not regulated under the Asbestos Hazard Emergency Response Act (AHERA) regulation. This means that schools are not required to develop management plans and inspection procedures for exterior, non-friable roofing material.

EPA's proposed ban on asbestos-containing roofing materials is still on hold. The Asbestos Information Association/North America is making a strong case that there are safe uses for asbestos-containing materials in which the fibers are encapsulated and well-bound within the material. Also, EPA's exposure estimates have been seriously questioned and the cost savings (per life saved) from this proposed ban appear

to be astronomical. We will report back on the information regarding the ban when is more is known.

Occupational Safety and Health Administration (OSHA)

OSHA recently amended its standard for occupational exposure to asbestos. This new amendment includes a short-term "excursion limit" of 1.0 fibers per cubic centimeter (f/cc) of air over any 30-minute period. Initially, OSHA decided not to issue a short-term exposure limit as part of the final standard. However, the Court of Appeals for the District of Columbia challenged this position and held that the Occupational Safety and Health Act compels the agency to adopt a short-term limit, as the rulemaking record shows that it would further reduce a significant health risk and is feasible to implement, regardless of whether the record supports a "dose-rate" effect (which it doesn't). This amendment was issued without notice and there was no comment period because OSHA felt arguments were heard during the promulgation of the 1986 Standard.

Existing OSHA regulations set exposure limits of 0.2 f/cc on an eight-hour, time-weighted average basis, with a 0.1 f/cc "action level." All test results we have accumulated to date were measured on an eight-hour basis.

In order for any eight-hour exposures to exceed the 30-minute excursion limit, they would have to exceed 0.063 f/cc (1/16 of 1.0 f/cc). Of all the test results NRCA has received that use appropriate test methodology, only two individual samples are above the 0.063 level, and these are .07 and 0.71. Even assuming a worst-case scenario for new excursions (i.e., all fibers were released in a single 30-minute period), the results are still within the 25% sampling and analytical error range allowed by OSHA.

Therefore, from the data received to date, it does not appear that this new amendment will have an impact on the roofing industry. Roofing contractors who conduct air monitoring may need to conduct more transmission electron microscopy (TEM) analysis, if PCM analysis yields results over 0.063 f/cc as an 8-hour time-weighted average.

NRCA recently met with several key members of the OSHA compliance program department regarding tests gathered to date. We seriously questioned the Manville results which were referred to in the original OSHA regulation and we provided OSHA with a great deal of monitoring data we have collected. In a letter to Mr. Thomas Shepich, Directorate of Compliance Programs for OSHA, NRCA requested that the initial air monitoring requirement be waived for the installation or removal of roofing materials. Mr. Shepich assured us that OSHA will review this data thoroughly and give us an interpretation.

OSHA also informed us that they will continue to modify the existing asbestos standard to address additional issues brought by the U.S. Court of Appeals. Some of the issues for potential modification include:

1. A more comprehensive smoking control program, requiring employers to take additional steps to control smoking and asbestos exposure, possibly including mandatory cessation programs;

2. Setting different exposure limits for industries that can further reduce exposure levels using engineering controls. They also may actually reduce exposure limits for some industries. The problem with doing this is that OSHA clearly wants to keep PCM methodology for practical reasons, and they have already determined that the 0.2 PEL is the lowest PEL than can be established within the confines of technological feasibility;

3. Requiring more frequent use of respirators, even when exposures are below the PEL. In this situation, however, the court did not dictate that OSHA change the standard on respiratory protection, and the court was not asked to address this issue. Therefore, it is not likely that OSHA will act on this one;

4. Monitoring in the construction industry, which is not now required with the use of air supply respirators;

5. Requiring signs in languages other than English;

6. Mandating reporting so that OSHA can schedule more inspections. However, OSHA feels those who will be reporting jobs will most likely not be those who will have major compliance problems;

7. A further explanation of small scale, short duration exemptions which currently include roofing and drywall. They may use a minimum job size, similar to the EPA 160 sq. ft. regulation.

National Institute of Building Sciences (NIBS)

NRCA met with NIBS to discuss its Model Asbestos Abatement Guide Specification. Initially, NIBS had suggested an impractical and unworkable proposal for handling asbestos-containing roofing materials. Follwing the meeting, NIBS decided to remove the roofing portion of the asbestos abatement guide specification in its entirety, and at a later date add sections on non-friable materials, specifically including roofing and flooring. When NIBS provides updated language on this non-friable material section of the Model Asbestos Abatement Guide Specification, NRCA will comment on the additional information.

State Activity

There has been a great deal of activity on the state level. We have seen favorable trends occurring in Ohio, Minnesota, California and New Jersey, but New York and Virginia, to name just two, are extremely inflexible in the requirements for asbestos licensing and worker training for roofing contractors handling asbestos-containing roofing materials. NRCA has been involved with many states in providing information regarding exposure levels during roofing operations and the importance of roofing professionals performing roofing work. We will continue to involve ourselves on a state level, and we encourage you to call NRCA when you deal with your state situation. We will do all we can to assist.

The National Roofing Legal Resource Center (NRLRC) has compiled state regulations for handling asbestos. Some states require licensing and certification for handling friable asbestos only, some for handling friable or potentially friable asbestos and some for handling all types of asbestos.

This information is currently being summarized, and is available free of charge to NRLRC members and at a cost of $50 per state to non-NRLRC members. The Center's membership is available to roofing contractors only for a fee of $200 per year. For more details, contact Patricia Appelhans.

Press Release

On August 29, 1988, NRCA released to the trade press an announcement that we are seeking exemption from all normal roofing removal work from federal and state asbestos handling regulations. We feel that the result of much of the regulation is chaos and confusion in the field, exacerbated by emotions rather than facts. Still, the NRCA position is that contractors must use prudence and good judgement in removing asbestos-containing materials. In the release, NRCA recommends that its members adopt the following practices:

1. Carefully examine all roofing materials prior to bidding for roof removal work. Make sure the owner is aware of any asbestos-containing materials, and understands that they are his responsibility.

2. Examine the underside of the roof deck to be sure that no asbestos will be released by vibration or impact from roofing work.

3. Conduct employee training programs, so that workers are aware of the handling procedures they should follow.

4. Handle asbestos-containing materials carefully, so that the fibers remain encapsulated and the material remains non-friable, especially where dust levels are exceptional, or where the roof is unusually brittle.

5. Develop anti-smoking programs for workers who may encounter even extremely low levels of exposure.

6. Keep records of all asbestos-containing roof removal projects.

NRCA Position Paper

The NRCA Asbestos Committee is developing a detailed position paper to recommend specific steps to be taken by roofing contractors in handling asbestos-containing roofing materials. The committee has gathered a great deal of information and hopes to release a final document by the NRCA annual Convention in New Orleans.

Roofing Industry Educational Institute

NRCA has been active in assisting the Roofing Industry Educational Institute in providing a quality "Asbestos In Roofing" course which will be presented all over the country this fall and spring. It's extremely important that this course provide accurate and factual information. The course seems to be right on target.

International Union

On two different occasions, NRCA representatives met with officials of the United Union of Roofers, Waterproofers and Allied Workers to discuss the problems associated with asbestos in the roofing industry. The meetings have been very encouraging, and we remain hopeful that the Union will help us arrive at reasonable and workable solutions.

Additional Information

We are still looking for test results and information regarding these issues in your area. Most of the action happens locally. Please keep us informed and let us do what we can to resolve conflicts in your area. Also, we have developed a brief form for you to complete when you send us test data. Be sure to include background information with the results. From the form, include:

Type of materials: age, number of plies, substrate, condition of material, type of surfacing/coating;

Procedure: method of removal, work practices, engineering controls;

Method of analysis: NIOSH 7400, OSHA reference method, PCM, TEM;

Results: exposures, 8-hour time-weighted averages, 30-minute excursions.

As always, feel free to contact NRCA with your questions and concerns, or if you would like copies of any of the letters we have sent or received from various agencies. We are including a copy of the press release for your information as part of this mailing.