PLAINTIFF'S EXHIBIT FMSI-19

MINUTES OF THE MEETING

of the

HEALTH AND ENVIRONMENTAL AFFAIRS COMMITTEE

Wednesday, January 14, 1981 at 9:30 AM

Sheraton Inn at LaGuardia, New York, NY

MEMBERS PRESENT

James W. Armstrong, Chairman	Bendix Corporation
David E. Stone	Bendix Corporation
William E. Milligan	Carlisle Corporation
George J. Bohrer	H. K. Porter Company
John O. Pearson	Raybestos-Manhattan, Inc.
Richard W. Dean	Thiokol Chemical Corporation

MEMBERS ABSENT

Charles H. Borcherding	Abex Corporation
Russell L. Armer	Nuturn Corporation

OTHERS PRESENT

John C. Dieffenderfer	Legal Counsel
Edward W. Drislane	Friction Materials Standards Institute

The meeting was called to order by the Chairman, Mr. Armstrong, at 9:30AM.

MINUTES OF PREVIOUS MEETING

The minutes of the meeting held October 25, 1979 had been distributed to the Committee. These minutes were reviewed and a motion was made for their acceptance.

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

RESOLVED: To accept the minutes of the October 25, 1979 meeting as written.

The Chairman asked the Secretary concerning Page 5 of those minutes, as regards gathering information from Members on health and/or epidemiological data that had been gathered by Members. The Secretary advised that this subject was discussed at the Board of Directors meeting held on December 4, 1979. While a copy of the minutes of the Board meeting were not available, the Secretary indicated that while the Board discussed this subject, they took no action on it.

MEMBERSHIP OF COMM- P-FMSI-0011

Because of changes in the membership of this Committee at several member companies, the full Committee was not organized until November 1980. Both Mr. Borcherding and Mr. Armer, who could not attend this meeting, indicated that they wished to be active on the Committee, but could not attend because of earlier conflicts.

OVERVIEW OF PURPOSE AND FUNCTION OF MEMBERSHIP IN INSTITUTE

Mr. Armstrong, Chairman, stated that it would be worthwhile if the Secretary could give Committee Members some background on the purpose of the Institute and the function of Committees in the Institute. He felt that this might be appropriate particularly for members attending a Committee meeting for the first time.

The Secretary advised that the Institute was an association of brake lining and clutch facing manufacturers, and was the successor to the Brake Lining Manufacturers Association (BLMA) which was dissolved in 1948. The Institute was formed to continue one particular BLMA activity—the gathering of data for and publication of the Automotive Data Book. This is the red covered book on brake linings and clutch facings, which goes back to the 1930's. When the Institute was formed in 1948, this was essentially its only activity. The Institute adopted a Constitution and By-Laws at that time which generally limited its activities to the gathering of data for publication of the catalogs.

As this was and is an association of friction materials manufacturers, the Institute could participate in any area that it felt was of assistance to its Members, as long as the activity was permitted under the Institute's Constitution and By-Laws, and was of course legal. The Constitution and By-Laws were amended several times during the years to enlarge the Institute's activities. Among the changes were: (1) Gathering data for brake shoes, and publishing a shoe identification catalog; (2) Gathering and distributing statistics on sales of friction materials to the after-market; (3) Presenting an industry-viewpoint to States and the Federal Government on regulations on brake linings and brake systems; (4) Studying and commenting on regulatory initiatives in the occupational and environmental area.

These latter areas were entered in response to regulatory initiatives affecting our industry, and form the background for this Committee's activities. All the activities indicated above are in response to Member concerns expressed at Membership Meetings, and put into motion after action by the Board of Directors.

REVIEW OF EARLIER ACTIVITIES OF THE COMMITTEE

At the Chairman's recommendation, the Secretary prepared an outline of the more important activities of the Health and Environmental Affairs Committee. This started with enactment of the Williams-Steiger Occupational Safety and Health Act of 1970. The Institute formed its Asbestos Study Committee in 1971, and this group was the forerunner of the current Health and Environmental Affairs Committee.

This Committee sponsored and organized a demonstration session for monitoring asbestos fibers, as well as an industry seminar on asbestos. It co-ordinated invitations to several guests to address the Membership on the asbestos problem—Mr. William Reitze of Johns-Manville, Dr. Hilton Lewinsohn of Raybestos-Manhattan and Mr. Bob Pigg of the Asbestos Information Association.

The Committee drafted a one page "Recommended Procedures for Reducing Asbestos Dust During Brake Servicing" for insertion in its catalogs. It reviewed and revised this insert. It prepared the booklet "Friction Materials Work Practices Guide" which had wide distribution in the aftermarket. Press releases were sent to the trade press on these presentations.

The Institute responded directly, and through its Members, to EPA, OSHA and others on the asbestos question as it related to friction materials. Committee Members and Task Forces have sat with the regulators and others to give industry viewpoints.

The Secretary reviewed the activities of the Committee and its Members from 1970 to the present. The Chairman commented that many of these actions would fall in the area of a response to the Board on what the Committee can do and has done to assist its Members.

RECOMMENDED INSTITUTE AND COMMITTEE ACTIONS TO ASSIST MEMBERS

At the June 1980 Meeting, ~~Mr.~~ Lee Burgess of Wheeling Brake Block discussed some of the difficulties he was having with the EPA Region. He indicated that because of allegations which Wheeling disputed, they could be fined some figure in the millions if EPA were to prevail. This involved allegations of asbestos dust found at certain points near the Wheeling factory. He indicated that if a fine were to stand, that Wheeling might have to close down.

At a Directors meeting that followed the Membership Meeting, the Board asked what the Institute or the Committee could do to help members such as Wheeling when they are overwhelmed by the regulators. In specific form, the Board asked the Committee:

(1) What the manufacturer can do himself to insure compliance with regulations.
(2) What outside help is available in order to assure compliance.
(3) A summary listing of citations alleged against Members by regulatory authorities and the steps that industry took to prove or move into compliance.

Committee Members were asked to prepare to give input in these areas. Mr. Borcherding of Abex, who could not attend the meeting summarized what those at Abex felt would be proper. He stated that they did not feel the Institute's role was that of a consultant, and that each individual company should establish within its own organization familiarity with the regulations that apply. He stated that the Institute's assistance would be twofold: (1) Notifying members when new regulations are proposed or adopted, and (2) Advising on outside consultants in the field who could help the members.

The Chairman indicated that the Institute had been doing just that. In recent months the Institute had sent bulletins to the Membership on OSHA regulations on access to employee exposure and medical records, a listing of industrial hygiene consultants in the asbestos area, an OSHA booklet on onsite consultation services offered by OSHA, and recent releases by the U.S. Regulatory Council on their calendar of significant initiatives which included OSHA and EPA in the asbestos area.

It was noted that while the Institute is providing this information, it should be certain it is getting to the Members involved. The Secretary stated that he had originally targeted mailings of occupational and environmental matters to those involved in these areas, but had increased the mailing to include Delegates and Alternates so that they would be aware that these materials were being sent to the Members.

As regards the specific questions on Wheeling, the Chairman and the Secretary both wrote to Mr. Burgess inviting him to attend this Meeting. Mr. Burgess did not respond. The Secretary stated that he had talked with Mr. Burgess during the Asbestos Substitutes Seminar in Arlington last July, and that Mr. Burgess did not seem overly concerned about being shut down, and that the matter was being handled by Mr. Burgess' Attorney.

Committee Members agreed that the Institute (1) Monitor activities of the regulators, (2) Advise the Membership on regulatory actions that would impact them, and (3) Give input to the regulators when appropriate.

SOLID WASTE DISPOSAL (RCRA)

In discussing what the Institute could do to assist the Members, specific areas of regulatory action were discussed. The Resource Conservation and Recovery Act (RCRA) preceded EPA's regulations on solid waste disposal.

This is an area in which Members could use assistance. Asbestos is not a hazardous waste. However, disposal of friction products waste may subject one to the rules on hazardous waste because of other materials in the product such as barium, lead, etc. Is friction product grinding dust a hazardous waste because it may contain lead? Tests must be run for toxicity to determine if the dust is hazardous. A manufacturer who delines old shoes cannot tell what the formula for the linings being removed is—the old linings may contain lead or other hazardous materials.

Some landfills will take asbestos, but not lead-containing products. The Members should be advised that materials other than asbestos could be the problem. As asbestos products are not now considered as hazardous waste, the main problem may be in chemicals such as phenols, formaldehydes, solvents and some base metals. The Institute should alert its Members that these may be the items of concern for compliance with EPA directives on solid waste disposal.

It was stated that along these lines, the regulators were concerned with formaldehyde and its use in home insulation. If the formaldehyde is not fully polymerized, a fire could cause release of toxic fumes. Many linings have formaldehyde in the finished product.

It was suggested that the Institute send bulletins to the Membership on interpretation of solid waste disposal requirements. The Secretary indicated that he was unable to interpret EPA solid waste disposal requirements and that would have to be done by professionals who are able to follow the regulations more closely than he. A Member stated that the rules on toxicity, flammability, reactivity and corrosivity should be understood by those dealing with waste disposal. These are addressed in Title 40, Protection of Environment Part 261, Section 261.20 to 261.24. (General, Ignitability, Corrosivity, Reactivity and Toxicity). It was suggested that the Members should be alerted that it is their responsibility to test solid waste to determine whether it is in fact a hazardous waste.

It was stated that a bulletin should be prepared for distribution to the Membership. This bulletin could be reviewed by a Task Force within the Committee and also by Legal Counsel. The Secretary was asked to prepare such a bulletin for review by the Task Force (Mr. Armstrong and Mr. Pearson) and Counsel.

It was pointed out that the foregoing items are concerned with regulations developed under RCRA, and are not to be confused with the recently passed "Super Fund" for clean-up of landfills which may have been the sites for disposal of hazardous chemicals. This legislation will authorize the EPA to collect funds from chemical manufacturers and allocate the funds for clean-up. It will be done through EPA Regional Offices. It will attempt to identify the companies who have contributed hazardous waste in general landfills. The Regional Offices will review landfills, check locations, identify contributions to the landfill, and will attempt to confirm what has been disposed of at the landfills. A letter will be sent to parties who may have used general landfills to determine what has been deposited. After identifying the wastes, the EPA will then attempt definition of the clean-up costs. Again, the "Super Fund" legislation is more concerned with toxic chemical wastes, and asbestos is not the problem. This legislation will not directly involve most friction products manufacturers, unless they also are involved in chemical manufacture. Cost of complying with this legislation and the resulting regulations will be incurred as the friction products manufacturer purchases his raw materials, be they feedstocks or resins, solvents, etc. The direct effect will be higher raw materials prices.

It was suggested that the Institute stay away from this area as not many members are also in the chemical raw materials business. Also, this is an area where specific expertise would be needed to advise the Membership. The only action to be taken at this time will be advice to the Membership that while asbestos is not the problem, other chemical and product waste may be a problem, and they do have the responsibility to identify wastes that are considered hazardous.

OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA)

Asbestos continues as the main problem for the industry under OSHA. The United States Regulatory Council in their most recent calendar on regulations indicated that there would be a Notice of Proposed Rulemaking on a new asbestos standard in "Late Winter 1980," and they expect the Final Rule to be released in "Winter 1981." There could be changes because of the incoming administration in Washington. Also, delay is most likely because of the effects of the Supreme Court's July 1980 decision invalidating the OSHA Benzene standard, because of OSHA's failure to establish a threshold for exposure. There is no action the Institute or this Committee could take in this area until a revised regulation is proposed.

A Member asked whether other members were being asked to prepare OSHA's "Material Safety Data Sheet." This is a form asking about a product's ingredients, and various physical properties such as flash point, reactivity, etc. It was stated that this is an OSHA form required for the maritime industry and is not at this time required of the friction materials manufacturer unless his product is used in the maritime field. However, as customers are asking that this form be provided, some brake lining manufacturers are completing the form. It is not felt that the Institute can give guidelines for completing the form, as much of what is asked on the form would be either not applicable, or proprietary. It was suggested that if these forms must be completed to satisfy a customer, they could be handled on an ad hoc basis listing for example "Less than or approximately 50% asbestos, 20% phenol, less than 2% lead, etc." It was suggested that the manufacturer could tailor his data sheet for the customer. This form is already required by OSHA for maritime use, and the Institute could simply advise the Membership that these are being requested by some companies, and that usage could become more widespread if OSHA extends their applicability.

It is likely that this form or one patterned after it will be required because of OSHA's proposals on disclosure to employees. Many Purchasing Departments are now requesting this form. There is no reason not to indicate that asbestos is present with some approximate percentage. Also, chrysotile is just about the only asbestos type used in friction materials manufactured in North America, and that could be shown. It is not felt that exact formulation is required on such a form. This is not an area for the Institute, but should be handled on an individual basis. The Institute could alert the Membership as follows: (1) The Materials Safety Data Sheet does exist. (2) Advise on form makeup and where available. (3) Suggest the Member develop his specifications for posting to such a form to be ready for requests.

This form has been in existence for at least two years, and while OSHA requires it for the shipyards, it is not an across-the-board requirement in industry at this time. It is likely that for reasons of advising employees that it will be required. The Institute's information bulletins on this data sheet must be reviewed by Counsel before release.

LITIGATION IN THE ASBESTOS AREA

Litigation that could effect the Members is in essentially two areas: (1) Product liability and (2) Workmens Compensation. The Asbestos Information Association (AIA) has gathered information on court actions affecting asbestos and asbestos products. This information has been gathered either by AIA or a Law Firm for the AIA. There is an action contemplated or being undertaken where an asbestos products manufacturer is attempting to include the tobacco industry as a defendant where there are allegations of respiratory impairment due to asbestos exposure.

At this time, there does not appear to be sufficient litigation which has been resolved to draw conclusions. There has been no real resolution in the area of friction materials. One suit of interest was that of an auto salesman who incurred either lung cancer or a respiratory disability who in his claim, went after not only the dealer, but the manufacturers of brake lining used in the dealer's service department. One Member stated that a newsletter entitled "Occupational Safety and Health Reporter" is good in this area. Also, it was suggested that monitoring of the AIA's News & Notes is helpful. They have in the past included new articles of this type. The Secretary stated that he did monitor the AIA's News & Notes and would forward material of this nature if published.

It was concluded that the Institute could only monitor news of litigation in the asbestos area and advise the Membership of any significant developments in this area.

FEDERAL WORKMEN'S COMPENSATION

This subject has been reviewed before, with emphasis on the Asbestos Health Hazards Compensation Act which Senator Hart of Colorado was sponsoring. This was a successor initiative to an earlier proposal on compensation awards to those disabled by asbestos, with a suggested assessment by industry groups based on past usage of asbestos. The Hart bill was introduced in June 1980 (S.2847). No action was taken in the past Congress. [illegible]

Senator Javits who had recommended broader workmen's compensation legislation was defeated in his party's primary, and will not be in the Senate in 1981. While Senator Hart was reelected, he is now a Senator from the minority party, and legislation normally needs sponsorship from a Member of the Majority party.

There has been no movement on federal workmen's compensation to this point. There are questions on applicability of retroactive considerations in any workmen's compensation legislation. In other words, how far back does it cover as regards a worker making claims on disability in the work place? If the exposure was 20 years ago, who is assessed? It was stated that the Institute cannot significantly influence this area. It may be decided in Senate Committees and in the courts with most input from major companies and insurance carriers. The best the Institute can do is to monitor any movement as regards an asbestos health hazards compensation act, and any other compensation initiatives or decisions on the state, federal and legislative levels.

CONSULTANTS, SERVICES AND SOURCES OF ASSISTANCE

In the area of assistance to the members in regulatory compliance, one answer was the recommendation of competent consultants. The Chairman noted that the Institute had been regularly advising on consultants and fiber counts. The last such notice was in a bulletin sent the Membership (BULLETIN NO. 697) in October 1980. The Secretary distributed with this bulletin a list of industrial hygiene consultants which had been sent in by Mr. Armstrong. This listing was from the American Industrial Hygiene Association JOURNAL, and indicated specialties of the consultants listed. One member noted in particular the services of ESA Laboratories of Bedford, Massachusetts, a consulting firm which sells laboratory services. The Institute will update the list of consultants with their capabilities in subsequent notices. In answering the call for information on what the Institute can do to help its Members, this area has been covered in the past, and will be used in the future.

The Institute could ask its Members for recommendations on consultants and laboratories which they felt were particularly skilled or helpful. As regards outside help, the Committee suggested the following:

1. Outside consultants, and particularly those listed in the American Industrial Hygiene Association JOURNAL.

2. Insurance Companies have industrial hygiene departments and most carriers in the workmen's compensation and product liability fields have expertise which is available to the insured.

3. Onsite Consultations are available from OSHA, and a booklet was distributed to the Membership listing where one could arrange for OSHA onsite consultation. While this is available to the small businessman, some Members warned that anything OSHA discovered during their consultation could be used in an adversary relationship.

In the publications and services area, several sources for information were noted. Among those recommended were the following:

1. "Occupational Health Safety Letter"

2. Commerce Clearing House's "Employment Safety and Health Guide"

3. BNA (Bureau of National Affairs) "Chemical Reporter" and "Occupational Safety & Health Reporter"

It was also stated that a good Federal update appears in the Federal Register twice a year. This is the United States Regulatory Council's Calendar of Federal Regulations. The Institute has followed this and sent summary information to Members on the Regulatory Council's agenda. The last notice to the Members on the Regulatory Council was that sent the Membership in November 1980, based on OSHA and EPA plans in the asbestos area for 1980-81. This Regulatory Council notice is valuable because it is concise and only includes significant regulatory plans.

Another suggestion was the Quebec Asbestos Mines Association (QAMA). It was stated that QAMA may have available interesting studies on asbestos exposures which were run in the mining areas, and also may have epidemiological studies run by Universities in Quebec. A member distributed a publication entitled ASBESTOS which was published by Association des Mines d'Amiante du Quebec, which is the Quebec way of saying QAMA. It was suggested the Institute contact QAMA to request information on the asbestos industry that may be available from them. It was also suggested that since many manufacturers used lead in their friction products, the Institute should contact the Lead Industries Association in New York to see if that association has information which could be of value to the Members.

WHAT THE MEMBERS CAN DO THEMSELVES IN REGULATORY AREAS

It was stated that the Institute cannot provide the answers on specific problems that affect its Members. The best the Institute can do is advise on regulatory activities and suggest consultants or services that may help. It was stated that each Member must do the following:

1. Appoint some one person or department to follow regulatory activity.

2. That party should subscribe to at least one service such as those noted earlier--Occupational Safety & Health Letter, CCH's Employment Safety & Health Guide, etc.

3. Where inside capabilities are not sufficient, consult with industrial hygiene consultants.

POSSIBLE QUESTIONNAIRE TO ASSESS MEMBER WANTS

The Board had requested the Committee to determine what it could do to assist the Members in regulatory compliance. The Chairman had invited Mr. Burgess to come to the meeting to discuss his difficulties so that the Committee could more accurately assess what it could recommend to assist Members. Mr. Burgess' difficulties apparently either have been resolved or the imminent closing of his plant is dormant. Mr. Burgess did not reply to the invitations sent to attend this meeting. The Chairman stated that while this might be returning the problem to the Members of the Board, he felt it preferable to canvass the Members to determine what areas the Committee could service best.

Mr. Armstrong stated that there is knowledge available. In any questionnaire we should list the committee membership along with a two-line bibliography on the members' expertise and capabilities. Questions would be of this form: (1) Would members want to receive copies of citations received by others from regulatory agencies and how these citations were resolved (Member names and certain specifics could be deleted from the copy)? Would the Members cooperate in sending in details of this nature to the Committee so that they would eventually be circulated to the Membership with names deleted? Is there any need for such information? A questionnaire of this type would be prepared by the Institute Office and then reviewed by the Chairman and Counsel. It would then be sent to the Board for their approval before being circulated to the Membership.

Mr. Armstrong added that the Secretary's history of committee activity and accomplishments since 1970 should be added to the papers passed to the Board to show what has been done. Also, a copy of the Committee's charter which was drafted by the Committee and approved by the Board should be attached.

It was suggested that a question be added concerning training or education programs. Would a slide program be of value in the indoctrination of employees? Along this line, OSHA had included provisions for training and education in most of their regulations on hazards in the work place. It was noted that Johns-Manville has a slide program for employee training purposes. Should the Institute prepare a slide program on training for its Members? Should a program be prepared for member's customers?

Should the Institute involve itself with fire safety standards? Would background and alerts on standards for lead exposure be of value? Should the Institute advise members on fire protection practices and emergency procedures—such as evacuate, or fight the fire? Do we wish to involve ourselves with other training programs for OSHA, EPA and RCRA compliance?

It was stated that while information of the above type could be gathered, if the Members do not really want this information, the Committee's efforts in gathering and preparing it would be wasted. The Institute and a Committee Task Force worked on a questionnaire for EPA's Office of

Toxic Substances on substitutes for Asbestos in disc brake linings, and only three members (of 19) replied. It was stated that the Committee is willing to put efforts into these areas, but only if the members will respond.

NEXT MEETING OF COMMITTEE

No date was set for the Committee's next meeting. It was agreed that meeting at the Sheraton Inn at La Guardia was more convenient for most attendees and it is recommended that a site near a major airport be used in the future.

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There being no other business brought to the attention of the Committee, upon motion duly made, seconded, and unanimously passed it was:

RESOLVED: To Adjourn

Adjourned at 1:50 PM.

E. W. Drislane
Secretary