PLAINTIFF'S EXHIBIT

CAP-624

A/C Pipe Producers Association

Internal Correspondence

Board of Directors

J. F. Welch, Vice President

September 27, 1983

U.S. Environmental Protection Agency (EPA) - A/C Advisory on Consideration to Ban A/C Pipe

ACTION REQUIRED: Review for comment by October 4, 1983

As requested at the September 21, 1983 meeting of the Board of Directors and senior management, enclosed is a draft A/C Advisory on EPA's intention to consider banning A/C pipe. The purpose of the Advisory is two-fold: (1) to advise our customers about this development without alarming them and (2) to explain clearly the A/C pipe industry's position on this matter. Neither is an easy task, but with the collective wisdom and guidance of the Board, corporate legal counsel, and internal/external public relations counsel, a credible, persuasive communication must emerge.

In avoiding alarmism, the draft is void of emotional or hyperbole. There is a gentle cry of "foul" but no zealous promises dragging EPA to the Supreme Court.

Board members are requested to send or call in comments no later than October 4, 1983. If you have any questions, please do not hesitate to call.

JFW/ajb

Enclosure

cc: Board of Directors

L. Ambler
L. Cejudo
J. M. Couture
L. Taylor
A. Verploegh

0171092701
Chrono

DRAFT

Dear Customer:

In coming weeks, you may hear or read that the U.S. Environmental Protection Agency (EPA) is considering a ban on the use of A/C pipe. We, the manufacturers of A/C pipe in the U.S. and Canada — CAPCO Pipe Co., Inc., CertainTeed Corporation and J-M Manufacturing Co., Inc. and Atlas-Turner, Inc. — are publishing this advisory to give you the facts and industry's position on this development.

The Situation

In August, 1983, EPA notified the A/C Pipe Producers Association that it "plans to publish in the next year a proposed rule banning certain asbestos product categories under the authority of the Toxic Substances Control Act." Categories under consideration for a product ban are roofing and flooring felts, asbestos felt-backed vinyl flooring, vinyl-asbestos floor tile and A/C pipe and fittings.

The Toxic Substances Control Act (TSCA)

TSCA is a far-reaching law. It authorizes EPA to obtain data on production and health effects of chemicals and mixtures. It may require manufacturers to test potentially harmful chemicals before marketing them. And if warranted, it empowers EPA to regulate the manufacture and distribution in commerce of chemical substances. One section of TSCA provides that any person may petition EPA to start a proceeding to require testing or regulation of chemicals and mixtures.

Before EPA may impose any regulatory requirements under TSCA, it must show that the manufacture and use of A/C pipe, for example, presents an "unreasonable risk or injury to health or the environment." That burden can be upheld only if supported by substantial evidence and only after considering a wide range of risk and benefit factors. Finally, EPA must use the least burdensome requirements to regulate "unreasonable risks."

What It All Means

This recent action reopens a TSCA rulemaking started in 1979 when EPA published an Advance Notice of Proposed Rulemaking on Commercial and Industrial Use of Asbestos Fibers.

An advance notice is the first step in the regulatory process. It describes EPA's concerns about an issue, discusses generally how it will be studied, defines regulatory options and invites comments on questions raised in the notice. An advance notice is followed by a proposed rule, wherein EPA presents scientific, technical and economic data supporting its proposal. There is a comment period and public hearings for interested parties. Then, all this input is analyzed by EPA and a final rule issued. The entire process may take 3-5 years.

The 1979 advance notice expressed concern that sources of human exposure to asbestos may present unreasonable health risks. Three regulatory options were mentioned: (1) declining limits on asbestos processing or imports, (2) bans on specific products, and (3) a ban on all but essential uses of asbestos.

EPA did not intend to include A/C pipe in its initial rulemakings. However, before

the advance notice was published, a citizen petitioned EPA "to initiate a proceeding for the issuance of a rule to prohibit the manufacture and distribution of asbestos cement pipes." TSCA requires EPA to grant or deny a citizen's petition within 90 days. And since the agency was investigating asbestos-containing products anyway, the petition was granted and incorporated in to the Advance Notice of Proposed Rulemaking on Commercial and Industrial Use of Asbestos Fibers. EPA cautioned, however:

> Granting a petition to initiate a proceeding to issue a rule does not mean that EPA will promulgate or even propose a rule (for A/C pipe). Such a decision will depend on the outcome of the regulatory analysis.

Why A/C Pipe Now?

We're asking the same question: One thing is clear: EPA's action is based on a theory that airborne occupational and environmental exposures from A/C pipe manufacture and use present an "unreasonable risk." The potential ingestion of asbestos that may be released from A/C pipe into drinking water does not appear to be a concern in this matter.

In the U.S., A/C pipe manufacturers are already regulated by a number of federal and state laws. Comparable laws exist in Canada. The Occupational Safety and Health Act regulates employee exposures to airborne asbestos. The Clean Air Act controls emissions to the outside air from A/C pipe plants. The Act also imposes disposal requirements for asbestos-containing wastes. The Clean Water Act regulates effluent discharges from A/C pipe plants. These worker, air and water protection laws have been in place since the mid-1970's. Many, the Clean Water Act for example, require use of best available technology and "zero discharge" by a given date.

In the spirit of industry-government cooperation, we not only complied with these regulations, but bettered them. A/C pipe manufacturers became virtually a closed system: asbestos fiber handling and pipe machining are automated; process water and solid waste are recycled; state-of-the-art filtration systems eliminate 99.9% of asbestos in air discharges to the environment. And now, without any scientific justification, EPA theorizes that its own laws (and those of OSHA as well) are not enough.

Industry's Position

For over a decade, the A/C pipe industry has shared EPA's interests that commercial and industrial use of asbestos and A/C pipe be as safe as scientifically and economically feasible. We have labored responsibly and continuously to comply with the agency's evolving environmental regulations for A/C pipe plants. The A/C pipe industry cannot support and indeed, will strongly oppose EPA's newest theory that A/C pipe may present an unreasonable risk to health and the environment.

During this period, the following facts form the basis of industry's position on the safe manufacture and use of A/C pipe:

- asbestos is unique and irreplaceable in the manufacture of A/C pipe
- the risk, if any, from occupational exposures to asbestos have been minimized through industry compliance with OSHA standards
- there is no evidence that current environmental discharges from A/C pipe plants, if they occur at all, result in unreasonable risk
- a ban on A/C pipe is not supported by medical/scientific evidence
- prohibiting the use of A/C pipe would adversely affect water utilities by

reducing competition and increasing costs of piping materials.

These same facts are the basis of industry's position today.