



ION CARBIDE CORPORATION • METALS DIVISION • P. O. BOX 579 • NIAGARA FALLS, N.Y. 14302 • TEL: 716-278-3376-

May 27, 1977

Mr. Norman Hill
Allied Manufacturing Company
1245 E. Commercial
Springfield, MO 65803

Dear Mr. Hill:

You are no doubt aware of recent action by the Consumer Product Safety Commission (CPSC) to propose a ban on consumer use of asbestos-containing taping, spackling and joint-sealing compounds. Their action was instigated by a petition filed on 7/15/76 by the National Resources Defense Council (NRDC).

The CPSC voted on 5/2/77 to take action on the petition via the "Proposal and Hearing" procedure. This involves the following steps and would probably take a minimum of six months:

1. Publish the proposed regulation.
2. Accept written comments.
3. Schedule and hold a public hearing.
4. Publish a final regulation.

Although the CPSC has no jurisdiction over the manufacture and sale of products for commercial use, the proposed ban, depending on its wording and interpretation, could inadvertently affect the packaging and sale of products intended for industrial users. It is our understanding that the usual commercial packaging, 5-gallon pails of ready-mix and 25-pound bags of dry-mix, are stocked by some retail outlets, such as lumber yards. It is highly probable that these products could be purchased and used by a "do-it-yourself" consumer. The CPSC, in prior actions, has taken an ultra-conservative approach that any product which can be obtained by a consumer is a "consumer product" and would be covered by their regulations. This is the type of question which could be discussed and resolved at a public hearing.

The CPSC also has the power to implement an immediate ban on a product and to order its recall to prevent further distribution to consumers. Although we do not expect this to happen, the NRDC and other activist groups are continuing to press for this type of action; and the CPSC can vote at any time to change their action plans. There is, at the present time, little or no counter-pressure from industry; and this is the main reason for our letter to you. Enclosed is a copy of information sent to the CPSC last September by the Asbestos Information Association. This information was developed by Dr. H. B. Rhodes of our asb group.

As you can see from the contents of the enclosure, we do not believe that the use of asbestos in spackling and similar compounds presents a significant hazard to the consumer. However, we do not feel that it would be prudent to oppose a ban on asbestos-containing compounds in "consumer-type" packaging, i.e., 1-5 pounds or 1-4 quarts. The consumer does not need the high-performance products (containing asbestos) which are required by commercial applicators, and the "protection" of your products for commercial use is much more important.

Also enclosed is a copy of our letter recently sent to members of the Consumer Product Safety Commission. We felt that it was appropriate to take this action before asking you to become involved. If you are concerned about the possibility of an inadvertent and perhaps immediate ban on your asbestos-filled products, even though they are intended for commercial use, we suggest the following action:

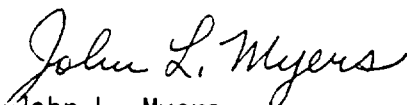
1. Review the enclosure to determine the facts about the issue.
2. Express your concern to the CPSC, including the following points:
 - A. The effect on your commercial products which could result from a ban on consumer products.
 - B. Your preference for the proposal/hearing procedure rather than any immediate action which is unnecessary and could have a severe deleterious effect on your business.
 - C. A hearing is necessary to properly air the potentially harmful consequences of any CPSC action.
 - D. Suggest, if you concur, that your products be labeled with the regular OSHA asbestos warning plus "For Commercial Use Only." This would be based on the assumption that such products would then be exempt from CPSC regulations.

Your comments, opinions, etc. should be expressed directly to:

Mr. S. John Byington, Chairman
Consumer Product Safety Commission
1750 K Street, N.W.
Washington, DC 20036

Please be assured that Union Carbide will take an active part in a hearing or in any other phase of the CPSC procedure where such action is appropriate and necessary to assist our customers. Please let us know if you require additional information or wish to discuss this matter in more detail.

Very truly yours,


John L. Myers
Marketing Manager

A20022

/cjb
Enclosures

P.S. It is obviously at your discretion, but we would appreciate receiving copies of correspondence between your company and the CPSC.

UNION CARBIDE CORPORATION

270 PARK AVENUE

NEW YORK, N.Y. 10017

A. S. Hart
Vice-President

May 26, 1977

The Honorable
S. John Byington
Chairman
Consumer Product Safety Commission
1111 18th Street, N.W.
Washington, D.C. 20207

Dear Mr. Chairman:

This letter is in regard to potential action by the Consumer Product Safety Commission on the second petition by the Natural Resources Defense Council to effect an immediate ban on certain asbestos-containing spackling and tape joint compounds to prevent their further use by consumers.

Union Carbide is engaged in the mining and milling of asbestos ore at a plant in California and markets asbestos for use in numerous applications including tape joint compounds.

We are not opposed to a ban on the consumer use of the products in question, even though we do not believe that the use of asbestos in these products presents a significant health hazard. What we are proposing is that a ban be implemented through Section 8 of the Consumer Product Safety Act, so that the Commission will have access to the full implications of its ruling.

To supplement this request, we call your attention to the communication the Asbestos Information Association sent to you on September 1, 1976. Our concern is two-fold:

1. An immediate ban, especially if coupled with a product call-back, would cause an unnecessary hardship for our customers who manufacture spackling compounds.
2. The wording and/or interpretation of your ruling could inadvertently inhibit or prohibit the use of asbestos-containing tape joint compounds by commercial applicators.

A20023

"Ready-Mix" (pre-wetted) tape joint compounds for commercial as contrasted to consumer use are normally packaged in 5-gallon pails (62.5 pounds) or in 50-pound polyethylene bags in cardboard boxes. "Dry-Mix" compounds are packaged in 25-pound bags which yield about 50 pounds of compound when water is added. These packages contain enough material to finish the drywall in three rooms and are normally marketed through wholesale channels to commercial applicators. This quantity of material is substantially greater than required for normal consumer use. However, some building supply outlets stock these packages for small contractors and they would, therefore, be available to a "consumer." If these commercial packages are judged to be "...packaged in a form suitable for use in the household," the ban requested by the NRDC will, in effect, apply to the commercial as well as the consumer market.

Asbestos-free spackling and tape joint compounds have proved to be technically inferior and a ban on the package sizes mentioned above, which are targeted for commercial users, would destroy the market.

In summary, we feel that because of the relatively insignificant consumer hazard and the potential deleterious effect on the commercial market, we respectfully recommend that you implement a ban on the products in question via Section 8, the "proposal and hearing" procedure. This would provide industry with the opportunity to contribute information on the size and value of the consumer market and to respond concerning what effect your rulemaking could have on the commercial market.

We would be glad to work with you on the wording of your proposal to limit or negate its effect on the commercial market for asbestos-containing tape joint compounds.

Sincerely,

(Original signed by)

A. S. Hart

CC: Commissioners Pittle, Franklin, Kushner and Garrett
Messrs. Kapps, Garrish and Hobby

A20924



ASBESTOS INFORMATION ASSOCIATION

1835 K Street, N.W., Washington, D.C. 20006 • (202) 223-4885

1 September 1976

Mr. S. John Byington
Chairman
Consumer Product Safety Commission
1750 K Street, N.W.
Washington, D. C. 20036

Re: Petition of Natural Resources Defense
Council, Inc., and the Consumers Union
of U.S.A., Inc., for the Promulgation
of a Rule Declaring Certain Patching
Compounds to be Banned Hazardous
Substances

Dear Chairman Byington:

The Asbestos Information Association/North America, an incorporated, non-profit organization of firms and corporations engaged in the manufacture or processing of asbestos-containing products and in the mining and milling of asbestos fiber, desires to comment on the petition to the Commission submitted July 15, 1976 by the Natural Resources Defense Council, Inc. and the Consumers Union of U.S.A., Inc. The petitioners seek an order by the Commission to ban patching compounds containing asbestos by declaring such compounds to be hazardous products.

Comments contained in the attachment have been prepared following consultation with member companies of the Association and other expert sources of information.

We are pleased to have this opportunity to present our comments and to advise that, if desired, we are prepared to further address this matter with you or members of your staff.

We wish to inform you that Ms. Shacter of the Commission staff has been highly efficient and responsive to her public interest charge in the conduct of business with this Association. We commend to your attention her professionalism and pleasant demeanor.

Sincerely yours,


R. H. Mereness
Executive Director

Enclosure

A20926



ASBESTOS INFORMATION ASSOCIATION

1835 K Street, N.W., Washington, D.C. 20006 • (202) 223-4885

Response to Consumer Product Safety Commission
on petition by Natural Resources Defense Council,
Inc. and Consumers Union of U.S.A., Inc. for the
Promulgation of Rule Declaring Certain Patching
Compounds to be Banned Hazardous Substances, dated
July 15, 1976.

30 August 1976

A20920

I INTRODUCTION

On July 15, 1976, a petition was filed by the Natural Resources Defense Council, Inc. (NRDC) and Consumers Union of U.S.A., Inc. with the Consumer Product Safety Commission pursuant to paragraph 2 of the Federal Hazardous Substances Act, 15 U.S.C. paragraph 1261 (1974) requesting that consumer patching compounds containing asbestos be banned as hazardous substances. Patching compounds were indicated to include taping, spackling and joint sealing and joint sealing compounds. The petition alleged that continued use of these compounds "... will result in a significantly higher incidence of cancer (including lung cancer and mesothelioma)" and "that no cautionary label would adequately protect the public from the risk of illness associated with patching compounds."

The Asbestos Information Association/North America is an association of 32 producers of asbestos and asbestos containing products. Members of the Association are directly affected by the petition and wish to enter this response into the record.

II USE OF ASBESTOS IN PATCHING COMPOUNDS

Composition of Drywall Compounds

The petitioners note correctly that the principal use of patching compounds by consumers is, in home drywall construction and repair. This discussion therefore will focus on the material generally used for the application, tape-joint compound (TJC).

There are two principal types of join compound. One uses a latex or water-soluble glue as a binder and "sets" by evaporation of the water. The other uses dehydrated gypsum as the binder (and the principal dry ingredient), or gypsum in combination with water soluble binders, and sets by chemical reaction as the gypsum combines with water of hydration. The evaporative type, composed mainly of limestone, lesser amounts of mica and 3-5 percent asbestos plus the binder, controls about 80 percent of the market, and usually is sold in the ready-mixed, wet form. The hydrating type (gypsum-based), with roughly 20 percent of the market, also typically contains asbestos and must, of course, be sold dry and mixed just before use.

Asbestos is added to these compounds for two principal reasons:

1. It imparts properties to the compound (mud) which make it flow easily and smoothly when trowelled on, while still remaining viscous enough to stay in place during the initial stages of hardening.

A20927

It also is appropriate to examine the significance of the quart of compound cited in the petition as the typical purchase size. A quart of ready-mix compound weighs a little over three pounds and will finish about 45 square feet of drywall. This is less than two of the standard size 4' X 8' gypsum board sheets and appears to be a reasonable quantity for the usual do-it-yourself craftsman.

Most of the packaging and distribution of products to the consumer market is done by one or two of the large building products companies, several larger companies that specialize in the consumer tape joint compound field, and a substantial proportion of the major paint manufacturers who market through their own distribution outlets. The medium to large regional manufacturing companies which have a substantial share of the commercial TJC business generally are not involved. Consumer TJC is distinguishable from commercial TJC in that the consumer product finally passes into and through mass distribution retail outlets.

The question of container size is particularly relevant to the issue raised by the petition. TJC for retail distribution typically is packaged either in a one gallon container of the wet type or in a one pound or five pound package of the dry type. The largest clearly identified consumer product found in our brief survey, was a kit containing 18 lbs. of wet compound plus tape which was intended for use in the installation of 250 sq. ft. area, i.e., a small room. Some large retail stores, however, stock limited quantities of commercial 5 gallon pails for the convenience of the smaller commercial contractor. While it is conceivable that a home-craftsman might purchase one of these 5 gallon pails, it would be a rare home repairman who would undertake a complete three room finishing job. Ready-mix compound intended for commercial use, by contrast, universally is packaged either in 5 gallon pails (62.5 lbs.) or in 50 lb. polyethylene bags in cardboard boxes. Dry-mix compound is packaged in 25 lb. bags which yield approximately 50 lbs. of compound when water is added. If these commercial containers are to be "... packaged in a form suitable for use in the household" the ban requested by the petitioners will apply, not just to the consumer market (5% of the total), but to the entire market, commercial as well as consumer.

III ASBESTOS EXPOSURE DURING DRYWALL INSTALLATION

The petitioners do not provide any data which show the level of exposure that occurs during use of the compounds at a scale and under conditions likely in consumer use. The only data presented is that of Rohl et al (Reference 7) obtained during a test performed at one location by commercial drywall workers. Materials were handled on a much larger scale than that which must be considered here. Exposures recorded were high, and it is alleged that exposures in consumer use would be similar.

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The concentrations described above all were ceiling concentrations obtained during sanding operations.. In most cases even commercial operators do not sand for an entire shift so that the 8-hour time weighted average exposure will be considerably less. TWA values for the study cited (1) are shown in the table below:

SUMMARY OF AIRBORNE ASBESTOS
Fiber Concentrations During Drywall Sanding

<u>Location</u>	<u>Ceiling Exposure</u> <u>(Fibers/cc > 5μm)</u>	<u>Exposure Time</u> <u>During Sanding</u> <u>(Hours)</u>	<u>Estimated 8-hour</u> <u>TWA Expos</u> <u>(Fibers/cc)</u>
New York City, N.Y.	0.4	8.0	0.3
Hialeah, FL	1.0	4.0	0.4
Ft. Lauderdale, FL (Hand)	1.1	1.0	0.1
Detroit, MI	1.3	8.0	0.9
Dallas, TX	1.8	0.5	0.1
Ft. Lauderdale, (Pole)	3.4	3.3	0.6
Niagara Falls, N.Y.	3.6	0.6	0.2

It is our contention that these lower values are much more representative of exposure during commercial operations than those cited by the petitioners. It is also our contention that, because smaller quantities are handled, peak consumer exposures generally will be no greater than the commercial ceiling exposures recorded above. And, since consumers work with tape joint compound infrequently, average or TWA exposures for consumers will be much lower than for commercial operators.

IV THE MEDICAL EVIDENCE

Petitioners cite, in support of their position, a selection of pieces from the medical, scientific and popular literature, some of which items are of questionable value in furthering the regulatory process. Because time does not permit a detailed analysis of each reference cited, we can only offer a few cautionary considerations to be borne in mind when studying the petition:

A20029

qualified experts would conclude that:

1. Asbestos, when inhaled, causes fibrosis (asbestosis).
2. Asbestos, when inhaled, is associated with the development of malignant tumors of the bronchial system and lung and with mesothelioma, (in other words, asbestos is a carcinogen).

Few, if any students of the subject would disagree with the conclusion that there is a dose-response relationship between exposure to airborne asbestos and the development of asbestosis. There is also a substantial body of expert opinion which supports the premise that there is a dose-response relationship between exposure to most, if not all, carcinogens and the development of cancer. There is no reason to believe, from the data available to us, that asbestos is an exception to this generality; although, at this time, no one definitely can say at what exposure level asbestos becomes a cancer hazard to man.

Our view of the literature indicates that no credible epidemiological studies have been published which would suggest an excess of malignant tumors among persons exposed to no more than 2 asbestos fibers per cc of air (TWA), using the prescribed membrane filter test method. This is a fact simply because there have yet been identified for study no populations the exposure experience of which consistently has been as low as 2 fibers. Since all populations studied to date have been exposed to substantially higher concentrations of airborne asbestos, we can conclude only that an excess of all types of asbestos disease is associated with levels of exposure significantly higher than the level currently mandated to become effective on July 1, 1976."

Johns-Manville Corporation, the largest producer of fiber in the western world and the largest manufacturer of asbestos-containing products in the United States, also conducted a detailed medical review and the following conclusions were included in their statement to OSHA. Exhibits B and C from the Johns-Manville response are attached hereto for reference.

From page 4:

"2. J-M's Review of the Medical References Cited By OSHA

We have reviewed in considerable detail all of the references cited by OSHA, and conclude from this study that these references totally fail to provide

A20355

"B. Criteria in Human Studies

Types of evidence suggesting that an agent is carcinogenic in humans include: neoplastic response directly related to exposure (both duration and dose), incidence and mortality differences related to occupational exposure; incidence and mortality differences between geographic regions related to difference exposures rather than genetic differences and/or altered incidence in migrant populations; time trends in incidence or mortality related to either the introduction or removal of a specific agent from the environment; case control studies; and the results of retrospective-prospective and prospective studies of the consequences of human exposure. Clinical case reports may also provide early warning of a potential carcinogen. Negative epidemiologic data may not establish the safety of suspected materials. Negative data on a given agent obtained from extensive epidemiologic studies of sufficient duration are useful for indicating upper limits for the rate at which a specific type of exposure to that agent could affect the incidence and/or mortality of specific human cancers (Emphasis added.) "

"E. Extrapolation from Experimental Data and Evaluation of Human Risks

The criteria listed above provide a guide to determining whether a compound is carcinogenic under a specific set of exposure conditions in a given species or subpopulation. Quantitative extrapolation from animal studies for the purposes of evaluating human risks entails large uncertainty at the present time. Each case must be individually evaluated, taking into consideration such factors as adequacy of experimental design, statistical significance of the data, dose-response relations, duration of exposure, route of administration, metabolism (including species variations), host susceptibility, co-factors and other modifying factors, and the amount of the material to which humans will be exposed. The criteria for extrapolation may vary depending on the agent in question. (Emphasis added.)"

The National Cancer Institute report does not appear to support the OSHA position that the concept of a "no effect" or "threshold level" may have little real significance.

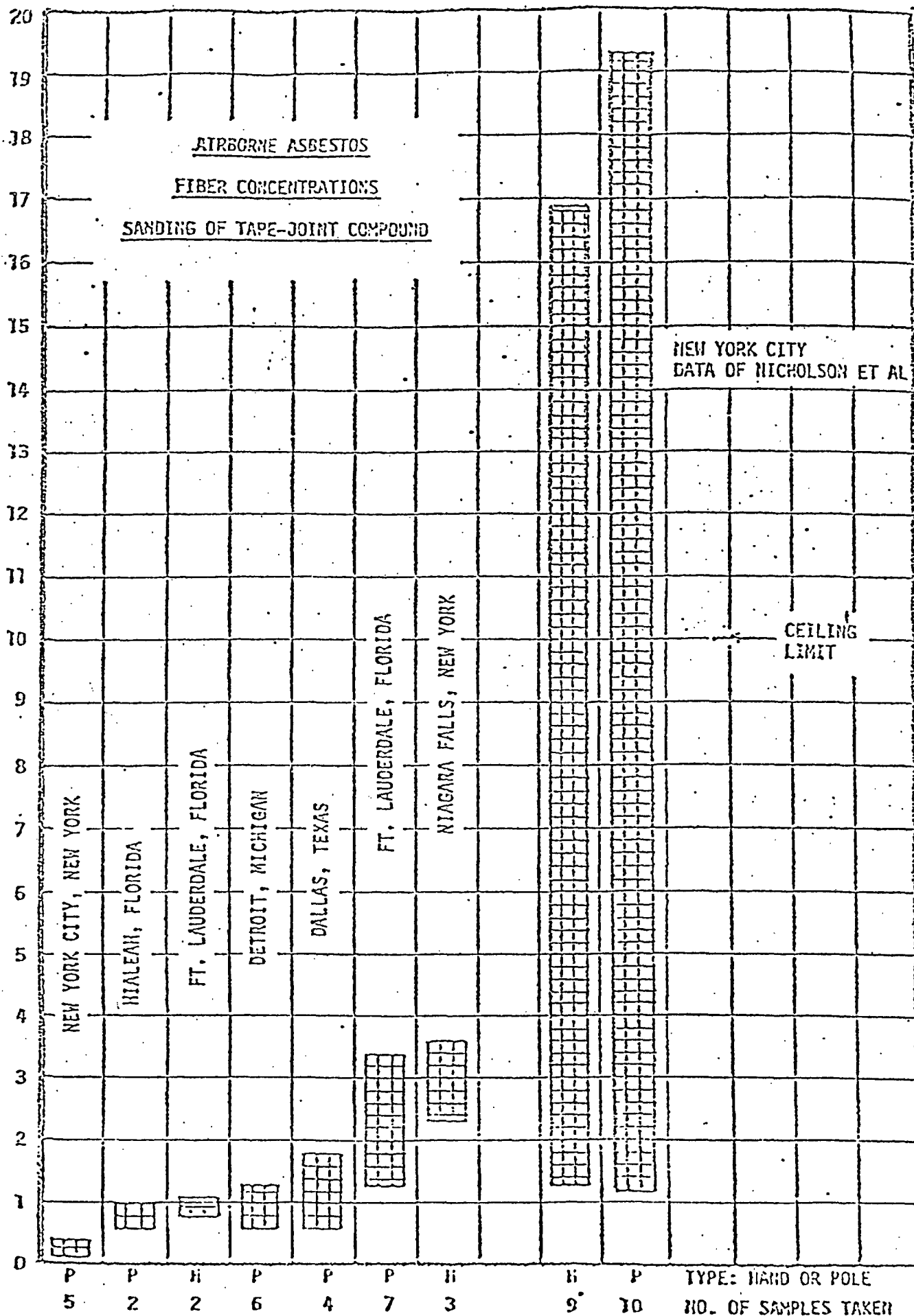
V STATEMENT OF POSITION

A20931

For the reasons cited above, it is the position of the AIA/NA that:

1. Because consumers use tape joint compounds in small quantities and at infrequent intervals, the levels of airborne asbestos to which consumers will be

AIRBORNE ASBESTOS FIBER CONCENTRATION (Fibers/cc longer than 5 micrometers)



A20932

Figure 1