

July 18, 1978

TO: ASBESTOS STUDY COMMITTEE

SUBJECT: Consumer Product Safety Commission Regulations on Recall

In earlier correspondence, with the suggested agenda for the Committee meeting, we listed the resolution passed at the Annual Membership Meeting on June 29, 1978:

That the Friction Materials Standards Institute take an active role with the Consumer Product Safety Commission regarding the position of friction materials manufacturers as to recall procedures that could possibly effect asbestos-containing friction materials.

This resolution was introduced at the Membership Meeting by Mr. Adrian Comins of Auto Friction Corporation. After considerable discussion, the resolution was passed by a vote of the Membership then in attendance. There were 6 affirmative votes for this resolution, 2 negative votes, with 3 abstaining. Eleven Members were present when the vote was taken. The 11 Members comprised a quorum at the Membership Meeting. For background on the motion concerning the Consumer Product Safety Commission you may wish to refer to the Minutes of the January 19, 1978 Asbestos Study Committee Meeting. I'll quote from the first section of those minutes.

The Secretary advised that he had been contacted by Mr. Adrian Comins of the Auto Friction Corporation concerning the Consumer Product Safety Commission and its procedures for recall. He was particularly concerned that if in the future the Consumer Product Safety Commission were to ban the sale of asbestos-containing friction materials, that disastrous costs would be incurred in a major recall. Mr. Comins expressed his concern in a letter that he wrote to the Consumer Product Safety Commission on procedures used during the Tris recall. Mr. Comins wrote indicating his concern that the economic burden of any recall should be borne equally by all Members of the distribution chain. He wrote this as a private citizen on his own letterhead and did not bring in the subject of friction materials.

There was additional discussion at the Committee Meeting in January when Mr. Fenner indicated that there is current litigation as to the definition of a consumer product. This concerned the Anaconda Corporation's aluminum wiring in residential housing. In addition, a study by the W. T. Kearney Associates concerning asbestos in consumer products was discussed and the Institute was to await information on the Kearney study. I have written to the Asbestos Information Association and have now received a copy of the Kearney report submitted to the Consumer Product Safety Commission.

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I am enclosing a copy of the basic Kearney report to the CPSC. The full text is approximately 200 pages long, and most of that is the Appendix which covers about 150 individual products from "Abrasive wheels " to "Wicks for Oil Burning Apparatus." I have attached four product items including "Friction Materials."

In the "Market Size" section of the report, III - 3, it states:

The major end use of asbestos in friction products is vehicular clutches and brake shoes and pads which are not under the jurisdiction of the CPSC. The friction products market segment which would be considered under CPSC jurisdiction could not be quantified but is estimated to be extremely small.

In the "Market Structure" section of the report, III - 6, it states:

The majority of friction products are produced for automotive use. Manufacturers may fabricate the loose fibers into a felt block or cloth or may buy these products from the primary manufacturer. The friction product is then fabricated and generally sold directly to an automotive manufacturer or through automotive aftermarket channels. The primary users of friction repair or replacement products are professional repairmen; however, consumers can easily purchase friction products to perform their own repairs.

In the "Trends" section of the report, IV - 4, it states:

While some substitutes are being incorporated in a limited number of home appliances, the major users of asbestos containing friction materials, the automotive and related industries find that substitute materials are presently impractical from a cost and performance standpoint. It should be noted that the market is sufficiently attractive to encourage major companies to commit extensive resources to the development of substitute materials. It is reasonable to expect the widespread introduction of substitutes by 1985.

The method of manufacture described in "Market Structure" is not accurate, but the most important item may be the statement under "Market Size" to the effect that the major end use of asbestos in friction products is vehicular clutches and brake shoe and pads which are not under the jurisdiction of the CPSC.

I am attaching also a copy of the regulations to implement the Federal Hazardous Substances Act. The Consumer Product Safety Commission has the responsibility for administering not only the Consumer Product Safety Act but the Federal Hazardous Substances Act. When Tris was recalled it was recalled under the Federal Hazardous Substances Act.

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In discussing this with Counsel, he indicated that friction materials would have to be a "banned hazardous substance" which it is not by definition, in order to be recalled under the Federal Hazardous Substances Act. He indicated also that it was unlikely that action could be taken under the Consumer Product Safety Act because the consumer product definition specifically does not apply to motor vehicle equipment as defined in the National Traffic and Motor Vehicle Safety Act. Brake linings and clutch facings are motor vehicle equipment. Copies of the letter from Counsel are enclosed.

At the time of my discussion with Mr. Comins in 1977, he felt that Institute Members, by writing as individuals to the CPSC, could indicate their concern over the recall procedures and the possibly crippling effects of the costs of such a recall. At that time the Institute was not being asked to make representations to the CPSC as such. However, as a result of this recent resolution by the Membership the Institute is now being asked to take an active roll concerning CPSC procedures. The Asbestos Study Committee is asked to review this resolution and make its recommendations at the meeting as to how to best execute the intent of this resolution. This is an agenda item for the scheduled committee meeting and we ask that those attending be prepared to help direct the Institute as regards implementing this resolution.

If any additional information comes into the office relative to this item, I will forward it prior to the scheduled meeting.

E. W. Drislane
Executive Director

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Memo to File

Subject: National Highway Traffic Safety Administration Inquiry Concerning
Non-Asbestos Friction Materials

On June 30, 1978 after returning from the Institute's Annual Membership Meeting, I took the day off to recuperate. In the morning I received a phone call from the Office concerning an inquiry from a Mr. Manny Lorenzo of the National Highway Traffic Safety Administration (Telephone: 202-426-4850). Mr. Don Steis of Abex Corporation had referred Mr. Lorenzo to the Institute.

Miss Collins of the Office relayed a question from Mr. Lorenzo to the effect as to what are the materials used to replace asbestos in brake linings? Also, what are the relative costs of these new materials for brake linings? In general, this was a inquiry which could take an unlimited answer, and I indicated to Miss Collins that Mr. Lorenzo should call me when I was in the Office on Monday, July 3. However, Mr. Lorenzo apparently needed the answer then and there, so I gave an estimate to fill his needs.

I indicated that all material information and formulation data is considered proprietary by manufacturers of friction materials. Also there is no interchange of cost or price information and therefore I would have to rely on the background that I had when I was in industry years ago. I indicated there were probably two basic materials being used to replace asbestos. One was a variation of a steel fiber or steel wool type material. This has been used in some semi-metallic compounds. This was one approach. The other approach was a variation of synthetic fibers, most likely fiberglass variations. As regards relative costs, I estimated the costs for the metal fiber approach to be 2-3 times the regular asbestos type compound cost and I estimated the synthetic fiberglass approach to have a cost about 100% more than conventional asbestos type compounds. I indicated that this was not straight material cost but that there were essentially higher processing and fabricating costs with both the steel fibers and the fiberglass as compared to conventional asbestos type mixes. These estimates were relayed to the National Highway Traffic Safety Administration, which they acknowledged.

In reviewing this, I must qualify my estimates, which I didn't have the chance to do with the NHTSA, by indicating that these were based on moderate to short runs for replacement purposes. It is entirely possible, on an original equipment basis, with mass production, that the relative cost could approach a straight comparison of the material costs. I neglected to take into consideration the higher costs that have been incurred since I left the industry for controlling and working with asbestos, as well as the considerably increased prices for asbestos that have been put into effect over the past several years.

The foregoing is to make my comments relayed to the NHTSA a matter of record.

E. W. Drislane
Executive Director

FMSI 06977