



INTERNAL CORRESPONDENCE

MINING AND METALS DIVISION

P. O. BOX K, KING CITY, CALIFORNIA 93930

To (Name) R. E. Byrne
 Division Metals Division
 Location Niagara Falls, NY

Date September 23, 1981

Originating Dept.

Answering letter date

Copy to W. C. Thurber ✓

Subject USAF Policy

① KC
 GML
 HBR
 ② File
 10/8 E
 G-1

Per our discussion last week, attached is a copy of the revised USAF policy on the use of asbestos-containing materials. (It is essentially the same as that "suggested" by AIA/NA.) We are hoping the USN will do something similar.

You will note that they make a clear distinction between friable and non-friable materials, which could obviously be very valuable for our business. The important sentence is in the last paragraph of the policy: "When an asbestos-containing material is clearly superior in performance and cost, and the health and safety hazards are minimal, then the selection of the asbestos-containing material is warranted."

This sounds like it was written specifically for our RG applications, and I think you should make sure that sales personnel, distributors (foreign and domestic), "reluctant" customers, etc. are aware of the policy and the quoted sentence, which would even apply to drilling mud and almost all of our applications. I would suggest you even go back to General Motors, Ford, RCI, Interplastic, etc., etc. I talked to Bill Krebs of GMC and a guy from Ford, and both were pleasantly surprised by the new policy. Maybe Jack Walsh can work on Uvalde with this.

Good luck with it.

John
 John L. Myers

/dm

UNCLASSIFIED EFTO

PENTAGON TELECOMMUNICATIONS CENTER

RTTEZYUW RUEBBJA0102 2112130

ROUTINE

R 301700Z JUL 81

FM HQ USAF BOLLING AFB DC//LEEE//

TO AIG 9411//DAPD/DE//

RUVKAMA/AFMSC BROOKS AFB TX//SGSF//

RUVTND/USAFRGNCIVILENGR DALLAS TX//CR//

RUCLHTA/USAFRGNCIVILENGR ATLANTA GA//ER//

RUVMBHA/USAFRGNCIVILENGR SAN FRANCISCO CA//WR//

INFO RUEAHQA/1947 ASG WASH DC//DASJL//

ZEN HQ USAF BOLLING AFB DC//DAPD/DADPL//

RUEAHQA/HQ USAF WASH DC//LEE/LEEX/LEEE/LEES//

RUCIPGA/AFESC TYNDALL AFB FL//CC/DEE//

BT

UNCLAS E F T O

SUBJECT: INTERIM MESSAGE CHANGE 81-2 TO AFM 89-15, 8 JAN 75.

1. THE CHANGE IS A CLARIFICATION OF CRITERIA PROVIDED BY IMC 80-4 CONCERNING THE USE OF BUILDING MATERIALS CONTAINING ASBESTOS.

2. IMC 80-4, PARAGRAPH 2., ADDED A NEW PARAGRAPH 1-38.1 TO AFM 88-15, PAGE 1-13. PARAGRAPH 1-38.1 IS HEREBY REVISED TO READ AS FOLLOWS:

1-38.1. POLICY ON THE USE OF BUILDING MATERIALS CONTAINING ASBESTOS. SCIENTIFIC STUDIES HAVE SHOWN THAT THE INHALATION OF AIRBORNE ASBESTOS FIBERS AT LEVELS IN EXCESS OF THE PERMISSIBLE WORKER EXPOSURE LIMITS ESTABLISHED IN THE CURRENT OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION STANDARD (29 C.F.R. S 1910.1001) MAY POSE A POTENTIAL HEALTH HAZARD. SINCE THE USE OF SOME ASBESTOS-CONTAINING CONSTRUCTION MATERIALS MAY UNDER SOME CIRCUMSTANCES RESULT IN EXCESSIVE EXPOSURE TO CONSTRUCTION AND MAINTENANCE PERSONNEL AS WELL AS TO BUILDING OCCUPANTS; THE FOLLOWING POLICY IS ESTABLISHED:

A. FRIABLE ASBESTOS-CONTAINING MATERIALS. FRIABLE ASBESTOS-CONTAINING MATERIALS ARE THOSE IN WHICH ASBESTOS FIBERS ARE LOOSELY BOUND AND WHICH ARE EASILY CRUMBLED OR PULVERIZED, SUCH AS AIR-CELL ASBESTOS THERMAL INSULATION AND SPRAYED-ON ASBESTOS MATERIALS. FRIABLE ASBESTOS-CONTAINING MATERIALS PRESENT PERHAPS THE MOST SERIOUS POTENTIAL HAZARD, ESPECIALLY IN "RIP-OUT" AND DEMOLITION OPERATIONS. ACCORDINGLY:

(1) PLANS AND SPECIFICATIONS FOR ALL NEW CONSTRUCTION AND MODIFICATION PROJECTS WILL BE REVIEWED TO IDENTIFY THE CONTEMPLATED USE OF FRIABLE ASBESTOS-CONTAINING MATERIALS. THE BIOENVIRONMENTAL ENGINEER SHOULD BE NOTIFIED IN WRITING OF ALL PROJECTS INVOLVING THE USE OF SUCH MATERIALS.

(2) SPRAY APPLICATION OF ASBESTOS OR ASBESTOS-CONTAINING MATERIALS TO EXPOSED WALLS, CEILINGS, DUCTS, COLUMNS, ETC., IS PROHIBITED.

(3) SPRAY APPLICATION OF THESE MATERIALS TO SURFACES WHICH ARE NORMALLY COVERED BY WALLS, CEILINGS, OR SIMILARLY PROTECTED FROM DIRECT CONTACT, IS ACCEPTABLE, PROVIDED THAT THESE SPRAY-ON COATINGS DO NOT CONTAIN MORE THAN ONE PERCENT ASBESTOS ON A DRY-WEIGHT BASIS. AREAS WHERE SUCH COATINGS ARE APPLIED MUST BE IDENTIFIED IN REAL PROPERTY RECORDS AND BIOENVIRONMENTAL ENGINEERING CASE FILES SO THAT PROPER PRECAUTIONS MAY BE TAKEN DURING MAINTENANCE OR DEMOLITION ACTIVITIES.

(4) OTHER FRIABLE ASBESTOS-CONTAINING MATERIALS ARE ACCEPTABLE ONLY IF INDICATED BY A SUBSTITUTION STUDY CONDUCTED IN ACCORDANCE WITH PARAGRAPH C. HEREIN.

(5) IN MAINTENANCE, MODIFICATION OR DEMOLITION ACTIVITIES WHERE EXPOSURE TO ASBESTOS DUST FROM PREVIOUSLY-INSTALLED FRIABLE ASBESTOS-CONTAINING MATERIALS MAY OCCUR, ALL AVAILABLE PRECAUTIONS, INCLUDING THE USE OF WORK PRACTICE, RESPIRATORY PROTECTION, AND INDUSTRIAL HYGIENE REQUIREMENTS OF CURRENT OSHA AND

FEDSIM...ACT

AFDSC...ACT

AFIS VIA IN...ACT

1947ASG...INFO

HQ USAF

ACTION: 1947ASG(5) DA(1)

INFO LEE(2) FILE CY(1)

(A,F)

MCN=E1212/02011

TOR=E1212/0136Z

TAD=81212/0210Z

CDSN=MAP615

AIR FORCE MESSAGE

UNCLASSIFIED EFTO

PAGE 1
01700Z JUL 81

UCC 001211

UNCLASSIFIED EFTO

PENTAGON TELECOMMUNICATIONS CENTER

EPA REGULATIONS (29 C.F.R. S 1910.1001; 40 C. F. R. S 61.20) SHOULD BE STRICTLY ENFORCED.

B. NON-FRIABLE ASBESTOS CONTAINING MATERIALS. NON-FRIABLE ASBESTOS-CONTAINING MATERIALS ARE THOSE IN WHICH ASBESTOS FIBERS ARE "LOCKED-IN" OR "ENCAPSULATED" BY A MATRIX MATERIAL, SATURANT, IMPREGNANT OR COATING. NON-FRIABLE ASBESTOS-CONTAINING MATERIALS DO NOT RELEASE AIRBORNE ASBESTOS FIBERS DURING ROUTINE HANDLING AND END-USE. SOME NON-FRIABLE ASBESTOS-CONTAINING PRODUCTS, INCLUDING MASTICS AND BLACK LINE PRODUCTS, MECHANICAL PACKINGS, OIL SEALS, COMPRESSED GASKETS, SEALANTS AND CAULKS, AND ELECTRICAL INSULATING PAPER, DO NOT RELEASE AIRBORNE ASBESTOS FIBERS IN EXCESSIVE QUANTITIES UNDER ANY REASONABLY FORESEEABLE CIRCUMSTANCE. OTHER NON-FRIABLE ASBESTOS-CONTAINING MATERIALS, INCLUDING ASBESTOS-CEMENT (A-C) PIPE, A-C SHEETS, RESILIENT FLOOR COVERINGS, AND ROOFING FELTS, MAY PRODUCE EXCESS DUST LEVELS DURING CERTAIN UNCONTROLLED ABRADING, SANDING, CUTTING, MACHINING, REMOVAL OR DEMOLITION OPERATIONS, BUT WILL NOT DO SO IF CORRECT WORK PRACTICES ARE EMPLOYED. ACCORDINGLY:

(1) PLANS AND SPECIFICATIONS FOR ALL NEW CONSTRUCTION AND MODIFICATION PROJECTS WILL BE REVIEWED TO IDENTIFY CONTEMPLATED OPERATIONS IN WHICH NON-FRIABLE ASBESTOS-CONTAINING MATERIALS WILL BE ABRADED, SANDED, CUT, MACHINED, REMOVED, ETC. THE BIOENVIRONMENTAL

ENGINEER SHOULD BE NOTIFIED IN WRITING OF ALL PROJECTS INVOLVING SUCH OPERATIONS.

(2) SUCH OPERATIONS SHALL PROCEED ONLY IN ACCORDANCE WITH SPECIFIED WORK PRACTICES WHICH ARE KNOWN, OR HAVE BEEN SHOWN, TO PREVENT EXCESSIVE EXPOSURES TO ASBESTOS DUST. WHERE APPROPRIATE, DATA SHALL BE REQUESTED FROM THE MANUFACTURER DOCUMENTING THE EFFECTIVENESS OF RECOMMENDED WORK PRACTICES IN PREVENTING EXCESSIVE EXPOSURES.

(3) WHERE A NON-FRIABLE ASBESTOS CONTAINING PRODUCT CANNOT BE USED CONSISTENT WITH CURRENT OSHA PERMISSIBLE EXPOSURE LIMITS, OR WHERE MANUFACTURER DATA DOCUMENTING THE EFFECTIVENESS OR RECOMMENDED WORK PRACTICES HAS BEEN REQUESTED BUT NOT SUPPLIED, THE USE OF SUCH PRODUCT IS ACCEPTABLE ONLY IF INDICATED BY A SUBSTITUTION STUDY CONDUCTED IN ACCORDANCE WITH PARAGRAPH C. HEREIN. C. SUBSTITUTION STUDIES. WHERE REQUIRED BY PARAGRAPH A. OR B. HEREIN, PLANS AND SPECIFICATIONS FOR NEW CONSTRUCTION AND MODIFICATION PROJECTS WILL BE REVIEWED TO INSURE THAT CONSIDERATION IS GIVEN TO THE USE OF ASBESTOS-FREE MATERIALS. THIS REVIEW SHOULD COMPARE THE COSTS, PERFORMANCE CHARACTERISTICS, AND EXISTING AND POTENTIAL HEALTH AND SAFETY HAZARDS WHICH MAY RESULT FROM THE USE OF EACH TYPE OF MATERIAL. WHEN AN ASBESTOS-CONTAINING MATERIAL IS CLEARLY SUPERIOR IN PERFORMANCE AND COST, AND THE HEALTH AND SAFETY HAZARDS ARE MINIMAL, THEN THE SELECTION OF THE ASBESTOS-CONTAINING MATERIAL IS WARRANTED. HOWEVER, WHEN AN ASBESTOS-FREE MATERIAL WITH NON-
*
HAZARDOUS CHARACTERISTICS AND COMPARABLE PERFORMANCE AND COST IS AVAILABLE, THE SELECTION OF THE ASBESTOS-FREE MATERIAL IS INDICATED. IN SITUATIONS WHERE THE APPROPRIATE SELECTION OF MATERIALS IS NOT READILY APPARENT, SELECTION WILL BE MADE BASED ON SOUND ENGINEERING PRINCIPLES AFTER A DETAILED ANALYSES OF ALL FACTORS ASSOCIATED WITH EACH ALTERNATIVE.

BT



INTERNAL CORRESPONDENCE

RECEIVED

MAY 11

METALS DIVISION

P. O. BOX 579 • 4625 ROYAL AVE., NIAGARA FALLS, NEW YORK 14302

To (Name) J. L. Myers
Division UCC-Metals Division
Location Niagara Falls, New York

Date May 6, 1981
Originating Dept. "Calidria" Asbestos

Answering letter date

Copy to R. F. X. Fusaro
W. C. Thurber ✓
A. G. Voress
J. W. Whittlesey
File

Subject AIA/NA Regulatory Initiative
Activities

Attached for your information is the latest action by the AIA/NA in their efforts to resolve the long-standing regulatory uncertainty regarding asbestos.

A handwritten signature in cursive script, appearing to read "H. B. Rhodes".

H. B. Rhodes

HBR:da1
Attachment



ASBESTOS INFORMATION ASSOCIATION

1745 Jefferson Davis Highway, Crystal Square 4, Suite 509
Arlington, Virginia 22202 • (703) 979-1150

May 1, 1981

Memorandum For: EXECUTIVE COMMITTEE

Subject: Forwarding of copy of AIA/NA letter
forwarded to Vice President Bush
on April 30, 1981

In keeping with decision reached at the Executive Committee meeting on April 21, your attention is invited to the enclosed letter to Vice President Bush dated April 30 re asbestos industry issues for the Task Force on Regulatory Relief. You will note that this submission is the lead article for the News & Notes issue of April 30 (mailed separately).

Blind copies of the AIA/NA letter to Bush have been delivered to Mark Cowan (OSHA) and Ed Klein (EPA).

A handwritten signature in dark ink, appearing to read 'B. J. Pigg'. The signature is fluid and cursive, with the first name 'B. J.' and the last name 'Pigg' clearly distinguishable.

B. J. Pigg
Executive Director

Enclosure



ASBESTOS INFORMATION ASSOCIATION

1745 Jefferson Davis Highway, Crystal Square 4, Suite 509
Arlington, Virginia 22202 • (703) 979-1150

April 30, 1981

The Honorable George Bush
Vice President
The White House
Washington, D.C.

Re: Asbestos Industry Issues for the
Task Force on Regulatory Relief

Dear Mr. Vice President:

The Asbestos Information Association/North America (AIA/NA) represents some 50 miners, millers, and manufacturers of asbestos and products containing asbestos. AIA/NA has for the past decade actively cooperated with the government to implement reasonable and cost-effective regulations to protect workers and the general population from the risks posed by excessive asbestos exposure. Our efforts to cooperate with government officials have met with varying success over the years, and thus we welcome the sincere willingness of the new Administration to seek rational decisions and meaningful regulation.

In this letter, we would like to outline briefly the current status of regulation of the asbestos industry, the continuing uncertainty posed by outstanding proposals for further and stricter regulation, and our willingness to work closely with government officials to seek a comprehensive solution to a number of outstanding asbestos issues.

Asbestos is one of the most regulated substances in the United States. It was the first substance for which the Occupational Safety and Health Administration (OSHA) promulgated workplace standards, and similar standards have been adopted by the Mine Safety and Health Administration (MSHA); and it is among the four substances for which the Environmental Protection Agency (EPA) has issued a National Emission Standard for Hazardous Air Pollutants (NESHAP) regulation under the Clean Air Act. EPA has also established under the Clean Water Act effluent limitations and new source and pretreatment standards for asbestos manufacturing. In addition, rulemakings have been completed over the last decade at both the Food and Drug Administration

(FDA) and the Consumer Product Safety Commission (CPSC) on use of asbestos in particular products, and asbestos-specific regulations have been issued by the Department of Transportation. In general (with the prominent exception of some provisions of the OSHA standard), these existing regulations are not unreasonable and do not impose inordinate costs on the asbestos industry that are unjustified by the realistic need to prevent excessive human exposures to asbestos fibers.

Much more threatening to the asbestos industry are the numerous proposed regulations which in some respects individually, and certainly cumulatively, if ever implemented could totally eliminate use of this versatile mineral in the American economy. Indeed, the very existence of such proposals has over recent years caused such uncertainty that new capital investment has been discouraged and marketplace disruption has already occurred for many asbestos-containing products.

As detailed in the accompanying one-page summaries, regulations currently proposed or threatened by preliminary activities among the regulatory agencies (in order of highest priority) that threaten the asbestos industry include:

1. A proposal outstanding at OSHA since 1975 to reduce the permissible workplace exposure level from 2 to .5 fibers/cubic centimeter, and outstanding recommendations by NIOSH to reduce that standard even lower to .1 fibers.
2. Announcement by advanced notice of proposed rulemaking in 1979 at EPA under Section 6 of the Toxic Substances Control Act (TSCA) of consideration of the possibility of banning all industrial and commercial uses of asbestos.
3. Announcement by advanced notice of proposed rulemaking in 1979 at the CPSC of consideration of the possibility of banning all uses of asbestos in consumer products.
4. Outstanding water quality criteria for asbestos issued by EPA under the Clean Water Act that, although they do not yet have formal regulatory impact, have already created marketing problems for asbestos-cement pipe manufacturers.

5. A proposal by EPA under TSCA Section 8(a) to collect enormous amounts of information on asbestos in support of numerous efforts to regulate asbestos more stringently.
6. A proposal by EPA to identify asbestos in schools and notify school residents if it is found.
7. Plans by EPA to reassess the existing NESHAP asbestos regulation with the possibility of tightening its requirements.

In addition to these asbestos-specific regulatory activities, numerous generic proposals concerning hazardous chemicals are of continuing concern to the industry. For example, regulatory proposals implementing both the Resource Conservation and Recovery Act (RCRA) and the recently enacted Comprehensive Environmental Response, Compensation and Liability Act (Superfund) refer, or are expected to refer, to asbestos waste disposal practices. Asbestos use also is affected by proposals such as the OSHA Cancer Policy and EPA's generic proposals pursuant to TSCA Section 8 for collection of health and safety studies, adverse reaction, and economic information on all chemical substances.

AIA/NA supports rational regulation of asbestos, and we have already been active in communicating with the concerned agencies on each of the proposals or plans listed above. Most significantly, we recently wrote to the new head of OSHA, Mr. Thorne Auchter, to express our concern that uncertainties created by the continuing existence of outstanding proposals from that Agency have curtailed capital investment in, and created great marketing difficulties for, the asbestos industry. Our letter to Mr. Auchter also more generally summarized a number of concerns the industry has had about over-zealous government activities in recent years; we enclose a copy for your information.

As indicated in our letter to OSHA, and as we have communicated both formally through written comments on recent proposals and in informal meetings with EPA and CPSC, AIA/NA is anxious to work cooperatively with the government to resolve perceived inadequacies in asbestos regulations. At the same time, we are very concerned that any such new regulations be limited to what is necessary and cost-effective. In our communications, we have stressed that the integrally inter-related character of the various proposals demand that the government coordinate its asbestos actions. For example,

The Honorable George Bush
April 30, 1981
Page 4

all three agencies -- EPA, OSHA and CPSC -- have been considering labeling regulations for asbestos-containing products. Industry requires coordinated review and cooperation among all agencies to end the uncertainty about its future that will exist as long as any of the agencies is considering drastic regulatory proposals. We urge the Task Force on Regulatory Relief to consider the series of regulatory actions aimed at the asbestos industry as a package whose ultimate resolution should be viewed as a whole.

AIA/NA sincerely appreciates the willingness of the new Administration to seek inputs such as this in its effort to reform regulation. We stand ready, willing and able to assist the government in achieving a regulatory environment that both protects health and encourages the safe and productive use of asbestos and asbestos-containing products.

Respectfully yours,



Thomas A. Dougherty
President

Enclosures

cc (w/ encs.): The Honorable Malcolm Baldrige
 Dr. James C. Miller, III
 C. Boyden Gray, Esq.
 Assistant Secretary Thorne Auchter
 Acting Chairman Stuart M. Statler
 Acting Administrator Walter Barber

OSHA ASBESTOS STANDARD

Source of Rule: Occupational Safety and Health Administration.

Citation: The existing asbestos standard is at 29 C.F.R. §1910.1001; a proposed revision that would, inter alia, reduce the permissible workplace exposure from 2 to .5 fibers/cubic centimeter was announced at 40 Fed. Reg. 47652 (Oct. 9, 1975). In both 1976 and 1980, NIOSH recommended to OSHA that the permissible exposure level be set at what it considered the lowest feasible level, i.e., .1 fiber/cc.

Agency's Claimed Basis: OSHA contends that new evidence has come to light since the existing standard went into effect demonstrating risks to be higher than previously thought; but, in fact, there is a clear absence of evidence demonstrating a substantial risk at the existing standard.

Description of Problems: Three major problems exist: (1) continued uncertainty about future stricter regulation discourages capital investment and marketing of asbestos products; (2) the existing standard, although intended to cover the construction industry -- which uses three-fourths of the asbestos-containing products in this country -- is in fact ill-suited and unenforceable because of the transiency of the work force, the absence of fixed and thus controllable work sites, and the intermittent nature of asbestos exposures; and (3) the existing standard requires medical surveillance and recordkeeping in many circumstances where such costly requirements cannot be justified.

Estimated Cost: OSHA has predicted annual costs of meeting .5 and .1 fiber standards as \$300 and \$600 million, respectively. In fact, the impossibility for most asbestos operations of complying with a .1 standard would mean a much greater economic cost due to the loss of asbestos to the American economy.

Proposed Solution: As AIA/NA has already proposed in its April 1, 1981, letter to OSHA, the Agency should: (1) withdraw officially its 1975 proposal, reject NIOSH recommendations, and reaffirm the adequacy of the 2 fiber standard; (2) issue a revised standard for the construction industry that relies on approved work practices for minimization of excessive exposures, as recommended to OSHA by AIA/NA in February 1980; and (3) revise the existing standard to establish trigger levels below which medical surveillance and recordkeeping requirements do not apply.

Originators:

Mr. B. J. Pigg
Executive Director
Asbestos Information Association/
North America
1745 Jefferson Davis Highway
Crystal Square 4, Suite 509
Arlington, Virginia 22202
(703) 979-1150

Mr. Timothy S. Hardy
Kirkland & Ellis
1776 K Street, N.W.
Washington, D.C. 20006
(202)857-5042

EPA'S ASBESTOS COMMERCIAL AND
INDUSTRIAL USE PROPOSAL

Source of Proposal: Environmental Protection Agency.

Citation: -EPA's ANPRM, pursuant to the Toxic Substances Control Act Section 6, was published at 44 Fed. Reg. 60061 (Oct. 17, 1979), and amended at 44 Fed. Reg. 73127 (Dec. 17, 1979).

Agency's Claimed Basis: EPA contended in its 1979 ANPRM that the dangers of exposure to asbestos are great enough that all emissions at all parts of its life cycle are potentially dangerous, thus possibly justifying complete or partial bans on asbestos-containing products. In fact, human exposures to asbestos have already been considerably controlled so that the remaining de minimis exposures of most of the population are not a health hazard. Moreover, the admittedly higher exposures of some workers are already regulated by an OSHA standard, and have never been shown not to prevent significant risk.

Description of Problems: By indicating that it is considering partial or complete bans on asbestos use, EPA has created great uncertainty for industry; sales and capital investment have been discouraged, and unwarranted expenditures to develop substitutes have been encouraged.

Estimated Cost: EPA has not completed a cost analysis of its proposal, 46 Fed. Reg. 3479 (Jan. 14, 1981), but has noted that it would expect: "Asbestos mines and asbestos processors would be forced to reduce production, and many processors will be forced out of the asbestos business.... Substitute products generally cost more than asbestos-containing products, and these costs will be passed on to consumers."

Proposed Solution: AIA/NA has actively encouraged EPA to reject its life cycle approach and its zero risk philosophy that any exposure is too much exposure and to refocus its efforts on determining whether there now exist any particular asbestos exposures that can and should be reduced. With such a refocusing, industry would be able to cooperate with the Agency to seek meaningful regulation, where appropriate, for those few areas where stricter control of asbestos emissions might be warranted.

Originators:

Mr. B. J. Pigg
Executive Director
Asbestos Information Association/
North America
1745 Jefferson Davis Highway
Crystal Square 4, Suite 509
Arlington, Virginia 22202
(703) 979-1150

Mr. Timothy S. Hardy
Kirkland & Ellis
1776 K Street, N.W.
Washington, D.C. 20006
(202)857-5042

CPSC PROPOSAL ON ASBESTOS IN CONSUMER PRODUCTS

Source: Consumer Product Safety Commission.

Citation: The CPSC's proposal was issued as an ANPRM at 44 Fed. Reg. 60057 (Oct. 17, 1979) and amended at 44 Fed. Reg. 73121 (Dec. 17, 1979); a general order seeking information on asbestos use in certain asbestos-containing consumer products was issued at 45 Fed. Reg. 84384 (Dec. 22, 1980).

Agency's Claimed Basis: The CPSC contended in its ANPRM that asbestos was contained in a wide variety of consumer products and constituted an unreasonable risk to consumers. In fact, almost without exception, the only asbestos in consumer products involves fibers that are locked-in, encapsulated or totally enclosed such that there is no possibility of any significant fiber release.

Description of Problem: The continuing threat that the CPSC may attempt to ban uses of asbestos in consumer products -- either through formal rulemaking or through publicity campaigns launched without any scientific investigation as was the case in 1979 when the Commission attacked hair dryers -- has discouraged continued asbestos use. Considerable expenditures have been forced on industry to develop less adequate and more costly substitutes.

Estimated Cost: The CPSC has not conducted a study of the costs of eliminating asbestos use in consumer products, but substitutes for many asbestos uses are known to be considerably more expensive.

Proposed Solution: The CPSC should officially terminate its investigation of asbestos in consumer products. To the extent there is any possible consumer product that poses an unreasonable risk -- which is very unlikely -- continuing investigations at EPA can resolve such problems.

Originators:

Mr. B. J. Pigg
Executive Director
Asbestos Information Association/
North America
1745 Jefferson Davis Highway
Crystal Square 4, Suite 509
Arlington, Virginia 22202
(703) 979-1150

Mr. Timothy S. Hardy
Kirkland & Ellis
1776 K Street, N.W.
Washington, D.C. 20006
(202)857-5042

EPA'S WATER QUALITY CRITERIA FOR ASBESTOS

Source: Environmental Protection Agency.

Citations: Pursuant to the Clean Water Act, Sections 303 and 304(a)(1), and 40 C.F.R. § 35.1550 and Part 120, EPA proposed a water quality criteria for asbestos at 44 Fed. Reg. 56628 (Oct. 1, 1979), and adopted the exact same criteria without modification -- or even any Agency comment despite having received compelling criticisms -- at 45 Fed. Reg. 79318 (Nov. 28, 1980).

Agency's Claimed Basis: EPA claims that its water quality criteria document for asbestos is intended to establish a baseline to protect public health; but, in fact, the criteria is based on such an utterly deficient science that it is most likely to lead to excessive and overly-costly concern about the presence of asbestos fibers in water.

Description of Problem: All of EPA's recently issued water quality criteria have been subjected to significant scientific criticism by, inter alia, the Agency's own Scientific Advisory Panel. The criteria document for asbestos is especially deficient. Beyond sharing with all the criteria the lack of an accepted scientific methodology, the asbestos document is based on a biased and narrow slice of the relevant scientific data. States are likely, given EPA's position that the criteria have presumptive applicability, to rely on this document to set standards for asbestos in water. If so, such standards would cause inordinate expenditures to eliminate non-existent health risks. Moreover, sales of asbestos-cement pipe, which under certain conditions release minimal amounts of fiber into the water, have already been reduced because of unjustified fears generated by the risk estimates in the criteria document.

Estimated Cost: No cost figures are available on the impact of this document, but any attempts to limit asbestos fibers to the levels suggested would be prohibitive.

Proposed Solution: EPA should withdraw its water quality criteria for asbestos, subject its entire procedure for such assessments to peer review and reanalysis, and then completely rewrite a water quality criteria for asbestos, based on the best available scientific evidence.

Originators:

Mr. Joseph C. Jackson
Executive Director
Asbestos Information Association/
North America
1745 Jefferson Davis Highway
Crystal Square 4, Suite 509
Arlington, Virginia 22202
(703) 979-1150

Mr. Timothy S. Hardy
Kirkland & Ellis
1776 K Street, N.W.
Washington, D.C. 20006
(202) 857-5042

Mr. B. J. Pigg, Executive Director
Asbestos Information Association/North America
1745 Jefferson Davis Highway
Crystal Square 4, Suite 509
Arlington, Virginia 22202
(703) 979-1150

EPA'S ASBESTOS REPORT AND RECORDKEEPING PROPOSAL

Source: Environmental Protection Agency.

Citations: Pursuant to Toxic Substances Control Act Section 8(a), EPA proposed reporting and recordkeeping requirements for asbestos manufacturers and processors at 46 Fed. Reg. 8200 (Jan. 26, 1981).

Agency's Claimed Basis: In order to support its planned TSCA Section 6 rule on commercial and industrial uses of asbestos and other government asbestos-related initiatives, EPA claims a need for detailed information on past asbestos use.

Description of Problem: The proposed reporting and recordkeeping requirement seeks very comprehensive and very detailed information -- e.g., asbestos fiber consumption data broken down by both fiber type and grade going back 10 years; sales and asbestos use data for more than 200 asbestos-containing products; and detailed descriptions of pollution control equipment -- from more than 6,000 manufacturers or processors. Because the proposal is so broad and detailed, it seeks far more information than would be of use to the Agency and will be unduly costly and burdensome to industry.

Estimated Cost: EPA estimates compliance costs will be from \$2.1 to \$3 million.

Proposed Solution: As AIA/NA has already told EPA in its response to the proposal, the Agency should limit its reporting and recordkeeping requirements to its legitimate information needs.

Originators:

Mr. B. J. Pigg
Executive Director
Asbestos Information Association/
North America
1745 Jefferson Davis Highway
Crystal Square 4, Suite 509
Arlington, Virginia 22202
(703) 979-1150

Mr. Timothy S. Hardy
Kirkland & Ellis
1776 K Street, N.W.
Washington, D.C. 20006
(202)857-5042

EPA ASBESTOS IN SCHOOLS PROPOSALS

Source: Environmental Protection Agency.

Citations: EPA announced plans pursuant to Section 6 of the Toxic Substances Control Act to require all public and private schools to identify asbestos-containing products in schools and then to take corrective steps to reduce asbestos exposures in an ANPRM at 44 Fed. Reg. 54677 (Sept. 20, 1979) and proposed the first phase of such actions to require identification at 45 Fed. Reg. 61966 (Sept. 17, 1980). It has since announced cancellation of the phase two correction rule at 46 Fed. Reg. 23726 (April 27, 1981).

Agency's Claimed Basis: EPA claims to have identified unreasonable risks posed by asbestos-containing products (primarily insulation) in schools built in the 1950's, 1960's and early 1970's. However, the levels of asbestos fibers in the vast majority of schools are so low -- often in the same ranges as ambient concentrations -- that such risk findings cannot be sustained.

Estimated Costs: EPA estimates that the compliance costs for identification and notification will be \$5.2 million.

Other Impacts: By issuing scientifically unsupportable risk assessments and by continuing to press for major costly actions to correct de minimis or non-existent risks, EPA raises undue fears among the population that very low levels of asbestos exposure pose any risk. Such activities also discourage asbestos use in circumstances where it can be safely employed in a cost-effective manner.

Proposed Solution: EPA should drop its plans for compulsory TSCA rule-makings on asbestos in schools and rely, as it had until 1979, on a program of voluntary technical assistance to local schools who are concerned about the possibility of risks from asbestos in their schools. The Agency should also heed the significant peer review criticisms made of the risk assessment issued as part of its proposal and completely revise the assessment.

Originators:

Mr. B. J. Pigg
Executive Director
Asbestos Information Association/
North America
1745 Jefferson Davis Highway
Crystal Square 4, Suite 509
Arlington, Virginia 22202
(703) 979-1150

Mr. Timothy S. Hardy
Kirkland & Ellis
1776 K Street, N.W.
Washington, D.C. 20006
(202) 857-5042

EPA NESHAP REGULATION OF
ASBESTOS EMISSIONS TO THE AMBIENT AIR

Source: Environmental Protection Agency.

Citations: Pursuant to Section 112 of the Clean Air Act, EPA issued a National Emission Standard for Hazardous Air Pollutants (NESHAP) for asbestos at 38 Fed. Reg. 8820 (April 6, 1973), which has been amended three times -- at 39 Fed. Reg. 15396 (May 3, 1974), 40 Fed. Reg. 48292 (Oct. 14, 1975), and 42 Fed. Reg. 12127 (March 2, 1977) -- and is codified at 40 C.F.R. §§61.21-61.23. Revision of the NESHAP regulation is included in EPA's newest Agenda of Regulations, 46 Fed. Reg. 23704 (April 27, 1981).

Agency's Claimed Basis: The existing NESHAP asbestos regulation prohibits visible emissions of asbestos from mining and manufacturing facilities and in the disposal of asbestos and establishes work practice standards for demolition of structures containing asbestos. Although the existing standard has proven workable for industry and effective in reducing asbestos exposures, EPA is in the early stages of considering imposition of a stricter quantitative emissions standard premised on as yet unsubstantiated beliefs that existing emissions pose general population health risks.

Description of Problems: Should EPA ever seek to amend the asbestos NESHAP substantially, most particularly through a quantitative emissions standard, significant questions would exist about monitoring given the technological difficulties of measuring low levels of airborne asbestos, and, inevitably, significant costs would be placed on industry both to measure and to control further such emissions.

Estimated Cost: In the absence of any proposal to date from EPA, costs cannot be estimated.

Other Impacts: Like the many other threatening asbestos regulatory proposals or plans, EPA's plans to consider stricter NESHAP regulation causes uncertainty in the industry that affects both capital investment and sales.

Proposed Solution: EPA should recognize the adequacy of the existing NESHAP asbestos regulations and curtail expensive outside contractor efforts to make the standard stricter.

Originators:

Mr. B. J. Pigg
Executive Director
Asbestos Information Association/
North America
1745 Jefferson Davis Highway
Crystal Square 4, Suite 509
Arlington, Virginia 22202
(703) 979-1150

Mr. Timothy S. Hardy
Kirkland & Ellis
1776 K Street, N.W.
Washington, D.C. 20006
(202)857-5042

RECEIV

APR 14



INTERNAL CORRESPONDENCE

METALS DIVISION

P. O. BOX 579 • 4625 ROYAL AVE., NIAGARA FALLS, NEW YORK 14302

To (Name) Mr. W. C. Thurber
Division UCC-Metals Division
Location 22nd Floor
270 Park Avenue
New York, NY 10017

Date April 9, 1981
Originating Dept. "Calidria" Asbestos
Answering letter date

Copy to R. F. X. Fusaro
J. L. Myers
A. G. Voress
J. W. Whittlesey
File

Subject AIA/NA Actions re OSHA
Asbestos Regulations

LG-1

The attached is for your information. The AIA/NA is making a substantive effort to move towards a realistic occupational asbestos standard and remove the uncertainty which has hung over us since 1975.

H. B. Rhodes
H. B. Rhodes

HBR:dal
Attachment



ASBESTOS INFORMATION ASSOCIATION

1745 Jefferson Davis Highway, Crystal Square 4, Suite 509
Arlington, Virginia 22202 • (703) 979-1150

April 1, 1981

BY HAND

Mr. Thorne Auchter
Assistant Secretary for Occupational
Safety and Health
Department of Labor
200 Constitution Avenue, N.W.
Room S2315
Washington, D.C. 20210

Dear Mr. Auchter:

On behalf of the Asbestos Information Association/ North America (AIA/NA), I would like to thank you and Mr. Cowan for meeting with us. Based on our discussion at our March 12 meeting, as amplified by this letter, we urge you to give high priority to implementing revised OSHA regulations concerning asbestos that are reasonable, cost-effective, and meaningful to protection of worker health.

In this letter, I would like first to describe in broad terms the harmful regulatory climate fostered by the government in recent years. Then I will present the major elements of a solution to alleviate such injury in the future, while still incorporating the necessary protection for the health of workers in asbestos operations. Following this general overview, a more detailed description of past government actions is provided to demonstrate why AIA/NA believes the regulatory solutions advanced here should be an important priority of the new Administration.

A General Overview of Asbestos Regulation
and a Proposed Solution for the Future.

Perhaps as much as any major industry, the asbestos industry has suffered in recent years from the uncertainty created by government threats of increasingly strict regulatory

measures. New capital investment in, and marketplace sales of, asbestos-containing products have been severely depressed by the extreme adversarial stance against asbestos taken by government regulators, as well as being affected by adverse economic conditions. Although most users of asbestos-containing products have been able to meet the current OSHA asbestos standard, they have actively pursued a costly search for substitute products not knowing whether further regulations might be promulgated that would severely impact their use of asbestos products.

Since 1973, shortly after the first OSHA asbestos standard went into effect, annual U.S. asbestos fiber consumption, a good barometer of asbestos industry status, has dropped from 795,000 to 369,000 tons. In but one segment of the industry, asbestos-cement pipe, four manufacturing plants have been closed within the past three years, causing loss of jobs for nearly 900 employees.

The damage to the markets for asbestos products is due in no small measure to the existence of pending OSHA proposals and NIOSH recommendations, which, if they were ever implemented, would make it impossible for virtually all of the domestic asbestos industry to operate. These proposals and recommendations reflect the adversarial and medically unjustified stance against the asbestos industry of government officials in recent years. This is best exemplified by a statement by the former head of NIOSH, Dr. Robbins, who appeared at AIA/NA's annual Industry-Government Conference in late 1979 and told us:

[T]here should be a national public health policy in favor of eradicating and removing asbestos fiber from the human environment [That] is certainly my position as the head of NIOSH and something I am advocating at this point within government policy-making.

This adversarial approach toward asbestos has not been limited to OSHA and NIOSH. Major initiatives against asbestos use have been proposed by both EPA and the CPSC, premised on the same rationale as expressed in the statement above -- namely, that all exposures to asbestos should be viewed with great alarm and eliminated. The government has spent more than \$30 million on outside contracts, not to mention countless hours of staff time and effort, in recent years to study asbestos and asbestos-containing products.

Mr. Thorne Auchter
April 1, 1981
Page 3

In addition, various arms of the Department of Health and Human Services have financed major publicity campaigns against asbestos.

The asbestos industry has been grievously injured by these many government attacks, none of them -- despite all the funds and time that have been spent -- based on administrative findings that asbestos, as used in this country today, poses an unreasonable risk. AIA/NA believes firmly that were the medical evidence fairly assessed by the government, the absence of unreasonable risk would become clear, the need for more stringent reductions in workplace exposures in order to protect worker health would be demonstrated not to exist, and the fears now being raised about general population risks would be quieted.

Our firm belief that the medical evidence does not support the stringent restrictions that have been proposed in the past four years has not, however, prevented the asbestos industry from continuing its own programs to reduce asbestos exposure wherever meaningful reductions can be feasibly achieved. Most manufacturers, for example, already provide their employees with workplaces where exposures are well below the mandated OSHA standard. Industry has discontinued production of most friable products that can more readily release asbestos fibers. The vast majority of products now manufactured contain asbestos fibers that are locked-in or encapsulated, thus greatly diminishing the possibility of release of any respirable fibers. Further, industry has developed and actively promoted the use of work practices, particularly in the construction industry, in order to reduce even further the potential release of respirable asbestos fibers.

All of these industry actions reflect our view that unnecessary asbestos exposures should be avoided. However, the continued economic viability of even the products that can be produced and used in a safe manner requires termination of outstanding threats of further draconian government regulation. Until these threats are eliminated, great uncertainty will continue to impair the industry's ability to plan for the future and market its products.

Much of the current plight of the asbestos industry could be alleviated if the new Administration refrains from the prior adversarial attitude of the government and, instead, works cooperatively with industry and other interested parties to:

(1) Reject formally pending NIOSH recommendations and withdraw the outstanding OSHA proposal;

(2) Amend the existing OSHA asbestos standard to provide more cost-effective requirements, especially for the construction industry where a work practices approach would provide more meaningful worker protection in a more cost-effective manner; and

(3) Ensure co-ordinated efforts among all agencies to end unsubstantiated attacks on asbestos.

The following more detailed description of the regulatory environment in which the asbestos industry has been forced to operate in recent years should make clear why we propose these changes in the existing and proposed OSHA standards, as well as a co-ordinated government approach to asbestos regulation.

Threatened Stricter OSHA Regulation.

The asbestos industry has operated under the highly publicized threat of new OSHA regulations for more than five years. Asbestos was the first substance regulated by OSHA. A 12 fibers/cc exposure limit was established in 1971 and has been progressively reduced to 2 fibers/cc. Nonetheless, in 1975, OSHA proposed a further reduction to 0.5 fibers/cc. In both 1976 and 1980, in highly publicized and often-cited reports, NIOSH proposed further reductions to 0.1 fibers/cc.

Such further reductions in the workplace standard would be extremely costly to industry and the American consumer. Estimates of the annual cost of meeting a 0.5 fibers standard run from \$300 million to \$4 billion.^{1/} A 0.1 fiber standard could mean the demise of the U.S. asbestos industry since such levels cannot be monitored consistently, much less achieved at less than prohibitive costs. Such a low permissible level would be the strictest anywhere in the

^{1/} We understand that OSHA has received up-dated cost estimates for a new asbestos standard from its economic consultants at the Research Triangle Institute (RTI). Despite our Freedom of Information Act request, the previous Administration refused to share this RTI report with AIA/NA.

world and would seriously impair the domestic industry's ability to compete with asbestos processors overseas. Imposition of such costs cannot be justified in light of the absence of meaningful scientific evidence of a significant hazard to worker health at the current OSHA standard.

Counterproductive Requirements
in the Existing OSHA Standard.

Because the existing standard is so impractical, OSHA has never been able to enforce it strictly in the construction industry, which uses the bulk of the country's asbestos-containing products. The standard's engineering control, exposure monitoring, medical surveillance and recordkeeping requirements are burdensome, costly and, in the end, counterproductive for an industry characterized by non-fixed worksites, transient firms, high employee turnover, and only intermittent exposures. As the cost estimates referred to above demonstrate, much of the hundreds of millions, if not billions, of dollars that would have to be expended to meet stricter OSHA standards would be imposed on the construction industry.

Although OSHA indicated in 1975 that it would issue a separate proposal for asbestos in the construction industry, no such proposal has ever been issued. Continuing fears that the OSHA engineering control, monitoring and medical surveillance requirements may someday be imposed on the construction industry have deterred sales of asbestos-containing products in this market. At the same time, the unenforceability of the existing standard in the construction industry has created a situation where OSHA is unable to take effective steps to protect worker health. The only way to alleviate this situation is to revise the existing asbestos standard as it applies to the construction industry.

The Government's Campaign Against Asbestos.

Over and above the pending OSHA proposal and problems with the existing OSHA standard as it applies to the construction industry, the asbestos industry has suffered more generally from an unprecedented campaign against the use of asbestos products. In addition to the 1975 OSHA proposal and the NIOSH recommendations, both EPA and the CPSC in 1979 issued advanced notices of proposed rulemaking

that indicated each agency was considering bans on all asbestos use in their respective areas of jurisdiction. Such bans could conceivably cover all use of asbestos in the American economy.

Beyond these regulation-related government activities, numerous government agencies have engaged in non-regulatory activities that have severely harmed the asbestos industry. Although there have never been on-the-record findings by any government agency that current asbestos use poses an unreasonable risk, millions of dollars have been spent through, for example, the Department of Health, Education and Welfare's 1978-1979 Public Awareness program, to frighten the public about the supposed health hazards of asbestos. This publicity campaign has repeatedly utilized extremely high estimates of the number of former asbestos workers who could develop cancer, even though the unpublished 1978 paper from which such claims originated has been repudiated by its own authors.^{2/} Reference was once again made to these discredited estimates when OSHA and NIOSH sponsored a press conference to announce the April 1980 OSHA recommendation to reduce permissible exposure levels to .1 fibers. Moreover, the types of pronouncements quoted above from a NIOSH official on his desire to eliminate all asbestos use have not been atypical of pronouncements from officials of other government agencies.

Similarly, NIOSH has actively promoted publicity about inspections where it has recommended termination of asbestos use even when it has not detected any significant amounts of asbestos fibers being released in the workplace. After one NIOSH inspection report where only one of several measurements detected airborne asbestos and even that measurement was far below the OSHA permissible level,^{3/} a nuclear plant contractor was forced to terminate asbestos use to prevent a threatened worker walk-out. Termination of asbestos

^{2/} For a critique of the paper, "Estimates of the Fraction of Cancer in the United States Related to Occupational Factors," by a respected and independent scientific expert, see R. Peto, "Distorting the Epidemiology of Cancer," 284 Nature 297 (March 27, 1980).

^{3/} Health Hazard Evaluation Determination Report HE-79-136-668, Shoreham Nuclear Power Plant, Shoreham, Long Island, New York (Feb. 1980).

use was also recommended in yet another NIOSH report on a facility that had an asbestos table top although no asbestos fibers were detected in the work environment.^{4/}

This combination of pending government proposals, million-dollar publicity campaigns, extra-regulatory government activities, and speeches and articles by individual government employees has had a clear and pronounced impact on the environment in which asbestos companies must plan for the future and market their products.

A Solution to the Asbestos Regulatory Problem.

The asbestos industry requires immediate relief from over-zealous government regulation. To this end, we propose a joint government-industry program to:

(1) Reject the pending NIOSH recommendations and withdraw the outstanding OSHA proposal for stricter workplace exposure controls. We are prepared to submit evidence that existing regulations already provide a workplace that poses no significant hazard and that further draconian reductions in workplace exposure are not necessary.

(2) Implement workable standards, especially for the construction industry. AIA/NA suggested to OSHA and its Construction Advisory Committee last year a program requiring use of approved work practices when working with asbestos-containing products.^{5/} Such work practices reduce worker exposures to a safe level. Thus, our proposal would eliminate the need for costly engineering controls, monitoring and medical surveillance. We recommend that the AIA/NA proposal for revisions in the asbestos standard as it applies

^{4/} Health Hazard Evaluation Determination Report 79-144-672, Quoizel, Inc., Hauppauge, New York (March 1980).

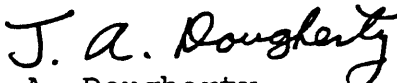
^{5/} We have already supplied Mr. Cowan with a copy of our proposal, "Recommended Standard for Occupational Asbestos Exposure in Construction and Other Non-Fixed Operations" (Feb. 7, 1980). Our recommendations for reliance on approved work practices in lieu of unnecessary ancillary requirements (such as monitoring) was endorsed by the OSHA Advisory Committee.

to the construction industry be promptly considered by a reconstituted National Advisory Committee on Occupational Safety and Health, which might well find the concept a useful model for other OSHA standards as well. In addition, use of personal protection measures, and consideration of a trigger level below which medical surveillance would not be required, should be considered for all asbestos operations.

(3) Institute a co-ordinated plan for government regulation of asbestos. As the preceding discussion of the many government agencies who have contributed to the uncertainty and marketplace problems of the asbestos industry demonstrates, resolution of outstanding issues about the OSHA standard will not of itself be sufficient to reassure the public that asbestos can be used safely. We believe a concentrated effort is needed to co-ordinate asbestos regulation, particularly between OSHA and EPA, as many of the issues both agencies have been considering are integrally intertwined.

Implementation of these proposed OSHA regulatory actions and development of a co-ordinated government program for asbestos regulation would remove the cloud now hanging over the industry. At the same time, such a program would provide more meaningful protection of worker health. AIA/NA and its member companies stand ready and willing to work with you to seek its adoption.

Very truly yours,


T. A. Dougherty
President