



A/C Pipe
Producers Association

Internal Correspondence

TO: Public Affairs Committee
International Affairs Committee

FROM: *J. F. Welch*
J. F. Welch, Director, Public Affairs

DATE August 17, 1981

SUBJECT Regulatory Affairs, Field Problems and Asbestos Research Report

ACTION REQUIRED: Review for information

Enclosed is the Regulatory Affairs, Field Problems and Asbestos Research Report for the period June and July, 1981. As with previous mailings, sheets are provided only for those agencies or field problems for which new information is available.

If you have any questions, please do not hesitate to call.

JFW/ajb

Enclosure

cc: A. Kahn, Esq.
N. Rahn, Esq.

copies to: Public Affairs Committee

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Consumer Product Safety Commission

October 31, 1980

The Commission responded to GAO's request for supplementary information and to industry comments on the general order. Kirkland & Ellis responded to the Commission stating that the supplementary information and comments "... show a basic misinterpretation of how the Commission may lawfully proceed under the Act." The Commission was requested to suspend balloting on the revised general order, place the order on the agenda of a Commission public meeting, and provide the signatories to the letter with the opportunity to meet with the Commission prior to the discussion of the order at a public meeting.

November-December, 1980

At its November 19 meeting the Commission discussed and accepted the revised general order. The order (a) reduced the number of products subject to the order, (b) reduced number of respondents, (c) required that private labelers respond only for imported products, (d) included more detailed information on handling of confidential information, and (e) required answers only for products where asbestos is in an airstream.

On December 22, 1980, the Commission issued a general order requiring manufacturers and importers of specified consumer products (primarily home appliances, paint and wall board) to furnish information concerning use of asbestos in the products, form in which asbestos is present, the purpose served by the asbestos, the marketing and use patterns of the products, information on substitutes for asbestos in the products, and information on any testing of the products for asbestos fiber emission. A deadline of February 20, 1981 was set for the submission of information.

January - March, 1981

On March 4, 1981, the Commission extended until March 20, 1981 the deadline for submission of information.

April - May, 1981

No change in status.

June - July, 1981

No significant change in status.

It is not expected that CPSC will expand the scope of proposed rulemakings on asbestos-containing products beyond the present general order. The Commission is expected to defer to EPA's broader and more powerful statutory powers for the regulation of potential chronic hazards.

EPA-Asbestos in Schools

April - May, 1981

According to EPA Regulatory Agenda published 4-27-81, the Agency has concluded that further EPA regulatory action is not necessary because identification of asbestos hazards will provide school districts with sufficient information to initiate corrective action. Federal Register notice on same scheduled for 5-81.

June - July, 1981

EPA will soon release a revised risk assessment on the hazards of asbestos-containing materials in schools. Kirkland & Ellis' risk assessment specialist, Dr. Kenny Crump, will review and submit comments on behalf of the industry.

January - March, 1981

AIA/NA, AACPP and Kirkland & Ellis and EPA engaged in discussions regarding the possibility of a negotiated regulation for the Section 6 rulemaking. Product labeling emerged as a major issue of concern by EPA and after industry discussions, Tim Hardy (K&E) and Rich Guimond (EPA) were designated to work towards comprise language for product labels.

April - May, 1981

Discussions continued, including topics specific to A/C pipe (see JCJ correspondence to Board of Directors, May 7, 1981).

EPA Regulatory Agenda of 4-27-81 indicated that the notice of proposed rulemaking has been rescheduled for 4-82 with final rulemaking tentatively scheduled for 6-83. These deadlines were established in the absence of a confirmed EPA Administrator, so they are subject to review and modification.

June - July, 1981

According to a June 30, 1981 regulatory calendar published by the Agency, a Notice of Proposed Rulemaking is scheduled for "Spring, 1982." Kirkland & Ellis reported that Office of Toxic Substances officials consider exposures during manufacturing and installation of A/C pipe to be of much greater importance than asbestos in drinking water.

A draft report on substitutes for A/C pipe, prepared by GCA Corporation, is being reviewed for comment by Staff and member companies.

EPA proposed warning label designs and language for asbestos-containing products, including A/C pipe. The language cautions that the product contains asbestos and that recommended work practices should be followed.

To be responsive to EPA information requests during negotiation discussions, Staff and Kirkland & Ellis will prepare position papers on (a) current asbestos exposure levels in A/C pipe plants and the technical feasibility of reduction, and (b) data on frequency of field operations on A/C pipe, particularly use of the abrasive disc saw.

EPA-TCE SNARL

April - May, 1980

On April 9, 1980, EPA issued a revised SNARL for TCE recommending a 40 microgram per liter long term no adverse response level (see JFW correspondence, June 3, 1980, "State of Connecticut - Bill to Prohibit A/C Pipe in Water Systems").

AACPP has been advised that its member companies have withdrawn from the marketplace coated pipe which may contain TCE. No further action planned at this time.

June 31, 1980

On June 23, 1980, the Office of Drinking Water sent letters to AACPP member companies requesting sales records on vinyl-lined A/C pipe, methods of mitigating residual TCE release, corporate policies on replacing or exchanging uninstalled pipe, and amount of vinyl-lined pipe in inventory.

July 31, 1980

AACPP has been notified that Johns-Manville and CAPCO have responded to the Agency's request for information. Copies of these responses have been forwarded to AACPP.

August 31, 1980

Certain-tyed response forwarded to EPA and AACPP. J-M will participate in panel discussion on the TCE issue at the New England Water Works Association, September 23, 1980.

September 30, 1980

No change in status.

June - July, 1981

Presentations on TCE issue given at AWWA Annual Meeting by R. S. Woodhull (Connecticut Department of Health Services) and Wyatt McCallie (Johns-Manville Corporation).

EPA announced in its regulatory agenda that a maximum contaminant level for TCE would be proposed in June, 1981, but none has been promulgated to date.

EPA-Section 8(a) Reporting

June 31, 1980

According to the Agency's regulatory agenda, the Section 8(a) reporting rules still are scheduled to be proposed in July, 1980 with a target date of January, 1981 for final rulemaking.

July 31, 1980

Proposed rules not issued this month; the latest word is that they will be promulgated in August, 1980.

August 31, 1980

The final Section 8(a) reporting form has been completed. The only major revision was to a table on occupational exposures. Only known TWA values need be reported "estimated exposures have been eliminated." Modifications to the occupational exposure levels also were made in response to OSHA comments.

September 30, 1980

Reporting requirements to be proposed in November.

October 31, 1980

For status, see report on EPA-ANPRM on Commercial and Industrial Uses of Asbestos Fiber.

November-December, 1980

Another "final" Section 8(a) reporting form has been completed; no significant modifications. Arthur D. Little's collection of asbestos industry data (via modified Section 8(a) form) should be completed by early January.

January - March, 1981

On January 26, 1981 EPA published in the Federal Register proposed regulations which would require the reporting of quantities of asbestos used in various processes, employee exposure and monitoring data, and waste disposal and pollution control information. According to EPA, "data obtained under this rule will support both development of risk assessments and decision making among potential TSCA control options." Comment deadline set for March 27, 1981.

On March 31, 1981 EPA extended the comment period 30 days until April 27, 1981.

April - May, 1981

According to EPA Regulatory Agenda published April 27, 1981, revised proposed rulemaking to reinstate asbestos design, equipment, work practice and operational standards is scheduled for proposal in February, 1982.

June - July, 1981

EPA Regulatory Agenda published on June 30, 1981 listed December, 1981 as the date on which a proposed rulemaking, if any, would be promulgated. Any revisions to the "no visible emission" standard for airborne asbestos discharges will depend on outcome of Research Triangle Institute (RTI) study. (See January - March, 1981 status report).

OSHA-Cancer Policy

April - May, 1981

No change in status.

June - July, 1981

Assistant Secretary of Labor (OSHA), Thorne Auchter, stated recently that the cancer policy is "on the back burner now and probably will be raised up the the front burner by the end of the year."

OSHA itself joined with industry groups challenging the rule to obtain a delay in judicial review proceedings.

OSHA-Asbestos Standard

November-December, 1980

The agency's latest regulatory calendar indicates that June, 1981 is the target date for promulgation of a revised asbestos standard. Kirkland & Ellis have proposed a new strategy for the rulemaking. It would be based on arguing that scientific evidence supports safety of a 2.0 f./cc. standard, but conceding that industry can meet a stricter level staged by sector. It would also incorporate "work practices" approach to regulating asbestos exposures in the construction industry.

January - March, 1981

No change in status.

April - May, 1981

The Department of Labor's semi-annual Regulatory Agenda, published April 28, 1981, listed revisions to the asbestos standard as a regulation "under consideration, for which a general notice of proposed rulemaking has not yet been issued." The agenda stated that "Revisions may or may not include changes to the permissible exposure limit and provisions for medical surveillance, monitoring, etc. A regulatory impact analysis will be prepared." Publication of an advanced notice of proposed rulemaking was set for October, 1981 with the caveat that "this action is currently under policy review."

June - July, 1981

OSHA officials say no more than the asbestos standard is currently under careful review and any revisions will conform with Executive Order 12291 on regulatory reform.

Province of Ontario

June - July, 1981

The Ministry of Labour announced a meeting would be held on September 22, 1981, at which time it would present an analysis of comments submitted and its proposed amendments for the Advisory Council on Occupational Health and Occupational Safety.

Province of Ontario-Royal Commission

April - May, 1981

No change in status.

June - July, 1981

On June 11, 1981, the Royal Commission began hearing testimony by expert witnesses on the health effects and measurement of asbestos. These are formal public hearings during which Commission counsel and parties granted legal standing, including Kirkland & Ellis, will conduct examination and cross examination of witnesses. The hearings are expected to continue into August.

Connecticut-Policy to Control A/C Pipe

September 30, 1980

AACPP submitted oral and written testimony in opposition. Proposed amendments expected to be revised to include additional water quality parameters and/or physical inspection of A/C pipe. Hearing on petition for declaratory ruling set for October 29, 1980.

October 31, 1980

Hearing on petition for declaratory ruling that use of A/C pipe does not create a public health hazard were held October 29-30, 1980 (see JFW correspondence, State of Connecticut-Petition for Declaratory Ruling on Safety of A/C Pipe, November 7, 1980). Briefs will be filed on or about December 15, 1980. The hearing panel will make its findings of fact and recommendations to the Commissioner 90 days thereafter. The Commissioner's decision is not anticipated until April, 1981 or later.

November-December, 1980

Revised amendments to require distribution systems containing A/C pipe to treat the conveyed waters are expected to be released by late December, 1980. Preliminary indications are that the final rules are not significantly different from those originally proposed.

January - March, 1981

Briefs on petition for declaratory ruling were filed on January 19, 1981. After an exchange of objections to industry's brief and the intervenor's brief, both briefs were forwarded to the hearing panel. The Commissioner must hand down his decision on or about June 2, 1981.

April - May, 1981

No change in status.

June - July, 1981

On July 10, 1981, the hearing panel recommended to the Commissioner of Health Services that the industry's request be denied on the basis that there is not sufficient data to support a determination that the use of A/C pipe in water supply systems does not create a public health hazard (see JFW correspondence, July 21, 1981 for details).

On July 30, 1981 special counsel met with the Commissioner to discuss suspension of the proceedings pending the outcome of the National Institute of Environmental Health Sciences (NIEHS) animal feeding studies. The Commissioner will respond to this proposal within 14 days. The Connecticut Fund for the Environment will be given an opportunity to submit written comments on the proposed suspension.

AGENCY: The Assembly, State of New York

ACTION: Public Hearing

TITLE: Hazards of Asbestos Products

FEDERAL REGISTER REFERENCE: Not Applicable

COMMENT DEADLINE: Not Applicable

DESCRIPTION:

The New York State Assembly, Consumer Affairs and Protection Committee wishes "to solicit public comment and gather information concerning appropriate measures to protect consumers from exposure to asbestos from asbestos-bearing products." The hearing would be a precursor to introduction of an Assembly bill to label asbestos containing products in the State of New York.

STATUS:

January - March, 1981

On January 29, 1981, AIA/NA submitted a letter to the Consumer Affairs Committee stating that legislation at the State level was unnecessary and duplicative of comprehensive labeling requirements already existing in Federal regulations. Public hearings set for April 10, 1981.

April - May, 1981

April 10, 1981 hearing cancelled. On May 14, 1981, AIA/NA submitted letter to the Standing Committee on Consumer Affairs and Protection rearguing that the bill (A.B. 7887) should not be introduced without first conducting a public hearing.

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Crivitz, Wisconsin

June - July, 1981

Staff and counsel met with Village defense counsel and are assisting in taking of asbestos counts, selection/preparation of expert witnesses and independent analysis of San Francisco Bay area epidemiology study.