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

✓ copy to: W. Wang
This is the information that Calaveras sent to me for your reference.
Paul 7/7/86

January 27, 1986

Memorandum For: AIA/NA MEMBERS

Subject: Supplementary Comments and Information on EPA's Proposed Rule to Ban and Phase Out Uses of Asbestos

AIA/NA memorandum of January 24 forwarded to you initial information pertaining to the U.S. Environmental Protection Agency's (EPA) proposed rule to ban the use of five asbsetos-containing products and phase out all remaining uses of asbestos in the United States over the next 10 years. The purpose of this memorandum is to provide you with additional information on the specifics of the proposal and to assist you in responding to various inquiries and in providing information to customers as may be deemed appropriate. The proposal is scheduled to be published in the Federal Register on January 29, 1986.

First, as emphasized in the January 24 memorandum, while the issuance of EPA's proposed rule is a disappointment to the industry, it is nevertheless a proposal. It is a long way from becoming a final regulation. As you know, the EPA proposal has been under consideration for over six years. The Association is on public record opposing such draconian action as unjustified--based on the absence in today's use of asbestos of any "unreasonable risk." Such finding of an "unreasonable risk" is required by the Toxic Substances Control Act prior to promulgation of any final rule. In addition, EPA's proposed action is clearly out-of-step with the consensus of a number of international bodies that have thoroughly studied the asbestos issue (EEC, ILO & WHO). These organizations and other world nations favor the control of asbestos rather than the ban approach.

As to the actual proposal (see excerpt from prepublication copy enclosed), the rulemaking procedure calls for submission of comments 90 days after publication in the Federal Register (April 29, 1986) with public hearings to later follow. After this, EPA will assess the record and then will likely prepare and submit to the U.S. Office of Management and Budget (OMB) a final rule for review. It is safe to assume that EPA's preparation and submission to OMB of any final rule will not, at the earliest, occur before sometime in 1987. This would mean an effective date of January 1, 1988 or, if a final rule is published within the last four months of next year, the effective date would be January 1, 1989.

The fact that OMB cleared issuance of a proposed rule to ban products and phase-out the use of asbestos does not imply that OMB

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support will be forthcoming for the same drastic approach in any final rule. There are many complex issues to be addressed and reconciled in the rulemaking process. Suffice it to say that the issuance of an EPA proposed rule to bring about the demise of the U.S. asbestos industry does not in any way assure that such an event will occur.

We do not believe that EPA will be able, as required in order to issue the proposed rule, to support with substantial evidence its preliminary finding of unreasonable risk. AIA/NA plans to submit evidence to the agency to demonstrate that risk from use of today's products are not unreasonable. On one hand, EPA overestimates exposures to asbestos in use of today's products and the adverse health effects that might be caused by such low exposures. On the other hand, the agency underestimates the value to society of these asbestos-containing products and the potential risks that would exist with uncontrolled use of substitute non-asbestos products.

It is appropriate to comment briefly on the other three regulatory options discussed in EPA's proposed rule. These alternatives to the actual, proposed rule are attached and invited to your attention. The alternatives give credence to the fact that EPA's proposal is a worst-case scenario and is not one cast in concrete.

B. J. Pigg
President

Enclosures

cc: Joseph A. Artabane, SB&H
Joseph C. Jackson, AACPP
Paul LaFleur, Canadian Embassy
Gary Nash, AI
Sir Neville Stack, AIA
Edward W. Warren, K&E
Robert V. Witeck, Gray & Co.

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