

August 29, 1980

See Below

See Below

Regulatory and Legislative Status - Asbestos

J. P. McGinley - ap VF P&PG-2B

Reference: TADE Updates 6/25/80
and 8/15/80

for information

To: Mr. R. M. Wingartner - Santa Clara #256
Mr. J. L. Anderson - Hillsboro #257
Mr. H. G. Benhardt - Ambler #258
Mr. N. Rhoades - Riverside #260

Periodically Tom Dougherty puts together a Regulatory and Legislative Status report on the subject of asbestos. Two such reports are attached for your information. I think you will find them informative. As future reports of this kind are received, I will forward you a copy.

Att.

CTD001822

CertainTeed

Date

August 19, 1980

To

PLEASE SEE BELOW

Location and mail code

PLEASE SEE BELOW

Subject

REGULATORY AND LEGISLATIVE
STATUS - ASBESTOS - UPDATE

From

T. A. Dougherty/c

Location and mail code

VF P&PG #2

TO: Mr. F. R. Winnert - VF CORP #1
Mr. M. P. Simmons - VF CORP #1
Mr. J. H. Ashenfelter - VF CORP #1
Mr. C. M. Pontz - VF CORP #1
Mr. W. R. Werner - VF CORP #1
Dr. L. J. Mellon - VF CORP #4
Ms. D. C. Wackerman - VF CORP #4
Mr. R. Goutte - VF IG #3
Mr. W. W. Pitkin - VF IG #3
Mr. F. Timpe - VF P&PG #2
Mr. K. T. Krantz - VF P&PG #2
Mr. L. C. Ambler - VF P&PG #2
Mr. J. P. McGinley - VF P&PG #2
Mr. J. F. Baker - VF P&PG #2

On July 1, 1980 we issued a summary of the status of regulatory and legislative initiatives which impacted A/C pipe.

Attached is an update on that summary.

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working with EPA on the development of the questionnaire and indications so far are that it will be reasonable and will not create significant burden to complete.

It is now expected that the proposed 8(a) rule will be issued in October, 1980.

C. TSCA SECTION 8(c) RULE

Under authority granted it by Section 8(c) of the Toxic Substances Control Act, EPA has issued a proposed rule which would require that records be maintained and reports made of allegations of significant adverse reactions to health or the environment.

This is not limited to asbestos, but pertains to any material or product. It could prove to be tremendously burdensome.

D. TSCA SECTION 8(d) RULE

Under authority granted it by Section 8 (d) of the Toxic Substances Control Act, EPA has issued a proposed rule which would require the submission of health and safety studies on specifically listed chemicals by chemical manufacturers, processors, distributors, and others in possession of such studies.

For purposes of this rule, asbestos is considered to be a chemical. The last response date for this proposal was February 29, 1980. AIA/NA submitted comments. No further action has been taken to date.

E. EXPORT NOTIFICATION

A proposed regulation has been issued which would require a notice to EPA of exportation of substances regulated or proposed to be regulated under TSCA. Proposal was issued in November of 1979. No further action has been taken to date.

F. HAZARDOUS WASTE MANAGEMENT

This is a comprehensive cradle to grave regulation of hazardous waste. It is not limited to asbestos.

The regulation has been issued on what is called an Interim Final basis with comments on it being accepted until August 18, 1980. It is scheduled to take effect on November 19, 1980.

It requires notification of agency, keeping of manifests, containerization, proper transportation and ultimate disposal site specifications. Asbestos is listed in the Section which applies only to "pure" material used commercially or in manufacturing, not to waste resulting from a manufacturing process. An exemption is provided for generators of less than 1000 kg (approximately one ton) of total hazardous waste per month.

AIA/NA has submitted comments.

On the surface, it would not appear that this regulation would seriously impact us or our customers since it supposedly covers only pure fiber. We are investigating more deeply to be sure of this interpretation.

3. CPSC - CONSUMER PRODUCTS SAFETY COMMISSION

A. CONSUMER PRODUCTS CONTAINING ASBESTOS

There has been no change in status since the last report. As stated previously we do not expect CPSC's rulemaking activities to directly impact A/C pipe since it has not been included in the list of consumer products they are investigating. Their actions will have indirect effects, though, and so are worth following.

4. FDA - FOOD AND DRUG ADMINISTRATION

No change in status since last report.

5. DOT - DEPARTMENT OF TRANSPORTATION

No change in status since last report.

STATE REGULATORY

A. CAL DOSH - CALIFORNIA DEPARTMENT OF SAFETY AND HEALTH

A new regulation has been issued which became effective August 1, 1980 and which deals primarily with physical examination requirements. In addition to previous requirements, right and left anterior oblique X-Rays are now part of the examination. Sputum Cytology and rectal examinations were also considered but were dropped as requirements.

There does not appear at this time to be any activity with regard to lowering the allowable exposure level.

With regard to lifetime physical examinations for workers exposed to asbestos for more than a year, CAL DOSH now feels that such a rule should be adopted by legislation rather than regulation and has dropped it from their consideration.

FEDERAL LEGISLATION

A. BEARD BILL

No change in status since last report. There has been no apparent activity regarding it and its chances of passage seem to be remote.

B. RITTER BILL

No change in status since last report. Situation appears to be very similar to that of the Beard Bill.

C. HART BILL

This Bill appears to be more active than either of the above two. We understand that hearings have been scheduled. Final action on the Bill during this session of Congress does not look to be likely.

STATE LEGISLATION

A. MASSACHUSETTS

1. H 2811 - Skull and Crossbones Label -
Defeated in House.

B. CONNECTICUT

1. H 5782 - Ban of A/C Pipe
Defeated - Did not pass committee.
2. H 5783 - Task Force to Study Health Effects of Asbestos
Adopted - Report due by January, 1981.
3. H 5784 - Develop Outdoor Asbestos Emission Standards
Died in Appropriations Committee.
4. H 5807 - Labeling of Asbestos Containing Construction
Products - Amended to also Prohibit Installation of A/C
pipe on or after October 1, 1980 until the Commission
of Health Services determines that the use of such pipe
in water supply systems does not create a public health
hazard.

Passed into Law and became Public Act. Through efforts
of AACPP a petition has been filed to force the Commis-
sion of Health Services to make a declaration concerning
the health hazards of using A/C pipe in water supply
systems. Dependent on the nature of such a declaration
when made, further action will be considered.

5. S-8 - Information and Notice Requirements For Employers
Using Carcinogens - Passed into Law and became Public
Act 80-257. Takes effect October 1, 1980. This Act is
not limited to asbestos.
6. S-254 - Civil and Criminal Penalties for Violations
of S-8. Did not survive adjournment of the Senate
Judiciary Committee.

STATE LEGISLATION (continued)

C. CALIFORNIA

1. A - 946 - Would Create the Asbestos Workers Fund in the state treasury. Would facilitate worker's compensation for asbestos workers. Passed Assembly January 29, 1980 by vote of 79 - 0. Amended in Senate Industrial Relations Committee. Rereferred to same Committee after second reading on March 24, 1980. Amended in Committee on July 11, 1980.

D. NEW YORK

1. A11129 - Labeling of Asbestos Containing Products to Be Sold in the State. Passed Assembly but did not survive legislative adjournment.

Member of committee staff indicated that ultimate objective is to hold hearings this year with passage of Bill in 1981.
2. A7103 - Requires Notice to Employees by Their Employers of the Dangers of Exposure to Toxic Substances in the Workplace. Provides Civil and Criminal Penalties.

Enacted into law on June 27, 1980. Becomes effective December 23, 1980. It is not limited to asbestos.

CertainTeed	Date July 1, 1980	To PLEASE SEE BELOW	Location and mail code PLEASE SEE BELOW
Subject REGULATORY AND LEGISLATIVE STATUS - ASBESTOS	From T. A. Dougherty/c	Location and mail code VF P&PG #2	

TO: Mr. F. R. Winnert - VF CORP #1
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 Mr. W. W. Pitkin - VF IG #3

As discussed in our meeting last week, attached is a brief summary of the present regulatory and legislative initiatives concerning asbestos.

As new developments occur, we shall keep this status report updated.

ASBESTOS AND HEALTH
REGULATORY AND LEGISLATIVE STATUS
AS OF JUNE 25, 1980

FEDERAL REGULATORY

OSHA

1. Present Standard - Allowable level 2 Fibers/cc TWA. Covers all work places.
2. Proposed Standard issued October, 1975 to cover manufacturing only (construction activities were specifically excluded - to be covered by a separate regulation)- 0.5 Fiber/cc TWA.
3. Subsequently in 1976 NIOSH issued a recommendation to OSHA that the level be reduced to 0.1 Fiber/cc TWA.
4. OSHA contracted with Consad Corporation to perform an economic and technological feasibility study on the proposed manufacturing standard.
5. OSHA contracted with Research Triangle Institute (RTI) to perform an economic and technological feasibility study on a construction standard if the level were set at 1.0 Fiber/cc, at 0.5 Fiber/cc, or at 0.1 Fiber/cc.
6. OSHA contracted with RTI to consolidate the Consad and RTI studies.
7. AIA/NA and AACPP jointly presented to OSHA a recommendation for a new standard for construction and other non-fixed places of employment. This recommended new standard would be based on work practices rather than allowable exposure levels. No reaction has been received to the recommendation.
8. No further action has as yet been taken by OSHA with regard to the 1975 proposal.
9. It was strongly rumored that OSHA was preparing to issue an Emergency Temporary Standard lowering the allowable exposure level, but nothing has happened in this regard as yet. Present indications are that, while it is still possible an ETS will be issued, it is not thought likely.

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10. OSHA has entered into a new contract with RTI to do an update on its feasibility study, again evaluating the three possible levels of 1.0, 0.5, and 0.1 Fibers/cc. Completion of this study is required by August 30, 1980.
11. A special task-force made up of representatives from OSHA and NIOSH was appointed to study the overall asbestos health situation and recommend what action should be taken.
12. In April, 1980 a joint press conference was held by OSHA and NIOSH to present the report of the special task-force. The recommendations were as follows:
 - a) There is no safe exposure limit for asbestos.
 - b) All types of asbestos are equally hazardous.
 - c) Present OSHA standard is not adequate to protect the worker.
 - d) A new OSHA standard should be issued which would:
 - 1) Eliminate all non-essential uses of asbestos.
 - 2) Where its use is essential, a maximum allowable exposure limit of 0.1 fibers per cubic centimeter be adopted.
 - 3) Asbestos workers who show respiratory problems would be transferred to other jobs where there is no asbestos exposure without any reduction in pay or benefits.
 - 4) Regulations should protect all workers exposed to asbestos including manufacturing, construction, ship building, and maritime.
13. OSHA has announced its intention to issue a new regulation which will cover both manufacturing and construction according to the following timetable:
 - a) ANPRM issued July/August, 1980.
 - b) Proposed standard issued Fall, 1980.
 - c) Final standard promulgated in Summer or Fall, 1981.

14. It is our best guess that the new OSHA standard will incorporate the recommendations of the special task-force.
15. As far as A/C pipe manufacturing is concerned, we believe that we could survive even a 0.1 Fiber level standard by using personal protective equipment in some areas of our operations. This is not true for some of the other asbestos product manufacturing operations.

Our major concern is the possible impact of the new construction standard on our contractors. If OSHA turns down our recommendation for a work practice standard and insists on work place monitoring and medical surveillance and record keeping, we fear this will have the effect of discouraging the contractors from using A/C pipe. They will turn to other materials to avoid the burdens imposed by the standard.

EPA AND CPSC

1. In order to avoid repetition, since the objectives and procedures of these two agencies are so alike, I shall combine the comments for them.
2. As far as A/C pipe is concerned, CPSC does not appear to be a threat. In response to their ANPRM, the position was taken that A/C pipe should be excluded since it is not a consumer product. They have appeared to accept this inasmuch as their draft of a General Order for Submission of Information does not include the product.
3. The announced intention of EPA acting under the authority granted it by the Toxic Substances Control Act is to ban the use of asbestos and asbestos containing products under the contention that there is no safe level of exposure to the fiber and that its continued use presents an unreasonable risk to the public. They are opting for mandatory substitution for the material.
4. ANPRM has been issued and the deadline for response has passed.

5. AIA/NA is cooperating with EPA by coordinating the critique by nine of its member company of the form they are proposing to use to collect information on the industrial and commercial use of asbestos fibers. This is information which they will request under Section 8(a) of TSCA.
6. We have received information that EPA's timetable for promulgation of an asbestos regulation under TSCA is as follows:
 - a) Publication of the proposed rule for collecting information under Section 8(a) in July/August, 1980.
 - b) Final rule for above issued in October, 1980. Submission of information required by February, 1981.
 - c) Proposed asbestos rule published in December, 1980.
 - d) Final asbestos rule issued by July, 1981.
7. CPSC is expected to follow a similar timetable.
8. We can only speculate at this time as to what the final rule will contain, but our best guess is that it will call for an almost immediate ban of some asbestos products and that it will set deadlines for developing substitutes for products whose use is now essential and for which there are not now available substitutes.

FDA

This agency has not been active recently with regard to asbestos nor do we anticipate that it will become so unless some evidence should develop which would show asbestos to be carcinogenic by ingestion in which case the Delaney Clause would enter the picture. Under the Delaney Clause any material which is proven to be carcinogenic by ingestion is automatically banned from any use in which it comes into contact with food, and water is considered a food. None of the evidence collected so far gives any indication that asbestos is harmful when ingested and so we do not anticipate any problems from this area.

DOT

The Department of Transportation, several months ago, issued new regulations covering the transportation of asbestos fiber and asbestos products. These regulations were developed in a very informed and professional manner with due consideration given industry input. They are reasonable and feasible and present no problems to us.

STATE REGULATORY

The only State regulatory agency that we know is currently considering rules which could seriously impact us is California's Department of Occupational Safety and Health. Two changes to their asbestos rules are under consideration which could have serious effects on both manufacturers and contractors.

- 1) Increasing the scope of the physical examination content and also adopting a requirement that any individual who works with asbestos or asbestos products for one year or more will be entitled to regular physical examinations, to be paid for by the employer during the possible asbestos exposure, for the rest of his or her life. In the case where there is more than one employer involved, the employee would have the choice of which one of them would pay for the examinations.
- 2) Serious consideration is being given to leading the field by reducing the allowable exposure limit to 0.1 Fiber.

AIA/NA is following the activities of this agency very closely and is providing extensive input to them to try to prevent adoption of these provisions.

FEDERAL LEGISLATIVE INITIATIVES

There are several proposed bills regarding such things as asbestos in schools, criminal liability for concealing health risk information, and worker compensation which do not directly impact the product and so I shall not spend any time on them. There are a couple of bills, though, which we understand to be under consideration which would concern us and they are:

- 1) Beard Bill - A Bill which would:
 - a) Prohibit the release into the environment of asbestos fibers and fibers from asbestos substitutes which the Administrator determines would present an unreasonable risk of injury to health or to the environment.
 - b) Labeling of asbestos and asbestos containing products to warn of hazards and instruct how to manufacture, process, distribute, use, or dispose of.
 - c) Require substitution for asbestos and asbestos containing products where feasible and practicable.
- 2) Ritter Bill - A favorable Bill recently introduced which would require the regulatory agencies to fully justify their actions by proper risk/benefit analyses.
- 3) Hart Bill - A Bill just introduced to provide minimum and adequate compensation for occupational diseases resulting from exposure to asbestos.

STATE LEGISLATIVE INITIATIVES

Again, there are several state legislative Bills, dealing with changes in the statutes of limitations to accommodate lawsuits for asbestos related disease and with asbestos in schools or other buildings, which do not directly impact us and so I shall spend no time discussing them. There are others, though, which do pose serious threat to our product such as:

STATE LEGISLATIVE INITIATIVES

(continued)

1) Massachusetts - A Bill which would have required a skull and crossbones label on any asbestos containing product. AIA/NA commented on this Bill and it has been defeated.

2) Connecticut

a) H 5783 - Established task force to study public health hazards of asbestos.

b) H 5807 - Started out as a Bill to require labeling of construction products stating "item contains asbestos and asbestos may cause cancer when inhaled". An amendment was later added which prohibits the installation of any asbestos cement pipe on or after October 1, 1980 until the commission of health services determines that the use of such pipe in water supply systems does not create a public health hazard.

Bill was signed by Governor on May 27, 1980. Became Public Act 80-398.

c) S 8 - Established information and notice requirements for employers using carcinogens.

Signed by Governor on May 20, 1980. Became Public Act No. 80-257. Takes effect 10-1-80.

3) New York

a) A 11129 - Require following label on asbestos containing merchandise to be sold in the state:

"WARNING: CONTAINS ASBESTOS:
Asbestos is known to cause certain respiratory diseases and may cause cancer. Avoid inhalation or prolonged contact with the skin."