



# NEWS & NOTES

a monthly publication

June 30, 1998

## OSHA'S AMENDMENTS TO ASBESTOS STANDARDS REMOVES ROOFING SEALANTS FROM REGULATORY REQUIREMENTS

As reported (N&N July & Nov. 1997), in a unanimous opinion dated July 24, 1997, the U.S. Court of Appeals for the Fifth Circuit granted AIA/NA's petition for review and vacated the U.S. Occupational Safety and Health Administration's 1994 construction and shipyard asbestos standards insofar as they regulate asphalt roof cements, coatings and mastics. The final paragraph of the Court's opinion states:

**We hold that, because of the lack of substantial evidence in the record, the challenged regulations are invalid as to asbestos-containing asphalt roof coatings and sealants.**

With the appeals process having expired, OSHA implemented the above decision by revising its construction and shipyard asbestos standards in a final rule published in the June 29, 1998 issue of the Federal Register.

OSHA accepted the Court's decision entirely and added new introductory paragraphs to the construction and shipyard standards that read:

**This section does not apply to asbestos-containing asphalt roof cements, coatings and mastics.**

Accordingly, OSHA's asbestos standards do not in any way apply in construction or shipyard activities (installation, renovation or removal) involving asphalt roof cements, coatings and mastics. Among the standard's requirements that would not apply include the permissible exposure limit, worker training, various work practice requirements that otherwise pertain to any asbestos-containing product, and the notify-the-building owner requirement that applies to other types of newly installed asbestos-containing products.

A copy of OSHA's June 29, 1998 final rule is available from AIA/NA on request.

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HWBUI0003583

## **CHRYBOTILE MINING INDUSTRY IN CANADA SUBMITS COMMENTS ON U.K. PROPOSED AMENDMENTS TO ASBESTOS REGULATIONS**

In a news release dated Mar. 11, 1998 (N&N Mar.), the United Kingdom's Health & Safety Commission announced its current plan for proposing changes to U.K. asbestos regulations. The principal change from HSC's earlier announced intentions was a delay in any prohibition initiative on the use of chrysotile asbestos "until the position on the scientific evidence about substitutes becomes clearer."

In April, HSC published its consultative document inviting comments on its proposals for amendments to the U.K.'s Asbestos Regulations and supporting Approved Codes of Practice. On June 16, 1998, the Asbestos Institute submitted comments on behalf of the Canadian chrysotile mining industry. Below is quoted the preamble of AI's submission to the U.K. Health & Safety Executive:

"The chrysotile mining companies in Canada welcome the Health and Safety Commission (HSC) and the government of the United Kingdom initiatives for the steps taken to enhance the protection of workers and for inviting consultations as part of the current revision process.

"HSC has prepared a very useful document with overall proposals focusing efforts into areas where prevention is most needed. Their document also moves somewhat towards eliminating confusion between insulation/friable asbestos risks and modern chrysotile product risks.

"In the final regulation, we would recommend a clear distinction be made between existing in place insulation products and products being manufactured today. For example, section 6 lists the properties of "asbestos" and the types of products. This section is potentially misleading. There are two types of asbestos problems to be addressed.

- i) The situation where the products were friable and the products contained amphibole fibres or mixed amphibole/chrysotile fibres. These products include fireproof sprays, friable insulation boards, pipe and boiler lagging and other products where fibres might be readily released during use. These are, or should be, no longer manufactured or used.
- ii) The situation now and in the future where only chrysotile is used and only in encapsulated or bonded products such as, chrysotile cement,

chrysotile friction and encapsulated products. These demand different approaches and should be separated and clearly distinguished.

"The HSC comments concerning the risks associated with chrysotile, fairly accurately reflect the scientific evidence. In relation to substitutes, HSE has also in general provided a reasonably balanced view of the current situation. However, the regulations continue to incorporate the European emphasis on substitution, although it is evident from this document that HSC fully recognizes and acknowledges that the health risks associated with the use of chrysotile are well known and, in the context of properly managed bonded, locked-in and encapsulated products and current control levels, are extremely low or non-existent.

"In section 14 segment addressing the question of substitutes, a general statement such as "Available evidence suggests that these substitutes pose a lesser risk to health than chrysotile fibres" is inaccurate, dangerous and very misleading:

i) First, there are several potential fibrous substitutes and genuine health risk concerns about some of them. This statement suggests that there are not.

ii) Secondly, the substitute cannot be considered in isolation. There are good epidemiological studies showing that for some chrysotile products, lung cancer and mesothelioma risks are not detectable. It is surely difficult under these circumstances to conclude that a substitute fibre, for which the only available data are experimental or theoretical, is in fact "safer" when in practical use. One must recognize that recently, animal models have come under scrutiny for false positives and negatives and this must be borne in mind when ignoring human data and using animal to human extrapolations.

iii) Thirdly, decisions about the use of chemicals are usually based on a level of risk which society at any one time is prepared to accept. If this level is defined and products developed that meet these criteria [throughout the product life], then surely they should be allowed to compete in the market place. The statement about the lack of scientific data for some potential substitutes is accurate.

"Finally, we would like to express our concern about lowering the existing limit for chrysotile. The key issue is whether the chrysotile products to be manufactured and used in the UK pose lung cancer risks at this level of exposure. In the case of chrysotile friction products and chrysotile asbestos cement products there are several studies consistent in that there is not evidence of an increased risk of

lung cancer at levels well above 0.5f/ml for 40 years. Therefore the reduction to 0.3 f/ml for 40 years is unlikely to produce any measurable reduction in risk. It will generate unnecessary costs for the industry.

"We hope our comments to the consultative document will be convincing towards allowing the continued safe and responsible use of chrysotile asbestos and chrysotile containing products."

## **SENATE BILL WOULD REQUIRE OMB TO PROVIDE CONGRESS WITH COSTS AND BENEFITS OF RULES**

The Office of Management and Budget would be required to provide Congress with total costs and benefits of worker safety and health and other federal rulemakings under a bill introduced June 11 by Sens. Fred Thompson (R-Tenn.) and John Breaux (D-La.). S. 2161 would mandate OMB to submit to Congress a biennial review of the cumulative costs of federal regulatory activity each year. The bill would apply to major federal rulemakings, i.e. impact the U.S. economy in the amount of \$1 million. The first report would be required by Jan. 2000 and every two years thereafter.

The Senate bill has been referred to the Governmental Affairs Committee and is a companion to House bill H.R. 2840 introduced by Rep. Thomas Bliley (R. Va.) In Nov. 1997.

## **AIA/NA NEWS & NOTES TO TAKE ON A NEW LOOK BEGINNING WITH THE THIRD QUARTER 1998**

For over 20 years the Asbestos Information Association/North America (AIA/NA) has published monthly the "AIA/NA News & Notes." For the most part, its articles and information have been of primary interest to the North American asbestos industry. With AIA/NA, the Asbestos Cement Product Producers Association and the Asbestos International Association under single staff management, it is appropriate that News & Notes be more international in its coverage.

Thus, commencing with the third quarter 1998, News & Notes will become an international newsletter and the first issue will cover July-September 1998.