A/C Pipe
Producers Association
Board of Directors
International Affairs Committee

Internal Correspondence

TO J. F. Welch

FROM J. F. Welch, Vice President

DATE January 13, 1984

SUBJECT U.S. Environmental Protection Agency (EPA) - AACPP Response to Advance Notice of Proposed Rulemaking (SOP-01-03)

REF: JFW correspondence, U.S. Environmental Protection Agency (EPA) - National Revised Primary Drinking Water Regulations, October 14, 1983

ACTION REQUIRED: Review for information

Current Status

On January 3, 1984, AACPP filed the enclosed comments on EPA's Advance Notice of Proposed Rulemaking for National Revised Primary Drinking Water Regulations. At the risk of sounding immodest, Staff believes that the submittal makes the strongest possible case for not establishing a maximum contaminant level (MCL) for asbestos in drinking water. In coming weeks, the rulemaking docket will be reviewed by Staff to determine what other public comments may support or oppose industry's position. It is known that the American Water Works Association (AWWA) and the National Association of Water Companies (NAWC) also oppose the establishment of an MCL for asbestos in drinking water.

EPA now will review all public comments submitted to the docket, weigh those comments against its own views on the potential health effects of asbestos in drinking water, and make policy decisions accordingly. According to the current time schedule, recommended maximum contaminant levels for those substances meriting regulation will not be proposed until September, 1984. AACPP's position is that EPA should not issue a recommended maximum contaminant level for asbestos in drinking water, but should advise the public that it need not fear adverse health effects from ingested asbestos.

AACPP Action Plan

Kirkland & Ellis has transmitted a copy of the AACPP comments to EPA's Office of Toxic Substances in order to provide input to the Toxic Substance Control Act deliberations on A/C pipe. Moreover, comments will be provided to AWWA, NAWC, the Water Research Centre (England), the World Bank and other organizations or individuals who should be aware of the industry's position on this matter.

Staff and special counsel also will meet with Office of Drinking Water officials, probably in March, to determine the agency's response to industry's comments. Future program strategy will be predicated on the outcome of this meeting.

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

JFW/ajb

Enclosure

cc: A. Kahn, Esq.
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ISSUES AND INITIATIVES

A/C PIPE PRODUCERS ASSOCIATION

SEVENTH ANNUAL MEETING
AND INDUSTRY CONFERENCE

APRIL 29-MAY 2, 1979

VANCOUVER, B.C.

FOREWARD

The Board of Directors and Staff of the Association of Asbestos Cement Pipe Producers acknowledges with appreciation the participation of the spokesmen from industry, academia, and the business community.

Andrew C. Boush
Chairman of the Board of Directors

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Introductory Remarks
by
Andrew C. Boush
Chairman
Board of Directors
A/C Pipe Producers Association

Ladies and gentlemen, it is my pleasure to welcome you to the Seventh Annual Meeting of the Association of Asbestos Cement Pipe Producers here in the beautiful city of Vancouver.

All of our deliberations will be in English during this meeting, and because I have already more than exhausted my linguistic abilities, I shall continue in English.

Thank you -- to our Canadian hosts, Atlas Turner, Inc. and Johns Manville Canada, Inc., for inviting us to hold this meeting in your beautiful country. Thank you, too, to our many distinguished guests who will appear on the program to share their views with us, and welcome to all other members and guests. In addition to members from Canada, the United States of America, and Mexico, we have members from Belgium, France, Finland, Greece and Australia.

This meeting, "Issues and Initiatives" marks the last meeting of the exciting and dynamic 1970's. The decade of the 1970's saw the foundation of this Association. It saw economic changes throughout the world unparalleled in history in such a short time, and perhaps, economic changes of importance ultimately -- at least equal -- to the Industrial Revolution itself.

It has been a decade in which saw the emergence and recognition of the issues which will be discussed throughout this meeting -- issues of paramount importance to the continued success of the asbestos cement pipe industry.

Approximately 70 years ago, the first asbestos cement pipe was manufactured in Europe. Fifty years ago, in November of 1929, the first asbestos cement pipe was made in the North American continent, manufactured at Waukegan, Illinois. Today, in the United States, customers annually purchase on the order of one quarter billion dollars worth of asbestos cement

pipe, and for our visitors from Europe, those are American billions, not metric billions. A billion here is a thousand million.

Throughout the remainder of the world, not including the U.S.S.R. or the People's Republic of China, pipe equivalent to another billion dollars is annually used to construct water, sewer, irrigation systems, and to provide conduit for electrical and telephone lines.

Why? Why, annually, is over a billion and a quarter dollars of asbestos cement pipe used? The answer is really quite simple. Asbestos cement pipe is still the most efficient, long-lived, economic, safest product that can be used in these systems.

This conference will allow each of us to explore with one another the issues throughout the world with relation to asbestos cement pipe. The "issues?" Corrosive waters, ingested asbestos, airborne asbestos, the immediate and intermediate outlook for the construction industry.

All of these issues will be addressed by our "initiatives." The A/C Pipe and Health Program, the Aggressive Waters Program, the Recommended Work Practices Program; the A/C Pipe Performance Program and a look at the economics of North America and Europe.

Again, I say welcome to our conference. It will be as informative and meaningful as each of us is able to make it.

Issue: A/C Pipe - The Case for Work Practice Standards in the Construction Industry

by

B. K. (Coogie) Kwon

Coogie Kwon is Vice President, Environmental Health for CDP Associates, consultants in health research and planning. Prior to joining CDP, Coogie was with the Organization Resource Counselors in Washington, D.C.

A toxicologist and industrial hygienist, he holds a Masters of Science Degree in Public Health from the University of North Carolina School of Public Health. He started his career at the Haskell Laboratories for Industrial Toxicology and Medicine within E.I. du Pont, moving on to assume responsibility for corporate occupational health programs for Kennecott Cooper and Tenneco, Inc. He has served as a Senior Program Manager for Health Standards Development, and Director of Experimental and Special Programs for the U.S. Occupational Safety and Health Administration.

It is a great honor for me to participate in your Annual Meeting. I must say that Joe Jackson and John Welch have taken the leadership in this area, which I am sure the construction industry as a whole will benefit from. What I hope to do this morning is to discuss with you some developments in this area and justifications for the success of this particular project.

John Welch did a good job of reminiscing about what happened in the early stages of OSHA, and personally, I'd like to forget about that "wild weekend", which was sort of like a Watergate. I did not know that anything had happened until I got back to my office Monday morning (I was told to stay out of the office on the weekend) and when I got back, there were two documents on my desk. They said it was finished -- it had gone to the Federal Register. So I opened the documents up, and one was the asbestos standard and the other was the beryllium standard. Both were entirely different documents than those I prepared a week before. But it was all redone. So that's what happened in OSHA, and it is almost like Watergate. Some of the players are still there, so you wonder what is happening.

CDP has been working with the Association on this position paper, and what I would like to discuss today is the tactic of utilizing the same "medicine" that OSHA is using to justify the position that the Association is taking.

Before we get into the details, I think we have to go back to why we are in this situation. The basic question is, "Why are we playing the numbers game?" Traditionally, the federal government issued health standards emphasizing the permissible exposure limits, such as the one that we currently are facing, the 2 fiber per cc. asbestos standard, and then requiring appropriate engineering controls, monitoring and medical surveillance.

This tradition has two origins. First, historically, the American Conference of Governmental Industrial Hygenists (ACGIH) provided "threshold limit

values" (TLV) for various substances. These were intended as guiding points -- I'm emphasizing guiding points -- for the control of exposure to these substances. Therefore, these values never were considered as a finite point of a safe or unsafe condition. When such threshold limit values were adopted by the government as the permissiable exposure limits, the original intent of ACGIH was ignored.

This unfortunate event began with the implementation of the Walsh-Healey Public Contracts Act. In 1971, OSHA automatically adopted the TLV table from this particular Act. Consequently, OSHA continued the same practice of considering the ACGIH TLV as a finite level. That's where our "numbers games" began.

Secondly, the Occupational Safety and Health Act of 1970 mandated that each health standard must contain requirements for monitoring, labeling, engineering controls, training and medical surveillance. Again, laws are written to broadly cover these particular requirements into each health standard. However, they have forgotten there are other types of industries in this country and in the world.

This traditional form of health standard may be applicable to the general industry, but certainly they are not applicable to the construction industry. I would like to discuss now why these traditional health standards cannot be applied to the construction industry.

The Occupational Safety and Health Act of 1970 clearly states that any standard promulgated under Section 6-B-5, that is, the main section providing the authority to promulgate standards, should be based upon research, demonstrations, experiments and other information as may be appropriate. In addition, the Act mandates that such a standard should also be based on the latest available scientific data in the field, the feasibility of standards, and the experience gained under this and other health and safety laws.

Now these two items -- scientific data in the field and the experience gained under this and other health and safety laws -- are critical in what we are discussing today. Collectively, the results of experiments conducted in the field, the latest available scientific information on the health facts of asbestos in the construction industry, and the practical experience gained under the Act support compliance with the mandate of Congress.

These views are based on the facts of, one, low asbestos exposure levels in construction; two, no known asbestos related diseases in construction, three, difficulties of applying traditional health standards provisions, and fourth, effectiveness of a recommended work practices standard.

I would like to show a slide which is computed from the data collected by another consulting firm retained by AACPP. This table illustrates the 8 hour time weighted average (TWA) concentration you might encounter in working with A/C pipes. The various tools utilized are on the left hand side, and the TWA ranges are on the right. The range depends on the time that the worker spends cutting, machining, etc. The time frame is from 15 minutes to 2 hours.

If you look at that, none of the values in there exceeds current standards, or even what is proposed (0.5 fibers/cc.). Now if you look at the NIOSH recommendation of 0.1 fibers/cc., some of the figures exceed that. However, I don't think anyone is cutting A/C pipe two hours a day. So this is a calculated range and in reality you will probably see more exposures on the left hand figures, which is closest to the zero and background levels than the two hour slide.

One thing I have done here is exclude abrasive disc cutting; I will discuss that a little bit later. If you don't have abrasive disc cutting, you will not have a value reaching, even 0.1 fiber/cc. You will be very, very close to background levels of asbestos.

Now I am going to discuss current developments in OSHA standards setting, especially the development of new policies. It is very interesting and the trend is in the direction of supporting your Association's point of view. I am not sure that OSHA compiled it in that way, or that their intention was that way, but these positive developments coincide nicely with the work practice initiative.

Recently, OSHA promulgated the final lead standard and in it, OSHA exempted the standard from applicability to the construction industry. The reason for such an exemption was stated in the preamble to the standard, and I believe this was one of the best definitions that bureaucrats put together to describe construction:

> *"Construction is a diverse activity, about which no valid generalizations can be drawn concerning the nature of lead exposure. The duration of a project, or the duration of an employer-employee relationship, and the record does not support drawing rational distinctions between groups that can be feasibly covered by the standard, and of groups that cannot."*

The same statement can be made for asbestos standards -- just exchange the work "lead" and put "asbestos" in, and that will describe the use of asbestos in construction.

Another health standard regulating acrylonitrile, which is a carcinogen, further illustrates OSHA's recent policy changes on exemptions. In describing its exemption policy for acrylonitrile, OSHA stated that the criteria for "exemptions" involve the provision of, and reasonable reliance on, objective data showing the following: *" ... that the material is not capable of releasing acrylonitrile resulting in airborne concentration exceeding 1 ppm (as an 8 hour TWA) under the expected conditions of processing, handling and use, which will cause the greatest possible release, OSHA anticipates that the manufacturer of the material will be in the best position to test his product, and supply the necessary objective data."*

I already have shown to you the "objective data" as far as A/C pipe is concerned. The data obtained by AACPP clearly indicate the operations involving A/C pipe in the construction industry could be exempted from the general applicability of the asbestos standard if OSHA applied the same rationale.

I also have looked at some other data that was in the possession of an OSHA contractor, and also have looked at the draft reports the AIA has. There are many other construction operations involving other asbestos products, and although the data is not as complete as AACPP's, it indicates that they have similarly low exposures.

In a recently issued OSHA program directive (a program directive is basically an enforcement policy), OSHA stated its policy regarding the medical surveillance requirement for the asbestos standard. The program directive provides the agency's interpretation of the current provision for the medical surveillance by stating that a medical examination will be required for any 7 to 8 hour time weighted average concentration of asbestos which 0.1 fibers per cc.,or greater. Therefore, it could be postulated that OSHA's adherence to this policy could exempt operations involving A/C pipe (and by analogy, other asbestos products used in construction) from the traditional health standards since the data obtained by AACPP indicates that exposure levels were found to be below 0.1 fibers/ cc.when recommended work practices procedures were followed.

Recently, another important policy decision OSHA made in this respect was the decision to propose a work practices standard for abrasive blasting or sand blasting. This is another example of how OSHA recognizes that there is a difference between construction and field-site workplaces. Construction operations utilizing asbestos products and abrasive blasting operations have similar characteristics. The operations are transient, moving from one job site to another and one geographical location to another. Further, employees and employers are temporary in nature. This proposed regulatory action, which has been introduced to the Construction Advisory Committee, represents the clear understanding of the agency that the traditional health standard cannot be applied

to operations in construction. By the way, this final decision on that particular proposal will be made in the middle of May in Chicago.

A considerable body of data on health effects also supports the view that no known asbestos diseases have been found in construction. It is important to recognize that leading scientists in asbestos disease, including Dr. Selikoff, accept the fact that the adverse health effects of asbestos exposure are dose related. On this issue, Dr. Selikoff testified at the hearings on the proposed OSHA cancer policy and stated " ... *Our studies also show that an important dose-response relationship exists -- that people with a very little asbestos exposure have much less disease. Therefore, and what is more important, they not only have much less disease, but that which they get tends to occur much, much later. Instead of occuring 15 years or 20 years from onset, the rapes go up, 40 years from onset, long induction period. Hopefully, many of these cancers will not occur until after the normal human life span.*"

In view of the very low levels of asbestos exposure found in A/C pipe field operations, this statement seems applicable to the expected health effects resulting from such operations. As I stated earlier, the concentrations are approaching background, therefore, this dose relationship statement is extremely important in interpreting potential asbestos disease occurrence in the field using your products.

Traditionally, OSHA's health standards required the complete monitoring of employees' exposure to toxic substances, or harmful physical agents. It should be recognized that significant technical and practical difficulties to the construction agency would be encountered in complying with the monitoring requirements has a place in health standards for a fixed work place, it is counterproductive to impose such a requirement in health standards for the construction industry.

In construction, there also is a high turnover of both employers and employees, which is highly dependent upon short term changes in market demand. With this high turnover, it is extremely difficult, if not impossible, to identify employees to be medically examined and employers responsible for providing these pre-employment periodic physical examinations.

Therefore, the traditional regulatory approach is impractical and unreasonable in the construction industry. By the way, in the abrasive blasting proposal, OSHA has put in this particular requirement for medical examinations. However, that provision will be the main issue the Construction Advisory Committee will be discussing, and preliminary indications are that at the moment, the Advisory Committee is not in favor of medical examinations. However, you never can exactly predict what an advisory committee is going to do.

So far, I have discussed the policies that OSHA is currently using to promulgate health standards. These policies are very real supporting factors in promulgating work practice standards in the construction industry using asbestos-containing products.

However, the question comes up, "How solid is the date supporting the industry's position?" There are a couple of areas we have to be very clear on when we come up with this kind of recommendation, and I would like to show you one slide to support my contention.

This is a 15 to 20 minute sampling period showing fiber levels from abrasive disc saw cutting. The exposure concentration is absolutely too high; it is even violating current standards, both ceiling and TWA. It goes up to 60-65 fibers/cc. Unless you eliminate or control this particular operation, you are going to have a difficult time presuading the regulator that the work practice standard will work. The abrasive disc, as I understand, is a very efficient and fast cutting operation. So you have to make that particular point very clear. You cannot make a general statement and say that "almost all" of our operations are approaching background, except this one.

Also, as a product sector you have to consider that the Occupational Safety and Health Act does not make provisions for promulgating standards according to product. It is going to be very difficult to justify statutorily. That means you have to include other construction operations utilizing asbestos products into the same work practice standard. And a very quick review suggests that you should have plenty of support from other product sectors probably, except perhaps A/C sheet operations and abrasive disc cutting. If you take care of these two areas as I understand utilization of A/C sheet is going down to do, that will take care of this problem. All the rest of the construction operations, their asbestos concentrations seem to approach background levels, like A/C Pipe.

I would like to suggest a potential method by which the Association's position on the regulation of asbestos exposure in construction could be transmitted to OSHA and the public. There are basically three options. One is holding a news conference to provide AACPP's position to the public, and stop there. Two, a news conference and a simple transmittal of AACPP's position paper to OSHA, but then you do not know what is going to happen from there. Third, a formal petition to the Secretary of Labor to promulgate a work practices standard.

It is my opinion that the last method, that is, the formal petition, is the most effective method to accomplish the Association's goal, that is, to prevent the application of general, traditional asbestos standard to the construction industry. OSHA is duty bound to respond to the petition because when petitions such as this come in to the agency, they have to be published in the Federal Register -- that is what the law says. OSHA cannot sit on it. Certainly, they can drag their feet, but they cannot really sit on and not announce it to the public.

Under Executive Order 12044, which is the order which mandates regulatory analysis, the agency is duty bound to proceed with this particular type of petition. It should not stop there. You have to now proceed to follow up with the Construction

Advisory Committee. Even though you have submitted the petition to the Secretary of Labor, it takes time to get to the Construction Advisory Committee, so you should submit the petition simultaneously to Construction Advisory Committee and to the Assistant Secretary of Labor for OSHA. In so doing, you shorten up the time-table.

I personally believe that if you do not take this particular recommendation to OSHA, there is more of a chance of OSHA incorporating numerical standards into a construction industry standard for asbestos. Once OSHA puts it in the Federal Register as a proposal, and has a numerical standard for construction, it will be extremely difficult to remove it unless you go to the courts. Even if you look at the cost-effectiveness of solving the problem through court action, you are certainly going to spend more money to litigate a proposed rule than to litigate a petition. Another very important point here is to take the initiative. That means for the first time "turning tables." Rather than reacting to what OSHA has done, let OSHA react to what they do. You put regulators on the spot, and usually you get more than what you ordinarily would do by reacting to what they do.

Lastly, I would like to leave a recommendation which applies to current practices, going back to those slides that I have shown on abrasive disc operations. Currently, if contractors are inspected, they are going to be cited. However, with the other operations that were listed earlier, the contractor can get exempted if you provide them with precise information on exposure levels and an understanding of the OSHA program directive on the 0.1 fiber/cc. triggering level for medical surveillance.

Compliance officers basically operate this way: they come in and say, "Is this ceiling made out of asbestos?" (this is an A/C sheet contractor). Answer: "Yes." "Where are your medical examination records?" Answer: "We don't have any." The contractor gets cited. This particular example went to court so now there is a program directive which clearly defines where medical surveillance starts and where it does not.

If you interpret and disseminate the EEH exposure studies to your customers, they can avoid this problem by responding "Wait a minute, we don't have to initiate medical surveillance because this is how you have told us that we don't have to" -- and show the exposure data and program directive interpretations. I believe that this will alleviate some of the problems that contractors may encounter. Again, it is really a great pleasure for me to be here with you. I'll be here all day, so if I can be helpful to you informally, please do call on me.

Thank you.