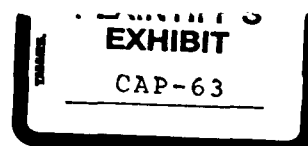




A/C Pipe  
Producers Association



## Internal Correspondence

TO Board of Directors- L. Taylor ✓

DATE August 3, 1977

FROM J. F. Welch, Associate Director

SUBJECT Asbestos Health Hazards Compensation Act of 1977

*Route 66 8/11/77*  
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On August 2, 1977, Congresswoman Fenwick of New Jersey introduced the Asbestos Health Hazards Compensation Act of 1977 to provide compensation benefits for workers disabled by asbestos-related diseases. The bill (H.R. 8589) is co-sponsored by Congressman Beard of Rhode Island and has been referred to the House Subcommittee on Manpower, Compensation, and Health and Safety. At one press conference, Congresswoman Fenwick noted that there was no firm schedule for hearings on the bill and it would "undoubtedly be modified" during Subcommittee/Committee "mark-up" (revision). Updates on the status of the bill will be provided by AACPP Staff on a routine basis.

*See*  
*8-8-77*

JFW:mbt

- Enclosures:
- 1) Statement of Hon. Millicent Fenwick Concerning the Asbestos Health Hazards Compensation Act of 1977
  - 2) Asbestos Health Hazards Compensation Act - Digest
  - 3) A Brief Summary of the Asbestos-Disease Compensation Bill



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STATEMENT OF HON. MILLICENT FENWICK (R., 5th Dist., N.J.)  
CONCERNING THE ASBESTOS HEALTH HAZARDS COMPENSATION ACT OF 1977

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Today, I am introducing a bill to insure that workers disabled by exposure to asbestos receive adequate compensation without having to resort to costly and time-consuming litigation. This legislation, the Asbestos Health Hazards Compensation Act of 1977, will provide equitable and comprehensive benefits to persons disabled as a result of employment-related diseases, members of their families, and surviving dependents.

At the present time, there is no single comprehensive method of dealing with the problems and hardships created by asbestos-related diseases, the dimensions of which have only recently become apparent in medical studies. It has traditionally been within the jurisdiction of the states to determine worker compensation laws; but in those cases where the states fail to provide the necessary services, the federal government must take the initiative. This is certainly the case here.

Asbestos related diseases are not like coal mine related illnesses. Coal mines are located in specific states and the diseases connected with them are locally defined. Asbestosis and other asbestos related diseases are not confined to mining areas, or even to the industrial facilities where asbestos is processed. They are scattered from California to Rhode Island, in shipbuilding yards, housing construction and repair, and other occupations and places where workers handle asbestos products.

Since few states provide adequate benefits for death or disability due to asbestos-related diseases, individuals have been forced to seek legal action against manufacturers, employers, and the federal government to acquire sufficient compensation. Such remedies are inconsistent and burdensome at best and fail to promote a comprehensive, unified approach to the payment of disability benefits.

This Act, which is in the nature of "no fault" legislation, is designed to promote a comprehensive, unified approach and a workable benefit schedule that will be satisfactory to both employers and employees. In fact, representatives from both New Jersey's largest asbestos manufacturer, Johns-Manville, and its workers' union, the International Association of Heat and Frost Insulators and Asbestos Workers, helped to draft this legislation. Thus, this bill represents the culmination of the combined efforts of management and labor to correct existing inequities for asbestos workers.

We now know from medical studies that asbestos exposure is a leading cause of cancer. It is estimated that 50% of all asbestos insulation workers die of cancer. According to Dr. Irving Selikoff, the renowned and acknowledged expert in the field,-- "At present, one in every five deaths among insulation workers is due to lung cancer, one in ten to cancer of the pleura or peritoneum, and one in ten to scarred lungs of asbestosis." We also know, based on studies by Dr. Selikoff and others, that asbestos workers who smoke have an incidence of lung cancer 90 times greater than workers who smoke but are not exposed to asbestos.

I have narrowed the scope of the bill to cover only those diseases which are caused by exposure to asbestos and are diagnosed as such. The Medical Community has assured me that these diseases are clearly diagnosable, so there is no presumption factor to establish eligibility. Anyone who provides medical certification that the disease is asbestos-related will be eligible for benefits.

The bill which I am introducing today will pay benefits to affected persons and their dependents for disability or death from an asbestos-related disease. Affected persons are those whose occupations involve exposure to asbestos or members of their families who contract asbestos-related diseases from close contact with these individuals. Compensation will be provided for both partial and total disability, and benefits can be later adjusted if the nature or severity of the disease changes.

Compensation claims will be paid from the general treasury through December 31, 1979. Thereafter, "responsible parties" and the federal government will jointly support an asbestos workers' compensation fund to pay benefits. "Responsible parties" include producers and distributors of asbestos products and, since smoking and asbestos diseases are so clearly related, the producers and distributors of cigarettes and cigarette tobacco are also included. The fund will be administered by an independent board, chaired by the Secretary of Labor; and this board will be responsible for determining the validity of claims.

The federal government must assume part of the burden of these compensation payments because it is partially responsible for the current dilemma. Since 1975, over 400 plaintiffs have asserted in court actions that the federal government is to blame for their illness because it failed to fulfill its legal obligation of warning workers of the health hazards of their job environment, as required under the Walsh-Healy Act of 1936.

This legislation would eliminate the need for such litigation in the future. In fact, those who are currently involved in legal action will have the option of withdrawing their suits in favor of this benefit plan. Persons presently eligible for compensation and those who become eligible in the future, will have three years from the time the disease is diagnosed in which to apply for benefits.

We are now aware of the health hazards of asbestos exposure and are beginning to move in the right direction by recognizing the danger and trying to do something about it through increased safety standards. I think all of us feel obliged to aid those workers who have long suffered from asbestos-related diseases without receiving adequate benefits. This legislation will finally provide those individuals and their families with a comprehensive compensation plan that is both equitable and expeditious. A brief section-by-section analysis of the bill follows:

## ASBESTOS HEALTH HAZARDS COMPENSATION ACT - DIGEST

At the present time there is no single comprehensive method of dealing with the problems and hardships created by asbestos-related diseases, the scope of which were unknown to industry, labor, government, and medicine until recent time. Remedies pursued to date include worker's compensation and legal action against manufacturers, employers and the federal government. Such remedies are inconsistent and burdensome at best, and do little to promote an overall solution to the problem. This Act, which is in the nature of "no fault" legislation, represents an attempt to equitably and comprehensively deal with the human burdens caused by asbestos-related disease. The legislation provides for a basic monthly benefit over and above a worker's compensation base. The Act is funded by contributions from industry and the federal government. Recovery under this Act would be comprehensive, and would eliminate lawsuits against manufacturers, employers and the federal government.

The Act may be summarized as follows:

### Title I

1. Recognizes the existence and hazard of asbestos - related disease due to exposure to asbestos both alone and coupled with the inhalation of cigarette tobacco smoke.
2. Recognizes that there are inadequate remedies for those who suffer as a result of an asbestos-related disease.
3. Sec. 101(b) sets forth the intent and purpose of the Act to provide equitable and comprehensive benefits for affected persons who suffer from an asbestos-related disease, and to the dependents of affected persons who die from such disease.

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4. Includes within the coverage of the Act as "affected persons," those persons occupationally exposed to asbestos and members of their household who may contract an asbestos-related disease. Sec. 102(b)

5. Diseases for which compensation would be paid when causally related to exposure to asbestos and asbestos coupled with the inhalation of cigarette tobacco smoke are defined in Sec. 102(c) as:

- (a) asbestosis
- (b) bronchogenic cancer
- (c) mesothelioma
- (d) gastro-intestinal cancer

6. Provisions are made for permanent or partial total disability and permanent or partial temporary disability. A 60% diminution in earning capacity is considered total disability. Sec. 102(f)-(1).

7. Responsible parties, who together with the federal government, will assume the burden of funding the legislation are defined as companies engaged in the manufacture and first sale of products containing asbestos and companies engaged in the manufacture and first sale of cigarettes, Sec. 102(j).

8. Responsible parties are further classified in order to permit different levels of contribution to the funding of the Act in recognition of the risk created by various products. Sec. 102(k).

Title II

1. Provides for the payment of benefits to affected persons and their dependents for disability or death from an asbestos-related disease. Sec. 201.

2. Payment of benefits is scaled to the monthly payment to which a federal employee in a given GS grade who is totally disabled would be entitled. The present draft is geared to the GS-5 level which would be approximately \$500 per month for death or total disability. Sec. 202 (a) (3). There are provisions for the increase of the benefit based upon the number of dependents of the affected person. Sec. 202 (a) (5), (a) (6).

3. Medical criteria is established for the allowance of claims, and accordingly there is no presumption of disease based upon length or degree of exposure to asbestos. Sec. 201 (b).

4. The benefits may be adjusted if the nature or severity of the disease changes, and provides for the payment of medical expense if such payment is unavailable under state worker's compensation. Sec. 202 (a) (8), (a) (9).

5. Legal and medical expenses incurred in establishing claims may be reimbursed in a sum not to exceed \$1,000.00. Sec. 203(c).

6. Benefits are not to be considered income for purposes of the Internal Revenue Code and are exclusive of a base worker's compensation benefit. Worker's compensation payments above the base would be credited against benefits, received under the Act. Sec. 202(c).

7. Benefits for claims arising through December 31, 1979, are to be paid from general treasury funds.

Title III

1. Benefits for claims arising subsequent to January 1, 1980, are to be paid from an Asbestos Worker's Compensation Fund. The fund is to be supported by equal contributions from the responsible parties collectively and the federal government. Sec. 301.

2. The fund will be administered by an independent Board, chaired by the Secretary of Labor. The Board will determine the validity of claims filed. Sec. 302(b)-(h).

3. Responsible parties contribute to the Fund according to a formula based on a percentage of net sales of asbestos containing products and/or cigarette sales made during the quarter fifteen (15) years preceding the quarter in which payment is made. The different classes of responsible parties would be taxed at different rates to appropriately recognize the risk created by particular products. Sec. 303(b).

4. No affected person shall be discriminated against for seeking benefits under the Act. Sec. 305.

5. There are provisions for clinical facilities for examination and treatment where deemed necessary. Sec. 307.

6. Orders allowing or denying benefits under the Act may be appealed to United States District Court. Sec. 306-

7. All claims under the Act shall be filed within three (3) years of an initial diagnosis of total disability or death due to an asbestos related disease. Sec. 304.