Asbestos
Compensation and Liability

JERS EXTENSIONS REVISED 10/21

I. The Committee believes that asbestos presents a catastrophic liability and Compensation exposure to Travelers for these reasons:

1. Asbestos causes cancer

2. Millions of workers and the general public have been exposed over a long period of time

3. We have insured producers and users of asbestos for many years with consequent accumulated exposure of policy limits.

4. We believe the next few years are going to bring a large number of claims because of increasing publicity on the asbestos hazard. We believe these claims will be individually large and expensive to defend.

5. We do not believe that engineering or claim or underwriting can limit future policy periods to acceptable loss levels because

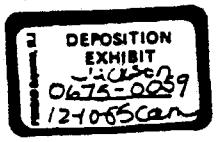
   (a) No one is sure current engineering control methods will work; past "acceptable" levels have steadily been reduced as evidence mounts that asbestos does cause cancer at lower levels than thought in past; there seems to be no "acceptable" level for innocent third parties.

   (b) Claim has had limited success in using available defenses of Statute of Limitations and State of the Art, and as evidence mounts it becomes impossible to use these defenses if producers of asbestos can be shown to have known of the dangers and failed to control it or adquately warn those exposed to asbestos.

   (c) Underwriting using normally acceptable pricing techniques and in the absence of demonstrated catastrophe loss has not funded for these exposures and would have extreme difficulty in attempting now to price for the future loss not yet evident.

6. There is no known substitute for asbestos which has over 3,000 uses; obviously asbestos will continue to be used until economic or social substitutes are required by law—we do not believe Travelers can afford to wait until catastrophe loss is evident to pass this business and social risk to others.

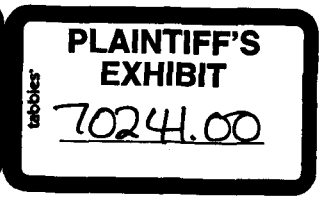
7. While it may take many years to demonstrate the amount of the loss already accrued to the account of Travelers, the exposure of additional policy periods and limits will add millions of additional losses for which no provision has been made or is likely to be made if Travelers continues it present course—which is essentially Laissez Faire—there being no company policy established toward the hazard.



DET2168137 75
1000 · 1983

TRA 033493





8. Punitive damage potentials are extremely large because of apparent failure to adequately warn workers and the public of the hazards known to makers and large distributors of asbestos.

II. What should be done in regard to asbestos?

A. Background considerations

Since it is clear we have exposed many policy periods with their limits, nothing can be done about the past for liability (except for "transferrable" product exposures not yet triggered), but much can be done about compensation if the account is not removed since the new "carrier" will in most jurisdictions bear the O.D. loss.

It should be recognized that there are classes of asbestos exposure and those which make or distribute significant amounts of asbestos and are of Fortune 500 stature are the classes to be dealt with first; next would be those who expose others to asbestos through the use of asbestos in making their products or in the day to day operations; last would be those who incidentally use asbestos or sell it.

We need to develop a priority order of exposures and methods of dealing with each class since we do not recommend dumping all insureds remotely or potentially connected with asbestos. Such a course would create unnecessary furor in the market, impede easy "transfers" which might be possible otherwise and could not be accomplished legally with any immediacy.

Recommended Action Plan

1. Deal first with Johns-Manville (Manufacturers)

a. JM produces 35-40% of all US production of asbestos.

b. JM has a history of demonstrable present loss and its future loss picture seems clear; it represents an inevitable target.

c. JM is not currently an eminently profitable account.

d. JM's limits of liability (and compensation potential) constitute a significant portion of total expected loss.

e. "Transfer" of JM would in itself remove Travelers from significant future loss; such "transfer" is possible without confusion or announcing any program.

f. It should be clear if we have any other makers of asbestos on the books, they should be "transferred" also—and at the earliest practical date.

CT2165138

74

How to "Transfer"

a. Exclude asbestos hazard from Liability; no stop loss and no Maximum for Compensation with a suitable letter of credit to guarantee the Maximum.

b. Price to lose the account (a dangerous procedure since no rationally demonstrable price may prove to be too high; also can we wait until renewal).

c. Cancel the account—the only safe way but we must be prepared to take the consequences; yet if the Committee is right, the only sensible thing to do.

d. Use large per claim deductibles, transfers to captive, inclusion Supplementary Payments within low total limit of liability to reduce catastrophe potential, have low sublimit as respects asbestos—all these only reduce catastrophe exposures.

2. Turn next to those accounts which have high inherent Compensation or Liability loss potentials and are Fortune 500 types.

The activities which pose the greatest potential source of loss can be inferred from this listing based upon Product Lines use of asbestos in 1971:

Product Line	Tonnage	Percentage of Tonnage
Vinyl-Asbestos Tile	145,000	21.6%
Asbestos Cement Pipe	140,000	20.9%
Felt & Paper	110,000	16.4%
Asbestos-Cement Building Materials	50,000	7.5%
Packing Materials	25,000	3.7%
Textiles	22,000	3.3%
Asbestos Insulation	16,000	2.4%
Spray-on Asbestos	15,000	2.2%
All Other Asbestos	147,000	22.0%
	670,000	

Additionally, the available literature indicates the following:

200,000 workers are employed in the asbestos industry
3,500,000 workers are employed in construction and shipbuilding
1,500,000 workers are exposed to "peripheral" asbestos unknown
millions of public are being exposed

Examples of Accounts requiring quick action and lines involved

Certain-Teed Products	Products and Compensation
Todd Shipyards	Compensation

EBI2103:39

73

TRA 033495

III. When should we expect the catastrophe, and how soon should we react?

a. Evidence is not available to indicate exactly when this catastrophe will become self-evident enough so all will know; it may happen in 1976, 1980 or even later, but that it will happen seems certain.

b. The Committee believes the danger imminent enough to counsel action in the near future since this course will pose the least peril to the already strained surplus of Travelers.

c. Action now reduces the number of policy periods exposed, makes "transfers" more probable and replacement of loss premium possible before the accrued loss is demonstrated so when the accrued loss becomes evident, Travelers balance sheet will be affected to the least degree possible.

It is therefore the recommendation of the Committee that Travelers in the most expeditious fashion undertake the following:

(1) Cancel manufacturers of asbestos or "transfer" the loss on a risk by risk basis of analysis.

(2) Identify and cancel or "transfer" the loss potential inherent in large Fortune 500 users or distributors (on a day to day basis) of asbestos.

(3) When (1) and (2) are accomplished, consider if asbestos should be excluded as a "social or business risk" not capable of being borne by individual carriers.

The problem seems capable of solution by SAM-CAD; the field at this juncture should not be alerted until we are ready for Stage (3).

Material supporting these conclusions are attached in Exhibits A-

T. A. Jackson, Secretary
CP Special Accounts Marketing

TAJ:cad
Attachments

12168140

72