



A/C Pipe
Producers Association
Public Affairs Committee
International Affairs Committee

Internal Correspondence

TO *J. F. Welch*
FROM J. F. Welch, Vice President

DATE April 15, 1982

SUBJECT U.S. Congress - Hearings on Asbestos

REF: Regulatory Affairs, Field Problems and Asbestos Research Report, March 17, 1982

ACTION REQUIRED: Review for information

On March 16, 1982, the U.S. House of Representatives, Subcommittee on Commerce, Transportation and Tourism held a hearing in Washington on "EPA's Failure to Regulate Asbestos Exposure." A similar hearing was held in New Jersey on January 19, 1982. The hearing was chaired by Representative James J. Florio (D-New Jersey); Subcommittee members Lent (R-New York), Mikulski (D-Maryland) and Moffet (D-Connecticut) also were present. The proceedings received print (Enclosure 1) and broadcast media coverage.

Representative Florio opened with a resounding criticism of "EPA's failure to carry through on any of the seven asbestos control programs under the Toxic Substances Control Act (TSCA)." He also claimed that "Agency inaction on asbestos fully complies with the recommendations of the Asbestos Information Association." A complete text of Florio's opening statement is attached (Enclosure 2). A summary of the witnesses' testimony follows.

Environmental Protection Agency (EPA)

Dr. John A. Todhunter, Assistant Administrator, Office of Pesticides and Toxic Substances and William Sullivan, Director, Office of Enforcement appeared on behalf of EPA. Todhunter updated the Subcommittee on the status of EPA's program on asbestos containing materials in schools and the Office's investigation of current commercial and industrial uses of asbestos under TSCA. Sullivan explained how the Agency's reorganization would affect asbestos regulation and enforcement under TSCA. Both Todhunter and Sullivan then were "grilled" by Florio and Moffet. Todhunter's integrity was impugned because his appointments log (previously requested by the Subcommittee) showed a large number of breakfast, dinner and cocktail receptions with representatives of the chemical industry. In his usual abrasive manner, Moffet suggested that Todhunter's conduct might be in violation of EPA policy on the acceptance of gifts, gratuities or entertainment. It is surprising that the Washington Post article did not make more of this allegation.

Todhunter reported that the school inspection and notification program rulemaking was being reviewed by the Office of Management and Budget and EPA Regional Administrators. After Florio questioned whether Todhunter had any doubts that asbestos was a known human carcinogen, Todhunter assured Florio that EPA would issue the schools rulemaking but no date was given.

With respect to the Section 8(a) reporting requirements for asbestos, Todhunter said only that EPA would promulgate a rule but the date of promulgation was "yet to be determined." After Todhunter's testimony, Florio commented, "Much of what you have said does not give me great confidence." Florio expressed concern about the lack of communications within the Agency, and the apparent lack of direction for the asbestos control program. Carrying this point further, he bluntly asked what the Agency's program for asbestos was. Todhunter retorted that asbestos was not unregulated, but in fact one of the most regulated substances in commerce, subject to twenty-two separate rulemaking actions or statutes. Florio would have none of this and kept reiterating that many of the asbestos control rulemakings were six to twelve months overdue.

Moffet then had another turn harrassing Todhunter. It was to Todhunter's credit that he did not lose his poise while Moffet continually questioned his integrity and raised the specter of conflicts of interest. Moffet seemed more interested in vilifying Todhunter than dealing with the substance of the hearing. Finally, Moffet expressed "great doubts" about how EPA was proceeding on the regulation of asbestos. He criticized the "Todhunter doctrine" on significant risk and said, "The attitude down there (EPA) is absolutely horrendous. EPA simply lines up along with industry on all issues."

Representative Mikulski also questioned Todhunter on priorities for TSCA implementation. After Todhunter's somewhat vague answer, Mikulski characterized his answer as unsatisfactory and said, "You are the chemical hazards cop of America and these children are being mugged by asbestos. What are you doing? We want this act implemented and you are the cop to do it."

Mount Sinai School of Medicine

Dr. William J. Nicholson delivered the predictable Mount Sinai view on the hazards of asbestos and asbestos containing products. He characterized the data on occupational exposures to asbestos as a "catastrophe," and said the current occupational standard "ill serves the American worker." The tone of Nicholson's testimony is represented by the following quote:

Asbestos disease extends from the workplace into the community from exposures to the fiber in homes, schools and public buildings. Concentrations exceeding 100 times background levels have been measured in each of the above circumstances. Deaths from past exposures in such circumstances add to our current burden of occupational mortality.

Nicholson characterized the risk of students in schools containing deteriorating asbestos ceilings as "a problem of sufficient magnitude that it should be addressed expeditiously." He also endorsed an occupational exposure standard "as low as absolutely possible."

Asbestos Victims of America, Inc.

James Vermeulen, a former A/C pipe plant worker, delivered testimony on his "plight as an asbestos victim." He criticized his former employer, OSHA and the workmen's compensation system. In Staff's judgment, Vermeulen's testimony was so disingenuous and irrelevant to the Subcommittee's concern that it had little or no impact.

Natural Resources Defense Council, Inc.

The thrust of NRDC's testimony was that instead of moving to control a documented hazards such as asbestos, EPA appeared to be focusing its efforts on finding ways for industry to avoid complying with the few TSCA requirements currently in effect. The Council's comments on asbestos were only a springboard for its criticisms of EPA for not regulating other toxic substances such as formaldehyde, PCB's and chlorofluorocarbons.

Barry Castleman discussed asbestos substitutes and cited A/C pipe as a good example of a product for which safe substitutes existed. He endorsed the view that EPA should get rid of asbestos in five to eight years.

Johns-Manville Corporation

Jim Reis, accompanied by Wyatt McCallie, testified that current measures to control exposure to asbestos should not be related to current asbestos disease which is the result of long past excessive exposures. Reis reviewed changes in asbestos products, the development of work practices and tools, packaging, transportation and manufacturing control and regulatory standards. The adequacy of existing controls and the need for centralized coordination of asbestos regulation also were emphasized. Given the number of interruptions by Florio, Reis did an admirable job of responding to questions and maintaining the cohesiveness of his testimony (Enclosure 3).

J-M's testimony was augmented by that of AIA/NA (Enclosure 4), who endorsed the speeding up of "rulemaking proceedings to move toward development of sound, new regulations."

Staff Analysis

Congressional hearings, particularly in the House of Representatives, have become a favorite theatre for flaying the Environmental Protection Agency and the Reagan Administration's environmental policies. This hearing was no exception. The asbestos in schools issue was the emotional catalyst and EPA's lack of progress in issuing a final rulemaking in any form has only aggravated the situation. The Agency's decision not to issue a risk assessment (however desirable from industry's standpoint) also has attracted media, public and Congressional interest.

It is Staff's judgment that these hearings will have minimal impact on the asbestos rulemakings underway. The facts are that asbestos and asbestos containing products do not appear to be a major priority within EPA and no manner of goading by this politically liberal Subcommittee is likely to accelerate or substantially alter the Agency's plans, whatever they may be.

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

JFW/ajb

Enclosures

cc: A. Kahn, Esq.
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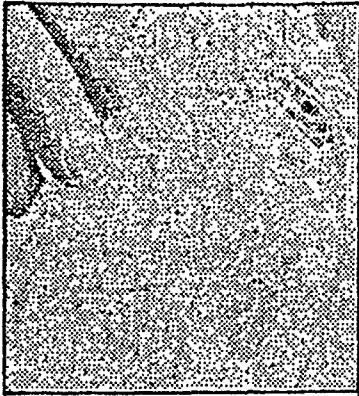
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Asbestos: subject of work-place rules

EPA Accused Of Inaction On Asbestos

By Sandra Sugawara
Washington Post Staff Writer

A congressional subcommittee yesterday accused the Environmental Protection Agency of abandoning federal programs established to identify and remove asbestos from schools and other public places.

Asbestos is one of the most regulated substances in America, and, in fact, was the first substance for which the Occupational Safety and Health Administration issued workplace standards. Last spring, industry asked the Presidential Task Force on Regulatory Relief to relax some of those regulations.

Rep. James J. Florio (D-N.J.), chairman of the House energy and commerce subcommittee that oversees the agency, said EPA seems to be doing just that. Among the actions—or inaction—cited yesterday:

- A final rule establishing a mandatory school inspection program is a year overdue.

- Regulations for an Education Department program to help schools pay for asbestos removal were never written by EPA and the loan and grant program never put in place.

- A Carter administration idea to require commercial buildings to be inspected for asbestos has been dropped.

- The development of restrictions for the commercial and industrial use of asbestos is five months behind schedule.

An information-gathering system for asbestos use and substitutes is also five months overdue.

- A program to alert mechanics exposed to asbestos fibers when servicing brakes on vehicles is in limbo.

- A joint program with the Consumer Product Safety Commission to alert homeowners to the dangers of asbestos has been dropped by EPA, according to an agency memo. Officials said yesterday, however, that the program is proceeding according to schedule.

In addition, subcommittee members noted that the administration wants to cut funds to administer the Toxic Substances Control Act, under which many of the asbestos programs are run, by 42 percent from fiscal 1981 to fiscal 1983.

Dr. John A. Todhunter, assistant administrator for pesticides and toxic substances, said, "Our budget people found that our office always asked for more money" than it spent.

Todhunter added that the asbestos program schedules agreed to by the Carter EPA were "unrealistic."

Subcommittee members noted that there were many substitutes for asbestos that EPA could force industry to use. Todhunter replied, "In many cases there are substitutes. In many cases there are not. And the cost of substitution must be considered." He added that large segments of the asbestos industry are already regulated and "it's not clear that the remaining cases demand further regulation."

EPA first proposed a mandatory school inspection program in 1979; at the same time, it began a voluntary inspection program in which school officials were taught how to inspect their schools. According to EPA's schedule, the final rule for the inspection program was due in February, 1981. Todhunter said the final proposal was sent to the Office of Management and Budget roughly a week ago for its review.

Todhunter said the voluntary inspection program had been only partially successful, noting that about 30 to 40 percent of the schools remain uninspected. Subcommittee members argued that the number of uninspected schools is higher.

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March 16, 1982

OPENING STATEMENTOFTHE HONORABLE JAMES J. FLORIO, CHAIRMAN

HEARING: EPA's Failure To Regulate Asbestos Exposure
March 16, 1982

The Subcommittee has called this hearing to examine the reasons for EPA's failure to carry through on any of the seven asbestos control programs under the Toxic Substances Control Act (TSCA) that were on the Agency's agenda only a few months ago. Of particular concern are the lengthy delays and hollow promises of the Agency regarding the protection of our school children from crumbling asbestos materials in this Nation's schools.

In January this Subcommittee heard testimony from parents, state officials, asbestos researchers, and EPA itself on the need to require the inspection of all schools for asbestos materials. The Subcommittee was assured at that time that such actions would be forthcoming in the very near future. To date, no actions have been taken.

But crumbling asbestos in schools is only one of the seven former asbestos control programs, and asbestos itself is but one of the 55,000 existing toxic chemicals that are potentially in need of assessment or control under TSCA. In recent weeks the Agency has amply demonstrated its desire to swim against the current of common sense. The EPA's divergent course becomes abundantly clear when its inaction is contrasted with the prudent decisions of its sister agencies.

While the CPSC has determined formaldehyde foam insulation to be a significant risk to human health, the EPA finds the data unconvincing and insufficient to designate formaldehyde for priority consideration.

OSHA has solicited comment on the adequacy of the current asbestos workplace standard in light of recent evidence. On the other hand, EPA has dropped, delayed, or deferred all seven of its asbestos programs, including those that would simply provide information to high risk groups.

In addition, a recent GAO report finds that enforcement under TSCA to control PCBs, one of the most widely distributed toxic substances

in the environment, "lacks overall direction and does not encourage quick compliance". According to the report, the Agency did not disagree with these conclusions.

The reasons for Agency failure to control asbestos and other existing chemical hazards should be a mystery to no one.

First, appropriations for abatement control and compliance will drop by 46.4% between FY 1981 and FY 1983 if the Agency's wishes are granted. Total work years for abatement and control of toxic chemicals will drop by 20% during that same period. In light of the fate of the asbestos programs, the Agency is not doing more with less, it is doing nothing with less.

Second, with regard to asbestos itself, it is no coincidence that Agency inaction on asbestos fully complies with the recommendations of the Asbestos Information Association, which argued strongly against any further controls on asbestos in its submission to the Vice President. Is this what is meant by regulatory reform--ignoring an undisputed human carcinogen that will cause 10,000 deaths per year through the end of this century and beyond?

Third, on February 2nd the Agency released a report entitled "Priorities for Office of Toxic Substances Operation". This document and the policy it reflects is a prescription for neglect of existing chemical hazards like asbestos.

The demise of the asbestos control programs at EPA is a signal of this Administration's unwillingness to use its discretion to protect public health from toxic chemical exposure, even when we are dealing with a substance like asbestos.

One cannot help but ask: If the EPA is unwilling to control asbestos, an undisputed human carcinogen, then just what substance is it willing to control? It is this and other questions that the Subcommittee will examine during today's hearing.

U. S. HOUSE OF REPRESENTATIVES

Subcommittee on Commerce,
Transportation, and Tourism

of the

Committee on Energy and Commerce

Comments Of

James F. Reis
Director of Asbestos Policy
Johns-Manville Corporation

March 16, 1982

James F. Reis
March 16, 1982

As the largest producer of asbestos fiber in the Western world and the leading manufacturer of asbestos products in the United States, Johns-Manville Corporation appreciates the opportunity to address this Subcommittee. We have been asked for our views on the adequacy of current measures to control asbestos exposure in the workplace and general environment, and the need to further investigate and assess the uses of asbestos for their potential harm to human health.

In answering this question, it is important to review the history of asbestos use in order to understand that the current asbestos disease being seen is not related to the current measures to control exposure to asbestos. This history shows:

1. The asbestos-related disease being diagnosed today is the result of long-past excessive exposures to asbestos, and not the result of exposures under current regulatory standards.
2. Almost all modern asbestos products contain the fiber in a locked-in or encapsulated form that prevents the significant release of respirable fibers.
3. Modern packaging, transportation and manufacturing controls, including dust collection and waste disposal techniques, have greatly reduced the

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amount of respirable fibers in the workplace or the general environment from manufacturing processes.

4. Work practices and tools for the use of asbestos products have been developed that greatly reduce or virtually eliminate the production of respirable fibers from the machining or fabricating of products as part of an installation process.
5. At least six federal agencies have modern regulations, all developed in the 1970's, controlling the use of asbestos literally from the mine to disposal site.

We conclude that the current regulatory scheme is adequate but that there is a need for a centralized review of the government's asbestos initiatives. This can best be accomplished by EPA under the Toxic Substances Control Act, with a primary purpose of identifying any remaining significant sources of respirable asbestos fibers. Particular emphasis should be given to developing specific work practices for construction sites where improper fabricating or machining techniques can release the asbestos fiber from its binding matrix, and to additional educational labeling to identify proper work practices.

Legacy of the Past

As noted by Dr. Selikoff in his testimony to this Subcommittee on January 19, 1982, the asbestos-related disease being diagnosed in workers today is the result of

excessive exposure to asbestos in the past. It is not the result of exposure to current occupational standards. Dr. Selikoff referenced long latency or "incubation" periods of 20, 30, 40 or more years for asbestos-related disease. Thus, the current diagnoses result from exposures at times when substantially less was known about the medical effects of exposure to asbestos and virtually nothing was known about the synergistic relationship between asbestos and smoking in increasing the risk of lung cancer.

There is considerable scientific debate on whether there exists a threshold level of exposure to asbestos or other substances below which disease is not caused. The existence or non-existence of thresholds cannot be proved using current scientific techniques. Those not believing in thresholds often make the statement, "There is no safe level of exposure to asbestos," thereby using the word "safe" in a vernacular sense meaning "zero risk" rather than in the stricter scientific sense meaning "having acceptable risk." Since the scientific community and the United States Supreme Court have recognized that there is no such thing as zero risk from anything, "zero risk" cannot be an achievable objective under any regulation or law. In this regard, there is nothing unique about asbestos. It should be treated in accordance with the same principles governing the use of any beneficial but potentially harmful agent.

Regardless of the debate over thresholds, there is uniform agreement that exposure to asbestos follows the principle of dose response, or in the words of Dr. Selikoff, "that risk decreases with decreasing intensity of exposure." A necessary corollary of the principle of dose response is

that a miniscule exposure to a toxic agent implies a correspondingly miniscule risk of harm. Thus, there is no disagreement in the scientific community that if asbestos use can be controlled in such a way as to produce insignificant exposures to respirable fibers, the risk of injury from such exposures will in turn be insignificant. The changes discussed below have greatly reduced or virtually eliminated exposure to respirable asbestos fibers. From these changes, we can be assured that the disease being seen as a legacy of past practices will not occur in the future if asbestos is used in compliance with current stringent regulatory standards. However, we remain open to any further review of permissible exposure levels based on the best available medical and scientific analysis.

Changes in Asbestos Products

As part of its own review and assessment of asbestos products, the industry has defined three broad categories of products:

- Friable products: Products that can be crumbled or pulverized easily by hand pressure or during normal uses so that there exists a substantial opportunity for the release of respirable fibers.
- Locked-In Products: Products in which the fiber is firmly locked in a binding matrix, frequently portland cement, so that during normal end use there is no significant release of fibers, but these products may release fibers above the OSHA permissible levels during machining or fabricating operations, particularly if high speed power tools are used.

- Encapsulated Products: Products in which the fiber is firmly bound in a particularly tenacious matrix, usually adhesive in nature, so that there is virtually no release of fibers during foreseeable uses, including fabricating and machining operations.

There are extremely few friable products currently in production. To our knowledge, those that remain are still produced solely because they fulfill a critical need and cannot be made non-friable without destroying their ability to perform. An example of such a product produced by Johns-Manville is Molten Metal Marinite, a friable asbestos board used to contain molten metals. Attempts to increase the binder content result in unacceptable performance and possible contamination of the metals. Because of its friable nature, Molten Metal Marinite is handled, installed, and replaced using strict work practices, including respiratory controls, that minimize worker exposure. In addition to being rare, friable products are not generally sold outside of specialty industrial markets so that they do not come into contact with unsophisticated users.

The largest category of locked-in products are those made of asbestos-cement such as A/C pipe, sheet and architectural panels. These rock-hard products do not release significant respirable fibers except where improper work practices are used to cut or fabricate them.

Encapsulated products include vinyl-asbestos floor tiles, impregnated or rubber-encased gaskets or other sealing components and asphaltic roofing compounds. Because of the tenacity of the binding agents for these products,

even reasonably foreseeable machining and fabricating techniques do not release significant respirable fibers.

The potential for release of respirable fibers from these modern locked-in and encapsulated products is not comparable to the old friable products, particularly the old asbestos insulation materials, that have produced the overwhelming bulk of the current asbestos disease claims.

Work Practices and Tools

Not only has the nature of the asbestos products changed over time, but also sophisticated work practices and tools have been developed to enable machining and fabricating of locked-in products with a minimal release of fibers. In the late 1960's, Johns-Manville joined with Mt. Sinai Hospital and the International Association of Heat and Frost Insulators and Asbestos Workers to form the Insulation Industry Hygiene Research Program (IIHRP), the first coalition between a manufacturer, a union, and a medical research facility to solve a major occupational health problem. As a participating member of the IIHRP, Johns-Manville helped develop and distribute comprehensive work practice procedures for insulation workers in the field.

Similarly, educational manuals outlining work practices that can significantly decrease potential exposure to asbestos dust have been developed for the asbestos-cement pipe industry in conjunction with the Association of Asbestos Cement Pipe Producers; for the asbestos-cement sheet industry in conjunction with the Asbestos Information Association/North America; and for the friction materials industry in conjunction with

the Friction Materials Standards Institute. Johns-Manville alone has distributed over 15,000 copies of the A/C pipe manual in the field, and a reminder for the need to follow these practices goes out with every shipment of pipe.

Packaging, Transportation and Manufacturing Controls

Johns-Manville has been a leader in developing packaging techniques to assure that bags of asbestos fiber arrive at a customer's plant intact. In the mid-1950's the Company pioneered the use of pressure packing for asbestos. This process allowed the fiber to be put in multi-wall paper bags that are block-shaped and can be readily stacked and handled mechanically. Later the Company introduced the pulpable paper bag, which allows users to dump the unopened bag directly into a water slurry and thus eliminate potential exposure to asbestos dust in the bag opening operation.

Johns-Manville also pioneered the use of movable bulk-head doors and inflatable dunnage in rail cars to prevent the rupture of bags of fiber caused by the shifting of cargo.

The Company has also been a leader in the development of fabric bag air filtration equipment, bulk handling systems for asbestos, manual and mechanical bag opening stations to protect workers handling bagged fiber, and fiber opening equipment to allow manufacturers to use the less dusty pressure packed fiber. A detailed history of some of the engineering process controls implemented by the Company are set forth in Appendix E of the Comments of Johns-Manville

Corporation with respect to OSHA's Notice of Proposed Rulemaking: Occupational Exposure to Asbestos (April 1976), a copy of which has been made available to the Subcommittee.

These changes in technology have enabled current asbestos-using plants to operate in accordance with stringent occupational standards and to minimize release of fibers into the workplace or into the general environment outside the plant.

Regulatory Standards

The use or handling of asbestos is currently regulated by at least six federal agencies. Their regulations literally cover the life cycle of asbestos from the moment it is taken out of the ground as a mineral, through its useful life, and through its disposal. Other than radioactive materials, virtually no other substance in our society is subject to such extensive life cycle regulation.

The agencies and the scope of their regulations are as follows:

- Mine Safety and Health Administration: Regulates exposures to asbestos during mining operations.
- Department of Transportation: Regulates the packaging and transportation of asbestos as a hazardous material under the Hazardous Material Transportation Act.
- Occupational Safety and Health Administration: Regulates exposures to any worker handling asbestos or

an asbestos-containing product, whether in the manufacturing, installation, removal or any other process. Requires a primary use of engineering controls rather than personal protective devices for exposure reduction and establishes specific standards for when personal protective devices must be used. Establishes detailed medical examination requirements.

- Environmental Protection Agency: (1) Under the Clean Air Act's National Emission Standards for Hazardous Air Pollutants program (NESHAPS), mandates no visible emissions from asbestos manufacturing and waste disposal operations. Sets stringent work practices for demolition or destruction of buildings containing asbestos materials. Prohibits certain uses of asbestos, such as spray-on asbestos insulations previously used on schools and other public buildings. Has detailed instructions for the disposal of asbestos wastes, to the point of describing even the type size and font used on signs to be posted at waste disposal sites. (The entire asbestos NESHAPS program has just been reviewed by EPA's Clean Air office based in Durham, N. C. and only two new sources of potential asbestos emission were discovered: drilling muds and operations involving the encapsulation of old asbestos spray-on insulations in buildings. During the course of this review, J-M made available several of its plants for inspection by the agency and its consultants. This continued a long history of cooperation with any agency developing regulations on asbestos.) (2) Under the Federal Water Pollution Control Act Amendments of 1972, effluent limitations and new source performance

standards are in effect for asbestos manufacturing point sources. Zero discharge has been set as the 1984 limitation. (3) Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Superfund), EPA regulates spills or releases of asbestos outside of the manufacturing facility. In connection with potential spills and waste disposal of asbestos, it is important to note that EPA studies have confirmed that asbestos is an inert, insoluble mineral that does not leach into ground waters.

- Consumer Product Safety Commission: Under the Consumer Product Safety Act and the Federal Hazardous Substances Act, the CPSC may regulate consumer products containing asbestos. The CPSC has existing regulations that ban consumer patching compounds used to join or repair interior walls and ceilings and also artificial emberizing materials (embers and ash) used in fireplaces to simulate live embers and ash, where those products contain respirable free-form asbestos.

- Food and Drug Administration: The FDA strictly regulates the use of asbestos-containing or other fiber-releasing filters in the manufacturing, processing or packaging of parenteral (injectable) drugs. While the FDA also has the power to ban or otherwise regulate the use of asbestos filters or asbestos-containing talc in food or food packaging, the FDA has concluded that such a ban or regulation is unwarranted (40 Fed. Reg. 11867, Mar. 14, 1975).

As can be seen, virtually every aspect of the life cycle of asbestos and asbestos-containing products is regulated by one or more federal agencies. Not one of these regulations predates the 1970's, and most have either been adopted or amended during the last half of the 1970's. Thus, the current regulatory scheme represents a substantial bulwark against the inappropriate handling or use of asbestos or asbestos products.

Significantly, during the course of development of these regulations, not one legal challenge has ever been brought by Johns-Manville or, for that matter, by any member of the asbestos industry, against any of these regulations. To the contrary, the Company (and the asbestos industry in general) has provided any data requested by the agencies, has opened its plants for study and inspection, and has spent literally thousands of man-hours educating agency personnel and their many waves of consultants about asbestos, its uses, and the processes for manufacturing it into products.

Adequacy of Current Regulatory Measures

With this overview of the historical changes that have taken place in asbestos products, manufacturing processes, work practices, and regulations, we can turn to the question of the adequacy of current measures to control asbestos exposure in the workplace and general environment. The current regulatory scheme has a major emphasis on practices or controls that allow the continued use of products but that prevent or minimize the creation of respirable fibers. A secondary approach has been to ban certain products that

may have potential for environmental release of fibers during use. These bans have been few in number because the industry has on its own initiative eliminated almost all friable products, and the locked-in and encapsulated nature of modern products has largely eliminated the release of respirable fibers during use.

In general, we find the current regulatory scheme to be adequate. While it is both stringent and comprehensive, industry has learned to understand it and live within its confines. However, we do have these suggestions as to how it may be improved.

1. The current OSHA standards are least workable for construction site or other non-fixed locations where asbestos products are used. Accordingly, we have participated with, and strongly support the program of, the Asbestos Information Association/North America in developing a "Recommended Standard for Occupational Asbestos Exposure in Construction and Other Non-Fixed Operations" submitted to OSHA in 1980. That program was discussed in some detail today by Mr. Bob Pigg, Executive Director of the AIA/NA.
2. We support the proposal by the AIA/NA to EPA that it adopt an educational labeling requirement for virtually all asbestos products.

3. We strongly recommend that the federal government coordinate all of its asbestos regulatory activities through the use of the Toxic Substances Control Act (TSCA) administered by EPA. There are substantial benefits to the government, to industry, and to the public at large from such a coordinated approach as discussed briefly below.

Centralized Coordination of Asbestos Regulation

The current scheme of having specific asbestos regulations developed by independent agencies is appropriate as far as it goes because it allows specific agency expertise to be brought to bear on issues for which that expertise is suited. As demonstrated, this scheme has resulted in a substantial body of comprehensive regulations. However, the scheme is not optimal because of the virtual impossibility of having six or more separate agencies developing regulations that are internally consistent and comprehensive, but without overlaps or missing gaps. Coordination of the entire federal regulatory approach by EPA under TSCA would have these advantages:

1. Coordination would reduce the multiplicity of requests for data and general education submitted by agencies and their consultants to industry, thereby saving time and expense for both industry and the agencies.
2. Coordination would maximize the ability of the government to have a cohesive and uniform regulatory approach to asbestos without duplicative

overlaps or missing gaps. In particular, it would maximize the opportunity for the government to develop an internally consistent view of the scientific and epidemiological aspects of exposure to asbestos.

3. The Toxic Substances Control Act is the only statute that has a jurisdictional base broad enough to include all phases of a material's use. Thus, it is the only statute that can be used as authority for programs that may cut across traditional agency lines, such as uniform labeling programs.
4. In the past 7 years, several federal agencies have announced various proposed rules for additional asbestos regulation. To date, none of these proposals has moved beyond announcement and perhaps some preliminary data gathering. Section 9(a) of the Toxic Substances Control Act is the only federal statutory provision in which Congress has authorized one agency to analyze the potential for unreasonable risk of injury to health or the environment from circumstances normally regulated by other agencies. Coordination under TSCA, therefore, will serve as the vehicle by which the need for the proposed rules is evaluated and acted upon.

While we support centralized coordination of the government's asbestos regulatory approach through EPA under TSCA, we have recommended against the indiscriminate "global"

approach described by EPA's Announced Notice of Proposed Rulemaking on Commercial and Industrial Use of Asbestos Fibers (44 Fed. Reg. 60061, Oct. 17, 1979). We have filed extensive comments regarding that proposal, and we have strongly supported the comments of the AIA/NA. Copies of both those sets of comments have been provided to the Subcommittee. Our biggest concern with the ANPRM approach is that it wholly ignores the distinction between friable, locked-in and encapsulated products, and rather sweeps all of them indiscriminately into a regulatory morass that by law must include a complex calculus of risks, costs, benefits, substitutes, etc. As our ANPRM comments point out, this calculus is not merely a legal technicality but is necessary to achieve two very crucial purposes:

1. To prevent serious economic harm to the public from being deprived of substantial benefits of a substance while being relieved of little or no health risk; and
2. To prevent greater risk of harm to the public's health from the use of potentially harmful substitutes about which substantially less is known.

Our suggestion and our offer in the ANPRM comments remains clear today:

"Rather than an indiscriminate, global approach to regulation, Johns-Manville urges EPA and CPSC to join with industry in an effort selectively to identify significant sources of respirable asbestos fibers. Such a search, coupled with voluntary efforts and least burdensome regulatory controls if significant sources of respirable fibers are identified, will maximize the

elimination of health risks and will impose a minimum of economic losses ' businesses, workers and the consuming public." (P. 26)

No amount of complex economic data, risk assessment, substitute analysis, etc., is going to change the uncomplicated fact that vinyl-asbestos floor tiles and other encapsulated asbestos products are simply not going to produce a significant exposure to respirable fibers. Therefore, we have suggested that the regulatory process can find more significant problems for its increasingly limited resources. Similarly, for locked-in products, the regulatory process can focus most efficiently on work practice and labeling requirements rather than on the phases after machining and fabrication during which the fibers remain locked in the matrix. Finally, the highest regulatory scrutiny should be given to any remaining friable products, and they should be prohibited in all but the most compelling and controlled circumstances.

It should not be surprising that this Company or the bulk of the asbestos industry in general supports the elimination of inappropriate uses of asbestos products, those uses that pose a significant risk of producing respirable fibers. Public concern about inappropriate uses can cause public misapprehension and confusion about appropriate uses. Our long term interests, including the jobs of our employees, and society's long term interests are best served by a system of reasonable regulations under which the economic, engineering, and safety benefits of this versatile mineral are obtained, but without significant exposure to respirable fibers to the worker or the general public.

James F. Reis
Director of Asbestos Policy
Johns-Manville Corporation

STATEMENT OF MR. B.J. PIGG
EXECUTIVE DIRECTOR
ASBESTOS INFORMATION ASSOCIATION/NORTH AMERICA

before the

SUBCOMMITTEE ON COMMERCE,
TRANSPORTATION AND TOURISM OF THE
HOUSE COMMITTEE ON ENERGY AND COMMERCE

March 16, 1982

The Asbestos Information Association/North America (AIA/NA) appreciates the Committee's invitation to appear here this morning.

The unfortunate legacy of asbestos-related disease from the high exposures which occurred many years ago has taught us that it is essential for industry and government to work together to develop programs for safer use of asbestos. Accordingly, AIA/NA shares the Committee's strong interest in seeing that EPA develops sound rules and regulations to encourage safe use of asbestos-containing products.

To that end, we have cooperated throughout our eleven-year history with EPA and with other government agencies by providing information and by meeting with government officials to encourage better, more effective regulation. Our posture has consistently been one of seeking reasoned solutions; this Association has never sought to achieve its objectives by litigating federal asbestos regulations.

During the past two and one-half years, there has been renewed government attention to consideration of stricter regulation of asbestos use. AIA/NA has been active in proposing to EPA and to OSHA, as well as to the Vice President's Task Force on Regulatory Reform, positive regulatory steps that would improve asbestos control. We have made a number of positive suggestions for regulatory programs that would reduce human exposures to asbestos.

This morning, I would briefly like to tell the Committee who AIA/NA is, describe the Association's activities and outline the suggestions we have made to government agencies to improve the regulation of asbestos use.

I. WHO WE ARE AND WHAT WE DO

AIA/NA is a voluntary association of approximately 50 companies in the asbestos business in the United States and Canada. Our members include miners of asbestos in Canada and the United States, asbestos brokers, and manufacturers of products containing asbestos. Our members manufacture and market a variety of products, including asbestos-cement pipe, asbestos-cement sheet, asbestos-backed sheet flooring, asbestos-containing friction products for innumerable types of vehicles and machinery, gaskets, asbestos-reinforced plastics, and a number of products for specialized applications. Our members are both large and small, ranging from Fortune 500 companies to small, local corporations.

AIA/NA takes very seriously its middle name -- "Information." Our primary role is to serve as a focal point for provision of information on asbestos. We provide information to the industry, individuals, labor unions, government agencies on both the federal and state levels, and on occasion, as today, to Congressional committees. We are neither a trade association, as we do not engage in product promotion, nor a lobbying organization, as we have never been involved in supporting or opposing legislative initiatives.

Among our informational activities is the monthly publication of News and Notes, a newsletter we circulate widely to persons interested in asbestos to keep them informed of recent activities (Attachment I). We have also compiled and make available a notebook that collects and describes all of the many Federal and state regulations pertaining to asbestos (Attachment II).

Annually for the past seven years, AIA/NA has sponsored an Industry-Government Conference to encourage the sharing of information and views among those persons and government agencies interested in asbestos. At each conference, panels of scientists, industry leaders, and government officials have spoken (Attachment III). While the viewpoints expressed have not always been in complete accord, the sharing of views has, we hope, facilitated meaningful dialogue and better understanding.

Although AIA/NA has not itself supported scientific studies of asbestos health effects, many of our major member companies have supported such research. AIA/NA has disseminated scientific information through our annual conferences, our monthly newsletter and by sharing of our collection of medical articles and papers, so that our members and government agencies are informed about the considerable research being conducted around the world.

AIA/NA is one of 31 national members of the Asbestos International Association headquartered in London. Through the International Association, we have participated in the drafting and promotion of recommended industry and government practices for asbestos control and in extensive work to improve methods for monitoring airborne asbestos.

A significant portion of our activities has been directed to providing information to government agencies. AIA/NA was formed in 1970 at a time when government attention to asbestos was first becoming intense. We provided information and participated in rulemaking proceedings that led to promulgation of the first health standard issued under the OSHA Act. Likewise, we were active in proceedings that led to the development of one of the first three EPA standards on hazardous air pollutants under Section 112 of the Clean Air Act. The OSHA asbestos standard, which lowered permissible exposure levels from the pre-existing 12 fibers/cc level, first to 5 fibers/cc, and then to

CAPCO JEN 0010038

2 fibers/cc, is one of the few occupational health standards that was not challenged by industry in the courts.

In the past two-and-one half years, EPA, OSHA and CPSC have focused increased, new attention on asbestos. In 1979, EPA initiated programs under the Toxic Substances Control Act to investigate possible new regulation of asbestos in school buildings and in industrial and commercial uses. At the same time, CPSC announced plans to survey all consumer products to determine whether they contained amounts of asbestos hazardous to consumers. During the same time period, OSHA has been reviewing the adequacy of its existing occupational standard for asbestos. With respect to these initiatives, AIA/NA has been active in providing information to assist the government in developing reasonable regulations for control of human asbestos exposures.

AIA/NA's activities have been especially intense during the past year when we have participated actively in proceedings before a Royal Commission on Asbestos in the province of Ontario, Canada. That Commission, charged with reviewing existing asbestos control levels, has heard testimony from more than thirty of the world's foremost medical and scientific experts on asbestos.

II. WHAT WE HAVE BEEN PROPOSING TO THE GOVERNMENT

In light of this description of AIA/NA's activities, I would like to outline more specifically the types of

governmental asbestos programs that we have been supporting. When the new Administration requested in early 1981 that interested parties communicate through the Vice President's Task Force their concerns about regulatory issues, AIA/NA was one of the many responding organizations (Attachment IV). We outlined the ongoing activities to examine asbestos at EPA, CPSC and OSHA and urged the Administration to achieve a coordinated resolution of the many pending initiatives. As our letter to the Vice President concluded:

AIA/NA is anxious to work cooperatively with the government to resolve perceived inadequacies in asbestos regulations. At the same time, we are very concerned that any such new regulations be limited to what is necessary and cost-effective. In our communications [to each of the agencies in the past], we have stressed that the integrally inter-related character of the various proposals demand that the government coordinate its asbestos actions We stand ready, willing and able to assist the government in achieving a regulatory environment that both protects health and encourages safe and productive use of asbestos and asbestos-containing products.

In this spirit, AIA/NA has thus sought to assist OSHA, EPA and CPSC in development of regulations. The following short descriptions of some of the information provided and proposals made should convey AIA/NA's concern that any remaining hazardous uses of asbestos be effectively controlled. I have provided the Committee Staff with copies of the agency submissions to which I will refer should more detailed information on any of these subjects be desired.

The most obvious deficiency in the existing OSHA regulation of asbestos is in the construction industry where the majority of asbestos-containing products are used. Although the current OSHA standard ostensibly covers that industry, the intermittent nature of asbestos exposures at construction sites, the multiplicity of non-fixed workplaces, and the highly transient nature of the construction workforce have made the standard impractical.

First in 1980, and on a number of occasions since, AIA/NA has urged OSHA to develop a separate standard for construction workplaces that would lead to meaningful reductions in asbestos exposures. Our proposal is outlined in our Recommended Standard for Occupational Asbestos Exposure in Construction and Other Non-Fixed Work Operations, presented to, and subsequently endorsed by, OSHA's Advisory Committee on Construction Safety and Health (Attachment V). It calls for OSHA to require that validated work practices be used when working with asbestos products. By mandating such work practices, OSHA could improve worker environments in a manner that would be readily enforceable.

AIA/NA has also sought to assist OSHA in its consideration of workplace asbestos exposures by sharing with the Agency our recently completed study of the monitoring capabilities of the membrane filter, the measurement method commonly used in occupational settings in this country and throughout the world. Our "round-robin" study extensively

tested the variability of the membrane filter method as actually used in industry today in order to provide guidance to industry and government on how to improve and interpret occupational asbestos measurements.

EPA's examination of asbestos pursuant to TSCA has focused both on identifying whether there are any risks from asbestos in existing school buildings and on determining whether additional regulations would be desirable in industrial and commercial uses of the substance.

AIA/NA has assisted EPA by making available to interested parties the EPA voluntary guidance documents explaining how to identify and deal with friable asbestos in schools. As AIA/NA wrote in its comments in 1980 on EPA's asbestos in school buildings proposal (Attachment VI), we are not convinced this existing voluntary program for school inspections would not be more effective than a TSCA rule. Nonetheless, AIA/NA did not oppose EPA plans to require school districts to inspect their buildings in order to determine whether asbestos is present.

We have, however, expressed concern that EPA not unduly alarm the public about the extent of risk posed by the presence of asbestos in schools. Some early estimates of such risks in EPA staff documents were labeled as scientifically unsupportable by distinguished outside experts hired by EPA to review the estimates before they were made public. We have urged EPA not to rely on such unsupported

estimates as the basis for their schools programs. Although we fully recognize the necessity of controlling asbestos exposures in order to prevent undue risk, it serves no one to create undue alarm about instances that do not pose any meaningful risk. This is the situation in most school buildings where the levels of asbestos are low, if they exist at all.

Through its investigation of industrial and commercial uses of asbestos, EPA is seeking to supplement OSHA workplace regulations by requiring better control of human exposures wherever possible. AIA/NA has voluntarily supplied EPA with much information about the industry, its products and its activities to control asbestos exposures in plants and in the use of asbestos-containing products. Through these efforts, AIA/NA has been able to assist EPA in focusing its attention on issues related to asbestos (Attachment VII).

In our communications with EPA, beginning with our February 1980 response to its Advance Notice of Proposed Rulemaking (Attachment VIII), we have stressed the utility of recommended work practices to control excessive asbestos fiber releases. We have urged the Agency to incorporate work practice requirements in TSCA rules. AIA/NA itself has been active in the promotion of work practices for persons using and handling asbestos products. AIA/NA and other industry organizations have produced and distributed posters

and pamphlets advocating and describing recommended work practices for asbestos-cement pipe and sheet, asbestos friction products, asbestos flooring, asbestos paper, and other asbestos products (Attachment IX). Each pamphlet explains recommended methods for controlling asbestos fiber release, thereby providing for safer product use. Since 1976, we have distributed more than 130,000 such pamphlets. In addition, we have worked with OSHA and EPA in their development of materials for garage mechanics on safe use of asbestos friction products.

We have also urged EPA to develop a labeling program for asbestos-containing products. AIA/NA believes that use of labeling which both informs product users of the risk of uncontrolled use of asbestos-containing products and provides instructions for safer use will help reduce unwarranted human exposures.

It may surprise this Committee that AIA/NA has been so active in arguing, not that all these government initiatives should go away, but, rather, that the agencies should expedite their rulemaking proceedings to move toward development of sound, new regulations.

The asbestos industry is currently suffering great economic difficulties because of the tremendous uncertainty caused by continuing government-announced plans to issue new regulations in the absence of actual promulgation of such regulations. This uncertainty makes it impossible for

asbestos companies and their customers to plan for the future. We believe everyone would be better served by enactment of new, sound regulations that will both ensure safer use and allow continued marketing of asbestos-containing products that are of great utility to the American public.

I would be glad to answer any questions from the Committee.