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Date September 2, 1971

Originating Dept.

Answering letter date

Subject Asbestos

7 1971

UCC - CALIDRIA

PLAINTIFF'S EXHIBIT UC-200

Gentlemen:

As background for the discussion of Environmental Factors at the September 8th meeting on asbestos, attached are the following:

1. Extracts indicating the purpose, conclusions and recommendations of a report on Airborne Asbestos" prepared by the Committee on Biological Effects of Atmospheric Pollutants of the Division of Medical Sciences, National Research Council.

2. A summary of existing laws that encompass conditions of manufacture and use of asbestos products, with respect to protection of public and occupational environments. This information was presented by the Asbestos Information Association/North America to the Senate Commerce Committee, Subcommittee on Environment in testimony on the Federal Toxic Substances Control Act.

Very sincerely,

E. Epremian

E. Epremian/mc
Enclosure

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A I R B O R N E A S B E S T O S

A Report Prepared by the
Committee on Biologic Effects of Atmospheric Pollutants
of the
Division of Medical Sciences, National Research Council
National Academy of Sciences
National Academy of Engineering Washington, D.C. 1971

This report (1) summarizes the major evidence of the pathogenicity of asbestos in man and animals, (2) summarizes the evidence of human nonoccupational exposure to asbestos, (3) evaluates the evidence of a health risk associated with various degrees and types of exposure, (4) identifies sources of environmental contamination by asbestos, and (5) offers recommendations concerning the need for and feasibility of control measures.

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CHAPTER 7

CONCLUSIONS AND RECOMMENDATIONS

PATHOGENICITY OF ASBESTOS MINERALS

Any of the commercially used asbestos minerals, when inhaled in sufficient numbers, as in uncontrolled occupational exposures, can cause disabling fibrosis of the lungs. An association between occupational exposures to asbestos and bronchogenic carcinoma has been established, but the dose relationship and the role of cofactors have not been defined. Evidence of a causal association between some but not all exposures to asbestos fibers and diffuse malignant mesotheliomas of the pleura and peritoneum is substantial, but evidence of such a relationship with other tumors is inconclusive. Although the different types of asbestos differ in some of their biologic effects, no type can be regarded as free of hazard. The hypothesis that asbestos fibers act as cofactors or carriers of carcinogens is attractive, but as yet unproved.

EVIDENCE OF HUMAN NONOCCUPATIONAL EXPOSURES TO ASBESTOS

The demonstration of ferruginous bodies, similar to those found in asbestos workers, in a large proportion of randomly selected lung specimens in many parts of the world is presumptive evidence that persons with no occupational contact may have inhaled and retained asbestos. Proof has come in some areas with positive identification of chrysotile asbestos fibers. Analyses of community air for asbestos have been too limited to define the sources, concentrations, and distribution of fibers in the environment. The fiber concentrations that have been demonstrated in ambient air are small, compared with those in industry, but data are inadequate for definitive comparisons.

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ACL Doc 15460 · Page 3 of 8 asbestosclaims.law/library/15460/3

ESTIMATION OF RISK IN HUMAN NONOCCUPATIONAL EXPOSURES TO ASBESTOS

The most important question in the case of persons with nonoccupational exposures to asbestos is whether there is an increased risk of malignancies. Industrial experience indicates that there is no likelihood of significant asbestosis in nonoccupational exposures. The major potential for risk appears to lie in those with indirect occupational contacts, household contacts, or residence in the immediate neighborhood of asbestos sources; and even there, the actual risk is poorly defined. But the fact that there appears to be a gradient of effect in such groups suggests that there are levels of inhaled asbestos without detectable risk. It is not known what range of respirable airborne asbestos fibers will ultimately be found to have no measurable effects on health. At present, there is no evidence that the small numbers of fibers found in most members of the general population affect health or longevity.

NEED FOR AND FEASIBILITY OF CONTROLS

Asbestos is too important in our technology and economy for its essential use to be stopped. But, because of the known serious effects of uncontrolled inhalation of asbestos minerals in industry and uncertainty as to the shape and character of the dose-response curve in man, it would be highly imprudent to permit unrestricted additional contamination of the public environment with asbestos. Continued use at minimal risk to the public requires that the major sources of man-made asbestos emission into the atmosphere be defined and controlled. In the absence of such controls, local fiber concentrations might at times approach those in occupational sites. Analytic methods and epidemiologic data are inadequate for the development of ambient air standards, but emission controls are needed and appear feasible.

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Asbestos Information Association/North America

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I. Asbestos and the Toxic Substances Act of 1971 (S 1478, HR 5390)

(a) Effects on the Asbestos Industry

The Toxic Substances Control Act, if enacted, would probably have little or no effect on the asbestos industry. The Act addresses itself to regulating "chemical substances," defined as "any organic or inorganic substance of a particular molecular identity or any uncombined chemical radical or element." Asbestos is not an uncombined chemical radical or element and does not have one particular molecular identity. This point aside, several other provisions limit this Act's applicability to the asbestos industry.

As most commonly interpreted, the Act is primarily directed toward regulating new chemical substances not yet introduced into production. This would not include asbestos itself, nor would it include any product containing asbestos that has already been marketed. Further, the Act does not address itself to new combinations of already produced substances, thereby leading to the presumption that new products containing only previously used substances would not be under its aegis.

The Act would affect the asbestos industry when it develops uses for asbestos that necessitate combining it with new substances. In this case, the testing and approval procedures prescribed by EPA for the new chemical substance would have to be concluded before the asbestos-containing product could be marketed.

(b) Interface with Other Legislation

Section 207 of the Act establishes its relationship to other federal laws. In general, it accedes to the jurisdiction of previous laws wherever a conflict exists. The Act specifically concedes jurisdiction to the Food, Drug and Cosmetic Act, the Occupational Safety and Health Act and any federal law that applies to a consumer hazard "resulting from household use of marketed products which contain or might contain the substance." By conceding jurisdiction in so many cases, the Act eliminates most of its jurisdiction over existing substances, including asbestos. The bill retains a general residual authority over existing substances, usable only in the event that some substance, use or situation falls between the cracks of existing laws.

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Sponsored by Certain-teed Products Corp., Flintkote Co., GAF Corp., Johns-Manville Corp., National Gypsum Co., Panacon Corp., Raybestos-Manhattan, Inc., and Woodward Corp., and operating from Hill and Knowlton, Inc., Public Relations Counsel

II. Statutes and Agencies Regulating Asbestos

(a) The Clean Air Act and its 1970 Amendments (42 USC 1857 et seq.)

The Clean Air Act authorizes the federal government to regulate "the pollution of the air in any state or states which endangers the health or welfare of any persons."

The 1970 Amendments enable the Administrator of the Environmental Protection Agency to regulate asbestos emissions from stationary sources, motor vehicles and aircraft.

The EPA has already utilized its authority under Section 112 ("National Emission Standards for Hazardous Air Pollutants") to declare asbestos a hazardous air pollutant. This section enables the EPA to promulgate emission standards for designated pollutants from new, modified and existing stationary sources. The Administrator may establish emission standards at any levels he feels are needed to "provide an ample margin of safety to protect the public health from such hazardous air pollutant."

The EPA will propose many emission standards for asbestos in September 1971, each geared to different uses, sources or control techniques under this section. The limitations placed by Section 112 will limit the EPA to the use of emission standards pertaining solely to stationary sources.

Sections 202 and 231 of the same Act govern motor vehicle and aircraft emissions, respectively. It is noteworthy that the statute is not limited to engine emissions, therefore it retains jurisdiction over emissions from other areas of motor vehicles and aircraft, such as brake linings. The statute empowers the EPA to set emission standards solely for new motor vehicles or aircraft. The Administrator may set standards for a pollutant when he feels that its emissions cause, contribute to, or are likely to cause or contribute to "air pollution which endangers the public health or welfare."

(b) The Occupational Safety and Health Act of 1970 (P.L. 91-596)

The Act is administered by the Departments of Labor and Health, Education and Welfare. Labor is concerned with the adequacy of, and compliance with, job safety and health standards. Labor promulgates "national consensus standards," conducts inspections of employer's establishments and brings enforcement actions. HEW's role is oriented toward research into occupational hazards and recommending standards to Labor for promulgation.

This Act gives Labor and HEW jurisdiction over airborne asbestos hazards at the workplace, whether that is in-plant or at an outdoor site. At present, Labor and HEW are in the process of reducing the allowable concentration (Threshold Limit Value) of airborne asbestos in the workplace from 12 to 5 fibers per milliter, greater than 5 microns in length. In addition to air concentration standards, Labor can specify control techniques and protective equipment to be used by employers.

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(c) Food and Drug Administration

The Food, Drug and Cosmetic Act (21 USC 301 et seq.) empowers the Food and Drug Administration to regulate any food that "bears or contains any poisonous or deleterious substance which may render it injurious to health," any drug that may have been contaminated with any poisonous or deleterious substance that may render it injurious to health, or any cosmetic "that bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions or use prescribed in the labeling thereof."

The FDA also administers the Labeling of Hazardous Substances Act (15 USC 1261 et seq.). This Act permits the agency to ban "highly toxic" substances from interstate commerce when proper labeling would not obviate the hazard. The health hazard may result from ingestion, inhalation or contact with any body surface.

In order to implement the Hazardous Substances Act, the FDA has created a Bureau of Product Safety that tests potentially hazardous products. This Bureau, whose laboratories are situated in Cincinnati, is currently testing a number of women's coats made of asbestos-containing fabrics.

(d) Federal Trade Commission (Title 15, USC)

The FTC has been empowered to regulate a large number of products through its own enabling act and several more specific statutes. These statutes encompass labeling of fur, wool and hazardous substances, textile fiber products identification and regulation of specific products, such as flammable fabrics.

Energetic leadership of the FTC has led recently to its more liberal interpretation of certain parts of its enabling statute. It will now use 15 USC 45, which states that "unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are declared unlawful," to combat distribution and marketing of products that could cause a health hazard if used as prescribed. This could, in theory, affect any asbestos product.

(e) Department of Transportation

DOT has the authority to control transportation of hazardous substances. Therefore, the department could issue regulations on the transportation or handling of asbestos or its products.

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III. Statutes Governing Specific Products and Uses

The preceding section describes the scope of a number of laws which will continue in force, regardless of action on the Toxic Substances Control Act. Under these laws, regulatory authority exists to deal with virtually every aspect of the asbestos industry, from basic production to household usage.

The Clean Air Act gives the EPA general jurisdiction to regulate emissions of asbestos into the ambient air from any stationary source. It can also limit brake lining emissions from new motor vehicles and aircraft.

The 1970 Occupational Safety and Health Act regulates the exposure levels faced by workers, both in manufacturing and installation of asbestos. The law is administered by the Departments of Labor and Health, Education and Welfare.

Federal authority over possible health hazards accruing to the general public through the use of and exposure to asbestos-containing products rests with several federal regulatory agencies. Most prominent are the Federal Trade Commission and the Food and Drug Administration.

The FTC has recently used its power to regulate unfair practices in order to restrict products that constitute health hazards. Under this interpretation, FTC authority would apply to virtually all products, including those containing asbestos.

The FDA, through its enabling Act, can regulate asbestos in talc. Its authority stretches to any substance found in cosmetics, whether or not it occurs naturally. The FDA also has authority to ban or restrict the use of asbestos-containing products through the Labeling of Hazardous Substances Act if it can demonstrate sufficient toxicity in that product.

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