

✓ 2/13/95 ✓

LOG OF MEETING

SUBJECT: Meeting on Preemption Issues Relating to Cellulose Insulation.

DATE OF MEETING: 2-13-95

PLACE: CPSC Headquarters, Room 612

LOG ENTRY SOURCE: Michael T. Bogumill, CERM. ~~WDF~~

COMMISSION REPRESENTATIVES:

Michael T. Bogumill, CERM 301/504-0400 Ext. 1368;
Ed Krawiec, ESEE 301/504/0508

NON-COMMISSION REPRESENTATIVES:

Gary E. Marchant, Kirkland & Ellis 202/879-5167;
Stephen G. Braun, North American Insulation Manufacturers Association (NAIMA) 703/684-0084;
Donald W. Belles, Donald W. Belles & Associates 615/868-8877;
Timothy C. Grether, Owens-Corning Insulation Div. 419/248-6575;
Richard P. Kuchnicki, Council of American Building Officials (CABO) 703/931-4533;
Patrick J. Stueve, Stinson, Mag & Fizzell 816/842-8600;
Daniel Lea, Cellulose Insulation Manufacturers Association (CIMA) 513/222-2462; and
Eric Oganesoff, Greenstone Industries 301/779-4442

SUMMARY OF MEETING

This meeting was held at the request of Gary E. Marchant, Counsel to NAIMA, a trade organization of fiberglass insulation manufacturers. Mr. Marchant explained the reason NAIMA had requested the meeting with CPSC, and asked Mr. Belles to present the arguments why the CPSC cellulose insulation standard should not preempt state and local building code standards relating to flammability of insulation. According to Mr. Belles, the building codes scope of regulation of insulation is much broader than the Consumer Product Safety Act (CPSA) standard at 16 CFR § 1209 and labeling requirements at 16 CFR § 1404 in the following respects (see Attachment A):

- the building codes cover all types of insulation, whereas the CPSC standard only cover cellulose insulation as defined @ 16 CFR § 1209.2(a);
- the building codes address all applications for insulation wherever used, whereas the CPSC standard only covers cellulose insulation sold to consumers for blowing or pouring into the attics of temporary or permanent residences, schools, or recreational facilities;
- the building codes address different risks than the CPSC standard and are broader in scope.

CPSA 6 (b)(7) Cleared

✓ No Mfrs/PrvtLblrs or Products Identified 3-1-95
Exempted by
[Signature]

Further arguments presented were that the Model Building Codes regulate all insulation materials over their entire life span, the CPSC standard only applies to the qualities of cellulose insulation up to the time of its sale to consumers, and does not address its deterioration or potential for loss of flame retardancy after aging.

According to the arguments put forth by Mr. Belles, the CPSC Interim Safety Standard for Cellulose Insulation only uses an "Attic Floor Radiant Panel and Smoldering Test" for product flammability, while the Model Building Codes adopt the ASTM E84 standard for testing flammability of insulation which uses some sort of "tunnel test".

At no time during the meeting did Mr. Belles discuss the corrosiveness requirements of 16 CFR § 1209. Nor did any of the other participants in the meeting bring up the issue.

Mr. Stueve, who acts as counsel to CIMA, expressed concern that the proposed building codes changes being supported by Mr. Belles and NAIMA (who represent the fiberglass insulation industry) would supersede the CPSC standard and have the effect of outlawing cellulose insulation used in residences and other buildings subject to the CPSC standard.

Belles and Marchant both denied that there was any attempt to eliminate cellulose insulation usage. They said that the proposed changes in the building codes still reference the CPSC Interim Safety Standard for Cellulose Insulation for the limited use and flammability hazard addressed by 16 CFR § 1209, but in addition address all types and uses of insulation and more flammability conditions than are addressed by CPSC.

It was suggested to both sides of the cellulose insulation issue, that if they want a statement or ruling from CPSC on the preemption issue, they should write to the Commission specifically asking for an opinion on preemption.

Attachment A

DIFFERENT RISKS/PRODUCTS/USES

Scope of Regulation	CPSC Standard	Model Code
Material	Cellulose Insulation	All Insulation
Application	Blow/Pour	All Applications (including sprayed wet, self-supporting, blown & poured)
Geometry	Horizontal	Vertical & Horizontal
Location	Attic Floor	Floors, Roofs, Gables, Walls, etc.
Hazard	Critical Flux for Propagation (Solar "Load"); No Smoke	Flame Spread and Smoke Limits
Construction	Combustible; Uninsulated Roof	All Construction Types
Occupancy	Residence, School or "Otherwise"	All Occupancy Types
Applicability	Time of Sale	Over Service Life (SBC Aging Requirement)
Test Methods	Attic Floor Radiant Panel and Smoldering Test	ASTM E84

Attachment B

Cellulose Insulation Applications for Thermal and Sound Control

Dry Blown

- Horizontal application in open attic with sloped roof
- Horizontal application in floor joist spaces
- Horizontal application in roof cavity below flat roof deck
- Vertical application in closed wall cavity
- Vertical application in open wall cavity
- Sloped application in cathedral rafter spaces
- Sloped application in open attic with sloped roof

Damp Spray (No adhesive, or light adhesive)

- Horizontal application in open attic with sloped roof
- Horizontal application in floor joist spaces
- Horizontal application in roof cavity below flat roof deck
- Vertical application in open wall cavity
- Sloped application in cathedral rafter spaces
- Sloped application in open attic with sloped roof

Wet Spray (Adhesive Added)

- Horizontal application in floor joist spaces
- Horizontal application in roof cavity below flat roof deck
- Vertical application in open wall cavity
- Sloped application in cathedral rafter spaces

Self Supporting Wet Spray (Adhesive Added)

- Horizontal application on underside of roof deck
- Horizontal application on ceiling finish
- Horizontal application on underside of floor structure
- Vertical application on wall interior surface

Attachment C

Classifications of Building Use or Occupancy

Assembly. All structures which are designed or occupied for the gathering together of persons for purposes such as civic, social or religious functions, recreation, food or drink consumption or awaiting transportation.

Business. All buildings and structures which are occupied for the transaction of business, for the rendering of professional services, or for other services that involve stocks of goods, wares or merchandise in limited quantities which are incidental to office occupancies or sample purposes.

Educational. All structures other than those occupied for business training or vocational training, which accommodate more than five persons for educational purposes through the 12th grade.

Factory and Industrial. All structures in which occupants are engaged in work or labor in the fabricating, assembling or processing of products or materials.

High-Hazard. All structures which are occupied for the manufacturing, processing or generation, storage or other use of hazardous materials.

Institutional. All structures in which people suffering from physical limitations because of health or age are harbored for medical or other care or treatment, or in which people are detained for penal or correction purposes, or in which the liberty of the inmates is restricted.

Mercantile. All buildings and structures which are occupied for display and sales purposes involving stocks of goods, wares or merchandise incidental to such purposes and open to the public.

Residential. All structures in which families or households live, or in which sleeping accommodations are provided (with or without dining facilities), excluding those that are classified as institutional occupancies, including boarding houses, dormitories, dwelling units, hotels, motels, multiple-family dwellings, etc.

Storage. All structures which are primarily used for the storage of goods, wares or merchandise, including warehouses, storehouses and freight depots.

Utility and Miscellaneous. Buildings and structures of an accessory character and miscellaneous structures not classified in any specific use group, such as private garages, carports, sheds and agricultural buildings.

Cellulose Insulation Meeting

<u>Name</u>	<u>Organization</u>	<u>Telephone #</u>
✓ Eric Oquesoff	Greystone Ind	301-229-4442
✓ RICHARD P. KUCHNICK	CABO	703/931-4533
✓ TIM GREYER	OWENS CORNING	(419) 248-6575
✓ ED KRAWIEC	US-CPSC; ESEE	(301) 504-0508
✓ STEVE BRAUN	NAIMA	703 684 0084
✓ Gary Marchant	Kirkland, Ellis	(202) 879-5167
✓ DONALD W. BELLES	BELLES & ASSOCIATES INC	615-868-8877
✓ Patrick S. Orens	Stinson Magt F. Bull	816-842-8600
✓ Dan Lee	C.I.M.A.	513/222-2462
Michael Bogumill	CPSC/CERM	(301) 504-0400 x1368