PLAINTIFF'S EXHIBIT

CAP-1699

AIA NORTH AMERICA

NEWS & NOTES

July 31, 1984

MORE ON AIA/NA'S NINTH INDUSTRY-GOVERNMENT CONFERENCE SEPT. 18-19

As reported (N&N June), the Association will conduct an industry-government conference on Sept. 18-19, in conjunction with its 14th annual meeting and third quarter board of directors meeting scheduled for Sept. 19. Conference and meetings will be held at the Twin Bridges Marriott Hotel, Arlington, VA.

The conference begins with a reception and dinner on Tuesday, Sept. 18. Dr. John A. Moore, Assistant Administrator for Pesticides and Toxic Substances, U.S. Environmental Protection Agency, is the expected dinner speaker. Speakers at breakfast and lunch on Sept. 19 will be Deputy OSHA Head Patrick R. Tyson and Nancy Harvey Steorts, Chairman Consumer Product Safety Commission respectively.

During the conference on Wednesday morning, Sept. 19, guest speakers include: Jim E. Lapping, Director Safety and Health, Building and Construction Trades Department, AFL-CIO; Wilfred Penney, Director General, Asbestos Information Centre (United Kingdom); Gary J. Nash, Director General, Minerals and Metals Strategy Branch, Energy, Mines and Resources, Government of Canada; Dr. Jacques Dunnigan, Director General, Institute for Research and Development on Asbestos, University of Sherbrooke, Quebec; and Dr. Malcolm Ross, U.S. Geological Survey. AIA/NA President John L. Myers and members of the Executive Committee and staff will complete program participants. The conference will conclude early afternoon Sept. 19.

The industry-government conference is an important event in the Association's work year since its affords an opportunity for a meaningful update and exchange of information on a number of areas affecting the asbestos industry. Speakers will cover: current status of plans for further regulation of asbestos; overview of international events concerning asbestos; labor's views on asbestos regulation in construction industry; an assessment of the asbestos and substitutes issue; and a review of mineralology and health during the past decade.

ASBESTOS INFORMATION ASSOCIATION

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Conference and meeting details were provided to members by AIA/NA memorandum of July 17. Information to nonmember interested parties was mailed late July. Registration forms are requested by Aug. 30. Further inquiries to AIA/NA Executive Director are welcome.

OSHA's Informal Public Hearing On Proposed Standard For Asbestos Concluded

The U.S. Occupational Safety and Health Administration's (OSHA) informal public hearing on its proposed standard for occupational exposure to asbestos (N&N Apr., May & June), was concluded July 12. The hearing began June 19 and the published schedule was maintained. Over 100 witnesses appeared during course of hearing and a voluminous record was created.

The July portion of the hearing reflected a wide variety of interested parties presenting testimony including this Association with its witnesses appearing on July 6,9-10. Other witnesses included representatives from organized labor, individual companies, and the National Constructors Association.

AIA/NA's 21 witnesses included experts that addressed technical matters associated with the proposed standard and panels of member-company representatives who spoke to specific asbestos-containing product categories. Staff presented an opening statement that summarized the Association's overall position and responded to some testimony presented earlier in the hearing. It was emphasized that the permissible exposure limit (PEL) should be reduced through engineering and work practice controls, and OSHA should not rely on respirator use for any lower PEL. OSHA was urged to publish a separate standard for control of the unique exposures that can occur in demolition, renovation and maintenance activities. (See news clip).

The next phase of the rulemaking calls for submission of rebuttal testimony, additional evidence and responses to questions deferred during the hearing to OSHA by Aug. 27. Arguments on entire OSHA hearing record (post hearing brief) must be submitted by Oct. 11.

No firm prediction can be given for publication of a final standard(s) by OSHA. The agency's health standards programs head stated during the hearing that such may be expected by June 1985.

Congress Adopts Asbestos School Hazard Abatement Act

On July 25, the House voted to adopt Senate-approved amendments to H.R.1310, a bill to provide assistance to improve elementary,

secondary, and postsecondary education in mathematics and science. Included as Title V of H.R.1310 is the Asbestos School Hazard Abatement Act, originally introduced in the Senate by Sen. James Abdnor (R-SD). The Senate adopted the proposal on June 6 (N&N June). Approval by the House clears the measure for signing by the President.

Purposes of Asbestos School Hazard Abatement Act are to direct the Environmental Protection Agency (EPA) to establish a program to assist states and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools; provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos hazards in schools; provide financial assistance for the abatement of asbestos threats to the health and safety of school children or employees; assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

EPA is also required within 45 days of enactment, to develop an interim or final application form for distribution to local educational agencies. These forms are to be the basis for applications for financial assistance from the governors of the individual states. Applications are to be accompanied by priority lists ranking potential candidates for abatement action based on the nature and magnitude of the existing and potential exposure presented by the asbestos materials.

Following review by the EPA and the Department of Education, financial assistance may be awarded to carry out projects for abating the threat posed by materials containing asbestos to the health and safety of children or employees; replacing the asbestos materials removed from school buildings with other appropriate building materials; and restoring school buildings to conditions comparable to those existing before abatement activities were undertaken.

An applicant for financial assistance may be granted an interest-free loan of up to 100 percent of the costs of an abatement program. If EPA determines the applicant is unable to undertake and complete an asbestos abatement program with a loan, such an applicant may also receive a grant not to exceed 50 percent of the cost of abatement. Although the Act authorizes the appropriation of $600 million through 1990, no funds are actually appropriated in the measure.

As a condition of the award of any financial assistance, the recipient of a loan or grant is to permit the United States to sue on behalf of the recipient any person determined by the Attorney General to be liable for the cost of the abatement activity. The proceeds from any judgment recovered in a suit bought by the United States would be used to repay the amount

outstanding on any loan or grant along with an amount equal to the interest which would have been charged on such a loan by a commercial lender at prevailing interest rates.

EPA is also charged with establishing standards for determining which contractors are qualified to carry out abatement activities, and what training, equipment, protective clothing and other information and material must be supplied to adequately advise and protect school employees carrying out abatement activities. In addition, the EPA may adopt other regulations, such as procedures for testing the level of asbestos fibers in schools and standards for evaluating the liklihood of the leakage of asbestos fibers into the school environment.

EPA Science Panel Reviews Asbestos Update Document

The Environmental Health Committee of the Environmental Protection Agency's Science Advisory Board met on July 24 to review and comment on the scientific adequacy of a review draft of a document entitled "Asbestos Health Assessment Update." The document was prepared for the Office of Health and Environmental Assessment of EPA's Office of Research and Development by Dr. William J. Nicholson, Associate Director, Environmental Sciences Laboratory, Mt. Sinai School of Medicine.

Purpose of Update document is to evaluate information published since 1972 on human disease from asbestos exposure, with emphasis on studies that provide information on the risk from low-level exposures such as those encountered in the non-occupational environment. The document also contains a risk assessment for asbestos. The Update is to be used by EPA to evaluate its current standard for asbestos emissions under the Clean Air Act.

Testimony commenting on the document was presented to the Committee by AIA/NA staff. In addition to focusing on particular details of the study, AIA/NA comments pointed out unsupported assumptions and wide areas of uncertainty in the Update's risk assessment. AIA/NA comments also questioned the utility of a highly uncertain exercise such as the risk assessment which predicted small excess of disease that, in any event, would be neither dectectable nor attributable.

AIA/NA comments contrasted this highly uncertain quantitative data of doubtful utility with qualitative data which indicates the carcinogenic potential of durable fibrous materials generally, within certain optimum size perameters. Comments then pointed out, "the term 'asbestos' itself is merely one based on commercial usage to identify six separate mineral fibers. The substitutes for these fibers are simply other mineral or synthetic fibers just coming into widespread use." These observations lead one to ask, "what social purpose is accom-

plished in eliminating asbestos from commercial usage in order to less a very uncertain and undetectable risk?" Comments concluded by stating, "there is obviously a need for fibrous materials in a modern, technological society. The greatest overall social benefit is to be derived from their rational use and regulation."

The Environmental Health Committee also received comments on the draft report from two special consultants to the Committee, Dr. Brooke T. Mossman, Department of Pathology, University of Vermont, College of Medicine, and Dr. J. Corbett McDonald, Professor of Epidemiology and Occupational Health, McGill University.

Dr. Mossman questioned the 0.01 f/cc exposure level used in the Update's risk assessment as being too high to be characteristic of environmental exposures. She noted that report of the National Academy of Sciences' Committee on Nonoccupational Health Risks of Asbestisform Fibers, on which she served, had used a level of 0.0004 f/cc as the basis for its risk assessment. Dr. McDonald observed that the draft Update was "a far from up-to-date document." He also criticized it for its selective use of available information, and for its failure to summarize data on both sides of an argument.

Individual members of the Committee also commented on the draft Update. The Committee's views on the draft are to be compiled by Executive Secretary Dr. Daniel Byrd, and its recommendations will then be transmitted to the EPA. Because it is an advisory group only, the Committee's recommendations need not be adopted by the Agency. In general, the Agency uses the Committee as a "sounding board" in attempt to keep its actions in step with general scientific thinking.

CPSC Proposes Voluntary Standard Recognition Rule

In the Federal Register of June 19, the Consumer Product Safety Commission (CPSC) published proposed rules dealing with the recognition of voluntary standards. Since its inception, the Commission has been involved with trade associations, voluntary standards organizations, and manufacturers in developing voluntary standards and other cooperative activities aimed at reducing injuries and deaths associated with consumer products. However, CPSC notes that its high level activity in the developmental process of voluntary standards has not been matched by the same level activity in the recognition of successful voluntary standards development efforts.

CPSC has identified three levels of support that is could provide to voluntary standards development (adoption, endorsement, and recognition). Adoption of a particular voluntary standard

would mean its establishment as a mandatory standard by the Commission. As such, it is the most far-reaching of any Commission action in approving a voluntary standard. Endorsement of a voluntary standard means a formal Commission approval of the standard to the exclusion of any other voluntary standard that may address the same product. Manufacturers whose products are certified to meet the standard could take full advantage of a Commission endorsement in their attempts to market their product as widely as possible.

Recognition of a voluntary standard, the approach addressed in the proposal acknowledges the existence of a particular voluntary standard, and, where appropriate, may urge manufacturers to comply with it. CPSC would also take the necessary steps to make consumers aware of the existence of any safety benefits provided by the standard.

As explained in the proposal, the purpose of such recognition is to enhance consumer selection of safer consumer products and encourage industry to adhere to specific voluntary safety standards which have been favorably evaluated by the Commission. Formal recognition could provide an incentive for initiation of voluntary standards and related activities; provide manufacturers and trade associations the opportunity to take advantage of safety-related marketing benefits for products that are in conformance with effective voluntary standards; and provide encouragement to manufacturers to implement and comply with effective voluntary standards. Recognition of specific voluntary standards could have a multiplier effect on safety efforts and achieve results that would be difficult to obtain by either the Commission or manufacturers working independently.

The proposal further notes that, ultimately, the recognition of voluntary efforts should benefit the consumer by encouraging safer product design, installation, operation and maintenance. They could also provide the consumer with information for selecting safer products, thus reducing injuries and deaths.

It is proposed that the Commission select the standards to be recognized. Typically, such standards will have been developed in full cooperation with CPSC on Commission priorities, emerging safety concerns, and other non-priority Operating Plan projects having significant CPSC involvement. The standards will be evaluated by the Commission and its staff prior to initiating any activities which tend to advance such standards. Where appropriate, the Commission will decide under what circumstances activities will be undertaken for encouraging the implementation of an effective voluntary safety standard.

Establishing the PEL above the lowest achievable average level by a fair operating margin will reduce markedly the frequency of unjust citations to complying employers, produce significant differentials in citation frequency between employers using "best" controls and those using less than "best" controls, and consequently, will provide a sensible incentive for all employers to achieve "best" control status, Bragg contended.

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JUN 12 1984

Asbestos trials delayed

Judge cites appealed case

By JAY HANCOCK
Staff Writer

NORFOLK — More than 80 asbestos trials scheduled this year will be delayed at least until early 1985 because the 4th U.S. Circuit Court of Appeals has agreed to rehear a landmark decision.

The move is important because it could permit a retrial of a 1982 case that set the stage for millions of dollars in out-of-court settlements.

A judge of the court, Robert F. Chapman in Columbia, S.C., canceled an asbestos trial scheduled to begin today in U.S. District Court in Norfolk.

He also stayed all other trials involving workers exposed to asbestos in area shipyards until the appeals court decides whether the U.S. Admiralty Code should apply to those cases.

The court set a hearing date for Oct. 2, but probably won't reach a decision until next year, said Arch Wallace, a Richmond attorney representing asbestos manufacturers.

Asbestos is believed to cause several ailments, including lung cancer and asbestosis, a fibrous hardening of the lungs. The diseases typically don't appear until decades after the victim is exposed.

Hundreds of workers at Newport News Shipbuilding and the Norfolk Naval Shipyard came in contact with asbestos during the 1950s and 1960s. About 450 shipyard workers or their survivors have sued various manufacturers of asbestos.

In 1981, the 4th U.S. Circuit Court of Appeals decided that admiralty law should apply to cases where workers were exposed to asbestos on board ships. The decision was important because, under the Admiralty Code, time limits on when a victim can sue are much more flexible and considered favorable to plaintiffs.

Manville Settlement for Asbestos Victims May Help Defend Insurers Against Suits

By JONATHAN DAHL
Staff Reporter of THE WALL STREET JOURNAL

DENVER—A $315 million insurance settlement that Manville Corp. has said would be for asbestos victims also may help the concern's insurers.

Three of Manville's insurers recently agreed to pay the $315 million to settle a suit as part of the company's efforts to pay asbestos victims. But in an unusual provision in the planned agreement, the money that would be set aside for asbestos victims could be used to defend the insurers against further asbestos-related liabilities.

Critics contend that could drain settlement funds before some or all victims are paid. But Manville contends it can prevent such a drain.

The dispute is a serious threat to Manville's reorganization plans in bankruptcy court. Attorneys for asbestos victims, who only recently said they were nearing an agreement on the company's reorganization plans, said they've now halted negotiations. Even some asbestos producers, usually allies of Manville, said they don't like what they've heard about the settlement. Manville said it nonetheless plans to complete the agreement this week and present it to the bankruptcy court for approval.

Manville, a maker of building and paper products, sought court protection from creditors' lawsuits under Chapter 11 of the federal Bankrupcty Code in August 1982. The company wasn't broke, but said it needed protection from 16,500 lawsuits from individuals claiming health damage from exposure to Manville-made asbestos products. Under Chapter 11, Manville is receiving that protection while it tries to work out a reorganization plan.

Entangled Legal Dispute

A critical element of that plan has focused on an entangled legal dispute between Manville and its insurers. Since asbestos-related diseases often don't show up for years, the company and the insurers hadn't been able to agree on their liability. Manville sued its carriers for $5 billion in damages over the matter.

Last May, the company said it resolved the suit with three of its major carriers: Travelers Indemnity Co., Hartford, Conn.; Home Insurance Co., New York; and a group of syndicates from Lloyd's of London. The complete settlement hasn't yet been made public or provided to attorneys for asbestos victims. But Manville and some of the carriers agreed to discuss its outline.

The outline provides a somewhat different picture than some attorneys for the victims said they had been led to believe. Originally, Manville said the three insurers would pay it $315 million that would be placed in a trust fund used exclusively for asbestos victims, the attorneys said. The trust is expected to receive an additional $300 million contribution from 24 other insurance carriers that Manville is suing. Now, however, Manville has agreed to allow the trust to indemnify the three carriers from any future asbestos-related lawsuits, as well as any associated legal costs.

Demand for Provision

A Manville official said the company was forced to accept the provision because the insurers demanded it. The insurers did so because they felt they were essentially buying back their Manville policies for $315 million and thus wanted to be guaranteed they wouldn't be held liable for them again, according to attorneys for Travelers Indemnity and Home Insurance. "When we put out that kind of money, we want to be able to sleep at night," Dennis J. Drebsky, an attorney for Home Insurance, said.

But attorneys for asbestos claimants said the arrangement forces the trust to shoulder the liability of potential lawsuits that the insurers might have had to. The total liability for those suits isn't known, and some of the suits might simply be brought by other insurance companies that are also seeking compensation for asbestos victims. But the attorneys said the defense costs and punitive damages alone from those suits could significantly cut into payments to asbestos victims. "It's absurd," said Fred M. Baron, a Dallas attorney representing 900 asbestos claimants. "Instead of using the money to protect the victims, we might have to protect the insurance companies."

Manville officials insisted, however, that the company plans to receive a court order barring suits that might drain settlement funds. They conceded there wasn't much legal precedent for making such an order binding, but said that even if they didn't get it, the liability of the suits wouldn't amount to much. "I would never agree to any settlement that I felt would jeopardize the trust," said Richard Von Wald, a vice president and corporate counsel for the company.

Mr. Von Wald said many of the fears over the settlement probably will subside once details are released and scrutinized in bankruptcy court. But Robert Rosenberg, counsel to a committee of asbestos claimants, said that wasn't likely. He described current negotiations between the committee and the company over its reorganization plan as "dead in the water."

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CAPCO JEN 0013088

ENGINEERING, WORK CONTROLS SHOULD BE USED TO ATTAIN LOWEST FEASIBLE LEVEL, AIA SAYS

The permissible exposure limit for asbestos should be reduced to the lowest level feasible through engineering and work practice controls, representatives of the Asbestos Information Association testified July 6 at Occupational Safety and Health Administration rulemaking hearings on asbestos.

AIA's testimony came in the third week of the hearings, which began June 19 and which have featured presentations by other industry groups and by organized labor and government agencies (Current Report, June 21, p. 35; June 28, pp. 60, 61; July 5, pp. 140, 141).

OSHA should not rely on respirator use when engineering and work practice controls can feasibly achieve the PEL, B.J. Pigg, executive director of AIA, stated. He maintained, however, that in some settings it may be desirable to supplement such controls and urged OSHA to consider the following options:

- A requirement that feasible engineering and work practice controls that are shown to yield significant exposure reduction benefits be implemented even in workplaces that are achieving the new PEL.
- A program to reduce substantially or eliminate smoking among asbestos workers.
- A program to achieve respirator use even where the PEL has been achieved through feasible engineering and work practice controls.

Pigg also recommended a separate standard for asbestos in the construction industry. "We cannot, however, in general, support the Building and Construction Trades Department's proposed construction standard because its underlying premise is that OSHA should eliminate *all* exposures to asbestos," he said. Pigg explained that, although OSHA is mandated to eliminate significant risks to the extent feasible, a standard that attempts to eliminate all workplace risks is just as unreasonable for asbestos as it would be for any workplace hazard.

The AIA maintained that significant risks can be eliminated in the installation of new asbestos-containing products through the use of recommended work practices since "almost all asbestos products marketed today occasion only very low exposures and then only for brief periods." Pigg stated that, in urging OSHA to focus on work practice requirements for the installation of new products as well as in regulating renovation and demolition activities, the association is expressing its belief that the agency can develop a simple but effective standard for the control of asbestos exposures.

"We are concerned that if OSHA regulations impose a multitude of additional ancillary requirements, such as extensive monitoring and reporting, the regulation will be too complex for contractors to follow, too difficult for OSHA to enforce, and ultimately ineffective," according to Pigg. "No standard is of any usefulness to protection of worker health, regardless of how comprehensive, unless compliance is achieved on the worksite."

Marcel Cossette, director of research and technology for Societe Nationale de L'Amiante, a state corporation wholly owned by Quebec which operates most of the asbestos mines and milling operations in Quebec, also offered testimony concerning asbestos measurement and monitoring on behalf of the Asbestos Information Association. He recommended that any proposed substitute analytical procedure must be proven suitable by formal trials prior to its adoption. He asserted that the National Institute for Occupational Safety and Health had admitted that it has not tested its new asbestos analytical method, Method 7400, but has merely constructed it based on extrapolation from the current method.

Asbestos measurements made through phase contrast microscopy do not reflect the true airborne concentration of all asbestos fibers regardless of size, but rather represent only a small subset of all fibers meeting a generally defined size and shape criteria, according to Cossette. The lower bound on the diameter of a countable fiber is unspecified and consequently depends on the limit of visibility of the slide-/microscope/counter combination, he asserted.

'Unpredictable' Changes

"This limit of visibility along with other factors such as the graticule size and the counting rules affect the level of the index obtained on a sample," he noted. "A series of contemporaneous changes in the method as has been made by NIOSH will result in completely unpredictable changes in measured results." For this reason, Cossette advocated a requirement by OSHA for testing of the method.

Another reason for OSHA to require testing is NIOSH's admission that in some undefined circumstances, the method cannot be used over its entire working range due to nuisance dust loading, according to Cossette. Other issues of practical field application of the method also need exploration, such as the effect of higher pumping rates on the capture efficiency of large agglomerates, he noted.

"It is likely that Method 7400 will leave a large measure of inter-laboratory variation," he stated. Prior to adopting Method 7400, OSHA should obtain testing information confirming or denying the claims for the new method, Cossette maintained. He suggested that OSHA particularly determine the inter-filter, intra-laboratory, and inter-laboratory variabilities associated with the existing and candidate methods, the realistic limits of reliable detection for each, and the comparability of measurement results between the old method and the candidate methods.

Cossette suggested that a small round-robin exchange of optimally loaded filters from various sectors should provide the needed variability and comparability information, assuming a proper experimental design is followed.

In presenting conclusions of a feasibility study conducted earlier this year for the Asbestos Information Association on occupational asbestos dust controls, Gordon M. Bragg, a professor of engineering at the University of Waterloo, stated that a PEL established at 0.5 fibers per cubic centimeter is likely to result in indefinite full-shift respirator use at a few work stations in each major asbestos industry sector. In addition, he asserted that a PEL established at 0.2 f/cc is likely to result in indefinite full-shift respirator use in a large majority of primary industry work stations.

"Unless appropriate provisions are made for necessary lead time to produce exposure reductions through engineering controls and work practices, temporary full-shift respirator use will be widespread for one or two years even in those workplaces that will ultimately be able to consistently achieve the new PEL," Bragg said.

He suggested that OSHA incorporate a realistic variability model of exposure incidences into its feasibility determination. "Without this conceptual framework, OSHA cannot clearly assess the implications for employers and the effects on employees of establishing a PEL at any particular level," Bragg asserted.

Variability in exposure conditions from one day to the next is a fact that employers "must explicitly consider" in designing their dust control programs, he said. Maintaining that employers generally aim to achieve average airborne asbestos levels between one-half and one-quarter of the PEL to assure compliance, Bragg complained that establishment of the PEL at the lowest level that can be achieved on average deprives employers of their operating margin and exposes them to a "constant fifty-fifty chance of citation" by an OSHA inspector.

CAPCO JEN 0013089

Ingested Asbestos Study Completed in Washington

Researchers at the University of Washington Department of Environmental Health have completed a 21 month study of the ratio of asbestos fibers retained or excreted by persons consuming drinking water containing high levels of asbestos. The study, funded by the U.S. Environmental Protection Agency, was designed to determine whether asbestos fibers were present in the urine of residents in and around Everett, Wash., where tap water contains about 200 million fibers per liter. The researchers investigated whether significant numbers of asbestos fibers penetrate the wall of the intestinal tract, whether asbestos fibers are found in other organs of the body and in body fluids, and what is the effect during long term exposures of 20 or more years.

A small group of people in Everett, all in good health and without histories of kidney disease or occupational exposure to asbestos, consumed drinking water containing approximately 200 million fibers per liter. This group was compared to a control group of Seattle, Wash., residents where levels of chrysotile asbestos in the drinking water are 100 times less (2 million fibers per liter). Urine samples from both groups were taken over a 21 month period and asbestos fibers counted by means of a transmission electron miscroscope. Limits of detection ranged from 70,000 to 300,000 fibers per liter. Lengths of asbestos fibers in the drinking water ranged from 0.3 to 5.0 micrometers; fiber length in the urine samples ranged from 0.5 to 1.2 micrometers.

568-14 JOURNAL OF ENVIRONMENTAL HEALTH BI-MONTHLY 6,500

According to a news release from the AC Pipe Producers Association, the investigations concluded that although the concentrations of fibers in the urine samples varied throughout the sampling period, none were consistently and significantly higher than the concentrations of fibers estimated for the control waters. There was however, a significant difference ($p = 0.05$) between the counts of fibers in the urine samples of persons who had been residents of Everett for less than three years compared to persons of more than 24 years residence.

The study revealed that the concentration of fibers in the urine samples of Everett donors combined (0.97×10^6 fibers per liter) was not significantly different than the concentration for Seattle/Bellevue control donors, even though the numbers of fibers in the drinking water of the latter were at least 100 times less.

The report says that although the data is inconclusive, the study suggests there is no relationship between high concentrations of asbestos fibers in drinking water and the numbers estimated for voided urine.

JUN 1984

Choosing his words

Lots of public figures have speech writers with sound instincts for the topics that will gain approving attention, and even for the well-turned phrase. But the writer who is really worth his weight in gold is the one who can get right down to the nuts and bolts — the words themselves.

William D. Ruckelshaus, administrator of the Environmental Protection Agency in the United States, is a lucky man to have Roger Gale as his special assistant. Mr. Gale is to words what the super-sniffer is to airborne chemicals: if there is a word that contains the merest trace of an alarming element, he can detect it.

The Gale nose has wrinkled in distaste over the discovery of unnecessarily alarming terms in recent agency pronouncements and he has written a memo in a few well-chosen words to show how damaging a few ill-chosen ones can be. He warns the administrator that "more attention be paid to your vocabulary" and that he should avoid words that reflect "dread and catastrophe."

The innocent citizen may wonder whether the EPA can reasonably be expected to function these days without getting into this area, but evidently Mr. Gale is convinced that it can and should. He does not approve of such words and phrases as "uncontrollable," "globally catastrophic," "consequences fatal" and "high risk to future generations" because these inspire dread. His preference is for terms that suggest control and "are likely to encourage a greater willingness to accept risk." Thus: "controllable," "limited scope" and "low risk to future generations."

The memo — not, one suspects, intended for public perusal — counsels Mr. Ruckelshaus that when he speaks to non-scientific audiences about environmental risk, he should add "an element of passion" to show "that you understand the depth of their concern and their apprehension."

With this kind of skilled guidance, citizens on both sides of the border may find it increasingly difficult to gauge the concern and apprehension of the EPA. Oh, well, at least they have begun to clean up the administrator's vocabulary. It's a start.

Toronto
THE GLOBE AND MAIL, FRIDAY, JUNE 15, 1984

CAPCO JEN 0013090

When the first Norfolk case was tried under maritime law in August 1982, the victim was awarded $944,000. Ever since, asbestos manufacturers have settled out of court with plaintiffs on the eve of the trial.

More than 70 cases have been settled. The awards have not been made public, but attorneys say they add up to tens of millions of dollars. Court decisions now won't change those settlements but could affect future negotiations.

Wallace said the court may have been pressured by recent decisions from other appeals courts that disallowed the application of maritime law in shipyard asbestos cases.

Richard S. Glasser, a Norfolk attorney who represents shipyard workers, said he would prefer asbestos cases to be tried under the Admiralty Code. Sea law allows more flexibilty on how long an injured plaintiff can wait before suing, he said.

Under Virginia law, a plaintiff must sue within two years of the "cause of action" of the suit. Courts have interpreted that in various ways, but in any case it is stricter than admiralty law.

Wallace, the asbestos manufacturers' lawyer, said the two codes offer advantages and disadvantages for both sides. For instance, he said, although admiralty law might limit lawsuits, it would divide payment of awards on the basis of market share — a disadvantage to some large manufacturers.

Other differences include:

- Under state law, it is harder for plaintiffs to prove exposure to asbestos that took place long ago, Wallace said.
- Under Virginia law, negligence by the plaintiff in an injury effectively nullifies the suit. Under maritime law, plaintiff and manufacturer negligence are weighed to see which is greater.
- Under Virginia law, punitive damages against the manufacturer are not available if the injured worker has died.//

Injury-Suit Rules Eased in Jersey

TRENTON, June 16 (AP) — New Jersey residents seeking to bring personal injury lawsuits against out-of-state corporations more than two years after their injuries have until August 1985 to file the claims, the State Supreme Court has ruled.

A lawyer representing people who claim injury from asbestos exposure said the ruling would help them bring lawsuits against foreign companies that mined the substance for processing in New Jersey plants.

The court's 4-to-3 decision on Wednesday came in the case of Walter Coons of Metuchen, who was injured in an auto accident in 1974 and brought suit four years later against the Honda Motor Company of Japan.

New Jersey's statute of limitations requires personal-injury suits to be filed within two years of the injury, but the law provides an exception in cases in which the company sued is not represented for legal purposes by an agent in the state.

Court Modifies Ruling

In August 1983 the Supreme Court ruled that the exception was invalid. But on Wednesday it modified its stand, saying the two-year cutoff period for pending and future suits began when it made its earlier ruling and would run until August 1985.

Justice Robert Clifford, writing the opinion for the majority, noted that the case had generated interest from those involved in "many asbestos exposure cases." He said the "balancing of interests and impact" should let such suits proceed.

Karl Asch, a lawyer representing the interests of asbestos exposure victims, said the ruling would assist them in bringing suits against foreign companies that "elected to play hide-and-go-seek" to avoid lawsuits.

NY-D40 THE NEW YORK TIMES
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JUN 17 1984

OSHA Chief Is Recess Appointee

President Reagan has given Robert Rowland a recess appointment to head the Occupational Safety and Health Administration, allowing him to serve in the post—without Senate confirmation—at least for the remainder of this year.

The nomination was made Friday, three days before Congress was scheduled to return from its Fourth of July and Democratic convention recess.

Rowland, an Austin attorney, is currently chairman of the Occupational Safety and Health Review Commission. He was vice chairman of Reagan's 1980 Texas campaign committee.

Rowland will succeed Thorne Auchter, Reagan's first OSHA chief, at least through the end of this year. Auchter resigned from the post in March to take a job in private industry.

THE WASHINGTON POST

Monday, July 23, 1984

Asbestos's Perlstein Resigns as Chairman

By a WALL STREET JOURNAL Staff Reporter

MONTREAL—Daniel Peristein resigned as chairman of Asbestos Corp. and as president of Societe Nationale de l'Amiante, the Quebec government's asbestos agency, which controls the asbestos-mining concern.

A Quebec government spokesman said Mr. Peristein decided to change career directions. Mr. Peristein couldn't be reached for comment.

Succeeding Mr. Peristein at the agency is Jacques Paquin, 54 years old, a business consultant and formerly senior vice president of Societe Generale de Financement du Quebec, a Quebec government holding company. A spokesman for Asbestos Corp., based in Thetford Mines, Quebec, said a successor for Mr. Peristein as chairman will be chosen shortly.

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