AIA NORTH AMERICA

NEWS & NOTES

September 30, 1983

PLAINTIFF'S EXHIBIT JMMC-14

AIA/NA's EIGHTH INDUSTRY-GOVERNMENT CONFERENCE DRAWS GOOD ATTENDANCE

Over 125 persons attended the Association's Eighth Industry-Government Conference held Sept. 20-21 at the Old Town Holiday Inn, Alexandria, VA. The conference began with a reception and dinner on Sept. 20 and concluded following lunch on Sept. 21; it was held in conjunction with AIA/NA's 13th annual meeting and third quarter board of directors meeting.

EPA's director of its Chemical Control Division, Edward A. Klein was dinner speaker. Klein was emphatic regarding the agency's intentions to propose a ban on a major portion of asbestos uses in the U.S. Product categories identified as currently under consideration for banning include: asbestos cement pipe; roofing felt (saturated and unsaturated); flooring felt; asbestos felt-backed vinyl flooring; and vinyl asbestos floor tile.

A proposal to ban the above categories is under development and is planned for issuance in the May-July timeframe in 1984. Subsequent to this action, EPA intends to establish a staged production cap on remaining asbestos uses with the market forces determining which asbestos uses are "essential." Klein suggested that the industry would be better served by finding substitutes for asbestos rather than opposing regulations. He was pressed with questions from the audience as to EPA's study of potential health hazards associated with asbestos substitutes. Klein acknowledged that the agency did not have definitive data in this area nor had possible import and trade implications been "fully analyzed."

At first session on Sept. 21, OSHA Head Thorne G. Auchter reviewed the agency's present plans for further regulation for asbestos. He referred to AIA/NA's contribution to OSHA's technical understanding of this complex issue. As to the health hazards posed by occupational exposure to asbestos, Auchter said: "Asbestos is a documented workplace killer. The evidence of its human carcinogenicity is overwhelming and unequivocal. Tens of thousands of workers occupationally exposed to asbestos over the last four decades will die of asbestos-related diseases by the end of this century. Most of those workers were exposed at high levels before OSHA was created in 1970, and since 1970 OSHA's PEL for asbestos has been lowered twice to the current limit of 2 fibers per cubic centimeter. Still, there is considerable evidence that this limit is not adequately protective and should be lowered."

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Auchter stated that the agency's options under consideration for further regulation of asbestos included an emergency temporary standard. He emphasized that OSHA will move, "and we will move with confidence that the public is fully aware of every factor that contributed to our decisions."

The concluding government and conference speaker was CPSC Chairman Nancy Harvey Steorts. Her remarks underscored a theme of involvement by all parties in the field of consumer product safety regulation (consumer, business and government). She spoke to ten related areas that were identified as Reg-u-trends. Steorts also reviewed the final report of the Chronic Hazard Advisory Panel on asbestos which was recently submitted to the Commission (N&N July).

Other principal speakers on the conference program included: Daniel Perlstein, President, Societe nationale de l'amiante, Government of Quebec; Dr. Hans Weill, Professor of Medicine, Tulane University, and current fellow at Brookings Institution, Washington, D.C.; Victor E. Schwartz, Esq., law firm of Crowell & Moring; and Sir Neville Stack, Director-General, Asbestos International Association.

The balance of the conference, which was chaired by AIA/NA President John L. Myers, included a review of the Association's work and activities by members of its Executive Committee and staff.

At board of directors meeting immediately following morning session Sept. 21, John L. Myers, Union Carbide Corporation, was reelected as the Association's president; vice presidents re-elected were Jean Dupere, Lake Asbestos and Kurt Schwarz, Supradur Manufacturing Corporation.

ILLINOIS, NEW JERSEY ADOPT RIGHT TO KNOW LAWS

Illinois and New Jersey have joined the growing list of states to promulgate workplace right to know laws.

Illinois measure, which goes into effect on January 1, 1984, requires employers of more than five full-time or twenty part-time employees to label containers of toxic substances in work-place and to provide information on such substances to workers who may be exposed to them. Within six months of effective date, and annually thereafter, each employer is required to submit to state Department of Labor an alphabetized list of substances in the workplace as well as material safety data sheets (MSDS) describing each substance.

MSDS must contain chemical name; common and trade names; physical and chemical characteristics; physical hazards; known acute and chronic health effects of exposure, including signs and symptoms of exposure based on substantial scientific evidence; permissible exposure limits established by federal Occupational Safety and Health Administration; precautions for safe handling and use; recommended work practices; personal protective equipment recommendations; emergency first aid procedures; and name, address, and telephone number of preparer of data sheet.

In addition, employers must provide each employee, at commencement of work and annually thereafter, an education and training program with respect to all toxic substances to which employee is routinely exposed. Such training must include a summary of rights and obligations under act, instruction in handling and a MSDS for each toxic substance, and a readily understandable explanation of how to read and understand a MSDS. Posters advising employees of the right to know about substances in workplace must be displayed by the employer.

Consumer goods are exempted from Illinois law, as are substances in concentration of less than one percent, except for carcinogens, mutagens, or teratogens, which are exempt in concentrations under 0.1 percent or less, unless a lower threshold is promulgated by state agency.

New Jersey law goes into effect on August 29, 1984. Within six months of effective date, employers must label all containers in which hazardous substances are stored. Within two years, all other containers must be labeled.

Employers will also be required to complete a workplace survey form through which state Department of Environmental Protection would be notified of all hazardous substances present in each workplace. Substances are to be listed by chemical name and Chemical Abstracts Service (CAS) number. Department of Environmental Protection is then to supply each facility with a hazardous substance fact sheet for each material listed on the survey form. These sheets, along with a copy of the survey form, are to be put on file by the employer, and a notice of their availability posted on bulletin boards readily accessible to workers.

Employee education and training programs must also be established. An employee may refuse to work with a substance for which information was requested but not given for as long as it takes the employer to honor the request. Employers are prohibited from discharging or otherwise discriminating against any workers who exercise their rights under the act.

Two measures take varying approach to issue of trade secrets. In New Jersey, if a company is concerned that disclosure of information in survey or on a container label would reveal a trade secret, it may file a trade secret claim within 90 days of receipt of survey form. Any information determined to involve a trade secret would be kept confidential and could only be disclosed to state officials or contractors in connection with their official duties. Any unauthorized disclosure would entail a criminal penalty. However, trade secret claims are not permitted for substances which because of their known carcinogenicity, mutagenicity, teratogenicity, flammability, explosiveness, corrosivity or reactivity pose a special hazard to health and safety.

Trade secrets are protected by Illinois act. However, in a medical emergency certified by a health care professional, trade secret information must be disclosed to the treating health care professional. An emergency telephone number for this purpose must be listed on MSDS.

UPCOMING MEETINGS OF INTEREST

.... Health-Related Claims: Can the Tort and Compensation Systems Cope? Oct. 19-20, Sheraton National Hotel, Arlington, Va; sponsored by National Legal Center for the Public Interest; conference will examine current status of legislative reforms with emphasis on occupational disease, toxic torts, hazardous wastes, and Superfund, and role legal process plays in stimulating health claims and increasing cost of their resolution; fee $350; contact William J. Howard, National Legal Center for the Public Interest, 1101 17th Street, N.W, Washington, DC/ (202) 296-1683.

... Toxics in the Environment: The Regulatory Legislative, and Enforcement Outlook, Nov. 17-18, Stouffer's National Center Hotel, Arlington, VA; sponsored by Center for Energy and Environmental Management and Inside E.P.A. Weekly Report; a comprehensive exploration of what U.S. Environmental Protection Agency and Congress are doing to reduce human exposure to toxic substances and the effect of tighter regulation on industry; fee $575.00; contact Brooks Cook, CEEM, P. O. Box 536, Fairfax, VA 22030/(800) 424-9068, in Washington, DC, 250-5900.

... Hazardous Waste Regulation, Litigation and Liability Briefing, Nov. 21-22, Hyatt Regency Hotel, Washington, DC; sponsored by Executive Enterprises, Inc.; featured speakers include key federal and state government officials, corporate policy makers, and outside counsel focusing on hazardous waste regulation and litigation under RCRA and Superfund; fee $650.00; contact Executive Enterprises, Inc., 33 West 60th Street, New York, NY/(212) 489-2680.

NAMES IN THE NEWS

President Reagan last week nomiated Sandra Brown Armstrong, trial attorney with Justice Department, to become a commissioner of Consumer Product Safety Commission. If confirmed, she succeeds Edith Barksdale Sloan whose term expires in October.

Philip E. Enterline, Ph.D., has been appointed director of Center for Environmental Epidemiology at University of Pittsburgh Graduate School of Public Health. His predecessor, Dr. Edward P. Radford, has resigned to join Radiation Effects Research Foundation in Hiroshima to study health effects of atomic bombing there.

REPS. RITTER, MARTIN, INTRODUCE RISK ASSESSMENT BILLS

Two separate bills, each proposing to improve the process of risk assessment as practiced by federal agencies, were introduced recently in Congress. H.R.3840, entitled "Risk Assessment Research and Demonstration Act of 1983," was introduced August 4 by Representative Don Ritter (R-Pa.). On Sept. 22, Representative James G. Martin (R-N.C.) introduced H.R.3976, "Central Board of Scientific Risk Assessment Act of 1983."

H.R.3840 is a streamlined version of H.R.6159, a bill introduced in last session of Congress by Rep. Ritter. H.R. 6159 passed the House and was scheduled for full Senate action, but Congress adjourned before it could be considered.

Ritter proposal recognizes risk assessment as a multistep process, consisting first of a scientifically based risk analysis which concentrates on identification, probability and consequences of risk. Risk analysis is followed by a risk evaluation which is more judgemental nature and concentrates on decisions defining acceptable levels of risk. H.R.3840 defines "risk" as "the potential of a given action to cause unwanted, negative consequences to human life, health, or the environment."

According to "Findings and Declaration" section of bill, risk assessment will not provide a formula for setting public policies and making regulatory decisions; however it may be procedure to delineate scientific basis for agency decisions from more subjective, judgemental aspects.

With coordination provided by an agency designated by the President, H.R.3840 would require federal agencies to develop projects which would improve the use of risk assessments giving particular emphasis to use of comparative risk assessment. Comparative risk assessment is defined as a procedure in which assessment of risks associated with one course of action is compared to risks associated with an alternate course or courses of action and with kinds of risks people normally face in their individual lives.

Within twelve, and again within thirty, months of enactment, H.R. 3840 would require the coordinating agency designated by the President to report to Congress a review of risk analysis research conducted by federal agencies, recommendations to improve the procedure, and recommendations for increasing public awareness and understanding of risk.

H.R.3976, Rep. Martin's proposal, implements several recommendations of recent National Academy of Sciences (NAS) Report on Risk Assessment. Proposal would authorize NAS to establish a Central Board of Scientific Risk Assessment. Board would develop, issue, and periodically revise scientific criteria for risk assessment; review risk assessments of chronic health hazard issues of nationa significance prepared by federal agencies; and organize scientific workshops, hold symposia, and make recommendations on research needed in field of risk assessment.

Bill provides that whenever two or more federal agencies propose to make regulatory decisions based on a risk assessment or assessments of a substance which may result in a risk of chronic health hazard, and at least one determines its risk assessment involves scientific issues which are of national significance, risk assessment is to be submitted to Office of Science and Technology Policy (OSTP) for reference to Central Board for review. To ensure that Central Board is not overloaded with review requests, H.R.3976 provides that OSTP must first concur with agency determination of national significance.

Central Board would be required to publish a notice of referral of risk assessment and invite public scientific input to review process. After considering available relevant scientific evidence, Board would submit a written evaluation of assessment to referring agency in accordance with a timetable established in advance by Board and agency. Board's report would also be publicly available.

Scientific criteria developed by Board and its risk assessment reviews would be advisory in nature. However, if any federal agency failed to adopt any criteria or evaluation of Board, agency would be required to publish a complete explanation and justification of its reasons for such failure.

Central Board would be composed of 15 members appointed for three-year terms by President of NAS from nominations submitted by various health professionals. Each Board member would have to be qualified and distinguished by scientific training and experience.

Ritter bill is scheduled for hearing or mark-up by House Science, Research and Technology Subcommittee on October 4, with additional action, if necessary, on October 6. No action has, so far, been scheduled on Martin proposal.

SCIENTIST EXAMINES DIETARY CAUSES, DEFENSES FOR CANCER

Writing in September 23 issue of Science magazine, Dr. Bruce Ames, developer of Ames mutagenic screening test and chairman of Department of Biochemistry at University of California, Berkley, cites dietary practices as most promising area, after tobacco, to affect future cancer risks.

Culling data from over 175 studies, Ames presents examples of great variety of natural mutagens and carcinogens, as well as many natural antimutagens and anticarcinogens contained in human diet. He suggests that a general increase in consumption of fiber-rich cereals, vegetables and fruits, and a decrease in consumption of fat-rich products and excessive alcohol would be prudent.