

## U.S. Court Rejects Emergency Limit On Asbestos Levels

By JOANN S. LUBLIN

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—A federal appeals court struck down the Labor Department's emergency temporary limit on occupational exposure to asbestos, which has been linked to cancer and respiratory disease.

A three-judge panel in New Orleans, contended that the department's Occupational Safety and Health Administration failed to present sufficient evidence that an emergency temporary standard was "necessary to alleviate a grave risk of worker deaths during a six-month term."

The decision upholds the asbestos industry's legal challenge to the standard, which was issued Nov. 4. The same court had approved a temporary stay on the exposure limit in late November.

The tougher standard, intended to last six months while a new, permanent rule is developed, set maximum workplace exposure for asbestos at 500,000 fibers per cubic meter of air. The previous level had been two million fibers per cubic meter.

In the decision, written by Judge E. Grady Jolly, the court said: "If a danger is imminent, it (OSHA) should complete regular rule-making as quickly as possible to determine if a new standard" of 500,000 fibers "or even lower is appropriate."

### Proposal Expected

The job-safety agency said that despite disappointment with the decision it is continuing to expedite rule making for a permanent standard to lower worker exposure level to asbestos and expects to publish its proposal within a month. However, the agency said it fears the ruling on asbestos means that "it's unlikely the court can sustain emergency action on other less-well-documented hazards."

OSHA already has sought White House Budget Office approval to propose a new, permanent standard of 500,000 fibers per cubic meter. The court decision "would allow a little added delay" in making that proposal because there isn't a six-month deadline, an OSHA spokesman said.

The judges' decision said rejection of the temporary standard doesn't mean the court would strike down a tougher limit if the job-safety agency follows the proper proposal procedures.

### Trade Group Sued

The Asbestos Information Association, a trade group, sued OSHA over the emergency standard because it believed the action was unnecessary. But it supported review of asbestos exposure levels through normal rule making.

OSHA had debated for months about whether to issue the temporary asbestos ruling because of its poor track record with such emergency standards in the past. Industry groups sued the job-safety agency over five of the eight emergency standards issued prior to the tougher asbestos limit. Only one of these five rulings was fully upheld by the courts, a standard limiting exposure to acrylonitrile, a chemical used to make synthetic rubber, plastics and other

products that has been linked to cancer.

Fourteen unions had petitioned OSHA for the emergency asbestos ruling, but wanted the limit reduced to 100,000 fibers per cubic meter of air. Low-level exposure to asbestos has been linked to asbestosis, a lung disease, and mesothelioma, a cancer of the lining of the lungs.

THE NEW YORK TIMES, WEDNESDAY, MARCH 7, 1984

## Head of Safety Agency to Leave

By SETH S. KING

Special to The New York Times

WASHINGTON, March 6 — Thorne G. Auchter, director of the Occupational Safety and Health Administration, who has frequently been criticized by labor unions and environmental protection groups, announced today that he was resigning.

The 38-year-old Florida building contractor said he would leave March 20 to join the B. B. Anderson Companies, a Kansas construction concern.

Mr. Auchter denied he was leaving because of criticism of his performance or because of his recent clashes with the Office of Management and Budget over health and safety standards he was advocating.

"I'm going because my job here is essentially finished," he said in a telephone interview. "My objective in taking this job was to bring some accountability and stability to OSHA. I've done that."

### Inspection System Changed

Mr. Auchter became acquainted with Ronald Reagan when he served as his director of special events in Florida in the 1980 Presidential campaign.

Soon after he became head of the Occupational Safety and Health Administration in the spring of 1981, Mr. Auchter concentrated his small staff of inspectors on high-hazard construction projects and on small industries with high accident records, leaving most industrial concerns subject only to reviews of their annual safety records.

Mr. Auchter said this system provided protection for workers where it was most needed and made better use of the inspectors. Many unions accused him of trying to shield larger industries from complying with safety regulations initiated by his predecessors.

But the Building and Construction Trades Department of the American Federation of Labor and Congress of Industrial Organizations approved.

In early 1981, Mr. Auchter ordered reviews of the agency's standards on many hazardous substances, including cotton dust. Critics accused him of trying to water down protection for workers.

On several occasions Mr. Auchter was ordered by Federal judges to promulgate standards without delay or enforce those already in effect.

### Clashes With O.M.B.

Last summer Mr. Auchter clashed with officials at the Office of Management and Budget when he sought to impose new regulations to govern devices protecting textile workers against the effects of cotton dust. In this case, the unions involved approved of his stand.

Most recently he was severely criticized by members of a House subcommittee for ignoring the advice of his own staff and declining to order new protective standards for workers handling the pesticide ethylene dibromide, which causes cancer in test animals.

Secretary of Labor Raymond J. Donovan praised Mr. Auchter in a statement today, saying he "has been among the most capable and effective" in carrying out President Reagan's "commitment to a more effective Government through better management."

Others referred to Mr. Auchter's resignation in different terms.

Dr. Sidney Wolfe, director of Ralph Nader's Public Citizen Health Research Group, said it meant "good riddance," adding, "He's been a real danger to working people."

Mr. Auchter dismissed the criticism, saying A.F.L.-C.I.O. leaders were attacking him in their efforts to defeat President Reagan this fall.

"There are many others in industry as well as in some of the A.F.L.-C.I.O.'s own unions who know the job we've done at OSHA and respect it."

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