PLAINTIFF'S EXHIBIT

DOW-1708

EPA's Decision To Ban Asbestos Criticized By Cement Pipe Makers

By Farrell Kramer,
Special To Investor's Daily

WASHINGTON — The Environmental Protection Agency's recently announced asbestos ban threatens to devastate producers of asbestos-cement pipe, a product the industry claims offers great benefits at "minimal" health risks.

The nation's two remaining A-C pipe producers, the CAPCO Pipe Co. in Birmingham, Ala., and the CertainTeed Corp. in Valley Forge, Pa., said the EPA ban means the possible loss of a $40 million market. Currently, 300,000 miles of such pipe carries water to U.S. communities.

"It'll put us out of business," said W.R. Perrell, vice president of sales for CAPCO. The company employs 300 workers and derives much of its business from A-C pipe production.

CertainTeed, a larger and more diversified company, also will suffer from the ban, but probably not as much as CAPCO, an industry expert said.

And these two companies won't be the only ones affected by the EPA's decision. The nation's consumers could also feel the impact if water utilities' costs rise.

On July 6, the EPA ordered a ban on almost all uses of asbestos. Manufacture of most asbestos products will be phased out over a seven-year period.

Many asbestos applications already have been eliminated. Besides cement water pipes, the material also continues to be used in auto brake pads, roofing shingles, pipe wrapping and gaskets.

The EPA estimates the cost to the nation of banning the manufacture, import and sales of A-C pipe at $128 million over a 13-year transition period.

The agency says the costs to society will be outweighed by the benefits. It calculates that the asbestos prohibitions, which will take effect in two stages beginning Aug. 26, 1996, will save three individuals from contracting lung and gastrointestinal cancer.

"This is pollution prevention," EPA Administrator William Reilly said in a July 6 statement. "We're eliminating a known cancer-causing substance from the marketplace." But industry sources dispute this claim, at least in the case of A-C pipe, arguing that the EPA's survey relied on outdated facts and was a mathematical extrapolation rather than an empirical study.

"In 13 years they estimate three and one-third people will die from installing and producing A-C pipe," Perrell said. "No one ever has. I think it's absolutely ridiculous."

And Robert Kennedy, general manager of Twentynine Palms Water District, a buyer of A-C pipe in Twentynine Palms, Calif., argues that an individual standing on a New York City or Los Angeles street corner would receive greater exposure to asbestos than a worker in one of today's A-C pipe plants.

Kennedy said the only time asbestos can escape into the air during production is when it is first introduced into the cement mixture. This pouring, he said, can be done by machine — eliminating human exposure.

Once embedded in cement, the asbestos no longer poses any health risk to workers. The EPA and the industry both agree that A-C pipe presents no danger to the drinking water transported through it because asbestos is safe to ingest.

"Dollarwise, it (the ban) will cost a great deal of money," Kennedy said. "I see it as detrimental as hell."

Asbestos-cement pipe, according to Lloyd Ambler, senior vice president of sales for CertainTeed's pipe group, is 20% cheaper than either of the available substitutes, polyvinylchloride or ductile iron.

"That's what the consumer is going to pay," he said of the 20% figure. He predicted the costs of more expensive construction materials will be passed on to consumers, who will pay more for every cup of water.

Besides lower costs, A-C pipe provides other advantages such as its lightweight construction and resistance to corrosion, said B.J. Pigg, president of the A-C Pipe Producers Association.

For all these reasons, the industry is looking at ways of circumventing the EPA ban.

The EPA ruling allows for a "technical review" of risks and costs before the A-C pipe ban takes place. It also permits possible exemptions to the rule that can be filed after Feb. 26, 1996.

"That means, of course, there could be some modification of the ban due to this review," Pigg said.

And that means the A-C pipe issue is far from over.

Thursday, July 20, 1989 ★ Investor's Daily

E.P.A. Ban May Raise Some Costs

Asbestos Is Cheaper Than Alternatives, Manufacturers Say

By JONATHAN P. HICKS

Manufacturers of products that contain asbestos said yesterday that they had anticipated the Government's ban on virtually all products using the mineral and had begun to substitute other materials.

But the companies and some customers said the products with substitutes would become more expensive.

"Under this ban, the costs of pipes will become a lot more expensive," said T. David Chinn, assistant director of the American Waterworks Association, which represents 3,500 local water companies. "The difference in alternate material costs, depending on the location, can range from 20 percent more to 100 percent."

And Toni Simonetti, a spokeswoman for the General Motors Corporation, said: "The substitute materials are more expensive. The only asbestos we use in our brake systems are in the rear drum brake lining and we're phasing that out over the next few years."

Cancer-Causing Material

Asbestos is a durable, heat-resistant mineral used in construction, consumer products and industrial applications. However, it breaks into small fibers that can lodge in the lung and other parts of the body. These fibers have been found to cause lung and various other forms of cancer. The Environmental Protection Agency on Thursday said it was imposing, over seven years, a ban on the the making and use of most asbestos products.

Roofing products account for 28 percent of asbestos use in North America, according to the Washington-based Asbestos Information Association of North America, which represents 20 producers of asbestos. Brake lining accounts for 26 percent of the asbestos products and pipe products, another 14 percent.

While the ban does not affect asbestos materials in existing buildings, it will greatly affect how companies make these products in the future.

Manufacturers said they had long ago considered a ban as inevitable and had begun to substitute other materials. As a result, they said, the impact will not be particularly severe for them since they have an additional seven years to abandon the use of asbestos completely.

"This ban was initially proposed 10 years ago," said Rita Grisham, vice

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THE NEW YORK TIMES JULY 8, 1989

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president of the Nuturn Corporation, a Nashville brake lining maker. "I don't think it was necessary for the E.P.A. to take this action. But with a seven-year time frame to accomplish this, we won't have any problem conforming to what they want."

Asbestos, which is used in water pipes to prevent corrosion, is used in a third of the pipes installed by water utility companies. Water utilities said they would have to depend more on pipes made of cast iron and polyvinyl chloride, a plastic.

Automobile makers, which use asbestos in rear-brake systems, said they would move to the use of steel fibers and iron powder as friction materials.

Makers of brake products say that because of the ban, they will be forced to make wider use of fibers made of other minerals, glass and ceramics, instead of asbestos. "And they tend to be much more expensive," said Ms. Grisham of G.M.

She added that the additional costs were the result of spending heavily for research and development of new processes. "We had to redefine the process completely," Mr. Grisham said. "And to add to that, the materials we now use are often five or six times the cost of asbestos."

Some manufacturers complained that the substitute materials were less reliable than asbestos and that the use of another material would cause the quality of their products to weaken. "The alternate materials don't work as well, in addition to being more expensive," said Joseph T. Mooney Jr., president of the Mooney Products Company, a maker of roof coatings based in Kimberton, Pa.

Mr. Mooney said asbestos products account for about 50 percent of his company's product line and he expects "that there will be a certain amount of business loss." He also expressed a concern voiced by other manufacturers of asbestos products who suggested that the ban might create a rush to develop new substitute materials that might in time prove to carry health risks.

"A lot of work and research will go into alternate materials," Mr. Mooney said. "And the major question becomes whether the new material is safer than the old. We don't want to jump from the frying pan into the fire."

He and other manufacturers insisted that they had perfected methods for workers to work with asbestos without risk to their health.

"We feel that the public record that's been collected over the last 10 years clearly shows that asbestos does not pose an unreasonable risk," said Bob J. Pigg, the president of the asbestos industry association. "It can be used safely and the E.P.A.'s action is out of step with most other countries," Mr. Pigg said.

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Battle Over Asbestos in Commercial Buildings

A labor union has gone to court to force the EPA to write a rule requiring companies to notify workers who come in contact with asbestos. The Service Employees International Union (SEIU) went to federal district court after the EPA turned down the union's petition to write a rule. However, the EPA turned around and held a meeting in Washington on May 3rd that may have been the first step toward a rulemaking proceeding.

Although the EPA has an entire program devoted to asbestos abatement in schools, there is no corresponding program for commercial buildings, which is what the SIEU would like to see. The EPA countered that an "unreasonable risk" determination cannot be made in the nonschool area, and there is already a shortage of technicians for the clean-up mandated by the school asbestos program. The Health Effects Institute will be doing a congressionally-mandated study looking at asbestos levels in commercial buildings. The results of that study will be used by Congress to determine if legislation is needed. The study will not be completed for at least three years.

Meanwhile, Rep. James Florio, D-N.J. [illegible]
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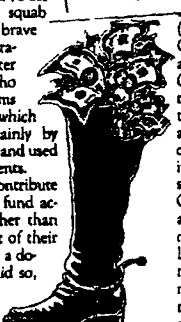
ward with a much more com

MAINTENANCE
TECHNOLOGY
MONTHLY

Putting the boot

FOR every $1 awarded in asbe
cases it is estimated that 30
goes to the dying litigant and 70 ce
lawyers and intermediaries squab
over who should pay. In a brave attempt to cut out the parasites, an American underwriter suggested that all insurers who faced asbestos-related claims should contribute to a pool which would be administered mainly by non-insurance professionals and used to meet out-of-court settlements.

Insurers were asked to contribute to the so-called Wellington fund according to their means rather than their strict liability—ie, part of their contributions was effectively a donation to the fund. Most did so, including syndicates at Lloyd's of London who bought run-off policies from Outhwaite. They thought they could claim the whole contribution to the Wellington fund from Outhwaite. They may be in for a shock.



[illegible] Wilberforce ruled (among other things) that Outhwaite was not liable for any monies paid in excess of Cockell's strict liability—ie, that part of Cockell's contribution which amounted to a donation could not be clawed back. If a similar ruling were made in all outstanding cases which Outhwaite is fighting, its liabilities would be cut by, maybe, 25-50%. Privately Lloyd's is apoplectic about the decision. The reason: the market as a whole has bought much run-off reinsurance similar to the Outhwaite kind from companies such as the Swiss Re. If Outhwaite has found a legal way to duck claims, how long before the Swiss Re and others catch on?

THE ECONOMIST WEEKLY JUNE 16, 1989