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AIA NORTH AMERICA

# NEWS & NOTES

November 30, 1984

*- SEASONS GREETINGS AND BEST WISHES FOR A HAPPY NEW YEAR -*

PLAINTIFF'S EXHIBIT

CAP-1703

## AIA/NA, FMSI FILE COMMENTS ON ASBESTOS BRAKE BAN PETITION

On Nov. 28, **AIA/NA** filed comments with Environmental Protection Agency (EPA) requesting that the Agency deny a petition of the Natural Resources Defense Council (NRDC) to ban the use of asbestos in the brakes of all new cars and trucks and in all replacement brakes in existing motorized vehicles. The NRDC, petition, dated Sept. 13, was filed under section 21 of the Toxic Substances Control Act (TSCA) which permits "any person" to "petition the Administrator (of the EPA) to initiate a proceeding for the issuance, amendment, or repeal of a rule under" the Act.

The AIA/NA comments request that the NRDC petition be denied for the following reasons:

- Ambient levels of asbestos and the small contribution of brake materials to those levels do not represent an unreasonable risk to the public.
- The use of asbestos-containing products does not constitute an unreasonable risk to brake maintenance workers and, in addition, EPA should defer to the Occupational Safety and Health Administration (OSHA) on workplace regulation.
- Substituting materials for which the health effects have not been evaluated and whose use is uncontrolled for asbestos, which is highly regulated, could result in greater health risks to the public and workers.

ASBESTOS INFORMATION ASSOCIATION
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- A ban would be contrary to the international consensus on the controlled use of asbestos.

- The NRDC petition to ban the use of asbestos in brakes is not based on considerations of "unreasonable risk" as required by TSCA, but rather, on an approach which advocates a "zero risk" standard for the statute.

The Friction Materials Standards Institute, Inc. (FMSI), a trade association of twenty-two friction materials manufacturer's in the United States with associate members worldwide, filed comments on the NRDC petition on Nov. 13. While not taking a position for or against the petition, FMSI stated, "we believe it is important to submit" comments, and, "Should it be deemed appropriate, these comments may be supplemented at a later date by a more in-depth critique."

On the subject of overlapping regulatory activity on asbestos by OSHA and EPA, the FMSI comments noted that, "While one agency has proposed to tighten worker exposure to asbestos, another is being petitioned to eliminate asbestos in friction materials. The disparity between these two situations could well create implementation and economic problems for friction materials manufacturers." Turning to the issue of substitutes, FMSI pointed out that "sufficient data is not available at this time on the substitute materials to state that they do not pose a hazard in the workplace environment or to the general public." The comments went on to state, "the advantages of semi-metallic brake linings cited (in the NRDC petition) are not necessarily supported by test results generated by friction materials manufacturers."

The FMSI comments concluded, "We urge that EPA study the suggested substitute materials as well as the feasibility, economic impact, realistic necessity - if it exists, and timing requirements appropriate to the elimination of asbestos in friction materials before responding to the petition or proposing a ban on the use of asbestos in friction materials."

The EPA has until mid-December to frame a response granting or denying the NRDC petition.

## Upcoming Meeting Of Interest

... Smoking and the Workplace, Dec. 11-13, Capitol Holiday Inn, Washington, DC; sponsored by Society of Occupational and Environmental Health; conference will focus on risks of combined exposures to workplace toxic agents and smoking; keynote address by Dr. James O. Mason, Director, Center for Disease Control; conference participants include Drs. Aaron Blair, National Cancer Institute, James Merchant, University of Iowa, and Richard Peto, Oxford University; fee non-member $100 advance, $130 on-site; contact SOEH, 2021 K. St., N.W., Suite 305, Washington, D.C. 20006/(202) 737-5045.

... Symposium on Hazard Communication, Mar. 11-12, Hyatt Regency Hotel, Houston, TX; sponsored by ASTM Committee E-34 (Occupational Health & Safety); symposium will consist of 15 lectures with four formal panel discussions on major issues relating to OSHA's Hazard Communication Regulations; fee $35; contact Donald Viall, ASTM, 1916 Race St., Philadelphia, PA 19103/ (215) 299-5546.

## FOURTH QUARTER AIA/NA DIRECTORS MEETING SCHEDULED FOR DEC. 12

The regular fourth quarter meeting of the Association's Board of Directors will be held Wednesday, Dec. 12, at the Sheraton Crystal City Hotel, Arlington, VA. The meeting will commence at 8:00 AM in the Crystal III Room. During the meeting, Daniel Popeo, Esq., General Counsel, Washington Legal Foundation, will be a speaker on the program.

A reception and dinner are scheduled for Tuesday, Dec. 11, starting at 6:00 PM in the Crystal II Room, Sheraton Crystal City Hotel. Christopher C. DeMuth, General Manager, Lexecon, Inc., will be the dinner speaker. Mr. DeMuth recently resigned as Administrator for Information and Regulatory Affairs in the Office of Management and Budget.

The AIA/NA Executive Committee will meet on Tuesday, Dec. 11, at the Sheraton Crystal City Hotel in the Crystal I Room. The meeting will commence at 9:00 AM.

## COURT OVERTURNS OSHA HEARING CONSERVATION AMENDMENT

In a 2-1 decision, the U.S. Court of Appeals for the Fourth Circuit vacated the hearing conservation amendment added in Jan. 1981 to the Occupational Safety and Health Administration's (OSHA) noise exposure standard. The hearing conservation amendment was promulgated as an interim measure imposing certain requirements upon employers at an action level of 85 decibels when studies revealed that many employees suffered significant hearing impairment at noise levels below the 90 decibel permissible exposure limit of the noise standard.

In its decision in the case, Forging Industry Association v. Secretary of Labor, the court reasoned that a standard is invalid if it requires an employer to take actions in regard to hazards existing outside the workplace, stating, "given the vast number of factors outside of the workplace that can potentially affect an employee's health or safety (e.g. social and recreational activities, alcohol or drug use, defective consumer products), interpreting the Act to extend to hazards existing outside the workplace would place under OSHA's control areas already subject to regulation by other federal agencies."

Because the amendment made no distinction between hearing loss caused by workplace sources and loss caused by non-workplace sources, it "clearly imposes responsibilities on employers based on non-work-related hazards." The Court continued, "Under the amendment, an employer whose workers are unaffected by workplace noise may be subject to numerous requirements simply because its workers choose to hunt, listen to loud music or ride motorcycles during their non-working hours." The amendment was therefore vacated and remanded to OSHA for the creation of a valid standard.

In a dissenting opinion, it was argued that the amendment was acceptable and within a "zone of reasonableness," first, because it covered only those industries with a noise level that has been scientifically demonstrated to be a high risk factor to hearing health, and second, because a threshold test is administered in high risk industries, and hearing loss is measured after continued exposure to that high risk noise level.

## ONTARIO PUBLISHES PROPOSED ASBESTOS REGULATION FOR CONSTRUCTION INDUSTRY

The Ontario Ministry of Labour published in The Ontario Gazette on Nov. 17 a proposed revised regulation concerning asbestos on construction projects and in buildings and repair operations. An initial proposal was issued on Aug. 14, 1982. Following a public comment period, a revised version of this regulation was presented at a public meeting in Jan. 1983. It was subsequently decided to postpone finalization of the regulation until the Report of the Royal Commission on Matters of Health and Safety Arising from the Use of Asbestos in Ontario (ORCA) was received and reviewed. Some 20 recommendations made by ORCA are reflected in the proposed revised regulation including its coverage of activities that involve building maintenance and custodial work.

The proposed regulation essentially requires that all work with asbestos under its purview be conducted according to procedures as prescribed for specific classifications of work. Thus, the proposal is a performance standard and does not include any provision for monitoring. Exposure of workers to asbestos is classified into three types. For example, Type 1 work may result in some exposure to asbestos fibers but should present no risk of disease. Type 2 exposures are associated with work that results in air concentrations of asbestos that could pose a health risk. Type 3 work will produce asbestos fiber levels that could present a severe health risk. It is the classification of the work that determines what other provisions of the regulation will come into effect, e.g. reporting requirements, work procedures, and medical surveillance and recordkeeping.

A definition of the types of exposures appear below:

(1) <u>Type 1</u>

(a) the installation or removal of manufactured products containing asbestos such as vinyl or acoustic tiles, gaskets, seals, packings, friction products, or asbestos cement products;

(b) the cutting, shaping or drilling of a product mentioned in (a) by the use of hand-powered tools only;

(c) work in close proximity to friable material containing asbestos; and

(d) the use of protective clothing or equipment made of textiles containing asbestos.

(2) <u>Type 2</u>

(a) the use of power tools equipped with a dust collection device equipped with a HEPA filter to cut, grind, drill or abrade a product mentioned in clause 1(a);

(b) the removal of a false ceiling or part thereof to obtain access to a work area and where friable material containing asbestos is likely to be lying on the surface of the false ceiling;

(c) subject to subsection (1), the minor removal or minor disturbance of friable material containing asbestos during the repair, alteration or maintenance of a building, structure, ship, plant, machinery or equipment, or part thereof other than the equipment mentioned in clause (3)(c) below; and

(d) the removal of drywall where asbestos joint filling compounds have been used.

(3) Type 3

(a) the removal other than minor removal of friable material containing asbestos during the repair, alteration, maintenance, demolition or dismantling of a building, structure, ship, plant, machinery or equipment, or part thereof;

(b) the encapsulation or enclosure of friable material containing asbestos;

(c) the cleaning, maintenance or removal of air-handling equipment in buildings which have fireproofing containing asbestos;

(d) the repair, alteration, or dismantling of a kiln, metallurgical furnace or similar device or part thereof, made in part of refractory materials containing asbestos;

(e) the use of power tools not equipped with a dust collection device equipped with a HEPA filter to grind, cut, drill or abrade a product mentioned in clause 1(a); and

(f) the demolition, dismantling, alteration or repair of any building, structure or plant, or part thereof in which asbestos was used in the manufacture of products.

(4) Where the exposure of a worker to asbestos is other than as classified in subsections (1), (2), or (3) the exposure shall be a Type 2 exposure.

An open meeting has been scheduled at which interested parties may comment on the proposed regulation. The meeting will be held Dec. 17, 1984 in the Ontario Room, MacDonald Block, 2nd floor, Queen's Park, Toronto, commencing at 1:30 PM. Attendees should advise Edit and Control Section, Standards and Programs Branch, Toronto (416) 965-8710 or 8510. For more information contact John Wilson, Toronto (416) 965-8710.

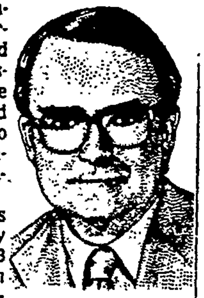
AIA/NA is reviewing the proposed regulation and is expected to submit comments.

# *Ruckelshaus Quits EPA Amid Disputes With White House on Budget Cuts, Policy*

By ANDY PASZTOR
*Staff Reporter of* THE WALL STREET JOURNAL

WASHINGTON — William Ruckelshaus abruptly resigned late yesterday as Environmental Protection Agency administrator amid administration infighting over budget cuts and policy changes in anti-pollution programs.

Mr. Ruckelshaus's resignation surprised a number of his top assistants and even some senior presidential aides. It apparently was prompted by White House insistence on cutting the EPA budget and stepped-up efforts to roll back environmental laws and regulations.


*William Ruckelshaus*

Mr. Ruckelshaus took over the agency in the spring of 1983 when it was mired in scandal and paralyzed by poor morale. Former administrator Anne Burford and many of her aides were accused of improperly favoring industry interests and disregarding the intent of federal environmental laws in some of their decisions.

It is understood that Mr. Ruckelshaus earlier this week threatened to step down if President Reagan insisted on cutting the agency's current $1.8 billion budget for day-to-day operations and cleanup of hazardous chemical dumps.

### Appeal to Reagan Claimed

EPA officials said Mr. Ruckelshaus made a personal appeal to Mr. Reagan and James Baker, White House chief of staff, to spare the agency from major budget cutbacks in the next fiscal year. But after receiving "preliminary assurances" that some of his requests would be met, the officials said Mr. Ruckelshaus apparently decided he faced too much opposition within the administration to continue to run the agency effectively.

Mr. Ruckelshaus's resignation is effective Jan. 5. The White House declined to comment on a successor to Mr. Ruckelshaus, who was the EPA's first administrator from 1970 to 1973.

In his resignation letter to Mr. Reagan, Mr. Ruckelshaus said he is leaving with a "sense of accomplishment" because "employee morale and confidence is high" and all of the agency's programs have "generated momentum." He asserted that "the ship called EPA has righted and is steering a steady course."

Other political appointees are expected to leave the agency soon. Alvin Alm, the second-ranking appointee, has told the White House he plans to return to private life at the beginning of the year. All of the other top appointees at the agency were handpicked by Mr. Ruckelshaus, and many aren't expected to remain for long under new leadership.

Mr. Alm, in an interview after the announcement, played down the policy differences with the White House. He asserted that Mr. Ruckelshaus had been "fairly optimistic" that he could avoid major budget cuts if he decided to stay and fight. But another EPA aide argued that Mr. Ruckelshaus "clearly saw the handwriting on the wall" and left to avoid a bitter internal debate over the agency's priorities.

Mr. Ruckelshaus was in New York on official business yesterday and wasn't available for comment. Yesterday morning, before the resignation became public, he told career agency officials he hadn't yet made up his mind about his plans.

### Reagan Faces Decisions

President Reagan still faces some thorny political and policy decisions regarding the EPA. One faction of the White House staff, including budget director David Stockman and presidential counselor Edwin Meese, consistently has urged the EPA to issue less-stringent regulations and to push for less-demanding environmental laws. They contend that easing environmental regulation will save U.S. business billions of dollars in capital and operating costs for pollution-control equipment.

But another White House faction and many Republican lawmakers contend that such moves would hurt the Republican Party and probably would be blocked by Congress anyway.

Mr. Reagan now must choose whether he wants the EPA to follow the more-pragmatic course charted by Mr. Ruckelshaus or to return to policies intended to substantially reduce environmental controls on industry.

During the last few months, Mr. Ruckelshaus has been increasingly outspoken about the need to shore up public confidence in the agency and to reject industry demands for substantial rollback of existing controls.

Before he took over as EPA administrator, industries "felt they had the upper hand, and they overplayed it," Mr. Ruckelshaus recalled a few months ago. The "marketplace won't take care of these problems," he told reporters then. "The only way this administration will get (regulatory) reform," he said, "is by convincing Congress we're doing the best job we can" enforcing the existing laws.

THE WALL STREET JOURNAL
Thursday, November 29, 1984

# Thomas Nominated as EPA Chief

By Dale Russakoff
and Lou Cannon
Washington Post Staff Writers

President Reagan yesterday nominated the handpicked successor of William D. Ruckelshaus, Lee M. Thomas, to be promoted to head the Environmental Protection Agency.

Ruckelshaus said he was not resigning as administrator over policy differences with the White House. But he acknowledged yesterday in an interview that he would have found it "difficult" to defend EPA budget cuts before Congress. He also said it was "not pleasant" at times to serve an administration that ousted his wife, Jill, from the U.S. Commission on Civil Rights.

He also said he plans to take a prominent role, possibly in Washington, in trying to depoliticize the conflict between environmentalists, the administration and industry, which he said has undermined environmental protection and prevented enactment of important statutes.

Ruckelshaus, in a wide-ranging interview, said he blames the polarization not only on environmentalists and some business leaders, but also on the administration.

"In the first two years [of the administration], there was a feeling among some in industry and the administration that they had the upper hand, and I frankly think that hand was overplayed," Ruckelshaus said. "I think they went too far in suggesting changes ought to be made and the country reacted.

"Then the pendulum shifted, and the environmentalists felt they had the upper hand. I frankly think they overplayed their hand, too.... Their constant barrage of criticism of this agency runs the risk of weakening the very institution on which the strength and well-being of their cause rests."

Ruckelshaus said he has not decided what to do after leaving the agency on Jan. 5, saying only that he knew it was time to resign. He said he believed that he had accom-

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plished what he set out to do and that to go further—to win reauthorization of many environmental laws—would have required a longer tenure than he wanted.

"It's very important in these government jobs to sense when it's time to move on. There is a point when you start diminishing the returns you can get. I've relied on my stomach to tell me when that's true," he said.

The departing administrator, who took over the agency in 1983 amid a national scandal over EPA mismanagement and improper industry influence, said he felt his major accomplishment was that he had helped restore the agency's morale and credibility, an assessment echoed yesterday by many members of Congress, agency employes and environmentalists.

But Ruckelshaus listed among his disappointments his failure to put in place a system to control acid rain (his initiative was blocked by the White House and Office of Management and Budget Director David A. Stockman) and to win reauthorization of the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act and the federal laws regulating pesticides and toxic substances.

Those statutes have expired, and Ruckelshaus had said he hoped to see them reauthorized before his departure. He succeeded only in winning congressional reauthorization of the Resource Conservation and Recovery Act, which vastly expanded control over generators of hazardous wastes.

A close associate of Ruckelshaus who talked to him after his resignation said his frustration played a major role in his decision to leave, although it was not tied directly to the fiscal 1986 budget. Sources said the EPA budget is not likely to be marked for 30 percent cuts, as charged by environmentalists.

"The administration hadn't shown that they cared much about the environment or were going to do anything about it . . . ," the associate said. "If there was one thing that rankled, it was the acid-rain decision. He [Ruckelshaus] worked out a middle ground. He fought it through the process and lost to Stockman at the last moment . . . . He's known all along that it wasn't going to get better."

An administration official said Ruckelshaus "didn't fully appreciate the opposition of Stockman to environmental programs" when he decided to return to the agency last year, although he knew there were limits on what he could accomplish.

Ruckelshaus was the EPA's first administrator, from 1970 to 1973. He was a vice president of Weyerhaeuser Corp., a major timber concern, when he took the EPA post last year.

Thomas was Ruckelshaus' choice as his successor because of his work as assistant EPA administrator in charge of hazardous waste, the prime national environmental problem. Thomas rebuilt the toxic waste cleanup program in the wake of scandals that forced the resignation of then-Administrator Anne M. Burford and two dozen other appointees in 1983.

Thomas said yesterday that he planned to continue Ruckelshaus' policies and agenda, adding that he expects he can defend the integrity of EPA's programs while also being an administration "team player." Environmentalists praised him, but also questioned whether he has the political clout to resist budget cuts and policy changes that could weaken environmental enforcement.

Sen. Robert T. Stafford (R-Vt.), chairman of the Environment and Public Works Committee that will handle Thomas' confirmation, yesterday praised him as "forceful and able" in running the hazardous waste cleanup program, and predicted that Thomas will be approved by the Senate.

White House sources said conservative Republicans, who had hoped to influence the choice of an EPA chief, were dismayed by the appointment of Thomas, a career bureaucrat and registered independent.

LEE M. THOMAS . . . handpicked by Ruckelshaus

THE WASHINGTON POST

NOVEMBER 30, 1984

HOWARD HURWITZ

# Asbestos: Can school kids live with it?

Until recently, I had the friendliest feeling for asbestos. In every school in which I worked, I could see the cotton-like fibers peeking from steampipes. Since I knew asbestos was fire-resistant, I was comforted rather than chilled by the mineral.

Cosmetically, I preferred that the asbestos be sheathed. Since, however, school maintenance is even more neglected than marking of homework, I do not recall making a request of the custodian that he put in a work order.

Now, the order is in. The Education Department (ED) estimates at $1.4 billion the cost of removing asbestos in more than 30,000 schools that continue to harbor the alleged killer. Not that ED is coming through with that kind of dough. For the moment, $50 million has been anted up, with more in the works over the next seven years if the feds can ever agree on how to dispose of the stuff. The states and local governments are expected to bear the greater share of the burden.

Asbestos has been around since the beginning of recorded history. Microscopic amounts of it are in the air we breathe anywhere. It was not, however, until the late 1940s that substantial amounts were installed in school ceilings, floors, wallboards, pipes and boiler rooms (*Education Week*, Sept. 26).

### Great weight

The great weight of medical evidence is that asbestos, if breathed in, is a carcinogen. Occupational workers have come down with lung cancer, especially if they are smokers, in far greater proportions than their numbers would warrant. Asbestos-related diseases do not appear until 25 to 40 years after a person's first exposure. It is estimated that exposure of industrial workers is 200 times greater than that of school kids. No studies exist of asbestos-related cancer rates among schoolchildren.

What is stumping school authorities, who want to take no chances, is that removal poses hazards. The airborne fibers pose the danger. Removal efforts are often undertaken by unqualified contractors. There is a lot of money in a removal contract and a lot of danger. Most asbestos-control work throughout the country is "not accomplishing the intent," according to one New Jersey contractor specializing in asbestos removal. "In probably 95 percent of the jobs, money is being wasted because school officials are not getting a clean building."

The Environmental Protection Agency has not yet formulated acceptable procedures for removal. The federal government does require school districts to inspect for asbestos and to notify parents of their findings. It has levied fines on 43 districts throughout the nation. EPA does not, however, define "unreasonable risk."

School administrators may derive some relief from the assessment of Dr. Lawrence Garfinkel, vice president for epidemiology and statistics for the American Cancer Society. He has found no evidence of cancer where there is a low type of exposure, as in schools.

### Not dangerous

One research minerologist, Malcolm Ross, contends that the most commonly used type of asbestos is not dangerous in schools. He has been leaped upon by some parents and alleged experts with the ferocity of a tiger protecting her cubs.

The cubs are kids in school. You would have to be a nut not to worry. There appears to be no aspect of our technological advance, whether it be sugar substitutes or nuclear energy, that does not contain an element of peril. In general, large amounts of asbestos exposure are needed to develop substantial lung scarring. Doctors say such exposure is highly unlikely for students and most teachers.

If I had my druthers, I would opt for containing asbestos wherever it begins to flake. The employment of flaky contractors, whose low bids dictate their employment, is too great a risk considering the present state of asbestos-removal arts.



*Howard Hurwitz is a syndicated columnist and nationally known commentator on education.*

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## 'REASONABLE REGULATORY SCHEME' WILL ELIMINATE ASBESTOS RISK, AIA SAYS

A reasonable regulatory scheme, consistent with the best available technology and the most reliable available monitoring methods, will more than adequately eliminate any possibility of significant risk among asbestos workers, the Asbestos Information Association/North America stated in a post-hearing comment on asbestos submitted to the Occupational Safety and Health Administration.

The AIA asserted that a standard, centered on the adoption of the lowest feasible permissible exposure limit of 0.5 fibers per cubic centimeter and accompanied by effective risk reduction provisions tailored to each major type of asbestos workplace, will eliminate the possibility of any significant occupational risks from asbestos exposures.

During rulemaking hearings the association had also supported a five f/cc 15-minute ceiling exposure limit, a single standard for different asbestos fiber types, a specific standard for the construction industry, and a requirement that respirators be available to all workers in workplaces with regular exposures above 0.1 f/cc (Current Report, June 14, p. 24).

The record evidence, according to AIA, demonstrates that average exposures in asbestos manufacturing and in installation of new products will be 0.1 f/cc or lower through promulgation of the proposed regulation. "As a result, even OSHA's overstated, upper limit risk assessment would predict that typical workers in these industries will face lifetime risks of less than one in 1,000," the association stated.

AIA noted that such risks will be considerably lower than accidental death risks found throughout industry, and well within the range of risks predicted by OSHA to remain after implementation of each health standard issued since the decision in the benzene case.

In addition, AIA urged that an aggressive anti-smoking program should be adopted that would address directly the portion of OSHA's predicted lung cancer risk attributable to smoking. Further, a requirement that employers make respirators available upon worker request even when the PEL is not being exceeded "would provide workers the wherewithal to obtain a further tenfold reduction in risk," the association said. "Combining these two initiatives would reduce risk among asbestos workers by at least 20-fold, thus making the predicted risk for the typical worker — again accepting OSHA's exaggerated risk assessment — less than one in 20,000."

### Separate Construction Standard

The Safe Buildings Alliance, a group of companies that formerly supplied asbestos-containing products for building construction and attempts to promote a scientifically sound and practical approach to the issue of such materials in buildings, urged OSHA to issue a separate asbestos standard for construction workers. The alliance urged OSHA to propose specific regulatory language to ensure that the agency gets the assistance it needs in the complex area of construction industry regulation.

A specific proposal would more clearly focus the comments submitted in response, according to SBA.

In addition, a construction standard should be tailored to impose meaningful requirements for those settings most likely to present high exposures, the alliance said. OSHA must propose a scheme that differentiates activities where few or no controls are required from major projects involving substantial asbestos exposure.

Only certain activities which loosely fall within the term "construction" cause significant releases of asbestos or present the likelihood of significant repeated exposures, according to SBA. Therefore, the proposed construction standard "must differentiate those activities which do not expose workers to significant asbestos concentrations since the panoply of procedures are not needed for many situations."

Work practices are available that will improve workers' safety and afford the flexibility needed to accommodate variation within the construction industry, the group asserted. It contended, however, that OSHA's proposal provided inadequate notice and precluded the public from meaningfully participating in the determination of proper control strategies. "OSHA should remedy this failure by proposing for public comment a comprehensive construction standard with specific regulatory language," the alliance concluded.

OCCUPATIONAL SAFETY & HEALTH REPORTER
11-15-84

## Asbestos Corp. Plans Charge of $41 Million For Fourth Quarter

*By a* WALL STREET JOURNAL *Staff Reporter*

THETFORD MINES, Quebec—Asbestos Corp. said it will post a $41 million (Canadian) charge against earnings in the fourth quarter to reflect a write-down of the book value of its Asbestos Hill mine.

Separately, the asbestos-mining concern, which is controlled by Societe Nationale de l'Amiante, the Quebec government's asbestos agency, said its board approved in principle "a regrouping of its operations with those of Bell Asbestos Mines Ltd.," another unit of the same Quebec agency. Asbestos Corp. wouldn't elaborate, but it is believed that the regrouping may result in a merger of the two companies.

Asbestos Corp. said the net book value of its assets at Asbestos Hill will be reduced to $27.7 million from $71.7 million. The charge of $41 million is net of deferred taxes.

Operations at the company's Asbestos Hill asbestos mine, in Northern Quebec, were suspended last year.

The Asbestos Hill mine had operated since 1972 and shipped asbestos ore to a mill in Nordenham, West Germany, where it was processed for sale in Europe. Asbestos Corp.'s operations at Nordenham were terminated in June and the assets sold for $10 million, their approximate book value.

Although the Asbestos Hill mine may have long-term potential, Asbestos Corp. said it believes the book value of the assets should better reflect the "difficult market conditions that exist for asbestos" and the fact that operations are suspended indefinitely.

Asbestos Corp. said it will concentrate its mining operations at its facilities here. The company recently announced the temporary suspension of these operations because of the weak market for asbestos fiber.

THE WALL STREET JOURNAL
Tuesday, November 27, 1984

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OCT 29 1984

## John Chamberlain

# 'Fairness' Issue On Asbestos Claims

NEW YORK

Politicians prate endlessly about "fairness." But how often in recent months has our Congress been fair in settling a specific problem?

One of the questions currently at issue on Capitol Hill is the dirty trick played by fate on shipyard workers who spent the World War II years installing asbestos insulation in the ships that delivered our troops and munitions to Europe and Asia. Everything was in a hurry-up phase in those days — and asbestos was the one sure safeguard against fire on destroyer fleets and Liberty ships alike.

Even then there were suspicions that asbestos exposure wasn't good for the lungs. But it wasn't until decades later that cancer began striking the workers who, in both private and Navy-owned shipyards, had responded to a crying national need.

Nobody in or out of Congress would now deny that war-connected disabilities call for compensation. But who should pay the bill? The Manville Corporation, by all odds the most important provider of asbestos, has had to accept a top-heavy share of liability for a tragic situation. But should it be stuck with such a major portion of the insurance bill?

Congress, by doing nothing, has in effect said "let the corporations, including the private insurance companies, take all the blame." But in letting individual cases go to litigation, the government has forced the Manville Corporation, as the leading asbestos manufacturer, to file for bankruptcy. The asbestos-related lawsuits faced by Manville could ultimately total 63,000 — a matter of more than $2 billion.

The Manville experience in resolving some 4,000 claims prior to its filing for bankruptcy is an eye-opener. Some 60 percent of the claims resulted in awards of less than $10,000 each. Some 30 to 40 percent of each $10,000 payment went for attorney's fees and other costs. In 21 percent of the cases there was no award at all. Where compensation did ultimately reach a victim or a victim's family it was often excruciatingly late, due to the overweening clogging of the courts.

Recently there has been a declassification of documents bearing on wartime shipbuilding. Poring through them, the Manville lawyers think they have evidence that proves Washington was "solely responsible" for those injured by overexposure to asbestos in Navy-owned or controlled shipyards. The Manville company is trying to recover some $46 million that has been paid out in litigation involving 1,400 workers.

The question is: what is the U.S. government prepared to do about it all?

Navy personnel, including inspectors, were responsible for the helter-skelter speed of construction that enabled us to back up our fighting fronts in Europe and in the Pacific through four years of war. Congress went home without acting on bills that would make the government a partner, along with private manufacturing companies and insurance companies, in settling claims without letting attorneys run off with money that should go to the victims of a patriotic emergency.

A government-endorsed asbestos claims handling facility would help. But Congress, though it talks about "compassion," has been loath to express this in money terms. Its response to the "fairness" question is to say that the king — meaning the government as shipbuilder — could do no wrong.

# Talk About Confidence

*The following is an excerpt from an article which appeared in the October 8, 1984 issue of Forbes magazine, entitled "The Long Tails At Travelers":*

. . . "Travelers is the primary underwriter for Manville Corp., which put itself into bankruptcy court as a tactic in asbestos litigation. Travelers has also written policies for Pittsburgh Corning and Armstrong World Industries. Its (asbestos) exposure could run over $1 billion. While Travelers has earmarked some reserves for asbestosis, it has left no leeway for any unpleasant surprises.

"'We have substantial reserves up on the business we write. We think we are on target, and we really do believe what we have is adequate,' says Richard Shima, who heads Travelers' property/casualty operation. 'We have reinsurance for our asbestos claims,' he adds. For portions of it, that is. He won't say how much.

"How can a management be so panglossian? One insurance company executive says the thinking goes like this: 'The government covered for Lockheed, Chrysler and Continental Illinois. If everything goes to hell on asbestosis, they'll do it for us.'"

Now that's reassuring.

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