



## ASBESTOS INFORMATION ASSOCIATION

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# & NEWS NOTES

31 May 1979

PLAINTIFF'S  
EXHIBIT  
FD-435

### AIA/NA DIRECTORS TO HEAR EPA'S DEKANY AT JUNE MEETING

Regular second quarter meeting of Association's board of directors will be held Wednesday, June 13, at the Ramada Inn Old Town, 901 N. Fairfax St., Alexandria, Va. AIA/NA Executive Committee meets June 12 in the Ramada Inn.

John P. DeKany, EPA's Deputy Assistant Administrator for Chemical Control in Office of Toxic Substances, will be luncheon speaker on June 13. DeKany is expected to comment on the ongoing work by OTS in regard to asbestos-containing products (N&N Apr.). As related matter, representatives of Association met with OTS officials on May 30 for general review of issues under consideration by EPA. Report will be presented to directors at meeting.

### HOUSE HEARINGS HELD ON COMPENSATION FOR ASBESTOS DISEASE

The House Education and Labor Subcommittee on Labor Standards held three days of hearings earlier this month on subject of worker compensation for asbestos related disease.

The proceeding before the subcommittee, chaired by Edward P. Beard (D-RI), began May 1 with a day of testimony on medical aspects of the compensation issue. Witnesses included: Rep. Millicent Fenwick (R-NJ); Dr. Anthony Robbins, Director, National Institute of Occupational Safety and Health; Dr. David Rall, National Institute of Environmental Health Sciences; Dr. Leon Cander, Chief of Internal Medicine, Albert Einstein Medical Center; Dr. Hilton C. Lewinsohn, Corporate Medical Director, Raybestos-Manhattan; and Dr. Phillip Polakoff, Director, Western Institute of Occupational/Environmental Science.

Testifying the following day was Dr. Hans Weill, Professor of Medicine, Tulane University Medical School. Also providing testimony May 2 were members of the labor community including Sheldon Samuels, Director, Health, Safety and Environment, Industrial Union Department, AFL-CIO; Joseph Cribben, Department of Health and Safety, United Association of Plumbers; and Allan Coats, Metal Trades Department, AFL-CIO.

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The first witness on May 2 was Rep. George Miller (D-CA). In his testimony, Miller devoted considerable effort to support his allegation of an industry "cover-up".

John A. McKinney, Chairman of the Board, Johns-Manville Corporation, testified on May 8 and responded to allegations previously leveled at industry. He reviewed "what was known when." McKinney said, "The greatest criticism that I have of the material which has been presented to you is the failure to mention the government's role with respect to asbestos and health." Dr. Paul Kotin, senior vice president for health, safety and environment, presented testimony on the medical aspects of asbestos and asbestos-related disease.

Further hearings on asbestos-worker compensation will be held in July in Long Beach, CA, and in Oct. in Providence, RI.

#### ASBESTOS IN SCHOOLS CONTINUES AS FOCUS OF ATTENTION

The Asbestos School Hazard Detection and Control Act of 1979, H.R. 3282 (1524) has been reported out by the House Education and Labor Committee at its May 1 session (N&N Apr.).

The controversial Sec. 5(e) was deleted, however, a new provision directs the U.S. Attorney General to conduct an investigation and report the results to the Congress, within one year of the Act's effective date, to determine whether "the U.S. should or could recover, from any person determined by the Attorney General to be liable for such costs, the amounts expended by the U.S. to carry out this Act." Language of current bill further directs the Attorney General to then proceed to recover the monies in this manner, if it is concluded by him that such action is appropriate.

In other developments concerning asbestos materials in schools, the Environmental Defense Fund (EDF) filed suit on May 18 in U.S. District Court for District of Columbia in effort to force EPA to initiate immediate rulemaking for inspection and repair of asbestos materials in public schools. EDF believes EPA's voluntary program of technical assistance is ineffective. EPA had denied EDF's Dec. '78 petition for immediate rulemaking in a Federal Register notice dated Apr. 4 (N&N Apr.).

EDF attorney Jacqueline Warren stated "merely providing a technical guidance document does not give the EPA program credibility. The states lack leadership and direction, and do not feel compelled to comply with this voluntary effort."

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EPA Administrator Douglas M. Costle, responding to a similar request for agency regulation to control sprayed asbestos, stated "Regulations to control asbestos contamination in buildings cannot be developed until there is sufficient evidence to establish that the asbestos materials present an unreasonable risk of injury to health or the environment."

To the request for regulation, from New Jersey Governor Brendan T. Byrne, Costle further stated that "the regulations could not be issued until after EPA had conducted a thorough assessment of all the ramifications of the problem, including the risk, benefits of and substitutes for asbestos and the economic consequences of asbestos controls."

# CPSC, HAIR DRYERS AND FOLLOW-ON LOOK AT ASBESTOS-CONTAINING PRODUCTS

Consumer Product Safety Commission has accepted corrective action proposals from eleven firms manufacturing hand held hair dryers. These firms were initially served with a Special Order in Mar. and a file opening letter of Apr. 20 which asked the firms to take certain corrective actions to protect the public (N&N Apr.).

All the firms have instituted programs involving the repair, replacement of, and/or refund for asbestos-containing hand held hair dryers. The firms have stopped the sale and distribution of these dryers and are retrofitting their inventories.

CPSC staff is again researching the possibility of hazards from asbestos in consumer products other than hair dryers. In a May 17 briefing of the Commission, a staff memorandum was presented which discussed several ways for CPSC to identify hazardous products.

Two options for obtaining information from industry were covered. The first is the Advance Notice of Proposal Rule-making, a voluntary means. The Commission could also use compulsory process, with either Special Orders to named persons or General Orders to classes of persons. Either of these actions, or a combination of them, could be taken.

Although the Commission has not taken any action on the staff memorandum as yet, AIA/NA has been advised that some such initiative is likely. Meanwhile, the staff's information gathering process on asbestos in consumer products continues with emphasis on paper segment of industry.

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## MEETING OF OSHA'S ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

Harvey, IL, was location of OSHA's Advisory Committee on Construction Safety and Health meeting on May 16-17. Agenda included general discussion of standards development and enforcement activities, as well as problems associated with asbestos medical surveillance in the construction industry.

The committee passed a resolution calling for a separate vertical coke oven emission standard for the construction industry, to serve as a model for application of other OSHA health standards to the industry. Resolution was passed despite warning by John Martonik, OSHA industrial hygienist, "if the committee decides that medical surveillance isn't an important part of a construction industry standard, I don't think OSHA will believe them." Regarding problem of recordkeeping, Basil Whiting, Jr., deputy asst. secretary of labor (OSHA), said difficulties have to be resolved by industry and labor and that "Health standards apply across the board. We have an extreme reluctance to impose different health standards on construction."

For benefit of committee, Richard L. Trachtman, Esq., AIA/NA staff, gave presentation on Association's work to date in development of an alternative for an asbestos standard in the construction industry using the work practices concept. Trachtman emphasized that the unique characteristics of the construction industry require special consideration for application of health standards. It should be noted that, notwithstanding remarks of Basil Whiting above, OSHA recognized need for a separate standard for occupational exposure to asbestos in the construction industry by excluding it from the proposed revision to the present asbestos standard which was issued Oct, 1975.

### DR. BINGHAM RESPONDS TO AIA/NA REQUEST FOR RETRACTION

In letter dated Mar. 22, AIA/NA President Wm. J. Lougherty called upon Assistant Secretary of Labor (OSHA) Fr. Eula Bingham to retract "with appropriate explanation" a Labor Press release which included misleading and scientifically unsupportable statements regarding asbestos health risks (N&N Mar.).

On May 7, Dr. Bingham responded with the following statement: "While I do not believe that a retraction would be appropriate, we will take your comments into account in preparing future information materials on asbestos."

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## AIHC URGES CONSIDERATION OF COST-BENEFIT RELATIONSHIP

Regulatory reform legislation should require that benefits of an agency regulation bear a reasonable relationship to compliance costs, the American Industrial Health Council recommended to Senate's Governmental Affairs Committee on May 18.

Referring to OSHA's rulemaking proceeding on a generic cancer policy, Jackson Browning, corporate director of industrial health and environmental affairs, Union Carbide Corporation, said the agency did not estimate the benefits of the regulation, costs to industry or impact on the economy. Browning's specific recommendations to the congressional committee included:

- Benefits of a regulation should be reasonably related to economic and societal costs.
- The regulatory analysis should be subject to review by the courts.
- Objective and scientifically valid health risk determinations should be required.

Related to above are comments by Dr. Eula Bingham, assistant secretary of labor (OSHA), at a May 9 seminar on management of toxic substances in the workplace in New Brunswick, N.J. Regarding growing demand for cost analyses of regulations, she said, "We are not obligated, and are in fact restrained by our (OSH) Act, from saying a person's life is worth so much and that a regulation will cost so much."

## OCCUPATIONAL PHYSICIANS HEAR SUGGESTIONS TO IMPROVE IMAGE

At American Occupational Health Conference in Anaheim, CA, held May 1 - 3, occupational physicians were urged to increase their influence through better communications with corporate management, news media, general medical community and employees.

Dr. Anthony Robbins, director of National Institute for Occupational Safety and Health, called on physicians to recognize their "missionary role," stressing that they should put more emphasis on epidemiology, informing workers of risks, and control technology.

Occupational physicians "are caught in a situation where they cannot seem to live up to their responsibility to their

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patients," Robbins told the group. While he said he is not sure whether the occupational physician ought to be blamed for the situation, he noted the possibility of the physician's divided loyalty between the patient/employee and the corporation. Perhaps, Robbins suggested, the situation results from an "institutional failure" and he asked the physicians to think about whether there is a need for a "new kind of independence" in the field.

Dr. Paul Kotin, senior vice president, health, safety and environment, Johns-Manville Corporation, Denver, Colo., told the group of his concern for the adverse atmosphere in which current safety and health regulations are adopted. He suggested the formation of a Health, Safety, and Environmental Quality Arbitration Panel, composed of members who could use their expertise to evaluate the scientific, economic, and legal issues surrounding regulation in those areas. Kotin told the group that such a panel could clarify issues and he suggested that the physicians look at the administrative as well as scientific and health aspects of the standards with which they must insure compliance.

In addition, Kotin scored the media for compounding the already difficult task of evaluating data with sometimes "garbled or unforgiveably wrong" information in a effort to have terse and provocative copy. And he also took issue with the "big is bad" attitude and suggested that more thought and attention be paid to the small employer who can least afford a safety and health program.

## MEETINGS OF INTEREST

. . . Biological Effects of Mineral Fibers and Particulates - June 7 - 8, Wilson Hall, Bldg. 1, National Institutes of Health, Bethesda, Maryland, sponsored by HEW Subcommittee to Coordinate Asbestos/"Asbestiform" Research. Agenda includes series of asbestos-related scientific presentations. (Ronda Rice, NIEHS, Box 12233, Research Triangle Park, N.C. 27709; (919) 541-3506).

. . . OSHA Practice and Procedure - June 13 - 15, Georgetown University Law Center, Washington, D.C. Course includes safety and health standards development, enforcement and liabilities of non-compliance. Fee: \$325. (Debbie Brown, Georgetown University Law Center, 600 New Jersey Ave., N.W., Washington, D.C. 20001).

. . . Safety Expo/79 - June 26 - 28, New York Hilton, New York City, sponsored by Occupational Hazards in cooperation with NAM. Program includes seminars/workshops, exhibits and presentations. Among speakers are Ronald Lang, AIHC and OSHA and NIOSH heads, Drs. Bingham and Robbins. Fee \$90. (Safety Expo/79, 614 Superior Ave., West, Cleveland, OH 44113).

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