



NEWS & NOTES

May 31, 1984

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AIA/NA RESPONDS TO OSHA'S PROPOSAL TO REVISE ASBESTOS STANDARD

As reported (N&N Apr.), the U.S. Occupational Safety and Health Administration (OSHA) published a proposal to revise the standard for occupational exposure to asbestos in the Federal Register of Apr. 10. Comments concerning the proposed revisions to the standard, including changes proposed by the emergency temporary standard issued Nov. 4, 1983 and subsequently invalidated by U.S. Fifth Circuit Court of Appeals on Mar. 7, were due by May 25. In addition, parties requesting more than 10 minutes for their presentation at the hearing, and parties submitting documentary evidence at the hearing, were required to submit the text of their testimony and all documentary evidence by May 25.

The informal hearing will begin at 10:00 AM, June 19, in the Auditorium, U.S. Department of Labor, Third St. and Constitution Ave., N.W., Washington, D.C. A wide range of organizations have expressed their intention of presenting testimony at the hearing. Present indications are that the hearing could approximate a 30-day period and include some 100 witnesses.

AIA/NA filed advance testimony and documentary evidence with OSHA on May 25. Testimony will be submitted by about 20 - witnesses, the majority coming from member companies. It is estimated that three to four days will be required for the Association's presentations.

AIA/NA's comments primarily cover two major issues; the first is permissible exposure limit (PEL) and the second is a standard governing asbestos exposure in construction and other non-fixed operations. As to a revised PEL for primary manufacturing and secondary fabrication activities, AIA/NA commented that: "The revised eight-hour TWA permissible exposure limit for asbestos should be set at the lowest level that is feasible (*i.e.*, the lowest level routinely achievable through available and cost-effective measures) through engineering and work practice controls. For most sectors, a 1.0 fiber/cc PEL can be achieved in a matter of months and many work stations could attain even lower limits in a similar period. Widespread compliance with a PEL at or approaching 0.5 fibers/cc could be achieved within a reasonable additional period, although up to four years may be needed for a few especially troublesome work stations."

ASBESTOS INFORMATION ASSOCIATION

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PLAINTIFF'S EXHIBIT

CAP-1697

Second, the Association stated that OSHA should dispense with many of the customary ancillary requirements of its standards and instead prescribe specific work practice and respirator controls tailored to the type of exposures that are likely to occur in the various operations.

Apart from the above major issues, AIA/NA observed that the hearing should provide a forum for examining other measures for providing an additional margin of health protection for workers exposed regularly and for extended periods in primary and secondary industries. Among other things, the Association urged OSHA to consider the effectiveness and practicability of three such supplemental worker protection programs: (1) a requirement that feasible engineering and work practice controls that are shown to yield significant exposure reduction benefits be implemented even in workplaces that are achieving the new PEL; (2) a program to reduce substantially or eliminate smoking among asbestos workers; and (3) a program to achieve respirator use even where the PEL has been achieved through feasible engineering and work practice controls.

An overview of AIA/NA's submission to OSHA was characterized in the following statement:

The comprehensive evidence that the harmful effects of asbestos are dose-related, the great progress that has been made to reduce asbestos exposures, and the predictions from the medical evidence that de minimis, if any, risk exists at the low levels that can be achieved in most asbestos applications, establish the major guidelines for developing a policy for future asbestos use. Consistent with these general principles, AIA/NA believes improvements can be made in the existing OSHA asbestos standard that both will be feasible and will establish an even greater margin of worker health protection than the current OSHA standard provides.

As a related matter, the regular second quarter meeting of the Association's directors will be held Wednesday, June 13, at the Old Town Holiday Inn, 480 King St., Alexandria, VA. Obviously, AIA/NA's comments to OSHA and hearing participation will be a principal agenda item. In the meantime, inquiries to the Executive Director are welcome.

ONTARIO COMMISSION ISSUES REPORT ON ASBESTOS

The long-awaited report of the Royal Commission on Matters of Health and Safety Arising from the Use of Asbestos in Ontario was released on May 7. The three-member commission included J. Stefan Dupre, professor of political science at the University of Toronto, who acted as chairman; Dr. J. Fraser Mustard,

professor of pathology at McMaster University; and Robert J. Uffen, professor of engineering and geophysics at Queen's University.

The Commission's three-volume report runs over 900 pages and includes an exhaustive analysis of the health effects of asbestos. The report reflects the results in part on scientific literature and in part on sworn testimony given by a large number of international experts on asbestos which was presented during more than 50 days of formal Commission hearings. The expert witnesses underwent examination and cross-examination by representatives of industry, labor and government.

There were a number of conclusions reached by the Commission. Some of the more significant are listed below:

- . Crocidolite asbestos and amosite asbestos are more hazardous than chrysotile asbestos because fibers of crocidolite and amosite are more likely to conform to the most hazardous dimensions. The Commission, therefore, recommended that the use of crocidolite and amosite be prohibited in Ontario.
- . Endorsed Ontario's present 1 f/cc control limit in chrysotile manufacturing except that textile manufacturing should be prohibited.
- . There is no evidence of significant health risks to the general public from exposure to asbestos in the ambient air and in buildings unless the person is breathing in the immediate vicinity of loose asbestos that is being disturbed. The mere presence of friable asbestos in a building does not present a health hazard to the building occupants.
- . There is no health risk from ingestion of asbestos. Concern about asbestos in drinking water, beverages and food is not justified. The Commission concluded that regulation of asbestos in drinking water, beverages and food is unnecessary and unproductive.

In introducing the Commission's report to the Legislative Assembly, the Honorable Russell Ramsay, Ontario Minister of Labor, emphasized that current adverse health effects in workers resulted primarily from exposure to large quantities of asbestos many years ago, and that, as the Commission concluded, "The health risk posed by asbestos, therefore, is a workplace health risk rather than a general public health risk."

Copies of the complete report may be obtained from:

Ontario Ministry of Government Services
Publications Services Branch
5th Floor
880 Bay Street
Toronto, Ontario, Canada M7A 1N8

The cost is \$25.00 (U.S.) which covers mailing; checks should be made out to Treasurer of Ontario.

MANUFACTURERS, INSURERS REACH AGREEMENT TO ESTABLISH CLAIMS RESOLUTION FACILITY

Asbestos manufacturers and insurance companies announced plans May 18 to establish a claims resolution facility which would administer, settle, and pay asbestos related claims filed against all members. The negotiators met under the auspices of the Center for Public Resources Legal Program and have been known as the Wellington Group after the moderator, Harry Wellington, the dean of Yale Law School.

The agreement would signal an end to the more than 30 major coverage cases which are currently before the courts for a determination of the insurer's liability, according to E. Judge Elderkin of San Francisco's Brobeck, Phleger & Harrison, who represented Fibreboard Corporation. He stated that the proposal would give the producers comprehensive insurance coverage, while the insurers would be rid of litigation and punitive damage claims and the cost of defending the cases would be greatly reduced. The healthclaimants, Elderkin said, would be likely to have their claims adjusted without waiting four to five years. However, he noted, the proposed system would not take away any of their benefits, including retention of legal counsel, and the ability to go into the court system.

There would be one claims facility set up on the West Coast and one on the East Coast at locations not yet determined, with the headquarters located at one of those regional locations. The facility would be governed by a 12-member board of directors, with an equal number of representatives from the insurers and producers. The start-up costs will be paid by the subscribing primary insurers, with the operating costs being paid by the insurers and the subscribing producers after their insurance coverage is exhausted. Liability payments and allocated expenses will be allocated to each producer member in accordance with an agreed schedule.

Claimants will file a claim, whether or not there is a lawsuit pending, and submit data in order that the claim may be evaluated. Once eligibility is determined and an evaluation is made, the facility will attempt to negotiate a settlement. If such a settlement cannot be reached, the facility will make available mediation aimed at resolving the dispute. Reportedly, education sessions would be held in June with signatures from the participants coming in July, the closing being slated for Sept. 13, and the facility being in operation by the end of the year. The arrangement, he said, would go forward with or without the participation of the Manville Corporation or Travelers Insurance Company, neither of which were part of the negotiations.

The insurance negotiators involved represented Aetna Life and Casualty Company, Hartford Insurance Group, CIGNA Corporation,

Continental Insurance Company, Fireman's Fund Insurance Companies, and Lloyd's of London. In addition to Fibreboard Corporation, the other manufacturers included Pittsburgh Corning Corporation, Armstrong World Industries, Owens-Corning Fiberglas Corporation, Owens-Illinois, Inc., and Celotex Corporation.

James Vermeulen, executive director of Asbestos Victims of America, stated that, although he was not involved in the negotiations relating to the establishment of the claims facility, he was "highly suspicious of the entire situation, because this was put together by the industry and its insurance companies for their benefit." However, one good thing which came out of the plan, he added, was that claimants' ability to resort to the tort system was not affected.

OSHA EXTENDS EXPERIMENTAL PROGRAM FOR ASBESTOS INSPECTIONS IN CONSTRUCTION

An experimental program in which Occupational Safety and Health Administration inspectors visit construction sites which are conducting asbestos demolition or removal activities has been extended by the agency until Sept. 30, 1984. OSHA Notice CPL 2, issued Apr. 1, stated that the procedures which have been in effect for handling referrals from the Environmental Protection Agency in asbestos construction or demolition projects are being continued.

Under the continuing program, which has been in effect since Oct. 1983, EPA informs OSHA of all firms engaged in such asbestos activities. All EPA referrals result in OSHA inspections. OSHA was to review the experimental program after six months and decide whether it should be extended. The notice specified that lines of communication should be continued between EPA representatives and OSHA regional and area office staff to ensure that asbestos demolition/removal notices from EPA to OSHA are transmitted as quickly as possible. EPA was requested to give particular attention to contractors with which the agency had experienced difficulties in the past. This would include contractors with a history of ignoring the EPA reporting requirements and/or which may not be using safe and healthful work practices for asbestos demolition and removal.

Further, OSHA instructed its area directors to evaluate all EPA notifications as thoroughly as possible, paying particular attention to the starting and ending times of the project referred. Once it is determined that a contractor is following safe and healthful work practices and procedures, continued OSHA inspections of the same contractor normally will not be necessary, according to the notice.

At the end of six months, the area director must evaluate the program and submit the results to the director of field operations by July 13, 1984. At the end of this experimental

program, the area director must evaluate the overall project and submit the results to the director of field operations by Oct. 12, 1984.

CAL/OSHA STANDARDS BOARD CLOSES FILE ON PREVIOUSLY APPROVED ASBESTOS RULE

A rulemaking proceeding to revise California's asbestos standard to conform to the Occupational Safety and Health Administration's emergency temporary asbestos rule was closed Apr. 19 by the state Occupational Safety and Health Standards Board. The board, which adopted revisions to the state asbestos standard at its Nov. 1983 meeting, never filed the amended standard with the secretary of state, so it never went into effect.

The revisions to California's standard paralleled those in OSHA's emergency temporary rule, including a reduction in the permissible exposure limit from 2 f/cc of air to 0.5 f/cc. However, OSHA's emergency temporary standard was invalidated Mar. 7 by a federal appeals court (N&N Mar.). The board agreed to a suggestion from its executive officer, Steve Jablonsky, that the rulemaking file should be closed.

SENATE ACTION ON ASBESTOS DISEASE COMPENSATION CONTINUES

Hearings before the Labor subcommittee of the Senate Labor and Human Resources Committee on the issue of compensation for asbestos-related diseases which began last month (N&N Apr.), continued on May 21. Testimony was presented to the subcommittee, chaired by Sen. Don Nickles (R-OK), by the U.S. Justice Dept., Manville Corp., the AFL-CIO, and the National Association of Manufacturers.

B. Wayne Vance, Justice Dept.'s Civil Division deputy assistant attorney general, stated a compensation program would be "difficult to control and the total cost may have no rational relationship to expectations." He also noted that problems in other compensation systems, such as that for black lung, left the administration "reluctant to endorse" compensation programs in other areas. In response to repeated questioning from Sen. Donald W. Riegle (D-MI) on when the administration would develop its own recommendations or take a position on legislation already being proposed, Vance replied that while it was "intensely studying the problem," the administration had no set schedule for formulating a proposal.

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ASBESTOS PRODUCERS FACE A NEW REGULATORY BLITZ

INDUSTRY IS BATTLING ATTEMPTS BY THE EPA AND OSHA TO LIMIT WORKER EXPOSURE AND BAN MANY PRODUCTS

Two decades have passed since asbestos was first implicated as a serious health threat, capable of causing cancer and respiratory disease. During those years, the mineral has been studied far more thoroughly than any other industrial carcinogen. But despite overwhelming evidence that exposure to asbestos has caused thousands of deaths, the material is still widely used. And critics, especially organized labor, charge that efforts to protect workers and the public from the dangers of asbestos are still woefully inadequate.

Now the fight against asbestos is heating up again. Three separate federal agencies are launching a regulatory blitz that has panicked the already reeling asbestos industry and is drawing fire from Canada. That country is the world's No. 2 producer of asbestos (after the Soviet

will certainly damage world markets," maintains B.J. Figg, executive director of the Asbestos Information Assn., a trade group of U.S. and Canadian miners and makers of asbestos products.

The battle to tighten regulations governing the exposure to asbestos has raged for more than a decade. In 1975 the Occupational Safety & Health Administration proposed cutting the exposure level from the present 2 fibers per cubic centimeter of air to 0.5 fiber. The Environmental Protection Agency wanted in 1979 to ban several products that contain asbestos. But those proposals bogged down in a bitter fight between industry and labor. And that dispute was overshadowed by the argument between government and industry over who should compensate employees for illnesses contracted from working with

ent standard requires employers to control asbestos by vacuuming or wetting it down; but the new rules would allow employers to equip workers with respirators. The cost of compliance for industry is estimated at more than \$60 million to kick the program off and then more than \$50 million annually.

□ **A product ban.** The EPA plans to call for a ban on the import, manufacture, and processing of four major asbestos products: asbestos-cement pipe and fittings, roofing felt, sheet flooring, and vinyl-asbestos tile. Those products consume nearly half the \$30 million of asbestos consumed annually in the U.S. The agency may also propose a 10-year effort to find substitutes for asbestos in other products.

□ **Cleanups.** The EPA has scheduled hearings in May to determine what can be done to remove asbestos from the approximately 14,000 schools in which students are still exposed to the insulating material. The Service Employees International Union on Apr. 23 filed suit against the agency to force action in cleaning up the schools. The Education Dept. estimates that getting rid of that asbestos will cost about \$1.4 billion.

□ **Household levels.** The Consumer Product Safety Commission has started testing household products, including pipe wrapping, gloves, and cement, to determine whether they release asbestos fibers. The commission is also about to embark on a study to sample asbestos levels in homes. When that survey is completed, the commission could recommend regulatory action if its survey uncovers significant hazards.

The renewed regulatory activity has put the asbestos industry on the defensive. Industry officials privately charge that Washington politics are playing a major role in the dispute. They maintain that the current regulatory activity is an attempt by the Administration to polish its tarnished regulatory record. "There's a pent-up demand for regulation, and what better time to do it than in an election year," says one industry official. Another suggests that former OSHA chief Thorne G. Auchter, who left for private industry on Mar. 31, "saw a picture of [former EPA chief] Anne Burford's head rolling across the Mall and decided he wasn't going to be next."

Government officials, however, deny those charges. Says Auchter: "What I saw and what I see was a picture of workers getting cancer." And officials contend that the evidence is clear that stiffer controls are justified. OSHA says that its studies indicate that dropping the worker-exposure limit to 0.5 fiber per cubic centimeter would prevent 5,725 cancer deaths among the 48,000 U.S.



REMOVING ASBESTOS FROM 14,000 U.S. SCHOOLS IS EXPECTED TO COST \$1.4 BILLION

Union) and accounts for more than 90% of current imports to the U.S. At issue are tighter controls for worker exposure to asbestos and an outright ban on many of the key end products that use the material.

BELEAGUERED. Those regulatory proposals will be debated this summer in what are expected to be acrimonious hearings. And they most likely will lead to a new round of lawsuits from the angry labor unions and the beleaguered asbestos industry. The proposals represent "the most serious threat yet to the survivability of the U.S. asbestos industry and

high levels of asbestos in the past. The row over who should pay peaked in 1982 when Manville Corp. filed for Chapter 11 protection under the federal bankruptcy act. The company said it could not survive under the mountain of compensation claims.

Now, under mounting pressure from labor, tighter rules are likely:

□ **Worker exposure.** OSHA will hold hearings in June on an Apr. 10 proposal to reduce current allowable exposure limits for workers by at least 75%, from 2 fibers per cubic centimeter to either 0.5 or 0.2 fiber per cubic centimeter. The pres-

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workers who are currently exposed to more than that level of asbestos. And if the level were dropped to 0.2 fiber, an estimated 6,080 deaths could be avoided.

In OSHA's drive to limit worker exposure, however, it may have run into a technological wall. OSHA officials admit that it is difficult to accurately measure fibers below the 0.5-fiber level. The lack of a reliable test could make monitoring asbestos in the air—and enforcing the rule—very difficult. As a result, OSHA issued its proposal with two different levels—0.5 fiber and 0.2 fiber—and expects to hash out the final rule in the June hearings. "Sure, we're leaning toward the lower limit from a health standpoint, but we have to issue a standard that's feasible," explains acting OSHA head Patrick R. Tyson.

PUBLIC SKITTISHNESS. The agency's failure to propose a specific limit has enraged organized labor. Unions have been pushing for an even more stringent standard—0.1 fiber per cubic centimeter. And the current proposal is "noncommittal," charges Scott P. Schneider, an industrial hygienist for the Carpenters Union. The construction industry and the building-trades unions are both upset that OSHA has yet to propose a standard designed to protect demolition and renovation workers who are exposed to the highest asbestos levels of any group of workers. "In construction, the problems are so difficult that OSHA seems to avoid them," says Schneider.

Even more threatening to the asbestos industry is the EPA proposal to ban future use of asbestos altogether. U.S. asbestos consumption has already dropped significantly, partly as a result of the recession but also because public skit-

The Canadian government has already leaped to the aid of the asbestos producers. Allan Gottlieb, Canada's ambassador to the U.S., has complained to EPA Administrator William D. Ruckelshaus that a ban is unwarranted. Canadian embassy representatives have also met with EPA staff members; early in April one EPA expert met with 30 members of Canada's Parliament to explain the rationale behind a possible product ban. And the Canadian Asbestos Information Center, a group of employers and unions based mostly in Quebec, has hired Gray & Co., the politically well-connected Washington public relations firm, to help get across its opposition to any U.S. asbestos ban.

A legal battle over the EPA proposal is already shaping up in the U.S. The EPA claims that its actions are justified under the Toxic Substances Control Act, which directs it to protect the public from any "unreasonable risk" of harm. "We know as much as we should know; why wait for the deaths," says an EPA official.

Even if OSHA followed labor's recommendation and set a more stringent 0.1 fiber rule, the agency says that there would still be an unacceptable risk of cancer among workers.

But the industry questions the EPA's authority to use the toxic substances act to protect workers. In a lengthy Mar. 22 letter to EPA Administrator Ruckelshaus—with copies sent to Attorney General William French Smith and Labor Dept. Solicitor Francis X. Lally—the industry's Asbestos Information Assn. laid out its potential case against the EPA. "It's cockeyed. Congress never intended for the EPA to be a super-OSHA," declares Muth of Lac D'Amiante Du Quebec. The industry group also argues that some of the materials that could be used to replace asbestos could pose serious hazards of their own.

Although industry quite likely will fight any proposals to ban asbestos, it is clearly ready to take a more conciliatory position in the latest fight than it has in the past. "This time it's different in the sense that [we all know] there is going to be some new regulation," says Edward W. Warren, counsel for the Asbestos Information Assn. "The question over the next few months will be by whom, and what the regulations are going to say."

'What I saw . . . was a picture of workers getting cancer,' says a former OSHA chief

tishness about asbestos has caused many processors to switch to substitute materials. In 1979, U.S. consumption amounted to 560,000 metric tons, but by 1983 the annual total plummeted to 217,000 tons. An EPA ban would

The EPA proposals have alarmed the Canadians, who fear that other countries might follow the lead of the U.S. in banning asbestos. "The U.S. does tend to have a prominent role in setting attitudes in environmental issues," comments Robert J. Muth, a director of Lac D'Amiante Du Quebec, an Asarco Inc. subsidiary that is the leading Canadian producer. Proposals in the European Community for bans on some asbestos uses have met with little interest so far.

The compound is selected from the group consisting of phosphorus oxychloride and phosphorus pentachloride. The reaction is carried out under dry conditions, avoiding the expense of drying once the procedure is completed. The treated asbestos, at an increased price of about \$100/mt, is suitable for wall boards, asbestos cement products, friction materials, yarn and woven material, gaskets, insulation, and virtually all of the traditional asbestos products. //

grades of fiber, produces a chemically modified asbestos fiber containing 0.5-5% phosphate by weight. The treated fibers have been found to possess reduced hemolytic and cytotoxic activities, and an unexpectedly high degree of freezes, which increases the drainage rate in aqueous slurries used in the manufacture of asbestos cement products. A supplementary heat treatment of the phosphate-treated fiber further improves the new product's qualities. In the process, asbestos fibers are contacted under agitation with circulating dry vapors of a phosphorus compound in an inert atmosphere.

The Quebec government-owned asbestos company, Soc. Nationale de l'Amiante (SNA), is building a pilot plant to produce phosphate-treated asbestos fiber, which reportedly reduces dust emissions and consequently the risk of asbestos-related lung disease, according to vice president of R&D, Jean-Marc Lalancette. SNA plans to have a 1-mt/d pilot plant functioning in April, and commercial production of the new fiber could be under way as early as 1986, Lalancette said. The patented process, applicable to all

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Many Factors Other Than Injury Play Significant Role In The Outcome of Asbestos-Related Claims

WASHINGTON, D.C.—How much you get when you make a claim for an asbestos-related injury depends on many other factors besides the injury itself, a U.S. Senate subcommittee was told here April 24.

James S. Kakalik, a researcher for The Rand Corporation's Institute for Civil Justice, said that while the more severely injured generally receive higher awards, other factors are also statistically significant in influencing what plaintiff gets. They are:

- The number of defendants in a single claim. Claims with more defendants than the average—fifteen—resulted in a maximum estimated increase in compensation of about 15%.

- The number of plaintiffs in a single claim. The largest multiple-plaintiff lawsuits resulted in an estimated average compensation per claim that was about 70% of the compensation for a single-plaintiff lawsuit.

- Whether the claim is taken to trial. In the sample analyzed by the institute research team, cases that litigants took to court yielded verdicts 2.28 times greater than amounts received in comparable cases settled before trial—and that is exclusive of any punitive damages.

"However," Kakalik pointed out, "claims that went to trial may differ from those settled earlier on characteristics that were not measured."

The age of the plaintiff, the type of employment in which he contracted the disease, and whether he was alive when the compensation was awarded also weighed heavily in the outcome, Kakalik said.

Noting that severity of injury is an important consideration, Kakalik pointed out that claimants with lung cancer and mesothelioma, for example, receive substantially more than those with asbestosis.

(Asbestosis is a clogging and scarring of the lungs that may produce a disabling loss of lung capacity. Mesothelioma is a rare, rapidly fatal cancer of the lining of the chest and abdomen.)

Kakalik's testimony before the Subcommittee on Labor of the Senate Committee on Labor and Human Resources was based on two reports by the civil justice institute on the costs and compensation in asbestos-related cases closed prior to August 1982.

In the latest study, of cases closed between January 1980 and August 1982, plaintiffs were found to have received an average of 39% of total payout by defendants, after deducting plaintiffs' and defendants' litigation expenses. Using aggregate data over a longer time span in the first study last year, the figure came to 37%.

The new study, drawing a sharper focus on a more detailed data base, "not only reaffirms the earlier findings, but pinpoints widely varying patterns of costs and compensation," said Gustave H. Shubert, Rand senior vice president and director of the institute.

All other factors being equal, Kakalik said that:

- The peak compensation went to people 54 years old. Those over 70 are estimated to have received only 71 percent of what the average age claimant, 57, received.

- Insulation workers suffering from asbestosis averaged higher compensation in cases settled before trial (\$106,000) than shipyard workers (\$75,000), who were paid more than factory workers, (\$55,000).

- Claimants with lung cancer received an average of \$119,000 in settlement, and those with mesothelioma, \$319,000.

- Claims involving death received only 68 percent of what would have been received had they not involved death.

Kakalik listed these additional findings:

- The average compensation paid on all claims, whether tried in court or settled earlier, was \$64,000. Defendants' total payouts averaged \$101,000, including \$37,000 in defense litigation expenses plus the compensation.

- On average, for every \$2.59 paid by defendants and insurers, 95 cents went to pay their litigation expenses, 64 cents went to pay plaintiff's litigation expenses, and a dollar was netted by the plaintiff in compensation.

- While more than 300 defendants have been named altogether, 16 corporations have been targeted in at least half of the claims.

The new study, "Variation in Asbestos Litigation Compensation and Expenses," was prepared by Kakalik, Patricia A. Eberner, William L.F. Felstiner, Gus W. Haggstrom and Michael G. Shanley. The Institute for Civil Justice is a separate research organization within Rand supported by pooled grants from more than 200 corporations, foundations and professional organizations.

The report is based on a survey of 513 claims closed between January 1980 and August, 1982, which includes all 132 claims tried and a nationally representative, random sample of 381 claims closed before trial with all or nearly all defendants.

"The system is in transition," the report says, noting that the study does not project from 1982 to now or into the future. "Future costs and compensation will depend heavily on the outcomes of...bankruptcy reorganizations, and on the details of any of the proposed changes in the system of processing these claims that may be implemented."

In a foreword, institute director Shubert points out that until its first study was published, even the most rudimentary facts about asbestos litigation were fragmentary, anecdotal or altogether unknown.

Now, for the first time, he writes, "an independent, objective and comprehensive assessment of the costs of resolution of such claims has been conducted and the results made available to all parties."

The institute's report was based on aggregate information provided by defendants and their insurers from the thousands of suits filed since the floodgates of asbestos litigation were opened in 1973. Defendants and insurance companies poured out an estimated \$1 billion over the decade.

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Asbestos 'danger to workers, not public'

People run little risk of harmful exposure to asbestos in buildings, drink water, beverages or food, a royal commission has reported.

But workers in asbestos-related industries are in grave danger and more will die in the next few years because of past exposure, the commission said yesterday in a report tabled by Ontario Lab Minister Russell Ramsay in the Legislature.

In a sweeping study of the health danger asbestos, the commission tried to allay public concerns that the presence of crumbling asbestos in buildings is by itself hazardous — a fear that in part led to the establishment of the commission four years ago.

The commission said the \$26 million spent since 1979 to remove asbestos from schools was a waste of money. The health risk posed by asbestos is a workplace health risk rather than a general public health risk, it said.

Recommends ban

There's no danger when asbestos is swallowed, the report said. The danger comes from inhaling it, especially longer fibres known as crocidolite and amosite.

The commission recommended the immediate banning of these substances, although noted that, since 1980, neither type has been used in manufacturing in Ontario or has been mined in Canada.

The only type used or mined in Ontario is shorter-length chrysotile, which poses fewer risks to the public and is used in the production of car brakes.

"There is no evidence of significant health risks to the general public from exposure to asbestos in the ambient air and in buildings unless the person is breathing in the immediate vicinity of loose asbestos that is being disturbed," the report said.

Of the \$26 million asbestos-removal program the commission, headed by Stefan Dupre, University of Toronto professor, said: "Neither the scale nor the pace of the school program was warranted by the risk posed by most asbestos-containing schools to occupants and workers. If anything, the scale and pace... significantly increased the risk to some workers directly engaged in control projects."

The \$1.7 million commission said Ontario's asbestos regulations are among the most stringent anywhere. But the death of 68 people who once worked at a now-closed Toronto asbestos-materials plant

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