

would cost about \$2.28 million per cancer case avoided that EPA can quantify.

VI. Other EPA Statutes

Section 6(c) of TSCA requires that if EPA determines that a risk of injury to health or the environment could be eliminated or reduced to a sufficient extent by actions taken under another statute administered by EPA, EPA may not promulgate a rule under section 6(a) of TSCA unless EPA finds it is in the public interest to protect against the risk by action under TSCA. EPA finds that no other law administered by EPA will eliminate or reduce the risks from asbestos to a sufficient extent.

Several EPA statutes have been used to limit asbestos exposure. In 1973, EPA used the authority of the CAA to list asbestos as a hazardous air pollutant, establish a "no visible" emission standard for manufacturers, and ban the use of spray-applied asbestos-containing material as insulation in buildings, published in the Federal Register of April 9, 1973 (38 FR 8828). EPA amended this regulation in 1976 to ban asbestos-containing pipe lagging, by a rule published in the Federal Register of October 12, 1976 (40 FR 48282); and in 1978, extended the ban to all uses of sprayed-on asbestos by a rule published in the Federal Register of June 10, 1978 (43 FR 26372). The CAA rule, which was last amended on April 5, 1984 (49 FR 13658), also regulates the removal of asbestos from buildings and the disposal of wastes generated by removal.

However, the CAA has limitations. The CAA does not apply directly to indoor air in the workplace or home. Consequently, any possible additional use of that statute may leave many workplace or home exposure situations inadequately controlled.

Another EPA statute that could be used to limit asbestos exposure is the Safe Drinking Water Act (SDWA). EPA announced its intention to consider asbestos for inclusion in its proposed National Revised Primary Drinking Water Regulations by a Notice published in the Federal Register of October 6, 1983 (48 FR 45502). However, even if the SDWA is used to set a drinking water standard for asbestos, it would necessarily ignore the inhalation risk associated with asbestos.

An additional EPA statute that could be used to limit asbestos exposure is the Resource Conservation and Recovery Act (RCRA). Under RCRA, EPA could list asbestos as a hazardous waste and subject asbestos waste to general RCRA requirements designed to reduce exposure. However, such action under RCRA would only reduce exposure

during the disposal of asbestos and asbestos products.

VII. Analysis Under Section 9(a) of TSCA

Under section 9(a)(1) of TSCA, the Administrator is required to submit a report to another Federal agency when two determinations are made. The first determination is that the Administrator has reasonable basis to conclude that a chemical substance or mixture presents or will present an unreasonable risk of injury to health or the environment. The second determination is that the unreasonable risk may be prevented or reduced to a sufficient extent by action taken by another Federal agency under a Federal law not administered by EPA. Section 9(a)(1) provides that where the Administrator makes these two determinations, EPA must provide an opportunity to the other Federal agency to assess the risk described in the report, to interpret its own statutory authorities, and to initiate an action under the Federal laws that it administers. Section 9(e) of TSCA thus requires EPA to review other Federal authorities not administered by EPA to determine whether action under those authorities may prevent or sufficiently reduce unreasonable risk. The following unit summarizes past and contemplated action by other agencies and then discusses why those agencies are not able to prevent or sufficiently reduce the unreasonable risk presented by asbestos.

A. Other Authorities Affecting Asbestos

Under the authority of the Consumer Product Safety Act (CPSA, 15 U.S.C. 2051) the CPSC has issued rules banning consumer patching compounds containing respirable asbestos (16 CFR Part 1304) and artificial emberizing materials containing respirable asbestos (16 CFR Part 1305). The CPSC took those actions based on findings that the use of those products in the household would result in increased risk of cancer. Earlier, the Food and Drug Administration under the Federal Hazardous Substances Act (FHSA, 15 U.S.C. 1261) banned "general-use garments containing asbestos other than garments having a bona fide application for personal protection against thermal injury and so constructed that the asbestos fibers will not become airborne under reasonably foreseeable conditions of use" (16 CFR 1500.17). The FHSA is now administered by the CPSC.

In 1980, CPSC issued a general order requiring persons to furnish information on the use of asbestos in certain consumer product categories. CPSC has also measured potential consumer

exposure to asbestos from such products as asbestos millboard, asbestos paper products, and stove door gaskets.

OSHA began to regulate asbestos in the workplace in 1971 under the Occupational Safety and Health Act (29 U.S.C. 51, OSHA Act). Since the first workplace standard setting a limit of 15 f/cc was promulgated in May 1971, the workplace standard has been twice revised and is now 2 f/cc (TWA). An Emergency Temporary Standard (ETS) establishing a permissible level of 0.5 f/cc was published in the Federal Register of November 4, 1983 (48 FR 51086), but the ETS was found invalid by a court. OSHA proposed a revised standard in the Federal Register of April 10, 1984 (49 FR 14116).

The Mine Safety and Health Administration (MSHA) acting under the Mine Safety and Health Act has adopted workplace standards designed to protect workers engaged in pit and underground mining and milling. The MSHA standards are similar to those administered by OSHA for other workplaces. The MSHA standard was last amended in 1976 and calls for a PEL of 2 f/cc.

Possible jurisdiction over other aspects of asbestos risk may lie with still other Federal agencies. For example, the Asbestos Information Association (AIA), commenting before a Senate subcommittee on early versions of TSCA, noted that the Federal Trade Commission may have authority to require labeling, distribution, and marketing of asbestos products and that the Department of Transportation has authority to control transportation of hazardous substances, such as asbestos. 1971 Senate Hearings at 224-227.

State and local public employees are generally excluded from coverage under the OSHA Act. However, under section 16 of the OSHA Act, OSHA has approved State plans for 23 States and two territories, thus effectively extending OSHA protections to State and local public employees in the jurisdictions. EPA has proposed a rule to establish requirements similar to those of the OSHA Asbestos Standard for State and local public employees not under a State plan who conduct asbestos abatement work. However, other public employees, such as firefighters, are not covered by this rule.

B. EPA's Determination Under Section 9(a) of TSCA

EPA is not required to submit a report to other agencies under section 9(a) on the asbestos risks described in this notice since EPA has determined that such risks cannot be prevented or