

J. W. Wolter

find a way to improve the process and make it less cumbersome," he said, adding the agency has recently published a proposed rule "to make the process more efficient" (June 1, 1984, p. 289).

In addition, Moore outlined the following areas of concern:

- ▶ Sharing of pesticide health and safety data with other government entities, "particularly state governments;"
- ▶ Ensuring the quality of data to support pesticide registrations;
- ▶ Empowering EPA to inspect pesticide testing facilities to ensure they are following the agency's good laboratory practices program;
- ▶ Application of restricted use pesticides by certified applicators rather than by uncertified employees under their indirect supervision;
- ▶ Improving enforcement capabilities;
- ▶ Requiring labeling to identify potentially hazardous inert ingredients in pesticide formulations;
- ▶ Elimination of the current scheme for indemnification for canceled products; and
- ▶ Increasing pesticide registration fees.

Asbestos

HOUSE PANEL CRITICIZES EPA REFERRAL, ETHICS OF HUMAN PRICETAG IN COST/BENEFIT

A House subcommittee, grilling the Environmental Protection Agency's acting deputy administrator over his alleged "acquiescence" to pressure by the Office of Management and Budget in a controversial decision to refer asbestos regulation to other federal agencies, April 16 cited as "ghoulish" use of a cost/benefit formula that evaluates the need for regulations by placing a dollar value on human life.

At issue at the hearing of the House Energy and Commerce Subcommittee on Oversight and Investigations were two recent EPA actions — its decision to drop two proposed rules to ban and phase out asbestos products and production and its separate decision not to require removal of crumbling asbestos from schools.

Acting Deputy Administrator A. James Barnes also was questioned on the asbestos referral during an April 17 confirmation hearing, where Sen. Robert T. Stafford (R-Vt), chairman of the Senate Environment and Public Works Committee, said Barnes' recommendation to refer regulation of asbestos to other federal agencies cast doubt on his ability to exercise good judgment and independence. The confirmation still is pending, but is expected to be approved.

Democrats, Republicans

In sharply-worded questioning, the panel's Democrats told Barnes that the formula, used to compare costs and benefits of planned regulations under the Toxic Substances Control Act, not only raises ethical questions but also abdicates the government's responsibility to protect public health.

Republican members of the subcommittee, however, were generally supportive of the agency's action and the role of OMB and the Reagan Administration in reducing government regulation.

OMB cited the cost/benefit formula as grounds for refusing to approve an EPA proposal of rules to ban and phase out asbestos, saying too few people would avoid cancer to justify the cost of the regulations. A similar formula was used by EPA to calculate the cost versus the benefit of

requiring schools to abate hazards posed by friable asbestos, a subcommittee member charged.

"OMB is ghoulishly insisting that the value of human life be calculated on a discounted present value basis," Rep. James J. Florio (D-NJ) said. Citing government documents obtained during a subcommittee inquiry, Florio said the formula would balance against get-tough regulations with regard to the agency's asbestos-in-schools program. According to the estimates, removing or sealing the asbestos would cost between \$96,000 and \$206,000 per case of student cancer avoided, while the value of each student's life was calculated at \$22,000.

Ethical Concerns

Several EPA officials, including Don R. Clay, director of the Office of Toxic Substances, and John A. Moore, assistant administrator for pesticides and toxic substances, said they disagreed with using such a formula for both technical and ethical reasons.

The officials also denied such calculations played any significant role in the decision to refer asbestos or in a separate decision not to require corrective action to abate asbestos in schools and other public buildings (Dec. 7, 1984, p. 1060).

In his response to the subcommittee's allegations, Barnes denied he had canceled EPA's asbestos regulatory plans in response to pressure from OMB, saying he based his decision on the language of TSCA.

"Here, in retrospect, I misgauged that issue at the time," Barnes said. "I have taken steps to correct it," referring to the agency's current effort to develop a policy on when TSCA requires referral of a chemical risk to another agency (See related article in this issue.).

In February, EPA announced a decision to drop its regulatory plans to ban most asbestos products and phase out production of the cancer-causing fiber within 10 years and instead to refer its risk information to the Occupational Safety and Health Administration and Consumer Product Safety Commission for possible regulation (Feb. 1, p. 1315).

In March, after the subcommittee launched a probe into the referral decision, EPA halted the referral pending an evaluation of its responsibilities under TSCA (March 8, p. 1427; March 15, p. 1443).

'Seriously Flawed' Rules

Subcommittee Democrats also charged that EPA and OMB documents showed the agency was faced with an economic formula that the budget office claimed showed "a total ban of asbestos failed the benefit/cost balancing test by an overwhelming margin."

In a March 27 letter to Barnes released by the subcommittee, Robert A. Bedell, OMB deputy administrator for information and regulatory affairs, said the formula was based on a "value-per-cancer-case avoided" of \$1 million in which costs and benefits of asbestos regulation are discounted at 4 percent.

According to the Bedell letter, the agency's proposals to ban and phase out asbestos were "seriously flawed."

In addition to criticizing the economic formula, the subcommittee Democrats also questioned OMB's role in the reversal of EPA policy on whether TSCA required officials to refer principal regulation of asbestos to OSHA and CPSC. Barnes was EPA's primary architect of that decision.

"Mr. Barnes' legal position of Feb. 1 [when the referral was announced] is directly contrary to the law, the legisla-