CertainTeed	Date	To	Location and mail code
	October 24, 1979	See Below	See Below
Subject: Citizen's Petition to Ban Use of A/C Water Pipe		From: Roman Korobij/db	Location and mail code: VF P&PG 2B

TO:
J.L. Beffa - SGPM
M.Alain de Metz - SGPM
W.A. Krivsky - VF P&PG 2B
L.C. Ambler - VF P&PG 2B
A.J. Buford - VF P&PG 2B
T.A. Dougherty, BB - 2126
A.W. Hunt - VF P&PG 2B
O.H. Kittlstad - VF -Corp. #4
K.T. Krantz - VF P&PG 2B
F. Timpe - VF P&PG 2B
J.F. Baker - VF P&PG 2B
F.T. Duffy - VF P&PG 2B
J.R. Alley - VF P&PG 2B
J.P. McGinley - VF P&PG 2B
C.M. Pontz - VF Corp. #1
R.J. Smith - VF P&PG 2B
W. Werner - VF 1125
G. Zurheide - BB 2126
All District Managers
All Plant Managers

The attached correspondence from the AACPP is self-explanatory. This petition to ban the use of A/C Water Pipe has been closely tracked and as thus, is not a surprise.

As is noted in the attached:

> "IT HAS ABSOLUTELY NO REGULATORY IMPACT ON THE USE OF A/C PIPE IN THE U.S., AND SHOULD NOT BE INTERPRETED TO DO SO."

You are requested to advise all Field Sales Personnel of this action so that they may properly respond to any inquries. Also attached is a "Fact Sheet" which briefly summarizes the subject.

If you have any questions or require any assistance, please feel free to call.

PLAINTIFF'S EXHIBIT

CT-237

A/C Pipe
Producers Association

Internal Correspondence

TO Regulatory Affairs Coordinators

FROM J. F. Welch, Director, Public Affairs

DATE October 19, 1979

SUBJECT Citizen's Petition to Ban Use of A/C Water Pipe

REF: JFW September 27, 1979 correspondence

Enclosed is EPA Administrator Costle's response to a citizen's petition to ban the manufacture and distribution of A/C water pipe in the United States. While the Administrator has granted the petition, it is important that you, your salesmen and distributors, and most importantly, your customers understand what this means.

Staff recommends that all field sales personnel be advised of this action so that they may properly respond to inquiries. To assist you a brief information sheet is attached.

If you have any questions, please do not hesitate to call.

JFW/sgg

Enclosure

cc: A. Kahn, Esq.
A. Goolsby, Esq.
R. Cabrera
P. Martinez

Associate Members

R. Dorner
E. Van Der Rest
H. Hudson
A. Saoulis
V. Pattabhi
A. Edgren
B. Giboin

copies to: Regulatory Affairs Coordinators

B. Cook
R. Korobij
H. Olson
T. Patterson
W. Perrell

CTD033736

FACT SHEET: CITIZEN'S PETITION TO BAN A/C WATER PIPE

Background

On June 21, 1979, the Environmental Protection Agency (EPA) received a citizen's petition to ban the manufacture and distribution of A/C water pipe in the United States.

What Is The Toxic Substances Control Act?

TSCA is a broad law which empowers EPA to regulate toxic and hazardous chemical substances and mixtures which may pose "unreasonable risk" to health or the environment. TSCA also authorizes EPA to obtain, from industry, data on the production, use, health effects, and other matters. EPA may regulate the manufacture, processing, distribution in commerce, use and disposal of chemicals and mixtures (including asbestos).

What Is A Citizen's Petition?

Under Section 21 of TSCA, any person may petition the Administrator to issue, amend, or repeal a rule (regulation) for a chemical substance or mixture. In turn, EPA must grant or deny the petition within 90 days.

What Was EPA's Response To The Petition?

EPA Administrator Douglas Costle granted the petition, and has commenced "appropriate proceedings". In reality, EPA started looking at the ingested asbestos - A/C pipe issue many months before the petition even was received.

What Does It Mean?

First of all, it does not mean that EPA is committed to, or even plans to regulate A/C water pipe. In the words of the Administrator, it means:

> *"EPA plans to investigate asbestos-cement pipe as part of an ongoing regulatory development program by the Office of Toxic Substances."* (emphasis ours)

* * * *

> *"Granting a petition to initiate a proceeding to issue a rule does not mean that EPA will promulgate or even propose a rule. Such a decision will depend on the outcome of the regulatory analysis."*

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EPA can regulate A/C water pipe only if it finds that "there is reasonable basis to conclude that ... a chemical substance or mixture ... presents or will present an unreasonable risk of injury to health or the environment." To date, the industry has seen no evidence (epidemiology studies, animal feeding studies, etc.) that conclusively proves that the ingestion of asbestos from A/C pipe constitutes a health hazard.

What Does It Mean To The Customer?

Very little. EPA has been studying ingested asbestos and A/C water pipe since 1973; this is just another phase of that study. It has absolutely no regulatory impact on the use of A/C pipe in the U.S., and should not be interpreted to do so.

Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy, and the Agreements for Cooperation Between the Government of the United States of America and the Governments of Austria and Sweden.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following retransfers:

RTD/AT(EU)-53, transfer from West Germany to Austria of 3.085 grams Uranium, containing 0.22 grams U-235 (7.131% U-235) for destructive analysis.

RTD/EU(SW)-47, transfer from Sweden to Belgium of 11,245 grams Uranium, containing 882 grams of U-235, for scrap recovery.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of these retransfers will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner that fifteen days after the date of publication of this notice.

Dated: October 12, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-32190 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1341-8; OTS 211000]

Granting of Citizen's Petition To Initiate Regulatory Proceedings To Control Asbestos Cement Pipe

AGENCY: Environmental Protection Agency (EPA or the Agency).

ACTION: Granting of Citizen's Petition.

SUMMARY: On June 21, 1979, Mr. Glenn Scott of Louisville, Kentucky filed a citizen's petition under section 21 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2620. Mr. Scott requested that EPA initiate a proceeding for the issuance of a rule to prohibit the manufacture and distribution of asbestos cement water pipes under 15 U.S.C. 2605. The Administrator has granted the petition. The Administrator's Decision appears below.

FOR FURTHER INFORMATION CONTACT: Industry Assistance Office, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 800-424-9065 [in Washington, D.C., call 554-1404].

Copies of the Administrator's Decision may be obtained from the Industry Assistance Office.

SUPPLEMENTARY INFORMATION: EPA has established a public record for this Decision which is available for inspection in room 447 East Tower, 401 M Street, SW., Washington, D.C. 20460 from 9:00 a.m., to 4:30 p.m., on working days.

The Decision of the Administrator appearing below was sent to Mr. Glenn Scott.

Dated: October 3, 1979.

Steven D. Jellinek,

Assistant Administrator for Toxic Substances.

Environmental Protection Agency

Response to the Citizens Petition from Mr. Glenn Scott of Louisville, Kentucky to initiate a proceeding for the issuance of a rule to prohibit the manufacture and distribution of asbestos cement water pipes.

Decision of the Administrator

The Environmental Protection Agency (EPA) has received a petition, under section 21 of the Toxic Substance Control Act (TSCA), 15 U.S.C. 2620, requesting that the Agency initiate a proceeding to control the future manufacture and distribution of asbestos cement water pipes under section 6 of the Act, 15 U.S.C. 2605. The petition is granted. EPA plans to investigate asbestos cement pipe as part of an ongoing regulatory development program by the Office of Toxic Substances. The objective of this program is to reduce human exposure to asbestos fibers during the use of commercial and industrial products as well as during manufacturing and processing activities.

EPA will initiate a proceeding, as required under section 21, by publishing an Advance Notice of Proposed Rulemaking (ANPRM) in the Federal Register this fall. The ANPRM will announce EPA's proposed broad regulatory investigation of asbestos under TSCA. It will also request data and invite comments on key issues such as relevant economic considerations and matters related to the health effects associated with asbestos cement pipe.

I. Background

Petition Request

The section 21 petition, filed by Mr. Glenn Scott of Louisville, Kentucky on June 21, 1979 requested that a proceeding be initiated to prohibit further manufacture and distribution of asbestos cement water pipes. The petition did not seek Agency action on pipes already installed around the country.

In his petition, Mr. Scott noted that asbestos is a known carcinogen and outlined his concern that asbestos fibers may leach out of asbestos cement pipe and contaminate water supplies. Mr. Scott indicated that a variety of substitutes for asbestos cement pipe were available and therefore a ban would not significantly impact the economy or impair the efficient operation of water systems.

Agency Action in Response to Section 21 Petition

Under section 21 of TSCA, a citizen may petition the EPA "to *initiate* a proceeding for the issuance, amendment, or repeal of a rule under section 4, 6, or 8 (of TSCA) * * *" (emphasis added), 15 U.S.C. 2620. Upon receipt of such a petition the Agency has 90 days to respond. If the Agency chooses to deny the petition, it must publish in the Federal Register its reasons for doing so. If the Agency grants the petition, it must promptly commence an appropriate proceeding. In the usual case a proceeding to issue a rule under section 6 is officially initiated by the publication of an ANPRM in the Federal Register. This Notice would indicate the Agency's data needs, raise issues regarding the need to propose a rule, and commit the Agency to investigating the chemical. This investigation must be done in a comprehensive manner in accordance with section 6 to decide what regulatory action, if any, the Agency should take. The comprehensive nature of the analysis necessitates the above interpretation that the Agency's obligation to initiate a proceeding under section 21 is satisfied by the issuance of an ANPRM.

Granting a petition to initiate a proceeding to issue a rule does not mean that EPA will promulgate or even propose a rule. Such a decision will depend on the outcome of the regulatory analysis. The Agency may promulgate a rule under section 6 of TSCA only if it finds that "there is a reasonable basis to conclude that * * * a chemical substance or mixture * * * presents or will present an unreasonable risk of injury to health or the environment," 15 U.S.C. section 2605. The risk presented by a chemical may be considered unreasonable if its potential adverse health and environmental effects outweigh the effects of contemplated regulatory action on the benefits of the substance. An analysis of the health and environmental effects requires

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determining the magnitude and severity of a chemical's toxicity and the probability of human and environmental exposure to the chemical. An analysis of the benefits of the substance takes into consideration the loss to society of a chemical's beneficial properties; the cost, performance, and hazards of substitutes; and the adverse effects which regulatory action may have on society, such as economic dislocation and impacts on technological innovation.

If the Administrator makes a finding of unreasonable risk under section 6 he may ban the manufacture of the substance, limit its use, or impose other restrictions as necessary to adequately reduce the health or environmental risks associated with that substance. Alternatively, EPA may refer the problem to another Federal agency or take action under an EPA statute other than TSCA.

If EPA later decides to terminate the rulemaking proceeding, the Agency will notify the public in the Federal Register and will notify the petitioner personally by letter. Such notification will give the petitioner or any other person the opportunity to file a petition again under section 21 or to take alternative actions permitted under the law.

II. Current EPA Regulatory Activities With Respect to Drinking Water

Asbestos can enter drinking water supplies through many sources including natural weathering of asbestos-bearing deposits, by leaching from asbestos cement pipe in the presence of aggressive water or by deposition of airborne asbestos. Section 1412 of the Safe Drinking Water Act gives EPA authority to prescribe National Primary Drinking Water Regulations to control drinking water contaminants such as asbestos by establishing maximum contaminant levels or by prescribing appropriate treatment technique requirements. This authority is implemented through EPA's Office of Drinking Water.

Under section 1412, EPA has proposed amendments to the National Interim Primary Drinking Water Regulations which would require public water systems to implement corrosion control programs under State direction. The purpose of these programs would be to prevent leaching of contaminants such as asbestos and heavy metals from system distributor pipes into the drinking water (44 FR 42246, July 19, 1979). The aggressive, or corrosive nature of drinking water can be directly estimated through the use of a number of different indices, including the "Langelier," "Ryznar" and "Aggressive" indices. EPA has proposed to establish one or more of these indices as maximum contaminant levels to minimize pipe corrosion. Where asbestos cement pipe is used, the potential for fiber release would be reduced.

In addition, the National Interim Primary Drinking Water Regulations already contain turbidity standards (40 CFR, 141.13, 40 FR 39571 (December 25, 1975)). Filtration systems needed by most surface sources to comply with these standards are additionally effective in reducing the concentration of naturally-occuring asbestos fibers in finished drinking water. Studies have shown that maintaining a turbidity of .1 Turbidity Unit, which can be achieved by efficiently operating filtration systems, virtually eliminates naturally-occuring asbestos fiber in finished drinking water.

In addition to these actions taken under the National Interim Primary Drinking Water Regulations, the Agency is also considering the establishment of Revised National Primary Drinking Water Regulations to control asbestos. Finally, EPA will evaluate asbestos cement pipe as an indirect source of drining water contamination when it is used to carry water during treatment and distribution. EPA will use its authorities under the Safe Drinking Water Act and TSCA to conduct this investigation (see 44 FR 42775, *et. seq.*, July 20, 1979).

III. Reason for the Administrator's Decision

As Mr. Scott pointed out in his petition, asbestos is a known human carcinogen. A large body of scientific evidence demonstrates that exposure to asbestos fibers results in an increased risk of cancer at several anatomical sites including the lungs, pleura, peritoneum, and several organs of the gastrointestinal system.[1] [2]

To protect the public from unreasonable exposure to asbestos, EPA and other Federal agencies have promulgated several regulations. Consistent with their legislative mandates, these regulations have focused on controlling exposure to asbestos relative to specific environmental media, source categories, and population groups.

Despite these regulations, asbestos use is increasing and the amount of asbestos in the biosphere is growing at a rate of about 750,000 tons per year. Large populations are still being exposed to asbestos fibers due to the build-up of asbestos products, wastes, and fugitive releases of asbestos-containing materials. These exposures suggest that additional controls under a more comprehensive authority may be required to protect human health adequately. The Toxic Substances Control Act provides such broad authority.

Therefore, EPA is investigating regulatory controls under TSCA to reduce and prevent human exposure to asbestos fibers from the multitude of processing facilities, commercial products and other sources of asbestos. The investigation, through EPA's Office of Toxic Substances, will encompass major uses of asbestos including asbestos-containing flooring and roofing products, other paper products, asbestos cement procducts (e.g., asbestos cement pipe), textiles, and friction products (e.g., brake and clutch linings.[3]

Because of the complex analysis required to support regulatory action under TSCA, the Agency has decided to conduct regulatory assessments in a systematic manner on all asbestos product categories. Under this approach, EPA may issue rules to reduce health risks from certain sources prior to the completion of an assessment of all fiber emission sources.

The Agency is considering three major regulatory strategies for asbestos. The first option entails developing specific product restrictions. The second would set limits on the amount of asbestos fibers for use in the United States. The third strategy would combine the first two approaches.

To assist the Agency in choosing among these options and to support proposed regulatory action under TSCA, EPA has started an investigation of asbestos-containing products. The Agency is focusing initially on asbestos-containing paper and friction products. These categories were selected because they comprise a large segment of the asbestos market, have a high asbestos fiber content, and have a high potential for fiber release during their life cycles. In addition many products within these categories have reasonable substitutes.

Detailed regulatory investigation of these two product categories is already underway. If EPA were to delay this investigation pending completion of an analysis for asbestos cement pipe, the time necessary to propose the first

[1] Levine, R. J. (ed.). *Asbestos: An Information Resource*. DHEW Publication Number (NIN) 78-1081. May 1978, page 24.

[2] *IARC Monographs on the Evaluation of Carcinogenic Risk of Chemicals to Man*, Volume 14, Asbestos: Lyon, France.

[3] International Agency for Research on Cancer, 1977. EPA has also initiated an independent rulemaking proceeding on asbestos contained in school ceilings. See 44 FR 40900.

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regulations may be significantly extended. The Agency does not believe this would be a prudent course of action since it would mean prolonging human exposure to significant sources of asbestos.

Nonethless, much of the background information which the Agency has begun to gather and analyze regarding asbestos will be relevant to possible control of asbestos cement products. A review of the health risk associated with ingested and inhaled asbestos for example, will be part of the support documentation for the first phase of asbestos regulations and all other asbestos regulations under TSCA.

Development of an asbestos cement pipe regulation will also involve an analysis of product substitutes for possible adverse health effects. For example, cast iron pipe, a potential substitute for use in drinking water distribution systems is sometimes lined with coal tar pitch. Because coal tar pitch contains chemicals suspected of being carcinogenic, this substitute may be found to be unacceptable. TSCA also requires analysis of the economic impact of banning or otherwise restricting the use of asbestos cement pipe. In addition, the Administrator will evaluate the Agency's current efforts to reduce the corrosiveness of drinking water so that leaching of asbestos fibers from asbestos cement pipe into public water supplies may be controlled. If contamination of water by asbestos could be effectively prevented, the Administrator may decide that a ban on asbestos cement pipe is not the best alternative to reducing health risk.

These detailed scientific and socioeconomic analyses related to asbestos cement pipe will be completed after the first rules are proposed under TSCA.

In the fall of 1979, an ANPRM will be published in the Federal Register to initiate officially the regulatory process. The Notice will announce the Agency's intent to reduce human exposure to asbestos fibers during processing activities as well as during the use of commercial and industrial products. The ANPRM will also contain supplementary material describing the Agency's regulatory approach, basic strategy, informational needs and provide background technical information. Regulations developed from the first phase of investigation are expected to be proposed in early 1980, with a final rule expected in late 1980.

IV. Conclusion

For the reasons discussed above the Administrator is granting the petition to initiate a rulemaking proceeding.

EPA will investigate control options for asbestos cement pipe as part of a comprehensive regulatory program to reduce human exposure to asbestos fibers under TSCA. This investigation will consider risks posed by inhalation and ingestion of asbestos fibers associated with asbestos cement pipe manufacturing, installation, and use. The rulemaking proceeding will be initiated with the publication of an ANPRM in the Federal Register in the fall of 1979.

Dated: October 10, 1979.

Douglas M. Costle,

Administrator.

[FR Doc. 79-32181 Filed 10-17-79; 8:45 am]

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[FRL 1341-6]

Science Advisory Board, Environmental Measurements Committee; Open Meeting

As required by Public Law 92-463, notice is hereby given that a meeting of the Environmental Measurements Committee of the Science Advisory Board will be held beginning at 9:00 a.m., November 13 and 15, 1979, in Room N303 at the main Agency facility in Research Triangle Park, North Carolina. The Committee is meeting to provide a review of measurement progress in the Agency's Environmental Monitoring and Support Laboratory located at Research Triangle Park.

On November 13, the agenda will consist of a series of briefings on the laboratory's programs. There will be no meeting on November 14 as this day will be set aside for a physical inspection of the facilities by the Committee. The Committee will reconvene on November 15 to provide a discussion forum between themselves and laboratory personnel in order to complete their evaluation.

The meeting is open to the public but space is limited. Any member wishing to attend, participate, or obtain information should contact Dr. Douglas B. Seba, Executive Secretary, Environmental Measurements Committee, by November 5, 1979.

Dated: October 12, 1979.

Richard M. Dowd,

Staff Director, Science Advisory Board.

[FR Doc. 79-32183 Filed 10-17-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1341-5]

Science Advisory Board, Executive Committee; Open Meeting

As required by Public Law 923-463, notice is hereby given that a meeting of the Executive Committee of the Science Advisory Board will be held beginning at 9 AM, November 5 and 6, 1979, in the Administrator's Conference Room (Room 1101 West Tower), EPA Headquarters, 401 M Street, S.W., Washington, D.C. The agenda includes a briefing by the Office of Research and Development on new policies and procedures for the review and award of research grants and cooperative agreements, a discussion of hazardous waste disposal issues, and other issues of member interest. The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. Richard M. Dowd, Director, Science Advisory Board, 202-755-0263, by close of business October 29, 1979.

Dated: October 12, 1979.

Joel L. Fisher,

Acting Staff Director, Science Advisory Board.

[FR Doc. 79-32182 Filed 10-17-79; 8:45 am]

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[FRL 1341-1]

Section 110(f) Energy Emergencies: Notice of Open Meetings; Meeting Dates Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction of Meeting Dates.

SUMMARY: On Thursday, October 4, 1979 (44 FR 57200) a Notice appeared announcing a series of Clean Air Act Section 110(f) open meetins. In the *Meetings Time and Place* paragraph, at page 57202, the dates for the state environmental and energy agencies and the fuel oil supply and marketing industry meetings were reversed. Lines 4 through 7 should be ". . . fuel oil supply and marketing industry, October 29; state environmental and energy agencies, October 31; . . ."

Dated: October 12, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 79-32184 Filed 10-17-79; 8:45 am]

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