

February 1, 1985

To: Health and Environmental Affairs Committee
Officers and Board of Directors

Subject: Transfer of Authority Over asbestos regulation from
EPA's Office of Toxic Substances to OSHA

Enclosed is a copy of the news article that appeared in the NEW YORK TIMES of February 1, 1985 concerning asbestos regulation. In effect, EPA has transferred responsibility of regulation of asbestos to OSHA. (The Consumer Product Safety Commission is not involved with asbestos in friction materials).

This is a major development in the regulation of asbestos. It is certain to bring on controversy from the environmental and consumer activist groups.

What effect it will have on the current call by EPA for comments on consideration of a possible prohibition on the use of asbestos in automotive brakes is not known. When the dust settles on this, I will try to determine what action is likely as regards asbestos in friction materials.

It would appear that this action should help guarantee employment for many of the young men and women who have recently graduated from Law Schools, particularly in the Washington, DC area.

E. W. Drislane
Executive Director

EWD/e

NEW YORK TIMES, February 1, 1985

E.P.A. to Transfer Authority Over Asbestos to 2 Agencies

By PHILIP SHARPCOFF

Special to the New York Times

WASHINGTON, Jan. 31 — The Environmental Protection Agency will soon pass the regulation of asbestos to two other agencies, A. James Barnes, Acting Deputy Administrator of the E.P.A., said today.

The transfer of authority means that the environmental agency's proposal to ban several uses of asbestos immediately and eliminate other uses gradually over the next 10 years will be subject to review for that time being.

Mr. Barnes said the Toxic Substances Control Act required the agency to defer to other Federal bodies that were in a more favorable position to assess and regulate the risks from asbestos exposure. Accordingly, the agency is sending its draft on asbestos to the Labor Department's Occupational Safety and Health Administration and to the Consumer Product Safety Commission for evaluation and regulatory action.

"There is not much room for us to do anything else on this," he said.

Open to Reconsider

He said that if the two other agencies did not act, then the environmental agency would "re-evaluate its position." But he also said that if the occupational safety agency ruled that asbestos did not present an unreasonable risk to workers' health, then regulatory action would be halted.

He also said that the environmental agency was considering whether it should set design rules for asbestos as covered by OSHA or the consumer product agency.

The decision is likely to provoke strong reaction. Labor organizations and environmental groups have been sharply critical of the environmental agency's proposal to transfer authority to the Labor Department and the Consumer Product Safety Commission.

Failure to enforce rules to protect workers from asbestos exposure.

The decision to transfer authority came after the E.P.A.'s proposed rule on asbestos had been under scrutiny at the Office of Management and Budget, agency officials said. It said the suggestion that OSHA and the consumer agency were the better places to regulate asbestos originated with the budget staff.

Asbestos, a naturally occurring mineral, has been found to cause lung cancer and other diseases in humans.

Responsibility for Schools

Officials of the environmental agency said that while the regulation of asbestos was generally being transferred to the other Federal agencies, their agency would continue to be responsible for dealing with the problem of asbestos in schools. That is, it is quiring school systems to inspect their buildings for asbestos hazards, but does not require specific actions to be taken to remove the hazards.

The environmental agency is also transferring authority to OSHA to regulate 4,4'-methylenebis(2-chloroaniline), a widely used component of polyurethane, epoxy resins and other products that has caused cancer in test animals. The agency plans to turn over its regulatory functions on a number of other chemicals to different Federal agencies, officials there said today.

The reason, an agency expert said, was that the toxic substances law requires that jurisdiction over chemicals be given to the agency that can regulate the substance most effectively. OSHA would be responsible for asbestos because the most exposed citizens are workers. Where consumers are most affected, the Consumer Product Safety Commission would take over.

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