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FACT SHEET
FOR PROPOSED RULE TO BAN CERTAIN ASBESTOS PRODUCTS AND PHASE OUT USE OF ASBESTOS

BACKGROUND

Asbestos is a demonstrated human carcinogen that causes lung cancer and mesothelioma (a cancer of the chest and abdominal linings). It is associated with other cancers and also causes a serious lung disorder known as asbestosis. Asbestos is used in hundreds of products and about 240,000 metric tons were used domestically in 1984. The largest use of asbestos products is in the construction industry (e.g., asbestos-cement pipe and sheet, roofing products (e.g., brakes), textiles, coatings and sealants, and packings and gaskers. Asbestos is released into the air during many stages of the lifecycle of the substance, when asbestos is mined, milled, processed, and fabricated into industrial and consumer products, and when those products are used and disposed of.

As a result of these releases, asbestos is present in ambient air. Even brief exposure at low levels may present risks. No level of exposure to asbestos is considered without risk since cases of mesothelioma have been documented as arising from short-term or low-level exposure.

REGULATORY STRATEGY FOR ASBESTOS

This proposed rule is part of an integrated EPA strategy to control releases of asbestos from products already in place and to eliminate risks from future uses. This strategy is based on health risks and the availability of substitutes for many asbestos products.

DISCUSSION OF PROPOSED RULE

This rule under section 6 of the Toxic Substances Control Act, would ban the following asbestos products which have effective substitutes: asbestos-cement pipe and fittings, roofing felts, flooring felts (and felt-back sheet flooring), vinyl-asbestos floor tile, and asbestos clothing. The rule also would reduce or "phase down" the total amount of asbestos which may be imported or mined, in staged decrements over ten years.

EPA is also actively considering alternatives to this proposed ban and phase-down. These alternatives involve staged ban of categories of asbestos products. One approach would ban the category of asbestos construction products, including asbestos-cement sheet and shingle as well as felts, floor tile, and A/C pipe, and asbestos clothing immediately and ban the category of asbestos friction products in five years. In addition, EPA would gather current production and exposure information on the remaining products through a section 8(a) reporting rule. EPA would then propose bans on some or all of the remaining products.

A second alternative would ban all asbestos construction products, and asbestos clothing immediately, ban asbestos friction products in five years, and ban the remaining asbestos in ten years.

Alternative three would ban asbestos construction products and asbestos clothing immediately. The remaining products would be phased out over ten years.

Under any alternative that EPA pursues, the Agency is considering that all products that are not immediately banned be labeled as containing asbestos. Labeling would ensure that persons working with or otherwise handling these products would know that the product contained asbestos, and it would enable them to take steps to reduce likelihood of exposure.

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Questions and Answers on the Asbestos Ban and Phase-Down Rule

1. Q. What is the EPA regulatory strategy concerning asbestos?

   A. EPA is pursuing a regulatory strategy of eliminating use of asbestos in the U.S. to the extent possible. This strategy is based on the significant health risk posed by asbestos and the availability of effective substitute products for many uses of asbestos.

2. Q. How does EPA intend to implement this strategy?

   A. EPA is proposing a rule under section 6 of the Toxic Substances Control Act (TSCA) to prohibit the importation, manufacture, processing, and distribution in commerce of the following asbestos products for which effective substitutes are readily available: roofing felt, flooring felt and sheet flooring, vinyl-asbestos floor tile, asbestos-cement pipe, and asbestos clothing. These products constituted about a third of asbestos consumption in 1984.

   EPA is also proposing to limit the total amount of asbestos mined or imported for all other uses. This amount would be reduced each year for ten years until almost all asbestos use is eliminated. This "phase-down" would be implemented by allowing each miner or importer of asbestos to mine or import a percentage of the amount

of asbestos they mined or imported during the base years 1981-1983. Miners or importers would be allowed to transfer their "permit" to mine or import asbestos to other persons. EPA is considering requiring asbestos products produced under the phase-down to be labeled as containing asbestos.

3. Q. Is EPA considering other regulatory alternatives?

   A. EPA is actively considering alternatives to this proposal. In the preamble, EPA discusses and requests comment on alternatives under active consideration. These alternatives involve staged bans of categories of asbestos products.

4. Q. What are these alternatives?

   A. Alternative 1 would ban the category of asbestos construction products and asbestos clothing soon after promulgation, ban the category of asbestos friction products in about five years, and, to the extent necessary, gather more recent production and exposure information on the remaining products through a section 8(a) reporting rule. EPA would then propose bans on some or all of the remaining products.

   Alternative 2 would ban asbestos construction products and asbestos clothing soon after promulgation, ban asbestos friction products in about five years, and ban the remaining asbestos products in about ten years.

Alternative 3 would ban asbestos construction products and asbestos clothing soon after promulgation and cover the remaining products under the phase-down. Under each of these alternatives, EPA is considering a requirement that products not banned soon after promulgation be labeled as containing asbestos.

5. Q. What products are included in these categories?

A. The construction product category includes:

roofing felt
flooring felt
vinyl-asbestos floor tile
asbestos-cement pipe
asbestos-cement sheet
asbestos-cement shingle

The friction products category includes:

drum brake linings
disc brakes
brake blocks
clutch facings
automatic transmission friction products
commercial friction products

Other products include:

commercial paper

millboard

pipe wrap

paper

gaskets

packing

paints

sealants

plastics

6. Q. What is the difference between the construction products category and the products that are banned in the proposal?

A. The construction products category contains additional products:

flat asbestos-cement sheet

asbestos-cement shingle

These products were not banned immediately in the proposal but were included in the phase-down.

7. Q. What are the health risks associated with asbestos?

A. Asbestos is a known human carcinogen that causes lung cancer, mesothelioma (a cancer of the chest and abdominal lining) and is also linked to other cancers. It has been estimated by a number of experts that 3,300 to 12,000 cancer cases a year occur in the U.S. as a result of past exposure to asbestos. Almost all of these cancer cases

are fatal. In addition, asbestos causes asbestosis, a serious lung disorder. About 65,000 persons in the U.S. are estimated to be suffering from asbestosis today, according to estimates made by the Harvard School of Public Health.

8. Q. Why does asbestos present such a risk?

A. Asbestos presents a particularly insidious risk because of the unique quality of its fibers, which can enter the body unnoticed during normal breathing. These fibers are small, colorless, odorless, very small, often invisible except through a microscope, and indestructible in most uses. They can be transported unseen on clothes and other materials, and they have aerodynamic features that allow them to be easily suspended and resuspended in the air and to travel long distances. Once released, asbestos fibers are difficult to detect and nearly impossible to contain, and they readily enter the ambient air. When inhaled, the fibers lodge in the lungs where they can cause cancer years later.

9. Q. Has EPA coordinated this proposal with other Federal agencies also involved with asbestos?

A. Yes, EPA is a member of the Federal Asbestos Task Force along with OSHA, CPSC, and other agencies. This rule has been discussed at meetings of the Task Force.

10. Q. OSHA is adopting a new workplace standard for asbestos. Is this EPA rule necessary?

A. OSHA is considering adopting a permissible exposure limit (PEL) of 0.2 fibers per cubic centimeter (f/cc) (200,000 fibers per cubic meter). Even if OSHA adopts and achieves strict compliance with a PEL of 0.2 f/cc, this EPA rule is necessary. The OSHA rule does not reduce the exposure to asbestos in the ambient air outside the workplace as a result of releases during the lifecycle of asbestos products. In addition, there is still a residual risk to workers exposed at a PEL of 0.2 f/cc.

11. Q. How much will this rule cost?

A. EPA estimates that this rule will cost consumers and producers a total of about $2 billion. The costs represent the present value of losses incurred over a 15-year period, using a discount rate of ten percent.

12. Q. What kinds of costs are these?

A. Consumer costs would result from increases in costs incurred for asbestos products or substitutes for certain asbestos products and from inferior performance of some substitute products. According to EPA's Regulatory Impact Analysis, total consumer losses are estimated to be $1.77 billion over 15 years. This would average less than $10 per consumer over 15 years.

Losses would accrue to producers because they would have to forgo some portion of the return on the capital they use to produce asbestos products. According to EPA's Regulatory Impact Analysis, total producer losses are estimated to be about $209 million over 15 years.

13. Q. What benefits would this rule have?

A. Assuming, strict compliance with an OSHA PEL of 0.2 f/cc, EPA estimates that this rule would avoid about 1,000 cancer cases that EPA can quantify, other cancer cases that EPA cannot quantify, and other diseases that EPA cannot quantify. This rule would avoid the medical costs and the great pain and suffering associated with asbesos-related diseases.

14. Q. How cost effective is this rule?

A. EPA believes that the rule is cost effective. Assuming strict compliance with an OSHA PEL of 0.2 f/cc this rule would avoid about 1,000 cancer cases that EPA can quantify at a cost of about $2 billion. Thus, the regulation would cost about $2 million per cancer case avoided that EPA can quantify. If EPA could quantify all cancer cases and other cases of disease avoided by this rule, the cost per case of disease avoided would be less.

15. Q. How did EPA discount the costs and benefit of this rule?

A. EPA discounted the costs of the rule at a rate of ten percent. EPA also discounted avoided costs (or benefits), such as avoided morbidity costs, at a rate of ten percent.

16. Q. OMB has suggested that EPA discount the number of cancer cases avoided to account for the latency period. Did EPA do this?

A. EPA did not discount the number of cancer cases avoided in deciding that this proposed rule is an appropriate way to reduce the unreasonable risk presented by asbestos. EPA does not normally discount the number of cancer cases avoided. EPA did furnish OMB with analyses of cost-effectiveness using various discount rates at OMB's specific request.

17. Q. How does this rule respond to section 21 citizen's petitions concerning asbestos?

A. On June 21, 1979, EPA was petitioned to prohibit the future use of asbestos-cement pipe in water systems. EPA granted that petition by a notice published in the Federal Register of October 18, 1979. On September 12, 1984, the Natural Resources Defense Council (NRDC) petitioned EPA to prohibit further use of asbestos in motor vehicle brakes. EPA granted that petition by a notice published in the Federal Register of December 18, 1984.

This proposal is in part a result of the proceedings EPA conducted after granting those petitions. EPA has identified effective substitutes for asbestos-cement pipe and is proposing to ban that product. EPA analyzed the availability of substitutes for asbestos in brakes but is not prepared to propose an immediate ban. Effective substitutes are still not available for many applications of asbestos in brakes. Instead, EPA is proposing to cover asbestos in brakes under the phase-down and thus use market forces to encourage the more rapid development of substitutes. As an alternative, EPA is considering a ban of asbestos friction products about five years after this rule is promulgated. This alternative would also encourage the rapid development of substitutes.

18. Q. How does this proposed rule differ from the proposals sent to OMB in 1984?

A. This proposal still would ban the same asbestos products as the 1984 version and phase out the rest using a transferable permit system. The main differences in the current proposal are:

(1) Combined Federal Register notice

(2) Additional alternatives involving staged bans discussed in the preamble

(3) Option of labeling all asbestos products that are not immediately banned discussed in the preamble

(4) Updated exposure information, obtained from a survey of key producers, added to the preamble

19. Q. What changes were made in the proposal as a result of OMB review?

A. The only change as a result of OMB review was the added discussion of possibly requiring products that are not banned immediately after promulgation of the rule to be labeled as containing asbestos.

20. Q. Has EPA placed material concerning OMB review of the asbestos proposal in the public docket?

A. EPA has maintained a public docket for the proposal since July 1984. EPA has placed written communications with OMB in this docket. In addition, EPA staff have summarized in memoranda some oral communications with OMB and those memoranda have been placed in the public file.

21. Q. EPA announced on February 1, 1985 that it was referring asbestos risks to OSHA and CPSC. Why is EPA now proposing this rule?

A. At the time of the announcement EPA believed that it way legally obligated to refer asbestos risks to OSHA and CPSC under section 9 of TSCA. However, while drafting the referral notices, EPA discovered that there were many unresolved policy and legal issues. The Office of General Counsel studied the legal issues and stated in a June 7, 1985 memorandum that EPA had discretion in

implementing section 9 of TSCA. EPA looked closely at the nature of the asbestos risk and decided that referral was not legally required since the risks cannot be prevented or reduced to a sufficient extent by actions taken under a Federal law not administered by EPA. Therefore, EPA decided that it was appropriate to propose this rule.

22. Q. Does EPA have any experience with the market-oriented regulatory approach embodied in the phase-down?

A. Yes, the lead phase-down rule issued under the Clean Air Act, allows the transfer of lead usage rights.