

KLEIN SAYS ASBESTOS COMPANIES SHOULD INVEST
IN SUBSTITUTES, NOT FIGHTING BAN PROPOSAL

Explaining the federal government's clear intention to finally ban a major portion of asbestos uses in this country, Ed Klein, who will direct development of upcoming asbestos banning regulations, urged the makers and users of the deadly fiber to face reality and invest in substitutes for the product.

Addressing the annual meeting of the Asbestos Information Association of North America Sept. 20, Klein warned the group that "the asbestos industry is at a crossroads," and that the time has come to realize that EPA is serious about banning and restricting asbestos use and should not waste its time fighting the government. "You can fill your warehouses and donate money to fight the government, or you can use that money to find asbestos substitutes," he said.

Klein insisted that the Environmental Protection Agency "has no desire to impose any undue burden on industry," but in the case of asbestos, the risk is clear and the government must act. Though, Klein did say that "this [rule-making] is not going to be some kind of kangaroo court."

Auchter: Asbestos Is A 'Documented Killer'

Nevertheless, it is becoming apparent that the Reagan administration is now committed to regulating asbestos. And, this morning, the industry heard more bad news from another quarter -- Occupational Safety and Health Administration head Thorne Auchter. In his address, Auchter confirmed that the risk is obvious; he described asbestos as a "documented killer."

First stage of the EPA regulation will eliminate almost 50% of asbestos uses by banning certain major product categories -- flooring and backing materials, roofing felt and cement pipe. Part two would place a production cap on asbestos and EPA will let market forces determine which asbestos uses are "essential." As the price of asbestos goes up, people will have to ask if the product is worth the additional price, Klein said. If it is not essential, people will not be willing to pay the price so the marketplace will control which products will continue.

Klein In The Lion's Den

Naturally, Klein was facing a hostile crowd, and he became the target of industry frustration as company representatives tried to find weaknesses in the EPA case. Klein explained the EPA banning and production cap proposals will be based on a "life cycle risk" of exposure, but asbestos officials ridiculed this concept asking, "where in the life cycle do you nail asbestos pipe ... or brake linings?" they asked.

Klein was warned that to regulate asbestos cement pipe would require additional regulations to protect against an increase in lead pipes for water distribution and in foundries making lead products to replace asbestos. On the brake lining issue, one company man predicted that due to the EPA rule, there will be a significant increase in auto wrecks if the agency eliminates asbestos brake linings. Another accused EPA of 1984-style big government. He said the "Russians control their marketplace and that's what you're doing in the U.S."

Other comments emphasized the difference in risks between asbestos and its substitutes, which industry officials indicated are as dangerous or more dangerous than asbestos. One problem that Klein admitted has not been "fully analyzed" is the problem of cheap imports. One official suggested that EPA consider import restrictions on asbestos because importing nations will be able to supply cheaper asbestos.

**CLAY ANNOUNCES INTENT TO BAN ASBESTOS PRODUCTS
AND IMPOSE PRODUCTION CAPS UNDER TSCA SEC. 6**

The Environmental Protection Agency will move forward with plans to ban certain asbestos products and to place a product cap on overall asbestos operations in a move to control the hazardous fiber, according to Don Clay, acting assistant administrator for the Office of Pesticides and Toxic Substances. In testimony before a Senate toxic substances oversight subcommittee last month, Clay made the surprise announcement, which would include asbestos as part of EPA's burgeoning existing chemical control program.

Clay told chairman Sen. Dave Durenberger (R.-Minn.) that his office is preparing the ban and production cap proposals under Section 6 of the Toxic Substances Control Act.

Although the project is still in the development stages, Administrator William Ruckelshaus has approved the toxic office's basic asbestos program. Currently, the Office of Toxic Substances is planning to propose a ban on five product categories: cement piping, saturated roofing felt, unsaturated roofing felt, floor backing and floor backing with vinyl sheeting.

Second part of the regulation would be the production cap on asbestos production which would revive the agency's old theory that such a cap would create market forces that would eventually eliminate "non essential" uses of asbestos as the demand for limited amounts of the fiber forces prices to rise.

Meanwhile, Nick Hluchyj of the Asbestos Information Association told TMN that his group would most likely oppose "something with the potential of destroying half the asbestos market" such as a ban on asbestos pipes and floors.

**DOW AGREES TO END MCB/PCB COURT FIGHT AND PAY
\$120,000 PENALTY, IF EPA EASES RULES ON MCBS**

Dow Chemical Co. and Environmental Protection Agency have agreed to call off their court battles over the definition of whether monochlorinated biphenyls are considered polychlorinated biphenyls until after the agency issues its final rule for the incidental generation of PCBs this fall.

Under the July 29 agreement, Dow said that if EPA adopts the suggested PCB language -- which would regulate MCBS much less stringently than PCBs, as offered in the joint environmentalist and Chemical Manufacturers Association's consensus proposal for incidental PCB manufacture -- it will drop its federal appeals court action over the PCB definition and will pay a \$120,000 enforcement penalty for 1978-79 PCB labeling violations involving PCB replacement fluids.

The action merely calls a truce between the two until EPA determines language of the final rule. EPA officials have already indicated that they will adopt the heart of the PCB consensus proposal and if they do, both EPA and Dow would give a little to end the dispute. Dow would accept EPA's position that MCBS are PCBs but, EPA would then regulate the different isomers according to their environmental and human health risk.

However, if for some reason EPA unexpectedly changes its mind, Dow spokesman Tom Betts said that Dow would then continue its court challenge to the PCB definition on scientific issues. He said Dow would be satisfied if EPA admits that different homologues of PCBs can be regulated differently, although the company still maintains that a monochlorinated biphenyl is not a PCB.

Asbestos

BAN PLANNED ON FIVE USE CATEGORIES; PRODUCTION CAP WOULD FOLLOW UNDER TSCA

Five categories of asbestos use would be banned and a production cap placed on all other asbestos uses under a proposal being drawn up by the Environmental Protection Agency's Office of Toxic Substances, and tentatively approved by EPA Administrator William D. Ruckelshaus.

Targeted under the proposed ban would be asbestos used in cement pipe, saturated roofing felt, unsaturated roofing felt, floor backing, and floor backing attached to vinyl sheeting, according to Edward A. Klein, director of OTS' chemical control division. Klein said asbestos substitutes exist in each of the five categories, which account for about half of the asbestos used in the United States.

The ban and production cap would be proposed under Section 6 of the Toxic Substances Control Act, under which EPA can control hazardous substances. TSCA is the best law for controlling all asbestos uses, Klein said, because it covers all chemical production, use, and disposal, while other laws only deal with one aspect of exposure.

While the products account for little or no consumer exposure, Klein said worker exposure continues during asbestos mining, product manufacture and installation, and disposal.

Caps would be applied for other categories of asbestos use, such as electrical products, plastics, paints, and textiles. The caps would limit the volume of asbestos used in each category, and would be lowered over time. Details of the production caps have not been worked out, according to Klein, and that proposal is expected to follow the ban proposal.

Agency officials said that while the concept of banning some asbestos uses and limiting others was approved by Ruckelshaus, the proposals would not be completed until sometime in 1984.

EPA's intent to pursue the ban and production caps was announced July 27 by Don R. Clay, EPA's acting assistant administrator for pesticides and toxic substances during hearings before the Senate Environment and Public Works Subcommittee on Toxic Substances and Environmental Oversight.

Other Asbestos Action

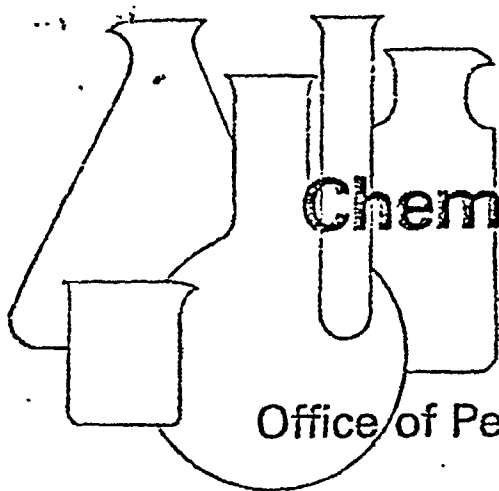
In addition to drawing up the control act, OTS is surveying public buildings to determine the nature and extent of friable asbestos. In May 1982, the agency issued a rule requiring all primary and secondary schools to inspect for friable asbestos (Current Report, May 28, 1982, p. 317).

In July, the agency also joined an asbestos task force of officials from the Consumer Product Safety Commission and the Occupational Safety and Health Administration (July 15, p. 513).

EPA also issued a reporting rule in 1982 requiring manufacturers and processors to provide data on commercial and industrial uses of asbestos (July 30, 1982, p. 556). At that time, the agency suggested it might negotiate voluntary limits to employee and environmental exposure.

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TSCA Chemicals-in-Progress Bulletin

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(OPTS)

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This news bulletin is intended to inform all persons concerned with the Toxic Substances Control Act (TSCA) about recent developments and near-term plans. For further information or to request copies of documents mentioned, write the TSCA Assistance Office (TAO), (TS-799) EPA, Washington, D.C. 20460, or call toll-free 800-424-9065 or, in Washington, D.C., or from outside the continental United States, (202) 554-1404.

REGULATORY & REQUIRED ACTIONS

TESTING OF CHEMICAL SUBSTANCES AND MIXTURES ... SECTION 4

Section 4 of TSCA gives EPA authority to require manufacturers or processors of chemicals to test the toxic effects of a designated substance. To require testing EPA must find that the chemical may present an unreasonable risk; that there are insufficient data available with which to perform a reasoned risk assessment; and that testing is necessary to generate such data. A test rule may also be based on an EPA finding of substantial production and exposure to humans or the environment, in addition to findings of insufficient data and need for testing.

Under section 4(e) an Interagency Testing Committee (ITC) was established to recommend chemicals to EPA for priority consideration. The ITC can designate up to 50 chemicals or categories of chemicals for testing and EPA must respond within one year by starting rulemaking under section 4 or giving reasons for not doing so.

Section 4(f) TSCA requires EPA within 180 days after receipt of test data or other information that indicates a chemical substance or mixture may pose a significant risk of serious or widespread harm to human beings from cancer, gene mutations or birth defects to: a) initiate appropriate action under sections 5, 6, or 7 of TSCA or b) publish a notice saying why the risk is not unreasonable. The 180-day review may be extended for up to 90 additional days for good cause.

Section 4 Rule Proposed for MO

On July 5, 1983 EPA proposed a section 4 rule to require manufacturers and processors of mesityl oxide (MO) to test the chemical for various health effects (48 FR 30699).

The tests proposed to be required involve chronic toxicity (with an emphasis on blood disorders) and mutagenicity. If positive results are obtained in the mutagenicity tests, then EPA proposes that MO also be tested for oncogenicity. In the July 5, 1983 notice, EPA responded to the June 1, 1979 ITC designation of MO for priority testing consideration including carcinogenicity, mutagenicity, teratogenicity, other chronic health effects and epidemiology studies.

The proposed rule does not include an epidemiology study because EPA believes that no end point has been sufficiently well-defined to make an epidemiology study worthwhile at this time. EPA also did not propose that MO be tested for teratogenicity because there is no evidence to suggest the chemical produces teratogenic effects.

Persons wishing to submit oral or written comments on this proposed rule should call or write the TAO for full details. EPA will hold a public meeting on the proposed rule on September 19, 1983, in Washington, D.C., if there is public interest in doing so.

4,4'-Methylenedianiline Under Accelerated Review

On July 11, 1983 (48 FR 31806) EPA said it is not initiating rulemaking at this time under section 4(a) to require health effects testing of 4,4'-methylenedianiline because it received data from a recent study that show the chemical to be a carcinogen in both rats and mice. The data EPA received are from a recently completed National Toxicology Program (NTP) 2-year carcinogenicity study. Based on the NTP data, EPA, under section 4(f)

0683-0480

• **Mentor® 28**, chemically neutralized middle petroleum distillate 64742-30-9

Summary interim results from an ongoing chronic skin-painting study

CBI-Confidential business information

S at the end of Log Number means a sanitized version is available.

N.B.: All toxicity, oncogenicity, teratogenicity and mutagenicity studies involve animals unless otherwise stated. Additional tests (e.g., bacterial cell) are noted or are included in the term "battery."

SUPPORT ACTIVITY

OTS Seeks MMT Information

The Office of Toxic Substances (OTS) is seeking information from the public about methylcyclopentadienyl manganese tricarbonyl (MMT) (CAS 12108-13-3) for a Chemical Hazard Information Profile (CHIP), which it is developing.

A CHIP is a brief summary of readily available information concerning the health and environmental effects and potential exposure to a chemical. CHIP candidates are chosen on the basis of information indicating a potential for adverse health or environmental effects along with evidence of significant production or some type of exposure.

When OTS searches the literature in preparing a CHIP it generally limits the search to automated data bases and reference works. But OTS encourages individuals and firms to submit unpublished or recently published reports, and all other hard-to-obtain studies on the chemical selected for the CHIP. Relevant MMT studies from the public could include data on health effects, environmental effects, commercial production and uses, exposed populations, environmental levels, or any other material that can aid in the assessment of the chemical's impact on health or the environment. OTS is also interested in knowing of current MMT testing or assessment activities by other organizations.

Information about MMT should be immediately sent to:
TSCA Document Control Officer
TS-793
Attn: T. O'Bryan
Washington, D.C. 20460

The TAO continues to offer to notify individuals and organizations by letter every time OTS starts a new CHIP. Persons who think they can aid the CHIP gathering process will have their names added to the list if they contact the TAO. All information submitted in response to the solicitations will be placed in a public file and made available for public inspection, unless the submitter is able to assert a claim of confidentiality in accordance with the provisions of section 14 of TSCA. EPA will handle all confidentiality claims in accordance with its procedures governing the confidentiality of business information (40 CFR Part 2 Subpart B).

The TAO is now distributing copies of the following recently completed CHIPs:

Tetrabromoethane	79-27-6
Mercaptobenzothiazole disulfide	120-78-5
Acetaldehyde	75-07-0
2-Chloronitrobenzene	88-73-3
4-Chloronitrobenzene	100-00-5
2,4-Diaminoazobenzene	495-54-5;
	532-82-1

OTS encourages comment on the accuracy and thoroughness of information presented in its CHIPs.

EPA Plans Asbestos Actions

Under TSCA, EPA plans in 1984 to propose a rule banning certain asbestos product categories and that would establish a staged production cap on all remaining asbestos uses.

This information was given to a U.S. Senate subcommittee, on July 27, 1983, by Don R. Clay, Acting Assistant Administrator, Office of Pesticides and Toxic Substances. A TSCA production cap on remaining asbestos uses may start either as a proposed rule or as an advance notice of proposed rulemaking, Clay said.

The members of the Toxic Substances and Environmental Oversight subcommittee were also told that the Office of Toxic Substances (OTS) will soon begin to issue risk management advisories (RMAs) on existing chemicals. These nonregulatory advisories will focus on specific problems with existing substances "and will be used to encourage meaningful precautions," Clay said. The RMAs will not be a substitute for rulemaking but sometimes will be issued in connection with rule-making activities, the Senators were told.

"One of the major objectives in the TSCA program during the last two years was to get the existing chemicals program off the ground," Clay said. An Existing Chemicals Task Force is now in place and has reviewed 60 substances. Five of these chemicals have moved into regulatory development and about 40 are targeted for further analysis.

For new chemicals, the premanufacturing notice rule (PMN) was postponed until September 10, 1983 to respond to a petition by The Chemical Manufacturers Association and the Society of the Plastics Industry. Clay told the subcommittee. EPA will publish a clarification notice before that date.

A new chemicals Advisory Circular system will summarize actions of specific categories of new chemicals or describe specific PMN actions. "These circulars will publicly advertise situations where EPA will likely need more data in reviewing a PMN and as such will promote early submission of such data," Clay said.

Other future TSCA new chemicals action will be in biotechnology. "Biotechnology has until very recently been a laboratory-scale phenomenon; however, commercial uses potentially subject to TSCA regulations are