

EPA proposes ban on asbestos-containing products

In January, the United States Environmental Protection Agency (EPA) announced a proposal to immediately ban five major asbestos products, including saturated and unsaturated roofing felts. The proposal also called for a phaseout of all remaining uses of asbestos in the United States over the next 10 years.

In announcing the proposed ban, EPA Administrator Lee M. Thomas said, "This proposal starts us down the path that will eventually rid asbestos from our environment."

"The proposal would immediately prohibit the importation, manufacture and processing of five asbestos products for which substitutes are now readily available," Thomas continued. "These asbestos products accounted for about half of current asbestos consumption in 1981."

The 10-year phaseout is almost a carbon copy of a proposal EPA made nearly 18 months ago. The Office of Management and Budget (OMB) turned thumbs down on that proposal, however, saying it was not warranted and too expensive.

Thomas said his agency's latest proposal not only has OMB's blessing, but that OMB has also suggested the labeling requirement for products containing asbestos that are not subject to immediate ban.

Door number 1, 2 or 3

In addition to the main proposal, EPA also offered several options for consideration.

"We are asking for comment on a number of alternative ways of achieving the same goal: the ultimate elimination of widespread asbestos use in this country," Thomas said. One option would immediately ban asbestos construction products such as asbestos-cement sheets and shingles as well as felts, floor tile, A/C pipe and asbestos clothing.

A second option would ban all asbestos construction products in five years, and

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Asbestos roofing felts would be banned as well

by Jim Matthews

ban the remaining asbestos products in 10 years.

Option three would ban asbestos construction products and asbestos clothing immediately and phase out the remaining products over a 10-year period.

"Finally," Thomas said, "we are proposing that all products not immediately banned be labeled as containing asbestos." He said labeling would ensure that persons working with asbestos products would know that the products contained asbestos, enabling them to take steps to reduce the likelihood of exposure.

Asbestos ban would make itself felt

If the EPA's proposal to ban asbestos roofing felts were to become reality, what would the probable effect on the roofing industry be? Kenneth Nyquist, a spokesman for the Asbestos Information Association (AIA), characterized the impact as primarily a concern of industry suppliers. "This is really a manufacturers' war," he said.

Only one company, Cascades, Inc., still produces asbestos felts. Other felt producers have substituted fiber glass for asbestos.

Cascades, a Canadian company that purchased the Manville Corp.'s asbestos roofing business several years ago, is represented in the United States by Power Marketing. President Jim Power is convinced his product does not pose a health hazard and will vigorously oppose EPA's efforts to implement the ban.

Some producers ready to protest

EPA's proposal also applies to asbestos-cement roofing products. Three companies—Supradur, Atlas Turner and Atlas International Building Products—make and distribute asbestos-cement shingles and siding. EPA's primary proposal wouldn't ban these products immediately, as all three companies have been quick to point out to their customers. However, EPA's options would, if approved, immediately ban these products as well as asbestos felts.

President Alfred Netter of Supradur believes the ban doesn't apply to his product because during the manufacture of the

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product the asbestos fibers are "permanently bound into the cement base."

Don Stevenson of Turner Brothers, a Canadian asbestos-cement shingle distributor, said, "Our response to EPA is that the ban doesn't apply to us. Even if our product is pulverized, the asbestos fibers can't be released into the atmosphere."

Jack Coombs-Payac of AIBR, another Canadian company with a significant U.S. market, said, "We plan to attend the hearings and will lobby through AIA. Our belief, which we're prepared to support with documented evidence, is that our locked-in-cement asbestos roofing tiles are not a health hazard."

What now?

At this time, the ban is no more than a proposal and will not take effect immediately, despite the wording EPA used in its announcement. In fact, Thomas said EPA wants "public comment" on the proposal, which he believes will be "widely and actively debated."

That raises several questions. First, when will the ban take effect? Second, what form will the ban take, i.e., will it be Option 1, 2 or 3, or something else? Finally, is a ban likely?

Although the battle lines surrounding this controversial issue have been firmly and unmistakably drawn, both sides agree on one thing: it will be many months before the proposed ban or any of the options becomes binding.

"The [EPA] administrator has forecast that it could be a year from now," Luke Hester, EPA's press officer, told *Roofing Spec*. AIA's Nyquist thought two years might be necessary to resolve the issues.

While the exact lead time is debatable, it is known that federal procedures dictate a 90-day period for interested parties to comment on the proposal. That comment period began Jan. 29, 1986, and will extend to April 29.

Beginning May 14, according to Nyquist, EPA will hold public hearings on its proposal, probably at several locations around the country. An announcement as to the exact time and place(s) of the public hearings will be made later, most likely in the *Federal Register*. In the meantime, EPA has established an Asbestos Hot Line for those who want to stay abreast of developments. The toll-free number is 800/424-9065; District of Columbia residents can call 544-1404, and residents outside the United States can call 202/544-1404.

What will they go for?

Right now, no one knows what form the ban will take. At first glance, it appears that EPA seeks no less than an immediate ban on the five specifically mentioned product categories, with all other asbestos products to be gradually phased out over 10 years.

But that's not necessarily the case. "The ban is the ultimate, but there are several lesser things EPA might go for," said Nyquist. "One of those is just labeling all products without banning anything. It's a graduated proposal. In addition to the all-out immediate ban, they've announced a possible ban after so many years for groups of products and labeling. And of course, there are combinations of these."

Netter's thoughts on the probable end result paralleled Nyquist's. "It's not a take-it-or-leave-it proposition," he said. "Anything can still happen, and certain things will happen. Any regulations proposed by any federal agency must be ruled on by OMB for their cost effectiveness and economic impact. To some extent, certain aspects of this proposal are intended to be horse-traded during the process."

No one can say with certainty that EPA will be able to implement a ban. Nyquist did say, "The industry's position is that EPA can't support its case to come out with an outright ban."

At this writing, EPA has yet to announce what penalties will be imposed on persons or businesses that disregard the ban. Nor has EPA said how it will enforce the ban, or what plans it has for disposing of existing stocks of banned products when the ban takes effect.

What should contractors be doing now? According to EPA's Hester, until the EPA announces an *actual* ban and how it will be implemented, "It's business as usual."

How to express your views

Public comment, whether pro or con, will have some influence on the EPA's final decision. If you want to express your views to the EPA on the proposed ban and how it might affect you, write to Edward Klein, director, Office of TSCA Assistance (TS-799), Room E543, 401 M St., S.W., Washington, D.C. 20460.

You can contact the Asbestos Information Association, the asbestos industry lobby organization, by calling 703/979-1150.

Asbestos claimants ask, "Who's to blame?"

While everyone agrees that victims of asbestos-related ailments deserve compensation, there is still some argument about who should foot the bill.

"It is difficult to assess blame in asbestos cases since it can take up to 30 years for the symptoms of asbestos exposure to surface," says Carl Good, NRCA's director of membership. "Complicating the problem is the fact that many insurance policies have lapsed, leaving victims and their families without coverage."

The manufacturers, insurance companies and federal agencies involved are all responsible to some extent for the problem. The government exposed thousands of workers to asbestos as they built the war-

ships that helped the country win WW II. Johns Manville Corp., as the world's largest producer of asbestos, is also being blamed for workers' exposure to the carcinogen.

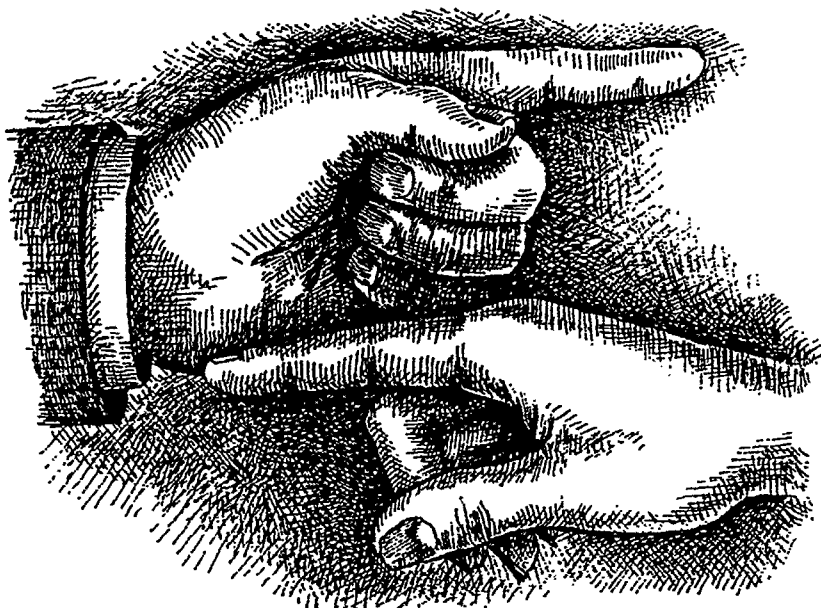
Manville has already been hit with lawsuits totaling several million dollars filed by asbestos victims. The company responded to the crisis by filing for Chapter 11 bankruptcy in 1982, halting all litigation aimed at it until the proceedings are completed. Manville has proposed a multi-million dollar trust to aid in asbestos victim compensation, but technicalities still need to be ironed out before distribution of the fund can begin.

In light of these complications, some groups are calling for the creation of a national commission devoted solely to handling asbestos injury claims. Representative Pat Williams, D-Mont., believes that the federal government should assume some responsibility for compensating victims of occupation-related diseases. His plan calls for federalizing workers' compensation to allow for claims against the government. The congressman hopes his idea will provide a common sense, non-adversarial way to deal with the staggering backlog of asbestos claims.

Insurance hard to find

Manville's problems have not gone unnoticed by the insurance industry. As a result, contractors are finding it increasingly difficult to locate companies willing to underwrite asbestos removal. Some insurers are coming to the contractors' aid, however. One Connecticut-based contractor, the Acmat Corp., and United Coastal Insurance have undertaken a joint venture to insure high-risk clients.

To protect themselves, contractors not regularly involved in asbestos removal are taking a hard look at the job before proceeding. If they find some asbestos removal will be required, they are renegotiating their contracts to allow for the extra work or expense involved.



■ Recent asbestos litigation includes the unanimously passed Senate bill S. 0083, the Asbestos School Abatement Act. The bill requires schools to abate asbestos hazards. House and Senate versions of the bill would allocate an additional \$25 million annually through 1990 for this work. The biggest difference between House and Senate amendment proposals is a provision in the House legislation that exempts contractors and school officials from liability for personal injury or property damage resulting from abatement activities unless the damages are caused by negligent conduct. Another provision states, "An asbestos contractor or a local educational agency who is a defendant in such an action may not be held jointly liable with any other defendant in such action, but may be held severally liable in such action."