



ASBESTOS INFORMATION ASSOCIATION

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December 30, 1988

Mr. Jay Plager
Administrator, Information and
Regulatory Affairs
Office of Management and Budget
Room 246, Old Executive Office
Building
17th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20503

Re: EPA Docket No. OPTS 62036

Dear Mr. Plager:

The Asbestos Information Association/North America (AIA/NA) has participated actively in the Environmental Protection Agency (EPA) rulemaking under the Toxic Substances Control Act (TSCA) in which the Agency proposes to ban or phase out all future uses of asbestos. The EPA staff has informed us that a draft final rule was submitted to you within the past week in accord with Executive Order 12291. Given the immense size of the record compiled in this rulemaking, AIA/NA would like to bring to your attention key record documents that may prove useful to your review.

As we understand your role under Executive Order 12291, it is to review the Regulatory Impact Analysis accompanying all draft final rules and to "[m]ake a determination that the factual conclusions upon which the rule is based have substantial support in the agency record, viewed as a whole, with full attention to public comments in general and the comments of persons directly affected by the rule in particular." Your office is also asked to review whether "the potential benefits to society for the regulation outweigh the potential costs to society," whether "the alternative involving the least net cost to society" has been chosen, and whether "aggregate net benefits to society" have been maximized "taking into account the condition of the particular industries affected, the conditions of the national economy, and other regulatory actions contemplated for the future."

Each of these aspects of review under Executive Order 12291 is also integral to TSCA's statutory criteria.

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Specifically, TSCA requires balancing of costs and benefits under its "unreasonable risk" test, and directs that EPA select the "least burdensome" regulation that will address unreasonable risk, giving due consideration to addressing those risks under other statutory authorities. It further provides that any rules shall be based on substantial evidence in the record. OMB's review here is thus not only to assure compliance with the President's directives but also in line with Congress' statutory directives under TSCA.

In light of the immense record and the significant precedential importance of OMB's review of this rulemaking, we have prepared the attached short memorandum that sets forth the key issues raised by the factual record the Agency has compiled. To aid your review, we attach the most relevant record material addressing each issue. This listing of key issues does not attempt to encompass all of the many factual errors in the Agency record that we raised during the rulemaking; rather, we ask that you review closely the generic issues for which we believe the Agency's own view of the facts does not support a regulatory outcome of banning or phasing out asbestos use, with the resultant demise of a viable industry in this country.

If we can be of further assistance in identifying relevant materials in the Agency record, please call me or contact our counsel Edward W. Warren at Kirkland & Ellis (202-879-5018).

Respectfully yours,



B.J. Pigg
President

Enclosure

cc: Lee M. Thomas, Administrator, EPA
Charles Elkins, Director, Office of
Toxic Substances, EPA
Joseph R. Wright, Jr., Director
Office of Management and Budget
EPA TSCA Docket Office