EPA Asbestos Materials Bans: Clarification
May 18, 1999

I. Introduction:

* This clarification presents correct information with regard to the status of asbestos products that are banned by the US Environmental Protection Agency (EPA) at this time, as well as categories of asbestos-containing products that are NOT subject to a ban.

* The clarification is needed because EPA finds that there are misunderstandings about its bans on asbestos-containing materials (ACM) and products or uses. Newspaper and magazine articles, Internet information, even some currently available (but outdated) documents from the EPA and other federal agencies may contain statements about an EPA asbestos ban that are incorrect.

* EPA asbestos regulations fall primarily under the authority of two different federal laws and their resulting implementations:

- the Clean Air Act (CAA) (e.g., Asbestos National Emission Standards for Hazardous Air Pollutants, or NESHAP) rules, and

- the Toxic Substances Control Act (TSCA) (e.g.,Asbestos Ban and Phaseout) Asbestos rules.

* Note that the US Consumer Product Safety Commission (CPSC) also developed bans on use of asbestos in certain consumer products such as textured paint, wall patching compounds. For more detailed information, contact the CPSC Hotline, at 1-800-638-2772.

II. CLEAN AIR ACT (CAA) Authority:

EPA Asbestos NESHAP BANS ON USAGE OF CERTAIN ACM (In Facilities Regulated by the NESHAP Rule, Nov. 1990 Revision; 40 CFR 60, Subpart M)

A. Most spray-applied Surfacing ACM: *

- 1973 NESHAP, banned for fireproofing/insulating
- 1978 NESHAP, banned for "decorative" purposes

* The Nov. 1990 revised asbestos NESHAP prohibits spray-on application of materials containing more than 1% asbestos to buildings, structures, pipes, and conduits unless the material is encapsulated with a bituminous or resinous binder during spraying and the materials are not friable after drying.

* The revised NESHAP still allows, on equipment and machinery, spray-on application of materials that contain more than 1% asbestos where the asbestos fibers in the materials are encapsulated with a bituminous or resinous binder during spraying and the materials

are not friable after drying; or for friable materials, where either no visible emissions are discharged to the outside air from spray-on application, or specified methods are used to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

B. Thermal System Insulation:

- 1975 NESHAP, banned installation of wet-applied and pre-formed (molded) asbestos pipe insulation.
- 1975 NESHAP, banned installation of pre-formed (molded) asbestos block insulation on boilers and hot water tanks.

C. Is there a NESHAP ban on troweled-on Surfacing ACM? No; that particular application was not banned by the most recent NESHAP revision, which was November 1990.

III. TOXIC SUBSTANCES CONTROL ACT (TSCA) Authority:

A. July 1989 EPA rule commonly known as the "Asbestos Ban and Phaseout Rule" (40 CFR
763 Subpart I, Sec. 762.160 - 763.179)

NOTE: Much of the original rule was vacated and remanded by the U.S. Fifth Circuit Court of Appeals in 1991. Thus, the original 1989 EPA ban on the U.S. manufacture, importation, processing, or distribution in commerce of many asbestos-containing product categories was set aside and did not remain in effect.

B. Federal Register, Nov. 5, 1993 (58 FR 58964), Factual determinations: "Continuing restrictions on certain asbestos-containing products."

In this FR notice, EPA stated its position regarding the status of its ban on various asbestos-containing product categories. The status is briefly summarized below:

Products still banned -
Six asbestos-containing product categories that are still subject to the asbestos ban include: 1) corrugated paper, 2) rollboard, 3) commercial paper, 4) speciality paper, 5) flooring felt, and 6) new uses of asbestos.

Products not banned -
Asbestos-containing product categories no longer subject to the 1989 TSCA ban include: asbestos-cement corrugated sheet, asbestos-cement flat sheet, asbestos clothing, pipeline wrap, roofing felt, vinyl-asbestos floor tile, asbestos-cement shingle, millboard, asbestos-cement pipe, automatic transmission components, clutch facings, friction materials, disc brake pads, drum brake linings, brake blocks, gaskets, non-roofing coatings, and roof coatings.

C. Federal Register, June 28, 1994 (59 FR 33208), "Technical Amendment in Response to

Court Decision on Asbestos; ..."

Revised the language of the asbestos ban rule to conform to the 1991 Court decision. Contains definitions; manufacturing and importation prohibitions; processing, and distribution in commerce prohibitions. Also clarifies labeling requirements for specified asbestos-containing products. (Note: these FR notices can be found on the EPA OPPT asbestos page under "Laws and Regulations."

IV. SUMMARY

A. BANS on some ACM products and uses remain at this time (April 1999)

What are they?

Under the Clean Air Act:

* Most spray-applied Surfacing ACM

* Sprayed-on application of materials containing more than 1% asbestos to buildings, structures, pipes, and conduits unless the material is encapsulated with a bituminous or resinous binder during spraying and the materials are not friable after drying.

* Wet-applied and pre-formed asbestos pipe insulation, and pre-formed asbestos block insulation on boilers and hot water tanks.

Under the Toxic Substances Control Act:

* Corrugated paper, rollboard, commercial paper, specialty paper, flooring felt, and new uses of asbestos.

B. EPA has no existing bans on most other asbestos-containing products or uses.

EPA does NOT track the manufacture, processing, or distribution in commerce of asbestos-containing products. It would be prudent for a consumer or other buyer to inquire as to the presence of asbestos in particular products.

Possible sources of that information would include inquiring of the dealer/supplier or manufacturer, refer to the product's "Material Safety Data Sheet" (MSDS), or consider having the material tested by a qualified laboratory for the presence of asbestos.

For further information, contact the TSCA Assistance Information Service at 202-554-1404, or your EPA Regional Asbestos Coordinator for the state in which you live.

U.S. CONSUMER PRODUCT SAFETY COMMISSION

Office of Compliance

Bans* of Consumer Patching Compounds and Artificial Emberizing Materials Containing Respirable Free-Form Asbestos 16 C.F.R. Parts 1304 and 1305

What is the purpose of the ban on patching compounds and artificial ash and embers that contain respirable free-form asbestos?

These regulations eliminate from certain products repirable free-form asbestos fibers that may cause lung or other cancers.

Where can I find the bans on consumer patching compounds and emberizing materials containing asbestos?

The bans are published in the Code of Federal Regulations (C.F.R.) in Title 16, Parts 1304 and 1305. You can obtain the banning regulation from the Commission's web site at: http://www.cpsc.gov

What is respirable free-form asbestos?

Respirable free-form asbestos is asbestos that is not bound, woven, or otherwise "locked in" by a glue or resin to a patching compound or to artificial ashes or embers. Because they are not locked in, asbestos fibers can get into the air and be inhaled when the patching compounds are sanded or the ashes and embers are heated.

What forms of asbestos are subject to the ban?

The bans cover products containing amosite, chrysolite, crocidolite, anthophyllite, actinolite, and tremolite asbestos.

Which products must meet this regulation?

The ban covers the following products containing asbestos:

(1) Products such as spackling compounds, tape joint compounds, and other mixtures that consumers use to patch or seal cracks, holes, or other imperfections in drywall and other surfaces. These products may be in dry form ready to be mixed with water or may be an already-mixed paste.

The ban only applies to patching compounds to which asbestos has been intentionally added as an ingredient or which contain asbestos because the manufacturer knowingly used a raw material that contained asbestos. When a manufacturer finds out that a patching compound contains asbestos, the Commission will consider the manufacturer to have knowingly used a raw material containing asbestos, unless the manufacturer reduces the amount of asbestos as much as is feasible.

(2) Decorative simulated ashes or embers that are placed under artificial logs in gas-burning fireplaces and that, when heated, glow like real burning embers. The ban includes material containing asbestos that is glued to artificial logs either at the factory or by consumers using an "emberizing" kit, and also covers artificial embers and ashes used in artificial fireplaces for decorative purposes.

Synthetic logs made of cellulosic material that burn completely are not subject to the ban, nor are electric artificial logs and artificial ash beds used in electric fireplaces, which do not contain asbestos.

Where can I find additional information?

For more information on the requirements, contact the Consumer Product Safety Commission, Office of Compliance, Washington, D.C. 20207, telephone (301) 504-7913, mailto:sect15@cpsc.gov

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* *This document is a simple unofficial description of the ban on certain products that contain asbestos and does not replace or supersede any requirements published in 16 C.F.R. 1304 and 1305.*