

## **U.S. EPA: OPPT Meeting – Regulatory Reform Opportunities involving TSCA and TRI Rules - Asbestos**

### **Remarks from J. Brent Kynoch**

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Good morning. My name is Brent Kynoch and I serve as the Managing Director of the Environmental Information Association or EIA. Our association was founded in 1983 as the National Asbestos Council, with the goal of disseminating accurate, balanced information regarding asbestos in buildings. Over the years, we broadened our reach to include other environmental concerns that might affect buildings or facilities.

My comments today are focused around the Asbestos Hazard Emergency Response Act or AHERA portion of TSCA, the resulting Asbestos School Hazard Abatement Reauthorization Act and the NESHAP regulations regarding asbestos promulgated under the Clean Air Act. I understand that a discussion of NESHAP goes beyond the focus of this meeting, however, all of these asbestos regulations are closely intertwined, making it difficult to discuss the specifics of one regulation without referring to another.

To begin, the AHERA regulation was a hugely necessary and well-designed regulation to manage and control asbestos in the nation's schools when enacted in the 1980's. Prior to the passage and enactment of AHERA, the asbestos abatement industry was uncontrolled, largely ungoverned and had spawned a wealth of unscrupulous companies that were using fear of asbestos exposure as a means of producing business. However, in many cases, the work of these firms was actually creating a greater exposure hazard because of poor worker training and poor work practices.

Through AHERA, specifics have been put into place regarding inspections, management and abatement of asbestos in schools K-12. However, more importantly, this regulation established the Model Accreditation Plan for training and accreditation of five different disciplines of workers involved in the asbestos abatement industry. Through ASHARA, these training and accreditation requirements were extended to include work in public and commercial buildings as well as schools. The asbestos abatement industry is better and the public is better protected because of the AHERA regulations enacted under TSCA.

In responding to the four questions that EPA has posed for this meeting, let me offer the following:

- Are any of these regulations, AHERA, ASHARA or NESHAP, appropriate for repeal, replacement or modification in order to reduce economic or other burdens on the regulated community? Absolutely not! These regulations have made for a safer, more effective and more easily governed asbestos abatement industry for all disciplines involved. And, when addressing the "burdensome" portion of the question . . . I can't think of a less burdensome way of appropriately regulating a known human carcinogen. These regulations do not require REMOVAL of asbestos. Instead, they require only the identification of asbestos in buildings,



and the establishment of an appropriate management plan. Removal is only required when activities that might disturb asbestos are anticipated.

- Are there opportunities for EPA to improve regulatory effectiveness through adopting or encouraging innovations? Yes, absolutely!! EPA's track record of enforcement of these regulations is, unfortunately, dismal. The regulations themselves are well-designed and provide for a least-burdensome method of controlling an industry that is managing a deadly human carcinogen. However, EPA MUST enforce regulations once they are enacted if they are going to be truly effective. EPA can and should do a better job of pushing the enforcement of these regulations down the state and local level. EPA can design creative and innovative ways of promoting compliance with the NESHAP regulations, specifically. Since demolition and renovation permits are issued at a local (city and county) level, EPA can and should educate these permit officials on the requirements of this law so that these officials simply ask, "Where is the asbestos inspection that is required before I issue a permit to you." There are successful programs of enforcement at the local level in New York city, Arizona and Texas.

Let me leave you with three thoughts today:

1. There is no known safe level of exposure to asbestos.
2. Asbestos has still not been banned in the United States; and
3. EPA has a duty to creatively and innovatively enforce AHERA, ASHARA and NESHAP.

Thank you!