

# Restrictions on Discontinued Uses of Asbestos: U.S. Environmental Protection Agency Promulgates Significant New Use Rule



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04/29/2019

The United States Environmental Protection Agency (“EPA”) in an April 25th Federal Register Notice promulgated a Toxic Substances Control Act (“TSCA”) Significant New Use Rule (“SNUR”) applicable to asbestos. See 84 Fed. Reg. 17345.

The SNUR is applicable to asbestos as defined in Section 202 (Title II) of TSCA which defines the substance as the:

. . . asbestiform varieties of six fiber types – chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite or actinolite.

EPA states it is promulgating the rule to ensure that uses of asbestos cannot re-enter the marketplace without the agency’s review. It characterizes its action as “closing a loophole in the regulatory regime for asbestos.”

EPA’s authority for taking such action is found in Section 5 (a)(2) of TSCA which authorizes the agency to determine that a use of a chemical substance is a “significant new use.” The federal agency can make such a determination by rule if it considers all relevant factors as addressed in the previously referenced statutory provision. Once it determines that a use of a chemical substance is a significant new use, TSCA requires persons to submit a Significant New Use Notice to EPA at least 90 days before they manufacture or process the chemical substance for that use.

The restricted new uses addressed by the April 25th Federal Register Notice include manufacturing of asbestos (including importing) or processing for uses that are neither ongoing nor already prohibited under TSCA. EPA states that it has:

. . . found no information indicating that the following uses are ongoing, and, therefore, the following uses are subject to this SNUR and cannot return to the marketplace without EPA review.

The referenced substances include:

- Adhesives, sealants, and roof and nonroof coatings;
- arc chutes;
- boater-add gaskets;
- cement products;
- extruded sealant tape and other tape;

- filler for acetylene cylinders;
- friction materials (with certain exceptions identified in Table 1);
- high-grade electrical paper; millboard;
- missile liner;
- packings;
- pipeline wrap;
- reinforced plastics;
- roofing felt;
- separators in fuel cells and
- batteries;
- vinyl-asbestos floor tile;
- woven products;
- any other building material;
- and any other use of asbestos that is neither ongoing nor already prohibited under TSCA.

A copy of the Federal Register Notice can be found [here](#).