

for and receive an exemption from EPA.

(1) *What must my State do to apply for an exemption?* To apply for an exemption from the requirements of this subpart, your State must send to the Director of EPA's Office of Pollution Prevention and Toxics (OPPT) a copy of its asbestos worker protection regulations and a detailed explanation of how your State's asbestos worker protection plan meets the requirements of TSCA section 18 (15 U.S.C. 2617).

(2) *What action will EPA take on my State's application for an exemption?* EPA will review your State's application and make a preliminary determination whether your State's asbestos worker protection plan meets the requirements of TSCA section 18.

(i) If EPA's preliminary determination is that your State's plan does meet the requirements of TSCA section 18, EPA will initiate a rulemaking, including an opportunity for public comment, to exempt your State from the requirements of this subpart. After considering any comments, EPA will issue a final rule granting or denying the exemption.

(ii) If EPA's preliminary determination is that the State plan does not meet the requirements of TSCA section 18, EPA will notify your State in writing and will give your State a reasonable opportunity to respond to that determination.

(iii) If EPA does not grant your State an exemption, then the State and local government employers in your State are subject to the requirements of this subpart.

(b) *States that have been granted an exemption.* If EPA has exempted your State from the requirements of this subpart, your State must update its asbestos worker protection regulations as necessary to implement changes to meet the requirements of this subpart, and must apply to EPA for an amendment to its exemption.

(1) *What must my State do to apply for an amendment to its exemption?* To apply for an amendment to its exemption, your State must send to the Director of OPPT a copy of its updated asbestos worker protection regulations and a detailed explanation of how your State's updated asbestos worker protection

plan meets the requirements of TSCA section 18. Your State must submit its application for an amendment within 6 months of the effective date of any changes to the requirements of this subpart, or within a reasonable time agreed upon by your State and OPPT.

(2) *What action will EPA take on my State's application for an amendment?* EPA will review your State's application for an amendment and make a preliminary determination whether your State's updated asbestos worker protection plan meets the requirements of TSCA section 18.

(i) If EPA determines that the updated State plan does meet the requirements of TSCA section 18, EPA will issue your State an amended exemption.

(ii) If EPA determines that the updated State plan does not meet the requirements of TSCA section 18, EPA will notify your State in writing and will give your State a reasonable opportunity to respond to that determination.

(iii) If EPA does not grant your State an amended exemption, or if your State does not submit a timely request for amended exemption, then the State and local government employers in your State are subject to the requirements of this subpart.

Subpart H [Reserved]

Subpart I—Prohibition of the Manufacture, Importation, Processing, and Distribution in Commerce of Certain Asbestos-Containing Products; Labeling Requirements

SOURCE: 54 FR 29507, July 12, 1989, unless otherwise noted.

§ 763.160 Scope.

This subpart prohibits the manufacture, importation, processing, and distribution in commerce of the asbestos-containing products identified and at the dates indicated in §§ 763.165, 763.167, and 763.169. This subpart requires that products subject to this rule's bans, but not yet subject to a ban on distribution in commerce, be labeled. This

subpart also includes general exemptions and procedures for requesting exemptions from the provisions of this subpart.

§ 763.163 Definitions.

For purposes of this subpart:

Act means the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*

Agency means the United States Environmental Protection Agency.

Asbestos means the asbestiform varieties of: chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite); tremolite; anthophyllite; and actinolite.

Asbestos-containing product means any product to which asbestos is deliberately added in any concentration or which contains more than 1.0 percent asbestos by weight or area.

Chemical substance, has the same meaning as in section 3 of the Act.

Commerce has the same meaning as in section 3 of the Act.

Commercial paper means an asbestos-containing product which is made of paper intended for use as general insulation paper or muffler paper. Major applications of commercial papers are insulation against fire, heat transfer, and corrosion in circumstances that require a thin, but durable, barrier.

Corrugated paper means an asbestos-containing product made of corrugated paper, which is often cemented to a flat backing, may be laminated with foils or other materials, and has a corrugated surface. Major applications of asbestos corrugated paper include: thermal insulation for pipe coverings; block insulation; panel insulation in elevators; insulation in appliances; and insulation in low-pressure steam, hot water, and process lines.

Customs territory of the United States means the 50 States, Puerto Rico, and the District of Columbia.

Distribute in commerce has the same meaning as in section 3 of the Act, but the term does not include actions taken with respect to an asbestos-containing product (to sell, resale, deliver, or hold) in connection with the end use of the product by persons who are users (persons who use the product for its intended purpose after it is manufactured or processed). The term also does not include distribution by manufacturers,

importers, and processors, and other persons solely for purposes of disposal of an asbestos-containing product.

Flooring felt means an asbestos-containing product which is made of paper felt intended for use as an underlayer for floor coverings, or to be bonded to the underside of vinyl sheet flooring.

Import means to bring into the customs territory of the United States, except for: (1) Shipment through the customs territory of the United States for export without any use, processing, or disposal within the customs territory of the United States; or (2) entering the customs territory of the United States as a component of a product during normal personal or business activities involving use of the product.

Importer means anyone who imports a chemical substance, including a chemical substance as part of a mixture or article, into the customs territory of the United States. *Importer* includes the person primarily liable for the payment of any duties on the merchandise or an authorized agent acting on his or her behalf. The term includes as appropriate:

(1) The consignee.

(2) The importer of record.

(3) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(4) The transferee, if the right to withdraw merchandise in a bonded warehouse has been transferred in accordance with subpart C of 19 CFR part 144.

Manufacture means to produce or manufacture in the United States.

Manufacturer means a person who produces or manufactures in the United States.

New uses of asbestos means commercial uses of asbestos not identified in § 763.165 the manufacture, importation or processing of which would be initiated for the first time after August 25, 1989.

Person means any natural person, firm, company, corporation, joint-venture, partnership, sole proprietorship, association, or any other business entity; any State or political subdivision thereof, or any municipality; any interstate body and any department,