June 2, 2020

The Honorable Andrew Wheeler
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington DC, 20460

Re: Draft Risk Evaluation on Asbestos: EPA-HQ-OPPT-2019-0501-0001; 85 Fed. Reg. 18954 (April 3, 2020)

Dear Administrator Wheeler:

The undersigned groups are writing to express deep concern about EPA's draft risk evaluation for asbestos under the Toxic Substances Control Act (TSCA). Our organizations are committed to assuring the safety of chemicals used in our homes, workplaces and the many products to which our families and children are exposed each day. Asbestos is a test of TSCA's ability to address unsafe chemicals and failure to meet this test would be a grave setback for the law and EPA itself.

Below, we underscore the enormous impact of asbestos on public health and the significant risks from ongoing exposure. We then describe the historical failure of TSCA to address asbestos and the new tools in the 2016 TSCA amendments enabling EPA to ban asbestos. Finally, we outline the disappointing failure of this EPA to use these tools effectively, as reflected in the numerous gaps and omissions in the draft risk evaluation and its serious understatement of risk.

**Asbestos Has Imposed a Huge Toll on Public Health**

Asbestos is likely the most hazardous substance in widespread use since the industrial revolution and is responsible for millions of deaths worldwide. Asbestos is universally recognized to have no safe level of exposure. Although it has been banned in over 60 countries, most uses of asbestos are lawful in the US.

The death toll from asbestos exposure in the US remains alarmingly high. A recent study reported that asbestos-related diseases cause an average of 39,275 deaths in the United States annually.[1] The continuing heavy burden of asbestos-related death and disease reinforces the urgent need to eliminate it from US commerce. Sadly, however, we are failing to address this dire public health threat and a comprehensive asbestos ban is still not a reality.

Despite the claims of some that current uses of asbestos are negligible, ongoing exposure is widespread and significant. Current asbestos users include 15 plants in the large chlorine manufacturing industry. According to the United States Geological Survey (USGS), this industry imported 750 metric tons of raw asbestos from Brazil and Russia in 2018. Asbestos brake linings and gaskets remain in use in US vehicle manufacturing and in the large aftermarket for auto replacement parts. Both the chemical and oil industries may also be large users of asbestos-containing products although EPA lacks information on the full extent of these uses.

[1] S. Furuya, O. Chimed-Ochir, K. Takahashi, A. David, and J. Takala, "Global Asbestos Disaster," *International Journal of Environmental Research and Public Health,* vol. 15, no. 5, p. 15, 2018.

Even with its limited efforts to gather use information, the Agency estimates that close to a million workers are exposed to asbestos from current commercial uses. EPA also estimates that 31,857,106 consumer do-it-yourselfers (DIYs) may have exposure to asbestos when replacing brake pads in their own or others' vehicles. These estimates do not include the millions of workers and consumers who are exposed to "legacy" asbestos in homes, businesses and schools across the US and are excluded from the draft evaluation. The public health benefits of protecting these large worker and consumer populations from exposure to asbestos are undeniable.

**TSCA Has Failed to Protect the Public from Asbestos**

The 2016 TSCA amendments were enacted in part because of frustration with EPA's inability to regulate asbestos. In 1989, the Agency issued a rule under section 6(a) of TSCA prohibiting most asbestos uses but, following an industry challenge, the rule was overturned by a court in 1991. During the TSCA reform process, asbestos was a poster child for TSCA's failure to protect public health and many members of Congress felt that the new law needed to give EPA the tools to finally ban asbestos.

In December 2016, shortly after the passage of the new law, EPA selected ten chemicals for initial risk evaluations, including asbestos. Our groups initially hoped that, based on the new TSCA authorities, the risk evaluation would initiate a process leading to a comprehensive asbestos ban. However, this hope faded as EPA narrowed the scope of the risk evaluation, promulgated a questionable Significant New Use Rule (SNUR) to track but not ban the reintroduction of discontinued asbestos products, and refused to use its broad TSCA information collection authorities to require industry to report essential use and exposure information. As discussed below, the draft risk evaluation is one more example of EPA's unwillingness to show leadership and act forcefully to address asbestos.

**EPA Is Departing from the Well-Established Federal Framework for Asbestos Risk Assessment**

The EPA draft is the first comprehensive evaluation of asbestos in 35 years. Unfortunately, EPA's approach is a giant step back from the high-quality science in previous assessments -- it walks away from the long-standing risk assessment framework that government scientists worked hard to develop and that has guided asbestos prevention policy for three decades.

In 2008, the EPA Superfund program undertook an effort to revamp this framework. However, the EPA Science Advisory Board (SAB) rejected this effort as scientifically flawed. Now, this discredited approach is resurfacing in the draft evaluation's determination of the all-important Inhalation Unit Risk (IUR) for estimating cancer risk. The draft unjustifiably bases the IUR on one asbestos fiber (chrysotile), fails to consider a large portion of the human studies on asbestos and rejects the well-established linear dose-response model previously used in asbestos assessments. Because of this approach, the new EPA IUR results in a considerably lower cancer risk than EPA's 1988 IRIS assessment. At a time when we should be eliminating asbestos exposure, EPA should not be unnecessarily downplaying asbestos risks.

**The Many Omissions and Exclusions in the Evaluation Result in an Incomplete Picture of Total Asbestos Risk**

The draft evaluation fails to address many important contributors to asbestos exposure and risk. Critical omissions include the following:

- The draft evaluation does not address legacy asbestos products despite a US Court of Appeals decision requiring EPA to evaluate these risks. Legacy asbestos is pervasive in US buildings and accounts for a large portion of ongoing asbestos-related death and disease.

- The evaluation only addresses the chrysotile form of asbestos and disregards other recognized fiber types. Because real-world exposure is to multiple fibers, a risk evaluation focused only on chrysotile exposure is scientifically unjustified.

- The draft risk evaluation is based solely on the carcinogenicity endpoints of lung cancer and mesothelioma. It does not address other types of tumors (like ovarian and laryngeal cancers) and serious non-cancer lung diseases (like asbestosis) known to be caused by asbestos. EPA itself acknowledges that these omissions result in a substantial underestimation of risk.

- Departing from TSCA's comprehensive framework for chemical risk management and disregarding previous Science Advisory Committee on Chemicals (SACC) recommendations, the draft evaluation excludes all environmental pathways of exposure to asbestos. Experts consider environmental exposure a significant contributor to overall asbestos risk.

- EPA has ignored the documented presence of asbestos contamination in talc-based crayons and other consumer products to which infants and children are exposed as well as in workplaces where industrial talc is used. It is known that exposure to asbestos-contaminated talc can cause mesothelioma and ovarian cancer.

- The evaluation relies on limited submissions by industry and publicly available information to identify ongoing conditions of use and determine the magnitude of current exposure. Notwithstanding petitions by several groups and state Attorney Generals (ASG), EPA refused to require reporting under TSCA section 8(a) by importers, processors and users of raw asbestos and asbestos-containing products. Consequently, the draft evaluation lacks reliable information on most aspects of worker and consumer exposure.

- With no supporting evidence except broad and unverified industry assurances, EPA concludes that asbestos importation, distribution in commerce and certain disposal activities do not present an unreasonable risk. As the industry itself recognizes, however, spills, accidents or damaged bags and containers of asbestos can result in exposure and risk during loading, unloading, transportation and waste shipment and handling.

- EPA bases its risk determinations for workers on the assumed use of respirators to reduce exposure. However, as SACC has previously advised, relying on personal protective equipment (PPE) to reduce risk to workers is contrary to the established industrial hygiene policy and ignores the realities of workplace practices.

- EPA's risk evaluation fails to address risks to potentially exposed or susceptible subpopulations (PESSs) which require special protection under TSCA. These subpopulations include individuals exposed to asbestos across multiple routes and pathways and persons at increased risk of cancer and lung disease such as cigarette smokers and individuals with underlying lung disease, including COVID-19.

The cumulative effect of these flaws is a grossly incomplete and unprotective picture of how Americans are exposed to asbestos and the risks of disease and death they face.

**The Draft Evaluation Must be Comprehensively Revised**

The draft evaluation determines that nearly all current asbestos uses present an unreasonable risk under TSCA. Given the overwhelming evidence of asbestos's harmful effects, EPA could not have concluded otherwise. However, the public is entitled to a complete and accurate accounting of how asbestos affects public health and EPA needs the best possible understanding of asbestos risk and exposure to inform risk management. Thus, EPA must strengthen the current draft significantly to incorporate comprehensive use and exposure information and the best available science and to remove the many exclusions and limitations that result in an understatement of risk. These necessary improvements would both reinforce EPA's determinations of unreasonable risk and provide additional support for the complete asbestos ban that EPA must impose under TSCA.

We endorse the extensive comments filed by the Asbestos Disease Awareness Organization (ADAO) and incorporate these comments by reference.

Thank you for consideration of our views.

If you have any questions, please contact SCHF counsel Bob Sussman at bobsussman1@comcast.net or 202-716-0118.

Respectfully submitted,

Pamela Miller
Executive Director
Alaska Community Action on Toxics

Katie Huffling
Executive Director
Alliance of Nurses for Healthy Environments

Linda Reinstein
President and Cofounder
Asbestos Disease Awareness Organization (ADAO)

Lindsay Dahl
SVP of Social Mission
Beauty Counter

Janet Nudelman
Director of Program and Policy
Breast Cancer Prevention Partners

Lynn Thorp
National Campaigns Director
Clean Water Action/Clean Water Fund

Philip J. Landrigan, MD, MSc, FAAP
President
Collegium Ramazzini

Rebecca Meuninck
Deputy Director
Ecology Center

Patrick MacRoy
Deputy Director
Environmental Health Strategy Center

Bent Kynoch
Executive Director
Environmental Information Association

Michelle Roos
Executive Director
Environmental Protection Network

Madeleine Foote
Deputy Legislative Director
League of Conservation Voters

Bill Couzens
Founder
Less Cancer

Emily Scarr
Director
Maryland PIRG

Diana Zuckerman, PhD
President
National Center for Health Research

Daniel Rosenberg
Director of Federal Toxics Policy
Natural Resources Defense Council

Jamie Pang South
Environmental Health Program Director
Oregon Environmental Council

Liz Hitchcock
Director
Safer Chemicals Healthy Families

Sarah Doll
National Director
Safer States

Ted Schettler MD, MPH
Science Director
Science and Environmental Health Network

Sonya Lunder
Senior Toxics Policy Advisor
Sierra Club

Laurie Valeriano
Executive Director
Toxic-Free Future

Danielle Melgar
Make It Toxic-Free Campaign Advocate
U.S. PIRG

Allison Cain
Legislative Associate, Center for Science and Democracy
Union of Concerned Scientists

Lauren Hierl
Executive Director
Vermont Conservation Voters

Paul Burns
Executive Director
Vermont Public Interest Research Group

Michelle Naccarati-Chapkis
Executive Director
Women for a Healthy Environment

Jamie McConnell
Deputy Director
Women's Voices for the Earth