

Transcript for U.S. EPA's Public Webinar:  
Risk Evaluation and Risk Management for Asbestos, Part 1:  
Chrysotile Asbestos under TSCA Section 6  
February 3, 2021

Opening Remarks from Sarah Swenson, U.S. EPA

Good afternoon everyone or good morning, depending where you are in the country, or the world actually. Thanks for joining EPA's Office of Pollution Prevention and Toxics Webinar on Managing Unreasonable Risks for Asbestos Part 1: Chrysotile Asbestos, under the Toxic Substances Control Act. My name is Sarah Swenson, and I work in the Stakeholder Engagement Branch in the Office of Pollution Prevention and Toxics.

We have over 150 people on the line and climbing, including attendees from the UK, Australia, Denmark, Italy, Hungary and across the U.S. So, thanks again for joining us. During the webinar, we're going to be advancing the presentation slides using WebEx and you can also download the slides from our risk management web page. You should have gotten this in the information that was sent out, and today's agenda is also on that web page as well as on your screen.

So we're going to start the webinar with a presentation from EPA followed by a public comment period. EPA will not be answering any questions during this webinar, but the people who signed up to make remarks will have 3 minutes per person and Emily from Abt Associates will introduce each commenter. If you registered to make a comment, please be sure you're connected properly through WebEx so that Emily can unmute you. If you had to call in, for some reason, using your personal phone, please email me the phone number that you're using so that we can identify you and then unmute you when it's your turn. And if you have technical issues, you can also use the chat function in WebEx.

With that, let's get started. Our first speaker this morning is Tanya Mottley and Tanya is the director of EPA's Existing Chemicals and Risk Management Division in the Office of Pollution Prevention and Toxics. Tanya, please go ahead.

Introductory Remarks from Tanya Hodge Mottley, U.S. EPA

Thank you, Sarah. Good afternoon everyone. It's a pleasure to be here today.

Again, my name is Tanya Hodge Mottley, and I'm the director of the Existing Chemicals Risk Management Division, and I'm opening today's webinar to emphasize how much we value your input. This is a useful forum for the agency to obtain public comment on the implementation of the Toxic Substances Control Act and Risk Management of Asbestos Part 1: Chrysotile Asbestos.

So before I turn it over to my colleague Alie Muneer, I want to leave you with a few thoughts.

With the amendments to TSCA that were enacted in 2016, we've been building a new regulatory program from the ground up. We've taken some big steps in that process over the past several months by issuing our first 10 risk evaluations. Today you will hear about the risk evaluation that was published on December 30, 2020, Asbestos Part 1: Chrysotile Asbestos.

In this evaluation, we have identified unreasonable risks to workers, occupational non-users, consumers, and bystanders. Now, we are taking the next step in the process by moving to the risk management phase. When unreasonable risks are identified, TSCA requires the agency to undertake a rule making process to address the unreasonable risks.

I want you to be aware of our work, and through meetings like today's, contribute to the risk management rulemakings under TSCA. The agency wants you involved early in the process.

We'll be using today to bring you up to speed on the key provisions of TSCA, as it relates to the risk management requirements to inform you about the unreasonable risk findings for Asbestos Part 1: Chrysotile Asbestos, and to outline the next steps in the process.

Perhaps most importantly, throughout this process we'll be seeking input from you on potential risk management approaches, their effectiveness, and any impacts those approaches might have on stakeholders. Your feedback is important as we develop regulations that are practical and protective.

Now is a critical juncture for you to be involved. Again, we need and appreciate your input, expertise, and feedback now, early in the process, to help shape the ways we're going to address the unreasonable risks we found. You'll hear from Alie more about how you can get in touch and get involved.

Thank you again for your interest in TSCA. On behalf of the agency, we look forward to working with you. And with that, I will now turn to our next speaker, Alie Muneer. Alie is the staff chemical risk management lead for asbestos and she will walk us through today's presentation. Thank you.

### [Presentation by Alie Muneer, U.S. EPA](#)

Thank you, Tanya. Hi, everyone. Welcome to today's public webinar. My name is Alie Muneer and I am the risk manager for Asbestos Part 1: Chrysotile Asbestos. I work in the Existing Chemicals Risk Management Division at the Office of Pollution Prevention and Toxics at EPA. EPA is developing some proposed regulations under Section 6(a) of the Toxic Substances Control Act (TSCA) for conditions of use of Chrysotile Asbestos that EPA determined presents an unreasonable risk. EPA made this determination and the final risk evaluation for Asbestos Part 1: Chrysotile Asbestos, completed in December 2020.

EPA is initiating this action so that those conditions of use no longer present an unreasonable risk. EPA is seeking input from the public during this webinar and encourages participation in comments to inform EPA's upcoming proposed regulation. Input from all stakeholders and affected parties is critical to the risk management process.

And EPA is committed to developing risk management actions for chemicals in a way that is transparent and includes proactive and meaningful outreach with the public, stakeholders, and affected parties.

Here is the outline for today's presentation on slide 1.

We will be discussing the risk determinations for Asbestos Part 1: Chrysotile Asbestos. We'll give a brief introduction and overview of a forthcoming risk evaluation, which is Asbestos Part 2: Legacy Uses and Associated Disposal. We're also going to go over the risk management requirements under TSCA Section 6, and the principles for transparency during risk management. And at the end of the presentation, we'll provide contact information, and further information if you wish to learn more about TSCA and Asbestos Part 1: Chrysotile Asbestos.

Asbestos Part 1: Chrysotile Asbestos will hereafter be referred to as Part 1 in this presentation.

EPA must evaluate the risks presented by a chemical under the conditions of use and determine if the chemical presents an unreasonable risk of injury to health, or the environment, under the conditions of use without consideration of cost or other non-risk factors and including potentially exposure susceptible subpopulations in the risk evaluation. TSCA requires a risk evaluation to be completed between 3 to 3 and a half years.

Slide 3 presents an overview of the steps in the TSCA risk evaluation process for existing chemicals under the Lautenberg Chemical Safety Act passed on June 22nd, 2016. You see here that a risk evaluation can be initiated by EPA, based on the outcome of prioritization, or initiated by EPA, based on acceptance of a manufacturer's request for a risk evaluation.

With the passage of the Lautenberg Act, EPA was required to select the first 10 chemicals to undergo risk evaluations from the 2014 update to the TSCA work plan. Following the first 10 chemicals, EPA has been conducting risk evaluations on chemical substances designated as high priority substances through the prioritization process.

The components of a risk evaluation are the scope of the risk evaluation and the risk evaluation itself. The scope of the risk evaluation assesses the hazards, exposures, conditions of use, and the potentially exposed or susceptible subpopulation the Administrator expects to consider. The draft scope is public notice for 45 days for public comment. A final scope is published, no later than 6 months, after initiation of the risk evaluation and a final risk evaluation is published 3 to 3 and a half years as required by law.

EPA makes a determination of either no unreasonable risk or unreasonable risk for each condition of use in the risk evaluation. After the risk evaluation is published, EPA starts risk management under TSCA and must meet the statutory deadline for final rulemaking in 2 years.

The risk evaluation for Part 1 was finalized on December 30, 2020.

There are 6 categories of conditions of use identified in Part 1 that are listed here on the slide.

There is a series of risk evaluation activities that preceded the final published risk evaluation. They are the scope document that was published on June 2017; the problem formulation document that was published on May 2018, and the draft risk evaluation that was published on April 2020.

Public comments and external scientific peer review informed the final risk evaluation for Part 1. And 111 public comments were received for the draft risk evaluation. The final risk evaluation incorporated public comments and peer review, and these documents can be found on the docket at regulations.gov.

Following the November 2019 decision of the Ninth Circuit Court in *Safer Chemicals Healthy Families v. EPA*, the Agency will also evaluate formerly termed "legacy uses" and associated disposals for asbestos. This will be called Part 2 of the risk evaluation. Part 2 will consider "legacy uses" and associated disposals for all six fiber types of asbestos listed here on the slide. The "Legacy uses" and associated disposals of Chrysotile Asbestos were not included in Part 1 and will be included in Part 2. "Legacy uses" and associated disposals are conditions of use for which manufacture (including import), processing and distribution no longer occur but where use and disposal are still known, intended, or reasonably foreseen to occur.

Part 2 of the risk evaluation will begin with a draft scope document that will be made available for public comment in mid-2021. This will be followed by a final scope document, a draft risk evaluation document for public comment, and then a final risk evaluation document.

Chrysotile Asbestos is a hydrated magnesium mineral that was used in products due to its fiber strength and heat resistance. Chrysotile Asbestos is currently manufactured, processed, distributed, used, and disposed of as part of industrial commercial and consumer conditions of use. There is no domestic mining of Chrysotile Asbestos. Raw Chrysotile Asbestos is imported and used in the manufacture of chloro-alkali diaphragm. The other product use categories are imported articles containing Chrysotile Asbestos. And they are imported sheets, imported gaskets, imported brake, and imported brake locks. Imported sheets are used in the manufacture of sheet gaskets.

Here is a life cycle diagram for Part 1.

The diagram flows from left to right starting with manufacture import and ending with disposal. The blue boxes you see are the conditions of use, assessed in Part 1 risk evaluation. 750 metric tons in 2018 and 100 metric tons in 2019 were imported to the United States to produce Chrysotile Asbestos-containing diaphragms and it is processed at 15 sites. You also see that an unknown volume of Chrysotile Asbestos-containing products, in which processing activities of sheet gasket stamping and cutting occurred to produce Chrysotile Asbestos-containing sheet gaskets. Disposal describes how Chrysotile Asbestos is disposed of for the conditions of use.

Slide 8 present 6 categories of conditions of use that were evaluated in the risk evaluation. They were Asbestos diaphragms, sheet gaskets, oilfield brake locks, aftermarket automotive brake/fuel linings, other vehicle friction products, and other gaskets.

Under TSCA Section 6(i)(1), EPA determined that none of the categories of conditions of use for Chrysotile Asbestos present an unreasonable risk to the environment. Under TSCA Section 6(i)(1), EPA determined that certain conditions of use of Chrysotile Asbestos do not present and unreasonable risk of injury to workers, occupational non-users, consumers, and bystanders. And they are imported Chrysotile Asbestos and Chrysotile Asbestos-containing products; distribution of Chrysotile Asbestos-containing products; use of Chrysotile Asbestos brakes for a specialized, large NASA transport plane; disposal of Chrysotile Asbestos-containing sheet gaskets processed and/or used in the industrial setting and asbestos-containing brakes for a specialized, large NASA transport plane.

You may wonder what the difference is between workers and occupation non-users and the difference between consumers and bystanders. The difference is that workers may handle Chrysotile Asbestos and have direct contact with it while occupational non-users are working or observing in the general vicinity, but do not directly handle Chrysotile Asbestos. The difference between consumers and bystanders is that consumers may handle Chrysotile Asbestos-containing products and articles and have direct contact with them, whereas bystanders are observing in the general vicinity, but do not directly handle Chrysotile Asbestos-containing products and articles.

Examples of occupational non-users include supervisors, managers, maintenance, and janitorial workers who may access the work area, but they do not perform tasks directly with Chrysotile Asbestos or Chrysotile Asbestos-containing products. An example of a bystander is an individual observing the brake work, or present within the garage during brake work.

EPA did not evaluate risk to the general population from any conditions of use, and unreasonable risk determinations do not account for any risk to the general population. Rather, it was concluded in the risk evaluation that EPA used authorities in TSCA Sections 6(d) and 9(b)(1) to determine that exposures to the general population from surface water, drinking water, ambient air, and disposal pathways fall under the jurisdiction of other environmental statutes administered by EPA, such as the Clean Air Act, Safe Drinking Water Act, and the Clean Water Act. The EPA offices responsible for implementing those Acts could address exposure pathways or risks associated with the conditions of use, hazards, and/or exposure pathway that was within the scope of Part 1 for general population.

EPA determined that certain conditions of use of Chrysotile Asbestos do present an unreasonable risk of cancer to worker, occupational non-users, consumers and bystanders from chronic inhalation exposures. The conditions of use are: processing and industrial use of Chrysotile Asbestos diaphragms in the chloro-alkali industry; processing and industrial use of Chrysotile Asbestos-containing sheet gaskets in chemical production; industrial use and disposal of Chrysotile Asbestos-containing brake blocks in oil industry; commercial use, consumer use and disposal of aftermarket automotive Chrysotile Asbestos-containing brakes/linings; commercial use and disposal of other Chrysotile Asbestos-containing vehicle friction products, and commercial use, consumer use and disposal of other Chrysotile Asbestos-containing gaskets

Cancer and non-cancer effects were the basis of unreasonable risk determinations to workers, occupational non-users, consumers and bystanders. Many conditions of use presented an unreasonable risk to workers due to chronic inhalation exposures in industrial and commercial settings. EPA does not assume occupational non-users, consumers and bystanders to be using personal protective equipment to reduce exposure to asbestos. Whereas workers wear personal protective equipment to reduce exposures to asbestos is required.

Under TSCA, EPA is required to take action to address chemicals that pose an unreasonable risk to human health or the environment. EPA must issue a TSCA section 6(a) rule following risk evaluation to address all identified unreasonable risks within two years. One year after the risk evaluation we have the proposed rule, and 2 years after the risk evaluation we have our final rule.

Specific requirements on consideration of alternatives, selecting among options and statement of effects apply to risk management rules. And this is where input from stakeholders and affected parties is critical to the process.

Now the next 2 slides, slides 13 and 14, show regulatory options for risk management before the rulemaking, and which entities are subjected to regulation under TSCA 6(a). They are: prohibit, limit or otherwise restrict manufacture, processing or distribution in commerce; prohibit, limit or otherwise restrict manufacture, processing or distribution in commerce for a particular use or for use above a set concentration; require minimum warnings and instructions with respect to use, distribution, and/or disposal; require recordkeeping, monitoring or testing; prohibit or regulate manner or method of commercial use and disposal by certain persons; direct manufacturers/processors to give notice of the unreasonable risk determination to distributors, users, and the public and replace or repurchase.

And the following entities are regulated for risk management under TSCA. TSCA provides authority to regulate entities, including distributors, manufacturers and processors, commercial users, entities disposing of chemicals for commercial purposes.

Slide 19 shows some of the examples for regulatory options for Part 1. They are: provide a prominent label securely attached to import container or product with specific directions, limitations, and precautions, or that describes the health endpoints; prohibit importing, processing, and distribution for particular conditions of use with unreasonable risks; mandate specific engineering controls and PPE at occupational sites; require importers, processors, and distributors to maintain ordinary business records and to provide downstream notification to help ensure regulatory information reaches all users in the supply chain; set an occupational air exposure limit, for example, an Existing Chemical Exposure Limit, and require monitoring of exposures in occupational settings; mandate administrative controls and system requirements at occupational sites, and require a haz com program to educate workers on label directions and warnings.

In promulgating any rule under TSCA Section 6(a), EPA must consider and publish a statement of effects of the rule based on reasonably available information with respect to effects and magnitude of exposure to human health, environment, and benefits of the chemical for various uses.

Under TSCA 6(c)(2)(a)(iv), EPA assesses the economic consequences of the rule and we assesses: the likely effect of the national economy, small business, technological innovation, the environment, and the public health; the costs and benefits of the proposed and final regulatory action and one or more primary regulatory alternatives; the cost effectiveness of the proposed regulatory action and one or more primary regulatory alternatives.

Slide 21 shows executive orders relevant to Section 6(a) rulemaking. I won't read them all out here, but you see that there are a number of executive orders here.

We're seeking information from the public to inform risk management for Part 1. We're looking for suggestions on effective methods that EPA can use to address the unreasonable risks. We're also looking for input on protective regulatory approaches; information related to controlling exposures, including current work practices, engineering and administrative controls; information on the central uses and impacts if the chemical were not available; identification of uses that have been phased out or can be phased out and that's no longer needed; any information on substitute chemicals that are safe and effective alternatives. And we're looking for suggestions on how EPA can further improve as regulatory processes are being more transparent.

In terms of management, we want to be transparent, proactive, and have meaningful engagement with the public, and we'd like to hear your input into the rulemaking. This includes one-on-one meetings, public webinars, and required consultations with state and local governments, Tribes, environmental justice communities, and small businesses. The extensive dialogue and input from stakeholders and effective parties can help the agency develop regulations that are practical and protective.

In developing risk management approaches, EPA consults with stakeholders, conducts site visits, develops an extensive network among all stakeholders to ensure informative and effective risk management solutions take place.

Opportunities for engagement include one-on-one meetings, Webinars and consultations with states, Tribes, small businesses, and environmental justice organizations and communities.

And here's some additional information to learn more about TSCA, and the latest information on risk management on the chemicals that EPA is currently working on. Along with contact information for Part 1 and general risk management outreach.

## Public Comment Period

### Eric Buckner

My name is Eric Buckner. I'm an inspector with the North Coast Air Quality in Northern California. As I'm looking at what you discussed under TSCA, I'm curious about the regulatory framework and control as you're looking at for the auto industry for brakes. And that's about it. I will just listen, thank you.

### Brent Kynoch

My name is Brent Kynoch, and I'm the Managing Director of the Environmental Information Association, or EIA. Our association is a non-profit membership organization, comprised of industry professionals, involved in that identification, management, and abatement of asbestos from buildings and facilities. For this reason, the term "legacy materials" is very important to us, because our members are focused on those asbestos materials that currently exist in buildings. On behalf of EIA, we applaud EPA for its efforts and completing Part 1 of the risk evaluation for asbestos. We applaud you for reaching the determination that all of us and, I mean, all of us in this meeting have known for decades that there is no such thing as a safe use of asbestos. Oh, sure you can import asbestos or distribute asbestos without unreasonable risk, but once you use asbestos, once you manipulate it or process it or install it, it presents an unreasonable risk. Part 1 has reached this determination, that is good. Now EPA, you need to finish your work. Your presentation outlined several regulatory options to respond to the determination of unreasonable risk. And all of the regulatory options outlined are already in place or had been tried in the past with the exception of one, a simple and outright ban of asbestos. A plethora of current federal state and local regulations require personal protective equipment, engineering controls, and notification regarding asbestos. Yet, even with those requirements in place, asbestos presents an unreasonable risk. It needs to be banned.

EPA, you took the easy way out in Part 1. You failed to respond to the ruling from the Ninth Circuit Court regarding legacy asbestos. You did not consider fiber types other than Chrysotile. You only looked at mortality rates related to asbestos exposure instead of incidences of cancer. Yet even with these shortcomings, you still determined that asbestos presents an unreasonable risk. Thank you. Now, do the hard work in Part 2 and I'm sure your determination of unreasonable risk will be even stronger. You owe that to everyone that looks to you for regulations and guidance.

Our recommendations are simple: Set and publish timetables for your Part 2 risk evaluation instead of just saying "Mid Summer;" do a thorough study of exposures to legacy asbestos; and in relation to the Part 1 risk evaluation, the only effective risk management option is a ban on asbestos.

In closing, let me offer an important thought. Earlier I said I believe that all of us involved in this meeting would agree that asbestos is dangerous and there's no safe level of exposure. Ethically all of us involved in this concern have a responsibility to act on that knowledge. Some of us can be swayed from that goal by procedure or policy or even financial considerations. Do you want to be exposed to asbestos? Do you want your children exposed to asbestos? I believe the answer is no. Then do the right thing. Put aside procedure or policy or finances and work to stop exposure. Thank you.

## Linda Reinstein

I'm Linda Reinstein, the co-founder of the Asbestos Disease Awareness Organization (ADAO) and a mesothelioma widow. Since 2004, ADAO, an independent non-profit organization, has been dedicated to preventing asbestos exposure to eliminate all asbestos caused diseases. As you know, asbestos, a known carcinogen, can still be found in our air, water, soil, on consumer shelves, and in millions of buildings. The EPA understood that asbestos presented an unreasonable risk, and they banned all six fiber types in '89. However, the ban was overturned by pro-asbestos industry legal action. Since then, the United States has consumed nearly 400,000 metric tons of asbestos and we buried 1 million Americans who've died from preventable diseases. Each year, nearly 40,000 more Americans die from these preventable diseases and imports and use continue. Attempting to manage the risk of asbestos has been grossly ineffective and deadly. We recognize and support EPA's determination and Part 1 Chrysotile Asbestos risk evaluation that six asbestos uses present an unreasonable risk to health. However, in other ways, the evaluation is dangerously flawed and incomplete.

No other country in the world has ever had an evaluation of only one fiber, two diseases, and limited conditions of use. In short, EPA failed to finish the job Congress gave it four years ago. Waiting for a separate Part 2 evaluation of legacy and five other fibers is unreasonable and will lead to increased preventable death.

Our position is that the six Chrysotile Asbestos uses found in Part 1 must be banned. ADAO commends EPA for determining these risks, and also to confirm that asbestos diaphragms, that the chloro-alkali industry uses, does indeed present an unreasonable risk. They must be banned.

According to the Chlorine Chemistry Division, in 2020, Olin and Occidental now have 10 plants in 6 states using asbestos diaphragms. That proves that suitable substitutes can be used without disrupting production or financial hardships to the company and end users. Asbestos is deadly and cannot be safely managed. In the US, there are more than 300 asbestos Superfund sites that endanger the surrounding communities, often of color and/or without access to care, every day. Towns like Libby, Montana; Ambler, Pennsylvania; Davidson, North Carolina reconfirm there is no safe level of asbestos and cleaning up corporate crimes is expensive in dollars and lives.

We urge EPA to promulgate a rule to prohibit imports and use. Americans can't wait. ADAO stands by you to work together. We urge you to act now. Thank you.

## Julie Goodman

Thank you again for the opportunity to speak today.

I am an epidemiologist and board-certified toxicologist at Gradient, a risk sciences consulting firm. And I'm speaking on behalf of Gradient today, but my time spent preparing these comments and attending this meeting has been funded by the National Stone, Sand, and Gravel Association.

In the TSCA Chrysotile risk evaluation, EPA calculated health risks based on studies of Chrysotile textile manufacturing workers, and concluded there are several occupational conditions, consumer uses, and disposal practices that present unreasonable risks to health. Now inputs to quantitative risk assessments like this one err on the side of being conservative when data to support more precise inputs are lacking. However, when data exists to refine inputs to risk estimates, these data should be considered.



Now while all the scenarios in the TSCA risk evaluation concern Chrysotile, longer Chrysotile fibers were used in products that relied on the fibers good tensile strength, such as yarns, cloths, and textiles. In short, Chrysotile fibers were used in products that took advantage of the fibers insulating, absorption, friction, and matrix reinforcement capacities. The physical and chemical properties of any elongate mineral particle are critical to understanding the potential risks. There is an abundance of evidence that demonstrates that shorter Chrysotile fibers are cleared from the lungs more efficiently than longer fibers. Numerous animal studies have confirmed a lack of fibrosis and tumorigenesis following exposure to high concentrations of short, i.e., less than 5 microns, Chrysotile fibers. And in addition, workers who manufactured or handled products containing short fiber Chrysotiles did not have increased lung cancer and mesothelioma risks. While those who were exposed to longer, thin Chrysotile fibers did. As such, risks for textile workers should not have been extrapolated to scenarios that involve exposures to the shorter Chrysotile fibers.

Furthermore, U.S. EPA applied a linear no threshold, or an LNT, model from the point of departure from two Chrysotile occupational epidemiology studies. Recent scientific evidence indicates that the LNT model overestimates cancer potency for DNA reactive substances and for substances that do not directly interact with DNA, such as Chrysotile Asbestos. An LNT model is even less biologically plausible.

Overall, the ability or inability of elongate mineral particles, like asbestos, to cause health effects varies by their mineralogy, have it linked with enviro-persistence, as well as factors that impact exposure such as whether the particles are embedded. These factors were not adequately considered in the TSCA Chrysotile risk evaluation. Rather this risk evaluation is based on any conservative assumptions, several of which the scientific evidence do not support. The reliance on these assumptions led to inappropriate conclusions regarding unacceptable risks. This should all be taken into account when risk management options are being considered. Thank you very much.

### Penelope Fenner-Crisp

Thank you. Today, I am presenting comments on behalf of the Environmental Protection Network, or EPN, which is an organization comprised of about 560 EPA alumni volunteering their time to protect the integrity of EPA, human health, and the environment.

When the draft risk evaluation for Chrysotile Asbestos was issued for both public review and comment last year, EPN, along with a number of other organizations, expressed a deep disappointment with the narrowness of its scope. For example, the focus on only one form of asbestos fiber rather than all, and the exclusion of consideration of its many legacy uses. Needless to say, we're pleased to see that the agency is committed to remedying the situation even though the decision was not voluntary, and we look forward to seeing an expansive and robust Part 2 in the near future.

We've known for many decades that asbestos is a human carcinogen. Many thousands of people have been sick and have died from exposure to it. The Part 1 final risk evaluation concludes that the most substantive conditions of use evaluated pose an unreasonable risk to public health, in both the occupational and consumer settings. It is time to proceed the rulemaking on an expedited timeline.

Mixed results have occurred in the past when EPA has attempted to mitigate risk to asbestos under TSCA. It promulgated the asbestos ban and phase-out rule in 1989. This rule was largely vacated shortly thereafter. A more recent action came in April 2019 when EPA finalized the asbestos SNUR under TSCA Section 5, which prohibits manufacturing, importing, and processing of the discontinued uses of

asbestos from restarting without EPA having an opportunity to evaluate each intended use for risk to health and the environment, and to take any necessary regulatory action which could include the prohibition. But the SNUR does not represent a permanent ban. The remaining uses are not eliminated, and the possibility exists that importing, processing, or manufacturing, as well as discontinued uses, could be approved in the future. In the comments EPN submitted on the draft risk evaluation in May 2020, it argued for proposal to ban the importation, manufacturing, processing, distribution, and use of all forms of asbestos for all commercial and consumer uses in the U.S., on an expedited timeline. Over 30 years have passed since the 1989 rule failed, during which time alternatives could have been developed.

There is no excuse for delaying action on a comprehensive, permanent ban any further. Thank you for your attention.

### Robert Sussman

I am Bob Sussman and I'm here today as counsel to the Asbestos Disease Awareness Organization. We support the findings of unreasonable risk for six asbestos uses in EPA's Part 1 evaluation. As EPA decides how to eliminate these risks, it should reject limited options, like greater use of PPE, labeling, or work practices that offer inadequate protection against one of the most lethal substances known to man.

We know that there is no safe level of exposure to asbestos, that OSHA regulations have failed to eliminate significant risks to workers, and that asbestos continues to kill nearly 40,000 Americans a year. These realities demand EPA move beyond the failed approaches of the past and ban the six asbestos uses determined to present unreasonable risks. Despite its findings of unreasonable risks to these uses, however, the Part 1 evaluation is incomplete. It does not recognize the full magnitude of the risk posed by asbestos. The many omissions and limitations in the evaluation were identified by EPA's Science Advisory Committee on Chemicals. These deficiencies include EPA's failure to address all asbestos fiber types, all cancers and non-cancer diseases linked to asbestos, asbestos contaminated consumer and industrial products, environmental releases of asbestos, risks to susceptible populations and aggregate risks from multiple sources of exposure. The SAC was also concerned that EPA had overlooked ongoing uses of asbestos that are known and easily documented.

A federal district court in California shared this concern and in late December ordered EPA to amend its TSCA chemical data reporting rule to require reporting by importers and processors of asbestos and asbestos-containing products. In short, the Part 1 evaluation omits pathways and uses that likely present unreasonable risks and does not fully recognize the magnitude of the few unsafe uses that it identified. EPA has announced a Part 2 evaluation to address the risk of ongoing use and disposal of legacy asbestos. We recommend that Part 2 not only address legacy asbestos but correct the many omissions and deficiencies in Part 1. We are concerned that Part 2 will not be comprehensive and timely and urge EPA to clarify its scope and commit to an enforceable deadline. Thank you.

### Robyn Brooks

Good afternoon my name is Robyn Brooks, and I'm Vice President of HESS at The Chlorine Institute. The Chlorine Institute is a 189-member not-for-profit trade association of chloro-alkali producers worldwide. The Institute's American producer members account for 91% of the total chlorine production capacity in the U.S. The Institute's mission chemicals are used throughout the economy and are paramount to the protection of public health. Chlorine chemistry is used many applications, including municipal drinking

water disinfection and as a raw material to produce sodium chloride, also known as household bleach. It is a raw material or intermediate for 88% of pharmaceuticals produced the U.S.

But in the United States, there are 10 large chlorine production facilities that use asbestos in the process, which account for 38% of installed capacity. Asbestos is an ideal substance to provide this barrier during the production process because of its mechanical strength, chemical resistance to both acids and bases of, a low electrical resistance, and physical structure that minimizes back-flow. It can last up to a year of long grid production before changing asbestos, as necessary. The facilities that use asbestos within the chlorine production process understand chlorine's important role as a building block for the chemical industry and have our best engineering and administrative controls to handle all parts of the production, including handling asbestos. The majority of the time the asbestos is used in the process. It is non-friable. All chlorine production facilities that utilize asbestos diaphragms have detailed procedures and controls for specially trained workers who handle it. As an industry, we have developed and adhere to self-imposed safety handling guidance since 1978, and individual companies have developed plans which must comply with NESHAPs for asbestos.

Facility process controls and procedures include: enclosed glove boxes and negative pressure air handling systems or remote back handling; HEPA filters; the use of modifiers as wet methods to render and maintain asbestos in a non-friable state; and administration controls, such as restricted access and permitting requirements. Respiratory protection is used by an employee who engages in asbestos work as an additional protection on top of the engineering and administrative controls. A comprehensive respiratory protection program has been implemented as required by OSHA, which includes the written program training fit testing for all employees required to use respiratory protection. Asbestos procedures dictate minimum PPE requirements for specific tasks. This is respiratory protection. The respiratory protection program outlined how respirators are properly selected, worn, and maintained following OSHA regulations.

CI commends EPA's assertion that the use of controls and respirators mitigates the exposure risk to acceptable levels. As EPA develops its risk management plan for asbestos, we will work with EPA to incorporate the longstanding OSHA regulatory protection and asbestos standards, and the role that PPE already plays and in keeping worker safe. The chloro-alkali industry has a proven track record of the safe use of asbestos within the chlorine production process. We look forward to working with EPA to maintain protections for this very essential workforce. Thank you for your time and assistance.

### Robert French

Thank you. My name is Robert French, and I'm a principal engineer at the EHS Alaska. And my comments are that I have been able to buy asbestos rocks online in both a raw mineral form as well as in carved and polished crystals and have also recently bought some gaskets for small engines online that had Chrysotile fibers in them. Some of the estimates of the amount of processed asbestos imports have been established as nearly 2 or 3 times the 100 metric tons of raw asbestos. And my comment is that many of those materials go directly to uninformed consumers who have no idea that they're buying asbestos products. As a consultant dealing with legacy uses, asbestos will continue to be a health hazard for millions of Americans unless the existing laws are effectively enforced. I also encourage the EPA to extend the asbestos regulations and enforcement to single family homes and other public and commercial buildings which are not currently covered by the NESHAPs regulations. That's the end of my comment. Thanks.

## Barry Castleman

Thanks so much. I want to note that the EPA agrees that asbestos diaphragms and gaskets and friction materials present unreasonable risks. We've heard today that the chlorine industry has now only 10 plants that still use asbestos diaphragms. There were 15 two years ago. EPA should find out about the ones that have gotten rid of asbestos and see how they can get the rest of the industry to do the same thing. The Chlorine Institute's own publication describes numerous ways in which asbestos exposures can occur in the chlorine industry. Regarding asbestos product imports, when I was a public health official in 1972, we circulated warnings to mechanics about the hazards of brake work and we found the warnings were very limited value- time hardened. Practices of the workers are very hard to change.

The only thing that's really worked is banning asbestos in things like brake and engine gaskets and that's what I hope you'll do. These products haven't been made in the United States for the last 20 years. And I testify as an expert witness in cases involving mechanics with great regularity. And I am sad to say there are many mechanics who number among the victims of mesothelioma and in whose cases I testify about the public health and corporate history of asbestos.

Further regarding imports, the US imported 85 metric tons of asbestos yarn and thread from Mexico in 2019, the last year we have records. EPA really needs to go and find out all the U.S. importers of asbestos yarn and thread, asbestos cement gaskets and brake pads, as long as these products continue to come in, and investigate the environmental hazards associated with that and the consumer and occupational hazards as well.

And finally, I just want to mention legacy asbestos is also very important, especially the vermiculite/tremolite installation in millions of people's attics, et cetera. This is something that EPA really should work on it an urgent way, especially now that we're dealing with this confinement that we all have and we're spending all this time in our homes. And last I just wanted to thank the civil servants at EPA who hung in there through the last four years. And I hope that now we can really get to work on protecting the environment in the way that those of you who are dedicated public servants have been hoping to do all this time, thank you very much.

## Closing Remarks from Sarah Swenson, U.S. EPA

Thank you all for your comments and for attending and for those of you who had any trouble connecting, we apologize for that. We will have the audio recording and transcript of the webinar available soon and it will be on that same web page where you found the agenda, and the slides. It is that page specific to the risk management for asbestos materials. And I think we can email around the link again as well once the materials are posted. The team here at the Office of Pollution Prevention and Toxics thanks you again and we look forward to a continuing dialogue on risk management under TSCA.

Thanks again for joining us, everyone.