

Environmental Justice Consultation Fact Sheet:

Proposed Rulemaking Under TSCA Section 6(a) for Asbestos, Part 1: Chrysotile Asbestos

Background Information for this Consultation

EPA is developing proposed regulations under section 6(a) of the Toxic Substances Control Act (TSCA) for Asbestos, Part 1 chrysotile asbestos (chrysotile asbestos) that EPA determined presents an unreasonable risk. EPA made this determination in 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 communities during this consultation and encourages participation and comments to inform EPA's upcoming proposed regulation. Input from all stakeholders is critical to the risk management process. EPA is committed to developing risk management actions for chemicals in a way that is transparent and includes proactive, meaningful outreach and education with the public and other stakeholders.

While outreach and stakeholder engagement on risk management activities for this chemical will continue to move forward, EPA is actively reviewing the final risk evaluation to ensure it uses the best available science and protects human health and the environment, in accordance with the Executive Orders and other direction provided by the Biden-Harris Administration. The Agency will keep stakeholders updated as decisions are made, and next steps are determined.

Asbestos, Part 1: Chrysotile Asbestos and EPA's Risk Evaluation

For this final risk evaluation for Asbestos Part 1: Chrysotile Asbestos, EPA assessed only chrysotile asbestos conditions of use because it is the only form of asbestos known to be imported, processed, or distributed for use in the United States.

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 asbestos; 100% of all imported raw asbestos (all chrysotile asbestos) is used in the manufacture of chlor-alkali diaphragms (750 metric tons in 2018 and 100 metric tons in 2019). The other product use categories are imported articles containing chrysotile, including chlor-alkali diaphragms, sheet gaskets, other gaskets, oilfield brake blocks, aftermarket automotive brakes/linings, and other vehicle friction products.

EPA found unreasonable risks to human health of chrysotile asbestos based on the following conditions of use.

- **Consumers and Bystanders:** EPA found unreasonable risks to consumers and bystanders from all consumer uses of chrysotile asbestos. Most consumer products containing chrysotile asbestos have been discontinued. Consumer products still available and for which EPA found unreasonable risk include aftermarket automotive brakes/linings and certain gaskets. Risks to consumers can come from the inhalation of chrysotile asbestos.

- Workers and Occupational Non-Users: Commercial chrysotile asbestos uses for which EPA found unreasonable risk to workers include chlor-alkali diaphragms, sheet gaskets, brake blocks, aftermarket automotive brakes/linings, other vehicle friction products, and other gaskets. Additionally, EPA found unreasonable risks to workers nearby but not in direct contact with chrysotile asbestos (known as occupational non-users) for the use of chlor-alkali diaphragms, sheet gaskets, brake blocks, and other gaskets. Risks to workers and occupational non-users can come from the inhalation (breathing in) of chrysotile asbestos.

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 described in the TSCA Title II definition (chrysotile, crocidolite, amosite, anthophyllite, tremolite or actinolite). “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 (e.g., *in-situ* building materials).

The risk evaluation was conducted pursuant to TSCA, as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, which requires EPA to evaluate the manufacture (including import), processing, distribution in commerce, use, and disposal of existing chemical substances and identify unreasonable risks to health or the environment. Public comments on and external scientific peer review of the draft risk evaluation¹ informed the development of the final risk evaluation. The final risk evaluation and supplemental materials are in docket EPA-HQ-OPPT-2019-0501, with additional materials supporting the risk evaluation process in docket EPA-HQ-OPPT-2016-0736, on www.regulations.gov. More information about the final risk evaluation is at <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/final-risk-evaluation-asbestos-part-1-chrysotile>.

Unreasonable Risks

EPA’s unreasonable risk determinations for Asbestos, Part 1: Chrysotile Asbestos are based on unreasonable risk of injury to health for workers and occupational non-users during occupational exposures, and for consumers and bystanders during exposures to consumer use. EPA’s unreasonable risk determination is due to mesothelioma (a rare form of cancer that is found in the thin lining of the lung, chest and the abdomen and heart), lung cancer, and other cancers from chronic (long-term) inhalation (breathing in) to chrysotile asbestos.

EPA determined Asbestos, Part 1: Chrysotile asbestos presents an unreasonable risk of injury to human health based on the following conditions of use.

¹ In 2016, the Office of Pollution Prevention and Toxics (OPPT) identified and selected asbestos as one of the first 10 chemicals for risk evaluation under section 6 of TSCA. EPA published the scope of the risk evaluation document in June 2017, the asbestos problem formulation document in May 2018, and the Asbestos, Part 1: Chrysotile Asbestos draft risk evaluation in April 2020. EPA held a peer review meeting of the Science Advisory Committee on Chemicals (SACC) on the draft risk evaluation of Asbestos, Part 1: Chrysotile Asbestos on June 8-11, 2020.

Conditions of Use of Asbestos, Part 1: Chrysotile Asbestos that Present an Unreasonable Risk

Processing and Industrial Uses that Present an Unreasonable Risk
<ul style="list-style-type: none"> • Chrysotile Asbestos Diaphragms in the Chlor-alkali Industry • Chrysotile Asbestos-Containing Sheet Gaskets in Chemical Production
Industrial Use and Disposal that Present an Unreasonable Risk
<ul style="list-style-type: none"> • Chrysotile Asbestos-Containing Brake Blocks in Oil Industry
Commercial and Consumer Use and Disposal that Present an Unreasonable Risk
<ul style="list-style-type: none"> • Aftermarket Automotive Chrysotile Asbestos-Containing Brakes/Linings • Other Chrysotile Asbestos-Containing Gaskets
Commercial Use and Disposal that Presents an Unreasonable Risk
<ul style="list-style-type: none"> • Other Chrysotile Asbestos-Containing Vehicle Friction Products

Risk Mitigation Approaches Under Section 6

Under TSCA section 6(a), 15 U.S.C. § 2605(a), “If the Administrator determines ... that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture, or that any combination of such activities, presents an unreasonable risk of injury to health or the environment, the Administrator shall by rule and subject to section 18, and in accordance with subsection (c)(2), apply one or more of the following requirements to such substance or mixture to the extent necessary so that the chemical substance or mixture no longer presents such risk.”

The table below summarizes regulatory options available under TSCA section 6(a).

The proposed regulation under development would address the unreasonable risk presented by the chemical. EPA is currently in the early stages of the rulemaking process and is interested in receiving information during this consultation to inform the development of regulatory options.

Options under TSCA Section 6(a)

TSCA Section	Option
6(a)(1)	A requirement (A) prohibiting the manufacturing, processing, or distribution in commerce of such substance or mixture, or (B) limiting the amount of such substance or mixture which may be manufactured, processed, or distributed in commerce.

TSCA Section	Option
6(a)(2)	A requirement (A) prohibiting the manufacture, processing, or distribution in commerce of such substance or mixture for (i) a particular use or (ii) a particular use in a concentration in excess of a level specified by the Administrator in the rule imposing the requirement, or (B) limiting the amount of such substance or mixture which may be manufactured, processed, or distributed in commerce for (i) a particular use or (ii) a particular use in a concentration in excess of a level specified by the Administrator in the rule imposing the requirement.
6(a)(3)	A requirement that such substance or mixture or any article containing such substance or mixture be marked with or accompanied by clear and adequate warnings and instructions with respect to its use, distribution in commerce, or disposal or with respect to any combination of such activities. The form and content of such warnings and instructions shall be prescribed by the Administrator.
6(a)(4)	A requirement that manufacturers and processors of such substance or mixture make and retain records of the processes used to manufacture or process such substance or mixture and monitor or conduct tests which are reasonable and necessary to assure compliance with the requirements of any rule applicable under this subsection.
6(a)(5)	A requirement prohibiting or otherwise regulating any manner or method of commercial use of such substance or mixture.
6(a)(6)	(A) A requirement prohibiting or otherwise regulating any manner or method of disposal of such substance or mixture, or of any article containing such substance or mixture, by its manufacturer or processor or by any other person who uses, or disposes of, it for commercial purposes. ²
6(a)(7)	A requirement directing manufacturers or processors of such substance or mixture (A) to give notice of such unreasonable risk of injury to distributors in commerce of such substance or mixture and, to the extent reasonably ascertainable, to other persons in possession of such substance or mixture or exposed to such substance or mixture, (B) to give public notice of such risk of injury, and (C) to replace or repurchase such substance or mixture as elected by the person to which the requirement is directed.

Potential Environmental Justice Impacts

EPA recognizes that decisions concerning TSCA section 6(a) regulations have consequences for stakeholders concerned about environmental justice issues. Environmental justice communities may be affected to the extent that individuals in these communities engage in the processing, industrial uses, commercial uses and disposal of chrysotile asbestos that EPA determined present an unreasonable risk.

In addition to general comments, EPA requests input on any disproportionate public health or economic impacts that the unreasonable risks presented by chrysotile asbestos may have in the context of environmental justice issues.

² A requirement under subparagraph (A) may not require any person to take any action which would be in violation of any law or requirement of, or in effect for, a State or political subdivision, and shall require each person subject to it to notify each State and political subdivision in which a required disposal may occur of such disposal.

Opportunity for Participation in Environmental Justice Consultation

E.O. 12898 aims to focus federal attention on the environmental and human health effects of federal actions on minority and low-income populations with the goal of achieving environmental protection for all communities. During this consultation process, EPA invites members of the public and national, local and non-governmental organizations, communities, and other interested stakeholders to participate in this process by attending the consultation sessions and providing written comments. After the conclusion of the Environmental Justice consultation process, all stakeholders are encouraged to also participate in the public comment process.

Additional Outreach

There are several opportunities for public and stakeholder engagement throughout the risk management process. This includes required consultations with certain groups, public meetings/webinars, one-on-one meetings with stakeholders, and public comment periods.

EPA is carrying out engagement opportunities in compliance with several executive orders. Some consultations will be open to the public, and in the interest of promoting transparency and encouraging participation, the dates and point of contacts for those consultation meetings will be listed on <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/current-chemical-risk-management-activities>.

Additionally, in support of EPA's commitment to implementing TSCA in an open and transparent manner, the Agency is organizing webinars on current risk management activities, including rulemaking such as this one. The purpose of these stakeholder engagement events is to educate stakeholders on various proposals, announcements, or policy decisions, as well as to provide a forum for the public to provide feedback or input during the risk management process.

EPA also holds meetings with stakeholders to educate them about TSCA implementation, listen to feedback and obtain information that will benefit EPA's work. Finally, as part of the rulemaking process, EPA will solicit and obtain comments on proposed rules. To do this, the Agency will open a public comment period for each proposed rule. These public comment periods relevant to TSCA implementation are announced by the Agency through press releases/listservs and by publication in the Federal Register.

Additional Information

For more information on this consultation or the rulemaking under TSCA section 6 for Asbestos, Part 1: Chrysotile Asbestos contact: Amanda Hauff, Office of Chemical Safety and Pollution Prevention's National Environmental Justice Program Manager, hauff.amanda@epa.gov, 202-566-0603 or Alie Muneer, Office of Pollution Prevention and Toxics, muneer.alie@epa.gov, 202-564-6369.

Risk management and upcoming outreach for Asbestos, Part 1: Chrysotile Asbestos:
<https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-management-asbestos-part-1-chrysotile-asbestos>

Asbestos, Part 1: Chrysotile Asbestos Final Risk Evaluation: <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/final-risk-evaluation-asbestos-part-1-chrysotile>

US EPA Nontechnical Summary of the Risk Evaluation for Asbestos, Part 1: Chrysotile Asbestos: https://www.epa.gov/sites/production/files/2020-12/documents/nontechnical_summary_of_the_risk_evaluation_for_asbestos_part_1.pdf