



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2021-0254; FRL-9347-06-OCSPP]

Asbestos Part 2 Supplemental Evaluation Including Legacy Uses and Associated Disposals; Draft Risk Evaluation Under the Toxic Substances Control Act; Notice of Availability, Webinar and Request for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is announcing the availability of and seeking public comment on a draft document titled “Draft Risk Evaluation for Asbestos Part 2: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos” and is announcing a webinar on May 13, 2024. EPA is evaluating legacy uses and associated disposals of asbestos including chrysotile asbestos, five additional fiber types, asbestos-containing talc, and Libby asbestos. EPA has used the best available science to preliminarily determine that asbestos poses unreasonable risk to human health.

DATES: *Webinar:* May 13, 2024, 3–4 p.m. EST. To receive the webcast meeting link and audio teleconference information before the meeting, you must register by 12 p.m. on April 25, 2024. To allow EPA time to process your request for special accommodations before the webinar, please submit your request to EPA by 5 p.m. EST on May 6, 2024.

Written comments: Submit your comments on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: *Webinar:* Register online at <https://usepa.zoomgov.com/meeting/register/vJIIfmgrjotGpHKg8v4EMI8cejAiOoZWbI>.

Special Accommodations: Please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments: Submit your comments, identified by docket identification (ID)

number EPA-HQ-OPPT-2021-0254, online at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: *For webinar information:* Chloe Durand, Project Management and Operations Division (7407M), Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency, 1201 Constitution Ave., NW., Washington, DC 20004; telephone number: (202) 564-8820; email address: durand.chloe@epa.gov.

For technical information: Peter Gimlin, Existing Chemical Risk Management Division (7404M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-0515; email address: gimlin.peter@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

This action is directed to the public in general and may be of particular interest to those involved in the manufacture, processing, distribution, use, and disposal of asbestos,-containing materials (ACMs) including construction professionals and individuals completing do-it-yourself (DIY) activities in buildings with ACMs, related industry trade organizations, non-governmental organizations with an interest in human and environmental health, state and local governments, Tribal Nations, and/or those interested in the assessment of risks involving chemical substances and mixtures regulated under TSCA. As such, the Agency has not attempted to describe all the specific entities that this action might apply to. If you need help determining applicability, consult the technical contact listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is the Agency's authority for taking this action?

The draft risk evaluation is issued pursuant to TSCA section 6, 15 U.S.C. 2605, which requires that EPA conduct risk evaluations on chemical substances and identifies the minimum components EPA must include in all chemical substance risk evaluations. Each risk evaluation must be conducted consistent with the best available science, be based on the weight of the scientific evidence, and consider reasonably available information. 15 U.S.C. 2625(h), (i), and (k).

C. What action is the Agency taking?

The Agency is announcing the availability of and soliciting comment on the document titled “Draft Risk Evaluation for Asbestos Part 2: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos,” which is available in the docket. EPA is also announcing a stakeholder engagement opportunity through a webinar where EPA will give an informational presentation on the document.

For more information about the TSCA risk evaluation process, which is the second phase of the EPA three phase process for ensuring the safety of existing chemicals, go to <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/how-epa-evaluates-safety-existing-chemicals>.

D. What should I consider as I prepare my comments?

1. Submitting CBI.

Do not submit CBI to EPA through <https://www.regulations.gov> or email. If you wish to include CBI in your comment, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR parts 2 and 703, as applicable.

2. Tips for preparing your comments.

When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. Background

When EPA designated asbestos as one of the first 10 existing chemicals to undergo risk evaluation under TSCA, as amended in 2016, the risk evaluation focused on chrysotile asbestos, the only type of asbestos fiber where manufacture (including import), processing, and distribution in commerce for use was known, intended, or reasonably foreseen in the U.S. In *Safer Chemicals, Healthy Families v. EPA*, 943 F.3d 397 (9th Cir. 2019) the court held that EPA's Risk Evaluation Procedural Rule (82 FR 33726, July 20, 2017 (FRL-9964-38)) should not have excluded “legacy uses” (i.e., uses without ongoing or prospective manufacturing, processing, or distribution) and “associated disposals” (i.e., future disposal of legacy uses) from the definition of conditions of use. As a result, the risk evaluation for asbestos was split into two parts.

1. *Asbestos (Part 1: Chrysotile Asbestos)*. The final risk evaluation for Asbestos (Part 1: Chrysotile Asbestos) was released in January 2021 (86 FR 89, January 4, 2021; FRL-10017-43), covering all intended, known, or reasonably foreseen import, processing, and distribution of chrysotile asbestos; uses of chrysotile asbestos that have been imported, processed, and distributed; and disposal of such chrysotile asbestos uses. The final rule to address the unreasonable risk identified in the Asbestos Part 1 risk evaluation was issued in March 2024 (89 FR 21970, March 28, 2024; FRL-8332-01-OCSP).

2. *Asbestos Part 2: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos*. Legacy uses and associated disposals of chrysotile asbestos, 5 additional fiber types, asbestos-containing talc, and Libby asbestos are the subject of the “Draft Risk Evaluation for Asbestos Part 2: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos” (also referred to as the Asbestos Part 2 Draft Risk Evaluation), which is scheduled to be finalized on or before December 1, 2024, per the consent decree in the case *Asbestos Disease Awareness Organization et al v. Regan et al*, 4:21- cv-03716 (N.D. Cal.).

In the Asbestos Part 2 Draft Risk Evaluation, EPA preliminarily concludes that asbestos,

as a chemical substance and as evaluated in part 1 and part 2 of the risk evaluation, presents an unreasonable risk of injury to health under its conditions of use. This single unreasonable risk determination for asbestos would replace the previous unreasonable risk determinations made for asbestos by individual conditions of use and supersede the determinations (and withdraw the associated order) of no unreasonable risk for the conditions of use identified in the TSCA section 6(i)(1) no unreasonable risk order. This draft determination does not alter any of the underlying technical or scientific information that informs the risk characterization in part 1, and as such the hazard, exposure, and risk characterization sections of part 1 are not changed by this revision.

III. Request for Public Comment

EPA seeks feedback on the assessment of risk for asbestos as presented in the Asbestos Part 2 Draft Risk Evaluation and welcomes specific input on each section of the Asbestos Part 2 Draft Risk Evaluation. EPA is also seeking input on the take-home exposure scenarios, as well as the non-cancer endpoints used to characterize risk. EPA also specifically seeks public comment on the draft single risk determination for asbestos where the Agency intends to determine that asbestos, as a chemical substance, presents an unreasonable risk of injury to health when evaluated under its conditions of use. However, EPA is not requesting public comment on the hazard, exposure, or risk characterization sections of part 1, as those sections remain unchanged.

EPA encourages all potentially interested parties, including individuals, governmental and non-governmental organizations, non-profit organizations, academic institutions, research institutions, and private sector entities to comment on the Asbestos Part 2 Draft Risk Evaluation.

To the extent possible, the Agency asks commenters to please cite any public data related to or that supports responses, and to the extent permissible, describe any supporting data that is not publicly available.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: April 9, 2024.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

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