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Environmental Protection Agency
Office of Pollution Prevention and Toxics
1200 Pennsylvania Ave. NW.
Washington, DC 20460-0001

March 14, 2017

RE: Meetings: Risk Evaluation Scoping Efforts Under Toxic Substances Control Act for Ten Chemical Substances, Docket Number: EPA-HQ-OPPT-2016-0736

Dear Sir or Madam:

The Chlorine Institute ("CI" or the "Institute") is a 190 member, not-for-profit trade association of chlor-alkali producers worldwide, as well as packagers, distributors, users, and suppliers. The Institute's North American Producer members account for more than 93 percent of the total chlorine production capacity of the U.S., Canada, and Mexico. The Institute's mission chemicals, namely chlorine, sodium hydroxide and potassium hydroxide, hydrogen chloride, and vinyl chloride monomer, are used throughout the U.S. economy and are paramount to the protection of public health.

With reference to the January 19, 2017 Federal Register Notice "Risk Evaluation Scoping Efforts Under TSCA for Ten Chemical Substances; Notice of Public Meeting" (82 FR 6545), CI members request the EPA allow for the continued use of asbestos in chlorine production.

Asbestos Use in Chlorine Production

Within the United States, there are 44 large chlorine production facilities and approximately 23% of those facilities use asbestos in the process. Chyrsotile asbestos is used to separate chlorine produced in the anolyte compartment from the hydroxide and hydrogen in the catholyte compartment of a diaphragm cell. Asbestos is an ideal substance to provide this barrier because of its mechanical strength, chemical resistance to both acids and bases, low electrical resistance, and a physical structure that minimizes back flow. The asbestos provides a key barrier, and can last up to a year or longer in production before changing the spent asbestos is necessary. A schematic of a diaphragm cell is available in *Chlorine Institute Pamphlet 137, Guidelines: Asbestos Handling for the Chlor-Alkali Industry*[1].

[1] *Chlorine Institute Pamphlet 137, Guidelines: Asbestos Handling for the Chlor -Alkali Industry*; the electronic version is free to download - https://bookstore.chlorineinstitute.org/mm5/merchant.mvc?Session_ID=3f7b902ffad1dd3ec4ce4928545300f2&Store_Code=ci2store&Screen=PROD&Product_Code=HE0137-HC&

EPA's Historical View of Asbestos in Chlorine Production

The EPA has been considering the uses of asbestos since at least the 1970s[2]. EPA and OSHA already have in place protective environmental[3] and health[4] standards that regulate the chlor-alkali industry's use of asbestos. In 1989, the EPA did not support a ban of asbestos in chlorine production processes because, in the EPA's words, "[e]xposure to asbestos during the life cycle of this product is limited because the product is generally fabricated on site, used saturated with solution, and disposed of while wet. Asbestos is not prone to be released into the ambient air during stages after product fabrication….Therefore, EPA specifically recommends that users of asbestos diaphragms use non-asbestos diaphragm cells in facilities that will accept them and in the design of new facilities. EPA does not believe a ban in is appropriate for this product category[5]."

TSCA Requires Efficient Review of Safe Uses

The TSCA asbestos risk assessment scope should recognize that because of i) EPA's previous review and findings regarding the process, ii) the environmental and health regulations already in place on the industry's use and iii) the limited and confined application of asbestos in the chlor-alkali manufacturing process, that this process can be carved out of the scope as allowed by TSCA and supported in the Congressional Record. TSCA Section 6(b)(4)(D) expressly allows the Administrator to identify specific conditions of use that he/she expects to consider. Congress carefully crafted this language recognizing different uses present different risks. Congressional Record S3519 (June 7, 2016)[6] states:

> [I]t is important to note that many TSCA chemicals have multiple uses—industrial, commercial and consumer uses. EPA has identified subcategories of chemical uses for regular chemical reporting requirements, so the Agency is well aware that some categories of uses pose greater potential for exposure than others and that the risks from many categories of uses are deemed negligible or already well controlled. The language of the compromise makes clear that EPA has to make a determination on all conditions of use considered in the scope but the Agency is given the discretion to determine the conditions of use that the Agency will address in its evaluation of the priority chemical. This assures that the Agency's focus on priority chemicals is on conditions of use that raise the greatest potential for risk. This also assures that the Agency can effectively assess and control priority chemicals and meet the new law's strict deadlines.

The Congressional recognition that TSCA should give the agency discretion when setting the scope to account to various risks and uses carries over into the discretion provided to EPA when conducting the

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[2] Asbestos Regulatory Activity - https://www.epa.gov/asbestos/us-federal-bans-asbestos#regulatory

[3] *National Emission Standards for Asbestos, National Emission Standards for Hazardous Pollutants*, 40 CFR Part 61 Subpart F.

[4] *Asbestos, Toxic and Hazardous Substances, Occupational Safety and Health Standards,* 29 CFR Section 1910.1001

[5] July 12, 1989 Federal Register, page 43 - https://www.epa.gov/sites/production/files/documents/nps57f.pdf

[6] June 7, 2016, Congressional Record S3419, page 9 - https://www.congress.gov/crec/2016/06/07/CREC-2016-06-07-pt1-PgS3511.pdf

risk assessment and risk management provisions of Section 6. TSCA Section 6(a) recognizes that EPA's risk management regulations must only promulgate additional regulations for those uses that pose a safety concern and that regulation may vary based upon the risk posed by each use. Where unreasonable risk is identified, EPA is directed under TSCA Section 6(a) to develop regulations so that the chemical no longer presents such risk. Likewise, when EPA determines that a chemical's condition of use does not pose a risk, as evaluated in Section 6(b)(4)(A), TSCA Section 6(i) directs EPA to issue an order completing the review without taxing agency resources to conduct a full rulemaking review. Supporting the Congressional intent of efficient review, EPA should build a process into the scope for issuing 6(i) findings of safe use for particular uses as the risk assessment review is progressing. Such a scope would allow agency resources to focus on chemicals and uses that require additional information and analysis while providing regulatory and business certainty where conditions of use have been deemed safe.

In the case of asbestos use in chlorine production, there are existing regulations and EPA has extensively studied this particular use and found a ban unnecessary.

Industry Guidance and Commitment

The Chlorine Institute publishes industry guidance, called pamphlets, which are generally updated every five years. *Pamphlet 137, Guidelines: Asbestos Handling for the Chlor-Alkali Industry*[7] was updated in March 2016 and contains guidance on how to safely handle asbestos, including personal protective equipment, receiving, storage, diaphragm depositing (i.e. removing spent asbestos and applying new asbestos), housekeeping, exposure monitoring, and more. The first version of *Pamphlet 137* was published in 1978 and has been updated with best practices by the chlorine industry since then. Additionally, Chlorine Institute members annually sign the Member Safety and Security Commitment, committing to audit their facilities and implement recommendations within CI's pamphlets, including *Pamphlet 137*.

The chlor-alkali industry has a proven record of the safe use of asbestos within the chlorine production process. CI members believe that with the effective controls currently in place, a scientifically based risk assessment of the chlor-alkali industry's use of asbestos in chlorine production will demonstrate that this use does not pose an unreasonable health risk to workers.

Thank you for your time and attention.

Best Regards,

Robyn Brooks | Director - Health, Environment, Safety and Security

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[7] *Chlorine Institute Pamphlet 137, Guidelines: Asbestos Handling for the Chlor -Alkali Industry*; the electronic version is free to download - https://bookstore.chlorineinstitute.org/mm5/merchant.mvc?Session_ID=3f7b902ffad1dd3ec4ce4928545300f2&Store_Code=ci2store&Screen=PROD&Product_Code=HE0137-HC&