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July 13, 2022

Peter Gimlin

Existing Chemicals Risk Management Division
Office of Pollution Prevention and Toxics
US Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460-0001
Submitted via www.regulations.gov

RE: Asbestos Part 1: Chrysotile Asbestos; Regulation of Certain Conditions of Use Under Section 6(a) of the Toxic Substances Control Act (TSCA) (Docket No. EPA-HQ-OPPT-2021-0057-0006)

Dear Mr. Gimlin:

The National Association of Clean Water Agencies (NACWA) appreciates the opportunity to comment on EPA's proposed rule to regulate chrysotile asbestos (87 FR 21706). NACWA represents the interests of 350 publicly owned wastewater treatment agencies nationwide, serving the majority of the sewered population in the United States. NACWA member utilities are responsible for treating the millions of gallons of wastewater produced by their communities each day, while meeting the requirements of the Clean Water Act (CWA).

NACWA fully appreciates the significant public health and environmental concerns presented by asbestos products. However, as our country looks for alternative technologies, NACWA is concerned about the potential significant consequences of this rule on public clean water utilities and their ability to protect public health and the environment through their wastewater treatment processes.

For many publicly owned treatment works (POTWs) across the country, chlorine and sodium hypochlorite remain the most effective method for wastewater disinfection. As EPA states in the proposed rule, approximately 30 percent of the chlorine supply in the U.S. is manufactured using asbestos membrane technology, and it will cost the chlor-alkali industry \$1.8 billion to change to other manufacturing technologies. A sudden prohibition of the use of asbestos technologies will almost certainly cause shortages and price increases for chlorine and other disinfection and treatment chemicals used by the water sector.

Switching from chlorine or sodium hypochlorite to other disinfection methods in a short period of time is not a realistic alternative for most POTWs due to costs or technical considerations. For POTWs, cost increases in chlorine and sodium hypochlorite will be passed on to their ratepayers and may cause other vital maintenance and investment in infrastructure to be deferred. To protect public health, the environment, and the nation's water infrastructure, any changes to the chlorine supply must be carefully considered and gradual, to allow supplies and costs to remain constant for utilities and allow other potential methods of disinfection to be evaluated and possibly utilized.

As EPA states in the proposed rule, "public drinking water and wastewater systems have experienced substantial price increases for chlor-alkali products related to supply shortages and COVID pandemic impacts." NACWA members have reported these price increases, as well as letters from suppliers warning about potential delays and shortages of chlorine. EPA also states that it "has insufficient information to fully assess the impact of this proposed rule on the cost or availability of water treatment chemicals." NACWA recommends that the Office of Pollution Prevention and Toxics work with EPA's Office of Water to conduct a thorough evaluation of how the proposed rule will affect the drinking water and wastewater utilities that rely on chlorine and other water treatment chemicals produced with asbestos membranes.

If EPA's evaluation shows significant impacts on the water sector, the Agency should use its authority under TSCA to grant an exemption for the use of asbestos in the production of chlorine and other chemical used in water treatment. The treatment of drinking water and wastewater meeting the conditions of providing a substantial benefit to health, the environment, and public safety and are important to the national economy and operation of critical infrastructure.

With or without this exemption, NACWA urges EPA to use the five-year maximum time allowed under TSCA to phase out chrysotile asbestos used by the chlor-alkali industry to protect the nation's supply of these vital disinfection and water treatment chemicals. EPA has proposed that the ban be complete within two years following the effective date of the final rule, which is 60 days after final rule promulgation. EPA's consultation with the chlor-alkali industry indicated that changing production to other technologies would take a significant amount of time.

To allow the industry time to make the expensive changes required in chlorine production and maintain stable supply chains, EPA should use the five-year maximum time allowed by TSCA to phase out asbestos membranes. A much longer timeline was used by the European Union, which enacted a ban effective in 2025, 19 years after the regulation was promulgated. Similarly, Canada's ban on asbestos membranes will be effective in 2029, 11 years after its regulation was promulgated. A longer timeline will still result in the environmental and health benefits that EPA seeks with this proposed rule, while allowing public drinking water and wastewater utilities to fulfil their crucial roles of supplying safe, clean water and sanitation to their communities.

NACWA Comments on Chrysotile Asbestos Proposed Rule
July 13, 2022
Page 3 of 3

Thank you for your consideration of these comments. Please contact me at 202-533-1836 or cfinley@nacwa.org if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Cynthia A. Finley". The signature is written in a cursive style with a large, stylized initial 'C'.

Cynthia A. Finley, Ph.D.
Director, Regulatory Affairs