



# AFL-CIO

AMERICA'S UNIONS

**American Federation  
of Labor and  
Congress of Industrial  
Organizations**

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July 13, 2022

Dr. Michal Freedhoff

Assistant Administrator for the Office of Chemical Safety and Pollution  
Prevention

U.S. Environmental Protection Agency

1200 Pennsylvania Ave. NW

Washington, DC 20460

**Re: Asbestos Part 1: Chrysotile Asbestos; Regulation of Certain Conditions  
of Use Under Section 6(a) of the Toxic Substances Control Act (TSCA);  
Docket ID: EPA-HQ-OPPT-2021-0057**

Dear Assistant Administrator Freedhoff:

The AFL-CIO is a federation of 57 national and international unions and we represent more than 12.5 million working people in their workplaces. The AFL-CIO and North America's Building Trades Unions (NABTU) are writing to express our strong support for EPA's proposal to ban uses of chrysotile asbestos. Our unions represent workers in a broad range of industries including manufacturing, construction, first responders, education, transportation, utilities, and others; in private and public sectors; in stationary and mobile workplaces. Our members work side-by-side with millions of non-unionized workers. Asbestos has been a pervasive workplace hazard for decades, and continues to expose workers on the job causing lung cancer, mesothelioma and other debilitating and deadly health conditions.

The AFL-CIO and unions have been integrally involved with the passage and implementation of both the original 1976 Toxic Substances Control Act and the 2016 Frank R. Lautenberg Chemical Safety Act for the 21st Century Act. Throughout history, the labor movement has been the central voice in advocating on behalf of workers exposed to asbestos, including through the development and implementation of OSHA and EPA regulations to protect workers, and legislative efforts to compensate asbestos victims for their diseases. The AFL-CIO supported EPA's effort to ban uses of asbestos in 1989, which was eventually overturned by the U.S. Court of Appeals for the Fifth Circuit, as well as the 1986 International Labor Organization Convention on Asbestos and the successful efforts at the 2006 ILO Conference to adopt a resolution calling for elimination of the future use of asbestos worldwide.

It is workers and their unions who have faced the serious, widespread and tragic effects of continued use of asbestos as well as the ongoing hazards posed by "legacy" asbestos—a term used to describe the majority of ongoing exposures caused by previously installed asbestos—and who have fought tirelessly to reduce or eliminate workplace exposures. When Congress amended TSCA, its clear intent was to authorize EPA to ban asbestos exposures.

We strongly support EPA in finally taking action to protect workers and prohibit current, ongoing, uses of chrysotile asbestos, and we urge the agency to finalize the proposed rule without alternatives or delay.

Each year, an estimated 40,000 people in the United States still die from asbestos-related cancers and respiratory disease.<sup>1,2</sup> The World Health Organization has declared that there is no safe level of asbestos, and that the most effective way to prevent asbestos-related disease is to ban all types of asbestos.<sup>3</sup> These declarations are supported by the EPA's risk determination for chrysotile asbestos and the current proposal to ban the known uses of the substance.<sup>4</sup> As there is no safe level of asbestos, EPA must not allow a *de minimis* provision for exposure to chrysotile asbestos. An exception to the proposed asbestos ban for concentrations of chrysotile of less than 0.1% by weight or any other *de minimis* alternative would expose workers to a level of asbestos known to cause unreasonable risk under the law.

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<sup>1</sup> Institute for Health Metrics and Evaluation. 2021. 2019 Global Burden of Disease database. Accessed on July 12, 2022. Accessed at [vizhub.healthdata.org/gbd-results/?params=gbd-api-2019-permalink/e42ad5d4422141c71c08eafd0e78dbf8](https://vizhub.healthdata.org/gbd-results/?params=gbd-api-2019-permalink/e42ad5d4422141c71c08eafd0e78dbf8).

<sup>2</sup>Furuya S, Chimed-Ochir O, Takahashi K, David A, Takala J. Global Asbestos Disaster. Int J Environ Res Public Health. 2018 May 16;15(5):1000. doi: 10.3390/ijerph15051000. PMID: 29772681; PMCID: PMC5982039.

<sup>3</sup> World Health Organization. 2014. Chrysotile asbestos. ISBN: 9879241564816.

<sup>4</sup> U.S. Environmental Protection Agency. December 2020. Risk Evaluation for Asbestos Part 1: Chrysotile Asbestos. EPA Document: EPA-740-R1-8012.

Additionally, the alternative that EPA is considering an EPA ECEL of 0.005 is insufficient to reduce unreasonable risk to chrysotile. When OSHA last considered asbestos regulation in 1994, it determined that employers could not feasibly reduce exposures to asbestos below 0.1 f/cc. Absent significant technological changes since then, it is unlikely an ECEL of 0.005 f/cc could feasibly be achieved through engineering controls. Therefore, as a practical matter, setting an exposure limit that low would require employees to wear respirators all day every day at work. Respirators are notoriously uncomfortable and have limitations that can make them ineffective for long durations. Pretending that they represent adequate protection for workers exposed to asbestos would be contrary to OSHA's regulatory policy and ineffective to accomplish EPA's duty to eliminate unreasonable risk.

The AFL-CIO and union signatories therefore support EPA's proposed ban, and its rejection of the alternative of setting an existing chemical exposure limit (ECEL), for chrysotile asbestos. However, we strongly support the model EPA set out in its proposal for use in developing future risk management rules for toxic chemicals for which an ECEL can be established: to require that occupational exposures be reduced through the NIOSH/OSHA hierarchy of controls to the extent feasible. 87 FR 21718. This approach recognizes that relying on respiratory protection for managing occupational exposures is inadequate. In the future, if an existing chemical exposure limit (ECEL) is established for a substance, EPA must not allow employers to rely primarily on the use of respiratory protection to reduce occupational exposures and EPA should instead require employers to follow the hierarchy of controls, which requires implementation of specific engineering and administrative control measures proven to be effective at reducing occupational exposures before considering respiratory protection. As EPA noted, entities regulated by OSHA are already familiar with exposure limits and the proper use of the hierarchy of controls built into methods of compliance requirements. 87 FR 21718.

EPA is also proposing to require regulated entities to follow existing disposal requirements required by OSHA and EPA National Emission Standards for Hazardous Air Pollutants. EPA can and should ensure that disposal and recordkeeping requirements in a final regulation address unreasonable risks from occupational exposures during and after disposal for improved hazard control. The proposed disposal and recordkeeping requirements would only apply where EPA had determined unreasonable risks exist from disposal of chrysotile asbestos. EPA has asked for comment on expanding these requirements to all asbestos disposal occurrences; and the AFL-CIO strongly urges that whenever asbestos is disposed of, it must be done in a safe manner, at minimum according to existing standards, and documented. Because chrysotile asbestos was so widely used in many building products in prior years, EPA should assume that all disposal of asbestos potentially includes chrysotile asbestos. Therefore, EPA's risk management rule for disposal of chrysotile should apply to all asbestos disposal.

EPA is also proposing to require disposers of asbestos, as well as manufacturers, importers and processors to maintain asbestos disposal records for at least five years. We also strongly urge the agency to explicitly apply the same recordkeeping requirements to all property owners. OSHA requires property owners to determine if there is asbestos present and to inform employers and employees. Requiring them also to maintain these records would provide EPA with a mechanism to ensure that past asbestos uses do not result in continued unreasonable risks to other individuals.

Lastly, if EPA anticipates it will need exposure monitoring data to inform its decision-making, EPA should work with OSHA to obtain the monitoring data that OSHA already requires employers to maintain. EPA should also make use of its authority to require manufacturers and distributors to do additional monitoring.

In conclusion, a ban of chrysotile asbestos and an assessment of the risks of in-place asbestos that EPA is currently undertaking through their Asbestos: Part 2 efforts are crucial to working people's lives and livelihoods. While the work is not over to prevent all adverse health effects from asbestos, EPA action to ban chrysotile is long overdue. The AFL-CIO and NABTU strongly support EPA's proposal to protect workers and communities from chrysotile asbestos and urges these protections be finalized expeditiously.

Sincerely,

Rebecca L. Reindel, MS, MPH  
Safety and Health Director, AFL-CIO

Chris Trahan Cain, CIH  
Director of Safety and Health, NABTU