April 4, 2017

Wendy Cleland-Hamnett
Acting Assistant Administrator
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington DC 20460

Re: *Extension of Comment Period for Rulemaking on Methylene Chloride and N-Methylpyrrolidone under Section 6(a) of TSCA: Docket No. EPA-HQ-OPPT-2016-0231*

Dear Ms. Hamnett,

On March 17, 2017, the Halogenated Solvents Industry Association (HSIA) requested a 120 day extension of the comment period on EPA's proposed rule restricting paint removal applications of methylene chloride (MC) and N-methylpyrrolidone (NMP) under section 6(a) of the amended Toxic Substances Control Act (TSCA).[1] The current comment period, which closes on April 19, is 90 days in duration. If granted, the requested extension would provide industry with an unprecedented 7 months to comment on the MC/NMP proposal.

Our organizations strongly oppose the HSIA extension request. The proposed rule is essential to protect hundreds of thousands of workers and consumers against serious and widespread risks of adverse health effects. Any delay in completing the rulemaking would jeopardize public health and violate the requirements of TSCA. HSIA's rationale for this delay is flimsy and without substance and reflects a troubling focus on its members' commercial interests at the expense of timely action to eliminate a well-documented chemical threat.

To justify the proposed extension, HSIA says it is "aware that commenters are working with a number of outside technical experts who will assist in addressing various elements of the EPA proposal, including EPA's economic assessment, its hazard and exposure assessments and its alternatives." HSIA does not identify who these "commenters" are and which "outside technical experts" they have engaged. Nor does it provide any details on the tasks that the experts are performing, what their precise relevance to the rulemaking might be, and how long the work effort will take. And nowhere does HSIA explain why the expert analyses cannot be completed in the ongoing 90 day comment period but require an additional four months.

In short, HSIA's case to extend the comment period is vague and undocumented and rests on purported expert analyses of unknown scope, relevance and duration that are being undertaken for unidentified third parties. EPA should deny the extension as lacking any credible basis.

Even apart from the lack of meaningful supporting information, HSIA's request should be denied based on its own foot-dragging in developing information relevant to EPA's rulemaking. Its March 17 letter fails to explain why the "expert" analyses now underway were only initiated when EPA issued its MC/NMP proposal in January and not at earlier stages of EPA's evaluations of these chemicals, which began nearly five years ago.

[1] 82 Fed. Reg. 7432 (January 19, 2017).



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EPA issued a final IRIS assessment for MC in 2011. OPPT then released a draft MC risk assessment in 2012 and finalized it in 2014. NMP in paint and coating removal was identified as a TSCA priority in 2013, and a draft risk assessment was issued in 2013 and finalized in 2015. Supplemental EPA analyses on NMP were made available in 2016.

At multiple points in this lengthy process, opportunities were available to comment on EPA's identification of the hazards of MC and NMP and its assessment of exposure pathways and levels and resulting risks. Indeed, as the proposal notes, EPA conducted discussions with experts on and users of paint removers and convened a Small Business Advocacy Review Panel on MC and NMP paint stripper products to order to capture additional industry input. These outreach efforts were intended to give HSIA and others a vehicle for providing economic and exposure data and easily could have prompted industry to retain experts to assist EPA in developing its proposed rule. To now grant an additional 120 days for expert analyses that could have been conducted months and even years earlier would be to reward industry for sitting on its hands.

The hazards that MC and NP pose to health are unusually serious and well-documented in animal and human studies. The voluminous evidence of these hazards is presented in great detail in the record for EPA's proposal and numerous supporting materials. MC is acutely toxic and can cause incapacitation, coma and death as well as severe neurological effects: over 50 deaths from short-term exposure have been reported. MC also causes numerous forms of cancer. NMP has demonstrated developmental toxicity in numerous studies and thus is a threat to the health of unborn children. EPA's proposal indicates that 40,000 workers and 2 million consumers are exposed to MC or NMP in paint stripper applications. Exposure during these uses is largely uncontrolled and risk levels significantly exceed EPA's established benchmarks for unsafe chemical exposure.

In light of the serious health threats to a large population from MC and NMP exposure, there is a compelling public interest in expeditious rulemaking to restrict these chemicals under TSCA. Nothing HSIA has presented in its extension request provides any basis for compromising this public interest.

Section 26(l)(4) of amended TSCA expressly authorizes section 6(a) rules on chemicals (like MC and NMP) for which EPA has completed risk assessments under the old law. Rules based on pre-enactment risk assessments must be "consistent with other applicable requirements of section 6." One such requirement under section 6(a) is that where – as here – EPA determines that uses of a chemical "present an unreasonable risk of injury," the Agency "shall by rule" apply requirements to the chemical "necessary so that [it] no longer presents such risk." A related requirement under section 6(c)(1) is that upon making a determination of unreasonable risk for a chemical, EPA must propose a rule restricting the chemical within one year and finalize that rule one year thereafter.

In sum, any further delays in the MC and NMP rulemaking -- or an indefinite failure to finalize it at all -- would violate TSCA requirements as well as deny protection to a large population of exposed workers and consumers from serious and unacceptable health risks.

For these reasons, we urge EPA to deny HSIA's request to extend the comment period for the MC and NMP paint removal rulemaking.

If you have any questions, please contact SCHF counsel, Bob Sussman, at bobsussman1@comcast.net or 202-716-0118.

Sincerely yours,

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cc:
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Docket No. EPA-HQ-OPPT-2016-0231



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