American Thoracic Society

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August 10, 2018

Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: Asbestos: Significant New Use Rule (RIN: 2070-AK45)

On behalf of the 16,000 members of the American Thoracic Society, I appreciate the opportunity to comment on EPA's proposed rule, Asbestos: Significant New Use Rule (RIN: 2070-AK45). Asbestos continues to be a significant health risk in the U.S and worldwide and warrants continued regulatory attention by EPA and other federal agencies.

The American Thoracic Society (ATS) is a medical professional society of over 16,000 members dedicated to the prevention, detection, treatment, cure and research of pulmonary disease, critical care illness and sleep disordered breathing. Occupational exposure to asbestos fibers continues to be an important occupational health risk for asbestos related lung disease. ATS members have unique experience in detection, treatment, prevention and research on asbestos related diseases. It is with this expertize that we offer the following comments:

The Proposed Rule

The proposed rule provides a list of products that are currently free of asbestos fibers. The proposed rule requires that if any company seeks to add asbestos fibers to the listed products, the company must first file a Significant New Use Rule (SNUR) request to EPA for review and evaluation. EPA then has the authority to review the SNUR and either grant or reject the request based on the available information and the likely health risk posed by the new use of asbestos in the reference product. In order to justify this regulatory review, EPA provides summary information in the proposed rule on the health hazards of asbestos, including the risk of highly fatal lung cancer and mesothelioma, and non-cancer effects such as respiratory and immune system impairment associated with exposure to asbestos.

The ATS Recommends Banning the Use of Asbestos in the Listed Products
The ATS notes that all the products impacted by the proposed rule are currently available for use in the U.S. in asbestos-free formulations. We are unaware of any deficiencies in either the availability or performance of these products caused by their asbestos-free formulations. The U.S. market has adjusted well to the use of asbestos-free alternatives to products that historically contained asbestos, and the ATS sees no need to return a known highly carcinogenic substance to these products. Rather than institute a process to possibly restore asbestos – a known highly carcinogenic substance – to these products, the ATS strongly recommend banning the use of asbestos in these and all products.

Revised TCSA Gives EPA Authority to Ban Asbestos
The ATS further recognizes that in 1991, nearly 30 years ago, EPA attempted to ban asbestos under the Toxic Substances Control Act (TSCA), but this action was blocked by a federal court. The ATS notes that Toxic Substances Control Act has been recently amended and strengthened by Congress. The ATS believes the revised Act strengthens the EPA's authority and obligation to re-initiate regulatory action to ban the use of asbestos in all products.

Incorporation of a Public Notice and Comment Process in Asbestos Related SNUR Application
Should EPA nevertheless proceed with a SNUR review process, and not pursue a total ban as recommended by the ATS, we strongly urge EPA to add a 60 day notice and public comment period for any review and consideration of asbestos-related SNURs. The proposed rule does not ensure that the public is given justification for new use of a known carcinogen in an existing product, and does not give the public the opportunity to review and comment on the likely risk of re-introducing asbestos a proposed product. The lack of transparency in the EPA review process for re-introducing asbestos to specific products, and the lack of any public notice and comment period, are highly concerning to the ATS.

The ATS is challenged to envision a scenario where re-introducing asbestos into currently asbestos-free products is justified. Exposures to asbestos causes highly lethal lung cancer and mesothelioma. Our physician ATS members continue to diagnose new cases of mesothelioma each year that were caused by exposure to asbestos-containing products that occurred decades ago. Those products are asbestos-free today, and therefore the incidence of mesothelioma is finally starting to decline. In short, the ATS believes there is no circumstance that would justify re-introduction of asbestos into products that are currently asbestos-free. Rather than propose a process (without opportunity for public review and comment) for re-introducing asbestos to existing products, the ATS recommends that EPA should use its expanded authority under the Toxic Substances Control Act to once again pursue a ban on all asbestos-containing products.

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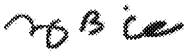
The ATS appreciates the opportunity to comment on this proposed rule and again urges the agency to use its regulatory authority to reduced human exposure to asbestos fibers.

Sincerely,



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