



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

March 30, 2020

Robert M. Sussman
Safer Chemicals Healthy Families
641 S St NW, 3rd Flr
Washington, DC 20001

Sent via email to:

bobsussman1@comcast.net

Re: Imminent and Serious Health Risks from Acute Consumer and Worker
Exposure to 1-Bromopropane, Methylene Chloride, and Trichloroethylene

Dear Mr. Sussman, et al.:

Thank you for your letters of October 9, 2019, November 8, 2019, and March 6, 2020. We appreciate your engagement as EPA continues to protect human health and the environment through its implementation of the Toxic Substances Control Act (TSCA) as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act.

Your letters express concerns about health risks associated with 1-bromopropane (1-BP), methylene chloride (MC), and trichloroethylene (TCE), based on the *draft* risk evaluations that EPA published on August 9, 2019, October 29, 2019, and February 26, 2020, respectively. Your letters specifically ask EPA to take *immediate* actions, including listing 1-BP, MC, and TCE under TSCA section 5(b)(4), issuing and broadly disseminating health advisories, and sending letters to users and manufacturers urging them to take action. Your letters also encourage EPA to use its TSCA section 7 “imminent hazard” authority to require certain actions by 1-BP, MC, and TCE manufacturers, users, producers or sellers of products containing these chemicals. You also specifically asked that the Agency finalize its proposed 2017 bans on specific MC and TCE uses.

On December 19, 2016, EPA published a list of 10 chemical substances that are the subject of the Agency’s initial chemical risk evaluations, as required by TSCA section 6(b)(2)(A), and 1-BP, MC, and TCE are among those 10 chemicals currently undergoing risk evaluation. The risk evaluations are not final, and EPA has not yet made a final determination on whether any conditions of use present unreasonable risk and would warrant risk management action as stipulated in TSCA section 6(a). As explained in the *draft* risk evaluations, the preliminary conclusions and assessments presented may change as the result of public comments and peer review input. As described in the problem formulation documents for 1-BP and TCE, EPA is including the conditions of use from its proposed rules in the ongoing risk evaluations for these chemicals. EPA has concluded that the Agency’s assessment of the potential risks from these chemicals will be more robust if the potential risks are evaluated by applying

standards and guidance developed under the amended TSCA. In addition, draft risk evaluation for MC includes commercial paint and coating removal uses.

As you know, on March 27, 2019, EPA finalized a prohibition on the manufacture (including import), processing, and distribution in commerce of MC for consumer paint and coating removal, including distribution to and by retailers, and other notification and recordkeeping requirements. In addition, on March 27, 2019, EPA solicited comments, through an advance notice of proposed rulemaking, on questions related to a potential training, certification, and limited access program as an option for risk management for the commercial use of methylene chloride in paint and coating removal. EPA also included commercial paint and coating removal uses in the draft risk evaluation for MC.

EPA is reasonably declining to use its discretion to list these three chemicals under TSCA section 5(b)(4).¹ The Agency is currently focusing its efforts and resources on the TSCA section 6(b) risk evaluation process for 1-BP, MC, TCE, and the other first 10 chemicals. It is not clear that adding these chemicals to this type of list, which would require the Agency to undergo a potentially lengthy and resource intensive rulemaking process, would further increase the transparency of EPA's draft risk determinations or otherwise meaningfully affect the Agency's risk evaluation. EPA has sought public comments and peer reviewers' input throughout the risk evaluation process for 1-BP and MC. EPA received comments from the Science Advisory Committee on Chemicals (SACC) and stakeholders related to the *draft* risk evaluations for 1-BP and MC. EPA is currently taking public comments on the draft risk evaluation for TCE until April 27, 2020 and we encourage you to submit comments and any information you may have on TCE to the docket EPA-HQ-OPPT-2019-0500. EPA is holding a virtual public meeting of the TSCA SACC to review the draft risk evaluation for TCE on March 24-27.

In response to your requests to issue and broadly disseminate health advisories and to send letters to certain manufacturers, users, sellers of products containing these chemicals, EPA believes it is premature to take actions designed to protect against *draft* preliminary conclusions and assessments prior to finalizing the risk evaluations. Taking such actions prior to completing the risk evaluations would circumvent the process that was established by Congress to develop final risk evaluations, and any necessary risk management regulation(s). EPA has not yet made final risk determinations for 1-BP, MC, or TCE under their conditions of use, which must precede any risk management action on the chemicals under TSCA section 6(a). As noted above, public and peer reviewer comments have recently been or will soon be submitted on the draft risk evaluations and will be taken into consideration in developing the final risk evaluations for 1-BP, MC, and TCE. While EPA's review of these comments may not change the final unreasonable risk determinations of these chemicals under any particular condition of use, the comments may impact the health or exposure assessment or risk characterization, which may have implications for any necessary risk management. EPA is following applicable statutory and regulatory processes and requirements for evaluating specific chemicals, and if necessary, will manage unreasonable risks from existing chemicals under their conditions of use. This does not suggest that EPA is unconcerned with any potential risk associated with these chemicals; rather, the Agency is scrupulously following a specific and multistep process set forth by TSCA section 6. EPA will seek public comments during any subsequent risk management for 1-BP, MC, TCE, and the other first 10 chemicals in accordance with its statutory and regulatory obligations.

¹ The statutory text is discretionary and merely provides that EPA "may, by rule," compile a list of chemical substances that present or may present an unreasonable risk; EPA is not compelled to exercise this authority.

Your letters also encourage EPA to use section 7 “imminent hazard” authority to require certain actions by 1-BP, MC, and TCE manufacturers and users. EPA has not made any “imminent hazard” findings for these chemicals under TSCA section 7 and therefore is not requiring action under section 7. EPA reiterates that the *draft* risk evaluations and the associated *draft* risk determinations for 1-BP, MC, and TCE represent the Agency’s preliminary conclusions that have been or will be peer reviewed by independent scientific experts as well as open to public comments. If EPA’s final risk evaluations find there are unreasonable risks associated with any of these chemicals under any condition of use, the Agency will propose actions to address those risks within the timeframe required by TSCA. EPA’s risk management regulations under TSCA section 6(a) could take the form of labeling, notifications, restrictions, and bans. However, any proposed or final determination that a chemical substance presents unreasonable risk under TSCA section 6(b) is not the same as a finding that a chemical substance is “imminently hazardous” under TSCA section 7.

An “imminently hazardous chemical substance or mixture” is defined in TSCA section 7(f) as “a chemical substance or mixture which presents an imminent and unreasonable risk of serious or widespread injury to health or the environment, without consideration of costs or other nonrisk factors.” EPA has discretionary authority under TSCA section 7 to make a finding of imminent hazard and has not made any such finding for 1-BP, MC, or TCE, in the *draft* risk evaluations or elsewhere. As noted previously, EPA is focusing its efforts and resources on completing the TSCA section 6(b) risk evaluation process and finalizing risk determinations for these chemicals and the other first 10 chemicals.

Thank you again for your letter and your continued interest in TSCA.

Sincerely,

Alexandra Dapolito Dunn, Esq.
Assistant Administrator