

November 30, 2020

Alexandra Dapolito Dunn
Assistant Administrator for Chemical Safety and Pollution Prevention
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Extension of Comment Period for 1,4-Dioxane Supplemental Risk Evaluation
(EPA-HQ-OPPT-2019-0238)

Dear Assistant Administrator Dunn:

The Environmental Protection Network (EPN) is joining other organizations in requesting that the Environmental Protection Agency (EPA) extend the public comment period for its draft supplemental analysis to the draft risk evaluation for 1,4-dioxane under the Toxic Substances Control Act (TSCA) by an additional 40 days in order to address the significant issues raised in the supplemental analysis.

We further ask EPA to request the Science Advisory Committee on Chemicals (SACC) to conduct a peer review of this document because it is a major expansion in the scope of the original draft 1,4-dioxane risk evaluation.

The supplemental analysis adds eight conditions of use involving consumer products in which 1,4-dioxane is present as a byproduct and for the first time assesses general population exposures to ambient water through recreational swimming. These exposure pathways were not considered in the original draft risk evaluation. We have serious reservations about EPA's conclusions that these conditions of use do not present an unreasonable risk of acute or chronic cancer or non-cancer health effects. As you are aware, section 18 of TSCA preempts states from taking action where EPA has acted under the statute. Thus, a finding of no unreasonable risk by EPA would undercut actions currently being taken by New York and California to restrict 1,4-dioxane in consumer products. Therefore, if EPA underestimates the risks of 1,4-dioxane to consumers in its supplemental draft analysis, the agency will adversely impact millions of Americans by limiting the power of states to protect public health.

The minimum allowable comment period for actions taken by the agency is 30 days under the Administrative Procedure Act (APA). The normal comment period is 60 or 90 days. Consistent with

EPA's risk evaluation framework rule, past comment periods for TSCA risk evaluations have been 60 days or longer. However, EPA has provided only 20 days for the public to provide comments on the 1,4-dioxane supplemental analysis. As noted above, this evaluation is a significant action with far-reaching implications for state programs and consumer protection. In addition, the comment period occurs during the Thanksgiving holiday, further limiting the available time for meaningful analysis and drafting of comments. Moreover, stakeholder organizations like EPN require time to not only analyze the supplemental analysis and draft comments but to assure adequate review within their organizations prior to submission to the agency. This is a challenge to accomplish in a comment period of 30 days or more; it is virtually impossible to provide well-considered comments in only 20 days, and, in any case, such a truncated comment period would violate the APA and EPA's TSCA regulations, as discussed above.

EPA needs to operate on a level playing field. It has not escaped our notice that EPA granted a request from the chemical industry for a 20-day extension of the public comment period for the agency's revised draft risk evaluation for Pigment Violet 29 (PV-29), resulting in a total of 50 days to file comments, 30 days longer than for 1,4-dioxane. 1,4-dioxane is a far more consequential chemical than PV-29, which has narrower uses and impacts a far smaller population than 1,4-dioxane. We are requesting a 40-day extension because EPA's draft supplement analysis is effectively a new risk evaluation for eight conditions of use and one major exposure pathway for this substance, all involving consumers or the general population. Our requested extension would result in a total comment period of 60 days, which is the minimum amount of time required by EPA's TSCA risk evaluation regulations (40 C.F.R. § 702.49(a)). The broadened scope of the risk evaluation also mandates further peer review by the SACC if EPA is to be consistent with its policies. The SACC reviews have provided constructive feedback for EPA's risk evaluations, and we urge EPA to submit the supplemental analysis to the SACC for peer review.

Given the short period of time remaining before comments are due, we request a prompt response to our request.

Sincerely,

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Cc: Yvette T. Collazo Director, Office of Pollution Prevention and Toxics