

**Alaska Community Action on Toxics • Alliance of Nurses for Healthy Environments • BlueGreen Alliance • California Communities Against Toxics • Clean Power Lake County • Coming Clean • Earthjustice • Environmental Justice Health Alliance for Chemical Policy Reform • Environmental Protection Network • Environmental Working Group • Louisiana Environment Action Network • Moms for a Nontoxic New York • Natural Resources Defense Council • Rubbertown Emergency ACTION • Safer Chemicals Healthy Families • Sierra Club • Union of Concerned Scientists • Women’s Voices for the Earth**

January 26, 2022

**Submitted via e-mail and regulations.gov**

Dr. Alaa Kamel  
Office of Chemical Safety and Pollution Prevention  
Environmental Protection Agency  
1200 Pennsylvania Ave. NW  
Washington, DC 20460-0001

**Re: Request for Comment Period Extension on Toxic Substances Control Act (“TSCA”) Screening Level Approach for Assessing Ambient Air and Water Exposures to Fenceline Communities Version 1.0, Docket No. EPA-HQ-OPPT-2021-0415**

Dear Dr. Kamel:

The undersigned organizations respectfully request that Environmental Protection Agency (“EPA”) extend the deadline for public comment on EPA’s draft TSCA Screening Level Approach for Assessing Ambient Air and Water Exposures to Fenceline Communities Version 1.0 (the “Fenceline Analysis Methodology”) by 30 days, from February 22, 2022 to March 24, 2022. The Fenceline Analysis Methodology is critically important, as it will guide EPA’s calculations of chemical exposures and risks in the communities where toxic chemicals are manufactured, used, disposed, and released. It is also a highly technical, 200-plus-page document, filled with complex modeling parameters and risk equations. To enable meaningful review and comment by the communities that are most affected by the Fenceline Analysis Methodology, we urge EPA to, at a minimum: (1) extend the comment period by at least 30 days; (2) provide a non-technical summary of the document and its intended use under TSCA so EPA can receive input from groups and individuals without advanced technical capacity; and (3) conduct targeted outreach to impacted communities to inform them of the current comment period.

TSCA requires EPA to evaluate risks to communities that are exposed to toxic chemicals through, among other pathways, the air they breathe; the water they drink; and the soil they live on, grow food in, and play in. *See* 15 U.S.C. § 2605(b)(4) (requiring EPA to “determine whether a chemical substance presents an unreasonable risk of injury to health or the environment . . . including an unreasonable risk to a potentially exposed or susceptible subpopulation”). The Trump administration unlawfully excluded those environmental exposure pathways from the ten risk evaluations it conducted under TSCA, and thus failed to address risks to the most exposed communities. We support EPA’s decision to revisit that exclusion and to evaluate exposures to

communities surrounding polluting facilities. To ensure that EPA's new risk determinations reflect the real-world exposures that those communities experience, EPA must solicit and consider their input on the Fenceline Analysis Methodology.

The current 32-day comment period does not provide impacted communities with sufficient time to review and comment on EPA's proposed methodology. In addition, the current comment period is inadequate for EPA to conduct appropriate government-to-government consultation with affected Tribal communities. The Fenceline Analysis Methodology affects hundreds of communities across the country, many of which have no prior experience with TSCA and are currently dealing with an escalating pandemic as well as other challenges. Consistent with its TSCA regulations, EPA provided at least 60 days for public comment on each TSCA risk evaluation. 40 C.F.R. § 702.49(a). A document that will determine how EPA evaluates community exposures across multiple evaluations deserves no less opportunity for review and comment.

In addition to extending the comment period, EPA should provide a non-technical summary of the Fenceline Analysis Methodology, as EPA did for the ten risk evaluations it conducted under the 2016 TSCA Amendments.<sup>1</sup> The Fenceline Analysis Methodology calculates community exposures and risks using a methodology that is inaccessible to many residents of those communities who lack the scientific expertise and resources needed to evaluate—much less comment on—EPA's exposure modeling and risk determinations. To allow those residents to participate more meaningfully in the public comment process, EPA should provide a non-technical summary of its methodology, and it must provide adequate time for public comment after that document is made available.

Finally, impacted communities cannot submit comments unless they are aware of both the Fenceline Analysis Methodology and the pending comment period. While the Fenceline Analysis Methodology calculated the risks to hundreds of communities exposed to methylene chloride, 1-bromopropane, and n-methylpyrrolidone ("NMP") in their air and/or water, the document does not identify the communities covered by those analyses or the facilities that are causing that risk. Instead, residents would need to find that information in separate, chemical-specific spreadsheets on the regulations.gov docket that bear the cryptic and heavily abbreviated titles: "SF FLA Environmental Releases to Ambient Air for 1-BP" and "SF FLA Environmental Releases to Ambient Air for MC." EPA should conduct targeted outreach to fenceline communities, many of which EPA has identified during the preparation of the Fenceline Analysis Methodology, and it should work with EPA's Office of Environmental Justice, the National Environmental Justice Advisory Council, and the White House Environmental Justice Advisory Council to ensure that communities are informed of the current comment opportunity.

We understand that EPA has scheduled a peer review meeting on its Fenceline Analysis Methodology for March 15-17, 2022, and we encourage EPA to share public comments received before that meeting with the peer review panel. For parties who wish for their comments to be

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<sup>1</sup> See, e.g., EPA, *Nontechnical Summary of the Risk Evaluation for Methylene Chloride* (June 2020), [https://www.epa.gov/sites/default/files/2020-06/documents/mc\\_final\\_re\\_nontechnical\\_summary.pdf](https://www.epa.gov/sites/default/files/2020-06/documents/mc_final_re_nontechnical_summary.pdf); EPA, No. 740R18008, *Nontechnical Summary of the Risk Evaluation for Trichloroethylene* (Nov. 2020), [https://www.epa.gov/sites/default/files/2020-11/documents/tce\\_nontechnical\\_summary\\_finalre.pdf](https://www.epa.gov/sites/default/files/2020-11/documents/tce_nontechnical_summary_finalre.pdf).

considered by the peer review panel, EPA can specify a date by which such comments should be received, as it has multiple times in the past.<sup>2</sup> In particular, we urge EPA to request comments to the Science Advisory Committee on Chemicals to be submitted by March 7, 2022 and for all other comments to be submitted by March 24, 2022.

Given the approaching comment deadline, we appreciate your prompt response to this request. If you have any questions, please contact Jonathan Kalmuss-Katz at [jkalmusskatz@earthjustice.org](mailto:jkalmusskatz@earthjustice.org).

Respectfully submitted,

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<sup>2</sup> See, e.g., 1-Bromopropane (1-BP); Draft Toxic Substances Control Act (TSCA) Risk Evaluation and TSCA Science Advisory Committee on Chemicals (SACC) Meetings; Notice of Availability and Public Meetings, 84 Fed. Reg. 39,830 (Aug. 12, 2019); Draft Toxic Substances Control Act (TSCA) Risk Evaluations and TSCA Science Advisory Committee on Chemicals (SACC) Meetings; Cyclic Aliphatic Bromide Cluster (HBCE) and 1,4-Dioxane; Notice of Availability and Public Meetings, 84 Fed. Reg. 31,315 (July 1, 2019).

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cc: EPA Assistant Administrator Michal Freedhoff