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

Re: Comments of the National Association of Manufacturers; Request for Information on Legacy Uses of Asbestos for TSCA Section 6(a) Risk Management for Asbestos, Part 2; Docket No. EPA-HQ-OPPT-2025-0036

Dear Assistant Administrator Troutman:

The National Association of Manufacturers (NAM) respectfully submits this letter in response to the U.S. Environmental Protection Agency's (EPA) *Request for Information on Legacy Uses of Asbestos for TSCA Section 6(a) Risk Management for Asbestos, Part 2*, (Jun. 23, 2026) (Asbestos Part 2 RFI). The NAM appreciates the opportunity to provide information to strengthen the Agency's exposure and economic analysis required for promulgating TSCA Section 6(a) rules and supports the EPA's efforts to ensure analyses are supported by accurate information.

The NAM is the voice of the manufacturing community and the leading advocate for a policy agenda that supports and empowers the 13 million people who make things in America. As the largest manufacturing association in the U.S., the NAM's membership includes businesses of all sizes, across all industrial sectors, and in all 50 states. Manufacturers collectively contribute \$2.9 trillion to the U.S. economy—and predictable, commonsense regulations are critical to sustaining the manufacturing strength that underpins our nation's prosperity.

Manufacturers own and operate facilities in which legacy asbestos-containing materials (ACM) may remain installed in buildings, utility systems, electrical equipment, and industrial machinery. Those materials may be encountered during maintenance, repair, renovation, equipment failure, or removal. Manufacturers with such facilities commonly manage these potential encounters with ACM through awareness training, identification and communication procedures, stop-work protocols, controlled work practices, and qualified outside contractors. Existing regulatory frameworks under the Occupational Health and Safety Administration (OSHA) and EPA already manage risks associated with these activities at manufacturing facilities.

The NAM commends the Agency for taking steps to fill information gaps necessary to effectively address the final Part 2 risk evaluation determination of unreasonable risk to human health and cautions the Agency against implementing duplicative regulatory measures through risk management proceedings.

I. Cross-Cutting Risk-Management Principles to Consider

Congress designed TSCA to complement other federal authorities, filling remaining gaps in the protection of workers and the public without creating unnecessarily duplicative or inconsistent

regulatory frameworks.¹ Section 9 of TSCA reinforces that design by directing the EPA to coordinate with other federal agencies and to administer TSCA in a manner that minimizes the burden of duplicative requirements.² The December 2024 EPA–OSHA Memorandum of Understanding supports this approach by outlining expectations for clear communication of the agencies’ respective requirements and coordination throughout the development of TSCA Section 6 regulations and subsequent implementation.³ While Section 9 of TSCA only specifically requires the EPA to report to Congress on actions taken to coordinate with other departments or agencies, manufacturers recommend that in pursuit of transparency and consistency the EPA should document its coordination with OSHA and other agencies on individual regulatory developments and evaluate the extent to which existing federal asbestos requirements already address the exposures driving unreasonable-risk determinations. Where existing regulations under another statute can address the risk to a sufficient extent, the EPA should avoid layering duplicative TSCA requirements.

Workplace activities occurring at manufacturing facilities that disturb asbestos-containing material (ACM) are already subject to an extensive federal regulatory framework, including the asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP), OSHA’s asbestos standards for general industry and construction, and, where applicable, EPA asbestos worker-protection and accreditation requirements. It is important for the EPA to distinguish work that falls below a particular asbestos NESHAP quantity threshold from work that is outside federal regulation altogether. The NESHAP thresholds do not create exemptions from OSHA’s asbestos construction standard. Coverage under OSHA’s construction standard is determined by the work operation and extends to covered employee exposure during demolition, removal, encapsulation, alteration, repair, maintenance, renovation, emergency cleanup, and related onsite handling and disposal.⁴ In addition, the EPA’s Asbestos Worker Protection Rule, 40 C.F.R. Part 763, Subpart G, extends OSHA-equivalent asbestos protections to certain state and local government employees who otherwise would not be covered.⁵

Congress also expanded federal asbestos accreditation requirements through the Asbestos School Hazard Abatement Reauthorization Act (ASHARA), which extended the EPA’s Model Accreditation Plan (MAP) requirements to asbestos abatement activities in public and commercial buildings, a category that expressly includes industrial buildings, warehouses, and factories.⁶ These requirements further demonstrate that the applicability of federal asbestos protections cannot be determined simply by reference to the NESHAP quantity thresholds. The EPA should therefore accurately characterize this existing regulatory baseline and should not presume that projects below a certain NESHAP threshold are uncontrolled. The NAM believes these established regulatory frameworks provide substantial protections for employees and other persons performing asbestos-related work at manufacturing facilities, and that additional overlapping requirements under TSCA risk management could create unnecessary duplication, inconsistency, and compliance confusion.

¹ The House Energy and Commerce Committee Report state, “H.R. 2576 reinforces TSCA’s original purpose of filling gaps in Federal law that otherwise did not protect against the unreasonable risks presented by chemicals”, H. Rep. No. 114-176 (114th Cong., 1st Sess.) at 28.

² 15 U.S.C. § 2608(a), (c), (d).

³ Memorandum of Understanding Between the U.S. Environmental Protection Agency and the Occupational Safety and Health Administration on Toxic Substances Control Act Section 6 Activities, <https://www.epa.gov/system/files/documents/2025-01/epa-and-osh-tasca-section-6-mou.pdf>.

⁴ 29 C.F.R. § 1926.1101.

⁵ 40 C.F.R. §§ 763.120–763.123. The EPA Worker Protection Rule applies OSHA’s asbestos standards to certain state and local government employees not otherwise protected by OSHA.

⁶ Asbestos School Hazard Abatement Reauthorization Act of 1990; 40 C.F.R. Part 763, Subpart E, Appendix C. The EPA explains that ASHARA expanded MAP requirements to asbestos abatement projects in public and commercial buildings. The MAP definition of “public and commercial building” expressly includes industrial buildings, warehouses, and factories.

Risk management actions should also align with TSCA Section 6(a) directive to apply risk-management requirements only “to the extent necessary” so that the substance no longer presents the unreasonable risk identified by the Agency.⁷ A durable rule should therefore connect each requirement to the activity, exposure pathway, and population it is intended to protect. For each proposed measure, the EPA should disclose the exposure assumptions, frequency and duration inputs, variability, uncertainty, confidence judgments, and decision criteria used to the selected control.

Transparency about uncertainty is especially important where the risk evaluation used modeled scenarios or sparse activity data. The Agency should avoid establishing regulatory requirements that effectively presume widespread exposure solely from the presence of legacy asbestos-containing materials. Exposure and risk determinations should be based on activity-specific conditions, material characteristics, accessibility, likelihood of disturbance, and the weight and quality of available exposure data. Where the datasets upon which EPA bases its findings are limited, uncertain, or incomplete, it is especially important that the Agency acknowledge those limitations and avoid broad extrapolations that may not reflect actual exposure conditions.⁸

II. Demolitions and Renovations Disturbing Asbestos-Containing Materials

At manufacturing sites, the size of demolition or renovation projects alone does not determine whether prescriptive federal regulatory requirements apply. Employee-performed work, including “demolition, removal or encapsulation, alteration, repair, maintenance, renovation, spill or emergency cleanup, and related onsite handling and disposal activities” remains subject to OSHA’s construction asbestos standard, and state or local asbestos requirements may apply even when the federal NESHAP quantity thresholds are not exceeded.

Manufacturers already take steps to ensure that employees who may encounter ACM complete in-house Asbestos Awareness Training where they are trained to recognize suspected ACM, stop work once ACM is suspected, and follow facility procedures for determining how the material should be managed.

At facilities where legacy asbestos is present, some members report employing accredited asbestos inspectors in-house to identify and sample suspect ACM. When an in-house inspector is not available, the facility engages an accredited inspector if ACM identification is needed. Members also report that, in some circumstances involving small quantities of suspected material, it may be more practical to presume that the material contains asbestos rather than sample it and to perform the work using the applicable asbestos precautions and controls.

For larger quantities of ACM (e.g., thermal system insulation) or when surfacing materials are disturbed, members reported hiring accredited asbestos abatement contractors to perform work. Members also reported that in certain instances (e.g. smaller projects) designated employees have been trained to perform limited Class II, Class III, or Class IV work as defined by OSHA 1926.1101. Those employees use controls as required by OSHA under asbestos construction standard (i.e., isolating the area, wetting methods, encapsulation, personal protective equipment, etc.). The specific combination of controls depends on the material, condition, task, work classification, and exposure assessment.

III. Legacy asbestos sheet gaskets

⁷ 15 U.S.C. § 2605(a).

⁸ See, e.g., Bailey et al. (1988) and Marin, the two studies identified by EPA as supporting unreasonable-risk findings for occupational non-users during demolition and renovation activities. The underlying datasets are limited in scope and may not be representative of the range of contemporary workplace conditions. These limitations underscore the importance of considering data quality, uncertainty, and representativeness when evaluating exposure potential and extrapolating findings across a broader universe of facilities and activities.

Members from the electric utility sector reported a very limited number of installed asbestos-containing gaskets in specialized high-temperature applications. It was estimated that there are fewer than five legacy asbestos sheet gaskets at a site, with replacement tied to equipment failure, and occurring approximately once every one to three years.

Members report that asbestos removal beyond limited, trained in-house work is generally performed by qualified asbestos-abatement contractors. Those contractors may possess the most relevant task-specific exposure-monitoring records.

OSHA's general industry asbestos standard or construction asbestos standard cover occupational exposure during gasket removal and the handling and disposal of resulting waste at manufacturing facilities.⁹ Which OSHA standard applies depends on the nature of the work. Both standards address exposure assessment and monitoring, engineering and work-practice controls, respiratory protection, training, hazard communication, housekeeping, and waste disposal.

OSHA has supplemented these standards with an extensive and specific body of implementation guidance addressing asbestos-containing gaskets. OSHA's 1995 clarification used refinery gasket removal to explain when monitoring data may support objective-data determination.¹⁰ Its compliance directive and subsequent interpretation letters¹¹ address, among other matters, the distinction between general-industry and construction work; classification as Class II or Class III work; competent-person determinations; intact versus non-intact removal; negative exposure assessments; wet methods and local exhaust ventilation; glove-bag requirements; respiratory protection and protective clothing; and labeling and waste disposal. The NAM recommends that the EPA treat this mature, task-specific framework as sufficient to address the unreasonable risk identified in the risk evaluation.

Regarding the use of respirators, OSHA's asbestos standards and respiratory protection standard provide prescriptive requirements for employers on the use and fit testing of respirators. Under OSHA's construction standard, respirator requirements depend on the work classification, condition of the gasket, use of wet methods, ability to remove the material intact, availability of a valid negative exposure assessment, and measured exposure.¹² Under the general-industry standard, respirator use similarly depends on whether feasible engineering and work-practice controls are available and sufficient to meet OSHA's exposure limits.¹³

As OSHA's standards demonstrate, compliance with an exposure limit is evaluated through the hierarchy of controls and a task-specific exposure assessment, not inferred from a nominal assigned protection factor (APF) alone. Whether a respirator reduces a particular worker's exposure to 0.005 f/cc or less depends on the measured concentration, respirator selection, fit and use, the respiratory-protection program, and implementation of the underlying engineering and work-practice controls.

IV. Other Legacy Products Containing Asbestos

⁹ 29 C.F.R. § 1910.1001; 29 C.F.R. § 1926.1101.

¹⁰ Occupational Exposure to Asbestos; Corrections, 60 Fed. Reg. 33,973, (June 29, 1995).

¹¹ *Applicable Asbestos Standard for Replacing a Rubber Encapsulated Asbestos Gasket*, Standard Interpretation (Sept. 10, 2003), <https://www.osha.gov/laws-regs/standardinterpretations/2003-09-10>; *Classification of Removal of Asbestos-Containing Gaskets; Requirement to Conduct Removal in a "Glove Bag,"* Standard Interpretation (Apr. 5, 2007), <https://www.osha.gov/laws-regs/standardinterpretations/2007-04-05>; *Numerous Questions on the Removal of Asbestos-Containing Gaskets*, Standard Interpretation (Nov. 10, 2011), <https://www.osha.gov/laws-regs/standardinterpretations/2011-11-10>.

¹² 29 C.F.R. § 1926.1101(b) (defining Class II and Class III asbestos work), (f)(2)(iii) (negative exposure assessments), (g)(8)(iv) (gasket-removal controls), (g)(9)(i), (v) (Class III work), and (h)(1)(ii)–(vii) (circumstances requiring respirator use)

¹³ 29 C.F.R. § 1910.1001(f)(1)(i)–(ii), (g)(1)(i)–(iii) (requiring engineering and work-practice controls where feasible and respiratory protection while such controls are being implemented, where they are infeasible, or where they are insufficient to reduce exposure to OSHA's limits).

Manufacturers manage legacy ACM through awareness training, identification and labeling, stop-work procedures, controlled maintenance, and engaging qualified asbestos abatement contractors. Many legacy materials are installed, enclosed, or inaccessible. It is not feasible, without significant expense and potential economic consequences, for manufacturers to complete a unit-by-unit inventory or plan for abatement of all legacy asbestos that may exist at existing facilities. Locating every concealed component throughout a decades-old industrial facility could require intrusive inspection that may itself disturb ACM and create unnecessary worker exposure.

While a complete inventory may not be feasible, this does not diminish existing identification and communication duties under OSHA or applicable state laws. A lack of a complete national unit count is not evidence that facilities lack asbestos-management procedures.

Manufacturers report finding ACM on a reoccurring basis in the following uses: arc chutes; electrical panels; pipe wrap and insulation; asbestos-cement or transite materials; floor tile and mastic; window glazing; mastic-coated concrete masonry unit walls; Rockbestos wire; cable wrap; gaskets; and valve packing.

Manufacturers train employees to recognize suspect ACM, stop work to minimize the risk of exposure, and to notify an accredited asbestos inspector to conduct an assessment and collect samples. Prior to collecting samples of suspect ACM, accredited asbestos inspectors will utilize different controls to minimize exposure during sample collection. These controls may include isolating the sample area, spraying with amended water, and wet cleanup of the sample area.

For the limited number of in-house employees trained to conduct Class II, Class III, or Class IV work as defined by OSHA, manufacturers implement required controls before and during the work, including wet methods, controlled removal, leak-tight wrapping or containerization where practicable, labeling, and regulated disposal. Where applicable, air monitoring conducted during the work is analyzed to evaluate worker exposure and document the effectiveness of the controls used. Those results may then support a Negative Exposure Assessment demonstrating that employee exposures associated with the operation are expected to remain below the applicable OSHA exposure limits under the assessed conditions. Any work involving friable asbestos is completed by a qualified asbestos abatement contractor required to comply with applicable OSHA and EPA requirements.

V. Air-Sampling Methods and Laboratory Testing Capabilities

Should EPA consider establishing an exposure-monitoring-based compliance framework for legacy asbestos, the NAM urges the Agency to carefully assess the scope and frequency of monitoring that may be required. Facilities with large physical footprints and extensive legacy infrastructure could face substantial logistical and analytical burdens associated with establishing representative baseline exposure data, without providing commensurate benefits to lowering worker exposure. Manufacturers also ask EPA to consider the extent to which existing asbestos management programs and abatement-specific exposure assessment practices reduce uncertainty regarding potential exposures and limit the incremental value of broad facility-wide monitoring requirements.

The NAM does not have national data showing the number, geographic distribution, staffing, and throughput of laboratories able to conduct the particular TEM analysis. Relatively few laboratories appear available for routine TEM analysis and that TEM instrumentation is substantially more expensive than PCM equipment.

Additionally, a member reported TEM analysis is approximately 900 percent more expensive than PCM analysis and has an approximate ten-day turnaround time, compared with five days for PCM.

Longer turnaround times or delayed results due to lack of laboratory capacity for a specific test could hold a work area open longer, increase production-loss costs, and prolong facility disruption.

* * * *

The NAM appreciates the EPA's request for practical information before proposing an Asbestos Part 2 Rule. In developing risk management actions, manufacturers urge the EPA to recognize the controls already required and used at covered workplaces. The NAM looks forward to working with the Agency as it develops the proposed rule.

Sincerely,

A handwritten signature in black ink, reading "Reagan Giesenschlag". The signature is fluid and cursive, with the first name "Reagan" and last name "Giesenschlag" clearly legible.

Reagan Giesenschlag
Director, Chemicals, Materials, and Sustainability Policy

A handwritten signature in black ink, reading "Christopher Phalen". The signature is fluid and cursive, with the first name "Christopher" and last name "Phalen" clearly legible.

Christopher Phalen
Vice President, Domestic Policy