COMMITTEE ON
ENERGY & COMMERCE
CHAIRMAN FRANK PALLONE, JR.

MEMORANDUM

May 6, 2019

To: Subcommittee on Environment and Climate Change Members and Staff

Fr: Committee on Energy and Commerce Staff

Re: Hearing on "Ban Asbestos Now: Taking Action to Save Lives and Livelihood"

On **Wednesday, May 8, 2019, at 10 a.m. in room 2322 of the Rayburn House Office Building**, the Subcommittee on Environment and Climate Change will hold a legislative hearing entitled, "Ban Asbestos Now: Taking Action to Save Lives and Livelihood." This hearing will focus on H.R. 1603, the "Alan Reinstein Ban Asbestos Now Act of 2019".

I. BACKGROUND

Asbestos refers to a group of six lightweight, fiber-like minerals that are resistant to water, heat, fire, electricity, and chemical corrosion. Since the late 19th century, asbestos has been used in the United States and globally in its pure form as an insulating material, and also as a mixture in cloth, paper, cement, plastic, and other materials to make them stronger.[1] Negative health effects of asbestos exposure – mesothelioma and other asbestos-related diseases – were reported as early as 1924,[2] with symptoms often appearing decades after exposure.[3] From the 1930s to the late 1970s asbestos use skyrocketed, putting millions of Americans at risk of exposure during mining, manufacture, and installation.[4] Researchers discovered in the 1960s that asbestos fibers could be released into the air when previously-installed products were

[1] U.S. Environmental Protection Agency, What is Asbestos? (www.epa.gov/asbestos/learn-about-asbestos#asbestos) (accessed May 2, 2019).

[2] W. E. Cooke, *Fibrosis of the Lungs Due to Inhalation of Asbestos Dust*, British Medical Journal (Jul. 26, 1924).

[3] R. C. Haynes, *Where There is Asbestos, There is Mesothelioma: Filling in the Data Blanks*, Environmental Health Perspectives (Apr. 1, 2011).

[4] U.S. Geological Survey, *Worldwide Asbestos Supply and Consumption Trends from 1900 through 2003* (2006) (Circular 1298).

disturbed or damaged.[5] Despite this long-standing knowledge of risk, asbestos-related diseases still kill up to 40,000 Americans per year.[6]

In July 1989, after 10 years of work, the Environmental Protection Agency (EPA) issued a final rule banning most asbestos-containing products under Section 6 of the Toxic Substances Control Act (TSCA). In 1991, the Fifth Circuit Court of Appeals overturned that regulation.[7] The Court's decision stifled EPA action under TSCA and led to calls for TSCA reform. With new authority under the Frank R. Lautenberg Chemical Safety for the 21st Century Act, which was signed into law in June 2016, EPA restarted its work on asbestos regulation. However, the asbestos risk evaluation scoping document, released in June 2017, excluded exposure from legacy asbestos and associated disposal, which are major risk factors.[8] In July 2018, EPA issued a proposal for a significant new use rule (SNUR) – finalized in April 2019 – which invited manufacturers to petition to seek approval of any new asbestos product on a case-by-case basis. One month later, the United States imported 272 metric tons of asbestos – a 20-fold increase compared to July 2018[9] – with Brazil, Russia, and China being the world's main suppliers.

Current asbestos manufacture and use in the United States falls into four categories: construction materials, automotive parts, heat-resistance clothing, and chemical manufacture by the chlor-alkali industry.[10] Asbestos still exists in older building infrastructure – including schools – in insulation, water pipes, and ceiling and floor tiles. The main asbestos exposure route is through inhaling fibers in the air, which can occur during processing of raw asbestos or in fabricating or installing asbestos-related products.[11] Exposure can also occur when older buildings are demolished or renovated or when older asbestos-containing materials are damaged or begin to break down. Asbestos fibers can also be ingested by consuming contaminated water

[5] J. G. Thompson, W. M. Graves, Jr., *Asbestos as an Urban Air Contaminant,* Archives of Pathology (May 1966).

[6] Sugio Furuya, Odgerel Chimed-Ochir, Ken Takahashi, Annette David, and Jukka Takala, *Global Asbestos Disaster*, International Journal of Environmental Research and Public Health (May 16, 2018).

[7] *Corrosion Proof Fittings, et. al., v. Envtl. Prot. Agency & William K. Reilly, Adm'r.*, 947 F.2d 1201 (5th Cir. 1991).

[8] U.S. Environmental Protection Agency, *Scope of the Risk Evaluation for Asbestos* (Jun. 2017) (EPA-740-R1-7008).

[9] Asbestos Disease Awareness, *HTS – 2524: Asbestos* (August 2018) (www.asbestosdiseaseawareness.org/wp-content/uploads/2018/10/US-ITC-Report-Jan-Aug-2018.pdf).

[10] Environmental Protection Agency, Learn About Asbestos (www.epa.gov/asbestos/learn-about-asbestos#find) (accessed April 29, 2019).

[11] American Cancer Society, Asbestos and Cancer Risk (www.cancer.org/cancer/cancer-causes/asbestos.html) (accessed April 29, 2019).

or food. Workplace exposure to asbestos remains significant for American workers in construction, manufacturing, education, automotive repair, and fire-fighting.[12]

On March 13, 2019, the Committee on Energy and Commerce held a hearing entitled "Mismanaging Chemical Risks: EPA's Failure to Protect Workers." Witnesses included the United Auto Workers, American Federation of Teachers, and the International Association of Firefighters, with a clinical professor of Environmental Health Sciences also providing testimony. All testified that they were concerned about their long-term health due to workplace exposure to asbestos. Witnesses agreed that asbestos manufacture and use should be discontinued but did not anticipate that EPA would act to do so.

II. LEGISLATION

A. H.R. 1603, Alan Reinstein Ban Asbestos Now Act of 2019

On March 7, 2019, Chairman Pallone joined Reps. Bonamici (D-OR) and Slotkin (D-MI) in introducing H.R. 1603, the "Alan Reinstein Ban Asbestos Now Act of 2019". The bill would amend section 6 of TSCA (15 U.S.C. 2605) to prohibit the manufacture, processing, and distribution in commerce of asbestos and asbestos-containing mixtures and articles.

Section 2 of the bill has three subsections, each of which take effect one year after the enactment of the bill. Subsection 1 prohibits the manufacture, processing, and distribution in commerce of asbestos. Subsection 2 provides a limited exemption for national security reasons if no feasible alternative exists for the intended use. The exemption can last up to three years, with no more than one three-year extension. Subsection 3 requires reporting by asbestos manufacturers, processors, or distributors currently operating or operating under an exemption.

Section 3 of the bill requires the EPA Administrator, within 18 months of enactment and in consultation with the Secretary of Health and Human Services and the Secretary of Labor, to prepare and submit to Congress a report assessing the presence of asbestos in residential, commercial, industrial, public and school buildings, as well as the risk posed to human health from that asbestos.

[12] Agency for Toxic Substances and Disease Registry, Asbestos Exposure and Reducing Exposure (www.atsdr.cdc.gov/asbestos/asbestos_exposure.html) (Nov. 3, 2016).

III. WITNESSES

The following witnesses have been invited to testify:

Panel 1

Alexandra Dunn
Assistant Administrator
U.S. Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention

Panel 2

Linda Reinstein
Co-founder
Asbestos Disease Awareness Organization

Rebecca Reindel, MS, MPH
Senior Safety and Health Specialist
On behalf of the AFL-CIO

Celeste Monforton, DrPH, MPH
Lecturer
Texas State University
On behalf of the American Public Health Association

Mike Walls
Vice President of Regulatory and Technical Affairs
American Chemistry Council