Request for Comment Period Extension on "Draft Toxic Substances Control Act (TSCA) Screening Level Approach for Assessing Ambient Air and Water Exposures to Fenceline Communities" from Academics, Scientists, and Clinicians

Submitted online via Regulations.gov to docket EPA-HQ-OPPT-2021-0415 and via email to Dr. Alaa Kamel

February 1, 2022

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

Dear Dr. Kamel,

We respectfully request that EPA extend the public comment deadline for its recently released "*Draft Toxic Substances Control Act (TSCA) Screening Level Approach for Assessing Ambient Air and Water Exposures to Fenceline Communities Version 1.0*" (Fenceline Screening Methodology) by at least 30 days, from February 22, 2022, to March 24, 2022. Additionally we request that EPA – in line with the Agency's and this Administration's commitments to environmental justice – provide an accessible non-technical summary and conduct targeted outreach to impacted communities regarding this Fenceline Screening Methodology which will inform how EPA understands and interprets their environmental conditions.

We support EPA's decision to revisit and evaluate the previous Administration's exclusions of exposures to communities surrounding polluting facilities. However, to ensure that EPA's new risk determinations reflect the real-world exposures that fenceline communities experience, EPA must inform them, and solicit and consider their input on this draft methodology. This is in line with President Biden's memorandum on "Modernizing Regulatory Review," stating that a good regulatory analysis should "take into account the distributional consequences of regulations, including as part of any quantitative or qualitative analysis of the costs and benefits of regulations, to ensure that regulatory initiatives appropriately benefit and do not inappropriately burden disadvantaged, vulnerable, or marginalized communities." [1]

[1] Presidential Memorandum, *Modernizing Regulatory Review*, § 2(b)(i) (Jan. 20, 2021).

This letter is submitted by the University of California, San Francisco's Program on Reproductive Health and the Environment (UCSF PRHE) on behalf of the undersigned academics, scientists, and clinicians. We declare collectively that we have no direct or indirect financial or fiduciary interest in the subject of these comments. The co-signers' institutional affiliations are included for identification purposes only and do not imply institutional endorsement or support unless indicated otherwise.

This letter addresses the following main issues:

1. **EPA must extend the public comment period by at least 30 days.**
2. **EPA must make its Fenceline Screening Methodology accessible and known to impacted communities.**
    a. **EPA must publish a non-technical summary document of the Fenceline Screening Methodology.**
    b. **EPA must conduct targeted outreach to impacted communities to brief them on the Screening Methodology and inform them of the current comment period.**

We appreciate the opportunity to provide input. Given the approaching comment deadline, we appreciate your prompt response to this request. Please do not hesitate to contact us with any questions regarding this request.

Sincerely,

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**Indicates Institutional Support*

DETAILED COMMENTS

1. EPA must extend the public comment period by at least 30 days.

The Fenceline Screening Methodology is an integral piece of EPA's risk evaluation process under amended TSCA, specifically EPA's mandate to address the impacts of chemical exposures on potentially exposed or susceptible subpopulations (PESS). PESS is defined in TSCA section 3(12) as:

> *"…a group of individuals within the general population identified by the Administrator who, due to either greater susceptibility or greater exposure, may be at greater risk than the general population for adverse health effects from exposure to a chemical substance or mixture, such as children, women who are or may become pregnant, workers, or the elderly."*

However, at present, EPA is giving the public only 32 days to comment on a 204-page document that will significantly affect how it assesses risks to PESS. This woefully short comment period does not provide impacted communities, nor scientific experts, sufficient time to carefully review and provide feedback on EPA's proposed methodology. Additionally, it is important to keep in mind that publication of Federal Register notices and standard public comment processes – submitting written comments to a docket, signing up to provide oral comments at a public meeting that may not be easily accessible – work well for stakeholders like industry trade associations that have ample resources and are familiar with the processes. These standard processes, however, are a barrier to participation by residents of overburdened communities. EPA needs to actively solicit community input and provide an accessible forum for community comment and discussion, addressed further in Point 2 below.

EPA's draft risk evaluations provided at least 60 days for public comment. Considering that this Fenceline Screening Methodology is a critical analytical piece of those evaluations, EPA should allow a similar time period for review. The Scientific Advisory Committee on Chemicals (SACC) will be reviewing this methodology from March 15-17, 2022, and in line with our previous comments, we feel that it is important to share public comments with the SACC in order to help inform their peer-review process. In line with this thinking EPA can specify two comment period deadlines, one deadline by which such comments will be sent to the SACC for consideration (March 7,2022) and another deadline following the meeting (March 24, 2022). This is consistent with EPA's past actions.[2,3]

2. EPA must make its Fenceline Screening Methodology accessible and known to impacted communities.

a. EPA must publish a non-technical summary document of the Fenceline Screening Methodology.

Executive Order 12898 (the nation's principal environmental justice executive order) states that "each Federal agency shall work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public."[4]

Agencies such as EPA must actively seek technical guidance from communities when developing improved screening tools to build a comprehensive understanding of the cumulative and disproportionate impacts of chemicals. This is why it is integral that EPA provide community-

[2] US EPA. (2019). 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.

[3] US EPA. (2019). Draft Toxic Substances Control Act (TSCA) Risk Evaluations and TSCA Science Advisory Committee on Chemicals (SACC) Meetings; Cyclic Aliphatic Bromide Cluster (HBCD) and 1,4-Dioxane; Notice of Availability and Public Meetings, 84 Fed. Reg. 31,315.

[4] US EPA. (1994). Federal actions to address environmental justice in minority populations and low-income populations. Available: https://www.archives.gov/federal-register/executive-orders/1994.html#12898

specific explanations of the data and technical analysis in its Fenceline Screening Methodology to impacted communities.

As stated above, EPA's Fenceline Screening Methodology is critically important to its activities under amended TSCA and its commitments to environmental justice. This methodology will guide EPA's calculations about – and ultimate decision-making around – the human health risks of chemical exposures in the communities where toxic chemicals are manufactured, used, disposed, and released. While the technical methodology must be sufficiently detailed and robust to ensure that EPA is not underestimating risk to these populations, it is also equally important for the methodology to be accessible to the communities whose harm it is seeking to understand and address. This is not only crucial to fulfill EPA's commitments to environmental justice and its mandate under amended TSCA to address risks to PESS, but also consistent with EPA's activities during the first 10 risk evaluations.[5,6]

EPA must work to build a more complete, "whole fabric" understanding of health effects of environmental exposures to chemicals, putting a special focus on understanding overlapping threats. The Fenceline Screening Methodology calculates community exposures and risks using a methodology that is inaccessible to many residents of those communities. These communities often lack the scientific expertise and resources needed to evaluate, much less comment on, EPA's exposure modeling and risk determinations. A non-technical summary would allow those residents to participate more meaningfully in the public comment process. This participation would also ameliorate the frustration that communities feel regarding exposures to environmental hazards that they disproportionately bear the burden of, but historically have had limited decision-making power or influence over. Providing communities with information regarding their exposures and valuing their leadership and knowledge not only empowers these communities but allows EPA to ground-truth its modeling data and assumptions, leading to more comprehensive and accurate assessments.

b. EPA must conduct targeted outreach to impacted communities to brief them on the Screening Methodology and inform them of the current comment period.

Many impacted communities do not know that they are in fact impacted. This is why EPA, in line with its stated goals on environmental justice, must use its resources to pursue a robust outreach strategy informing communities and seeking their expertise on this Fenceline

[5] *US* EPA. (2020). *Nontechnical Summary of the Risk Evaluation for Methylene Chloride*. Available: https://www.epa.gov/sites/default/files/2020-06/documents/mc_final_re_nontechnical_summary.pdf.

[6] US EPA. (2020). *Nontechnical Summary of the Risk Evaluation for Trichloroethylene*. Available: https://www.epa.gov/sites/default/files/2020-11/documents/tce_nontechnical_summary_finalre.pdf.

Screening Methodology.[7] To conduct this outreach, EPA can rely on the support of its Office of Environmental Justice, the National Environmental Justice Advisory Council, and the White House Environmental Justice Advisory Council.

While preparing this Fenceline Screening Methodology, EPA identified impacted communities and calculated community risks associated with three chemicals.[8] Although these risks affect hundreds of communities across the country, the current document fails to identify these communities or the polluting facilities putting them at risk. EPA's current strategy with this Fenceline Screening Methodology presents research and digital literacy obstacles by forcing impacted communities to navigate a series of chemical specific spreadsheets and supplements with illegible titles on regulations.gov. In the current Screening Methodology, EPA indicates to readers that:

"The MC fenceline analysis spreadsheet, SF_FLA_Environmental Releases to Ambient Air for MC (Appendix B), contains the rationale for the mapping of each facility in 2019 TRI to an OES. Refer to this spreadsheet for details of the mapping at the facility-level."[9]

However, within the document EPA fails to provide a direct link to that spreadsheet for readers, either in the body of the Fenceline Screening Methodology or in Appendix B, which requires readers to navigate regulations.gov to download it, which presents myriad access issues. Additionally, how EPA has even structured this sentence fails to provide many readers (and particularly any impacted community) with sufficient information to navigate community risk determinations, as it contains shorthand and abbreviations that are foreign to anyone not closely following EPA's and OCSPP's activities. Finally, even if a reader makes it as far as this spreadsheet, it is still difficult to match specific facilities with EPA's unreasonable risk determinations, requiring a side-by-side comparison between the spreadsheet and the Methodology document.

This is part of a larger pattern at EPA of conducting assessments that do not account for the scientific and human realities in the community. Well-meaning staff are focused on completing their assigned tasks, which are usually organized to look at a specified piece of the larger exposure and risk puzzle – a specific pollutant, or emissions from a single facility – rather than the real-world experience of community residents who are affected by multiple pollutants from

[7] US EPA. (2020). EJ 2020 Action Agenda: EPA's Environmental Justice Strategy Available: https://www.epa.gov/environmentaljustice/ej-2020-action-agenda-epas-environmental-justice-strategy

[8] The chemical "case studies" included in the Fenceline Assessment Methodology are for methylene chloride, 1-bromopropane, and N-Methylpyrrolidone.

[9] US EPA. (2022). Draft TSCA Screening Level Approach for Assessing Ambient Air and Water Exposures to Fenceline Communities Version 1.0. pg. 92 Available: https://www.epa.gov/system/files/documents/2022-01/draft-fenceline-report_sacc.pdf

multiple sources through multiple exposure pathways, along with interacting influences on risk, like stress.

It is critical that EPA recognize that community residents are the experts concerning environmental conditions in their communities. The scientific needs of communities cannot be met if issues related to environmental justice, equity, and transparency are not addressed as well.[10] This is why outreach to impacted communities was also identified as one of UCSF PRHE's evidence-based priority recommendations for both Chemical Policy and Environmental Justice to strengthen EPA and its mission to protect public health.[11] For EPA's programs to be successful in protecting human health and reducing inequities in exposure, risk and health outcomes, EPA must increase and improve community participation and engagement to ensure accountability that EPA actions demonstrably reduce inequitable pollution exposures.

[10] Sullivan, J.; Croisant, S.; Howarth, M.; Subra, W.; Orr, M.; Elferink, C. Implications of the GC-HARMS Fishermen's Citizen Science Network: Issues Raised, Lessons Learned, and Next Steps for the Network and Citizen Science. NEW SOLUTIONS: A Journal of Environmental and Occupational Health Policy 2019;28:570-598

[11] UCSF Program on Reproductive Health and the Environment. Prioritizing Science and Public Health. Available: https://prhe.ucsf.edu/recommendations-epa