

May 23, 2018

Scott Pruitt, Administrator
US Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington DC 20460

Re: Finalizing Phase-out Rule for Methylene Chloride Paint Removal Products

Dear Administrator Pruitt:

As you know, numerous deaths have been linked to use of paint removal products containing methylene chloride (MC), including at least three in the last year alone. Earlier EPA action could have prevented these deaths. We write in response to the May 10th press release announcing that the Agency now plans to finalize its January 19, 2017 proposal to restrict MC paint removers under the Toxic Substances Control Act (TSCA) and to base its final rule on the risk assessment supporting the proposal. These are overdue but essential steps to protect the many thousands of Americans who are at risk from exposure to MC paint removers in homes and workplaces.

However, EPA has not yet described the provisions of the upcoming rule and these provisions will determine whether the rule is fully protective of public health. We outline below critical steps that we believe EPA must follow in connection with finalizing the rule. We believe that adopting these steps is critical to assuring the safety of paint removal products and eliminating the risks of harm that users of these products now face.

First, the rule must be finalized within the next month, and it must take immediate effect. Any further delay would unnecessarily prolong exposure to MC paint removers and could result in additional deaths.

Second, the rule must conform to the proposal and phase out the sale and distribution of MC paint removal products. The extensive analysis in the proposed rule and risk assessment demonstrates that measures short of a full phase out will provide inadequate protection against the unreasonable risk presented by these products and thus fail to satisfy EPA's obligations under TSCA. In particular, the proposal explains in detail why respirators and other personal protective equipment will not reliably prevent unsafe exposure. It also cites numerous studies demonstrating the limitations of labeling in effectively communicating warnings and safe handling practices to consumers and workers. Indeed, the recent deaths provide further evidence that even when followed, the directions for "safe use" in labeling are not adequate to prevent dangerous exposures. Moreover, according to the EPA risk assessment, MC presents serious cancer risks that would persist without strong action to remove MC paint removers from the marketplace. Should EPA retreat from the phase out requirements in its proposed rule, it would be ignoring its own previous determinations that neither respirator requirements nor enhanced labeling will provide the high level of protection that TSCA demands.

Third, the final rule must set expeditious deadlines for ending the sale and distribution of MC paint removers. The proposed rule concludes that the costs of reformulating these products to include replacement ingredients are minimal and that many substitute products are available. The longer consumers and businesses have access to products containing MC, the more likely it is that additional deaths or serious injuries will occur. The proposed rule would prohibit manufacture, processing and distribution in commerce of MC for consumer paint removal use within 180 days of promulgation of a final rule and impose the same prohibitions on products sold for commercial use within 270 days. It would also require manufacturers, processors and distributors to provide downstream notice of these

prohibitions so that affected businesses are aware of the phase-out. These are feasible and necessary requirements and should be carried forward into EPA's final rule.

Fourth, EPA must proceed expeditiously with proposed and final rules phasing out MC paint and coating products used in furniture refinishing applications. In its January 2017 proposal, EPA found that these products present an unreasonable risk of injury and noted that some of the deaths linked to MC occurred during commercial furniture refinishing. Because of open questions about the availability of substitute products, EPA did not include specific restrictions in its proposed rule but did commit to moving ahead with them as soon as possible. The case for phasing out these MC uses was reinforced at EPA's September 12, 2017 workshop on MC's role in furniture refinishing. If in fact substitution remains a legitimate concern, EPA's rule could include a delayed phase out date which allows more time for industry to transition to replacement products but assures that MC products are removed from the marketplace by a date certain.

Finally, EPA must finalize the restrictions in its proposed rule on the use of paint removal products containing n-methylpyrrolidone (NMP). Several studies demonstrate that acute and chronic maternal NMP exposure causes adverse developmental effects, including increased fetal and postnatal mortality, fetal body weight reductions and other effects on the mother and fetus. Based on these concerns, the European Commission recently added NMP to the restricted substances list in REACH Annex XVII, triggering product reformulation and other requirements. EPA included both MC and NMP in its January 2017 proposal because it recognized that the elimination of either substance alone would simply result in its replacement by the other, leaving consumers and workers using paint removal products exposed to unacceptable health risks. An integrated approach that addresses MC and NMP simultaneously would provide meaningful overall health protection and incentivize a transition to low-toxicity paint removers rather than merely a shift from one group of unsafe products to another.

We urge EPA to take all of these steps and look forward to continuing to work with the Agency as it finalizes its MC and NMP paint remover rule.

Please contact Liz Hitchcock at Safer Chemicals Healthy Families (lizhitchcock@saferchemicals.org) to discuss follow-up on this letter.

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