



NATIONAL STONE, SAND
& GRAVEL ASSOCIATION

July 05, 2022

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

Re: Asbestos; Reporting and Recordkeeping Requirements Under the Toxic Substances Control Act (TSCA) Proposed Rule: EPA-HQ-OPPT-2021-0357; FRL-8632-02-OCSP

Dear Assistant Administrator Freedhoff:

The National Stone, Sand and Gravel Association (“NSSGA”) appreciates the opportunity to provide this comment letter to the U.S. Environmental Protection Agency (the “EPA”) to respond to the EPA’s rulemaking proposal on Reporting and Recordkeeping Requirements Under the Toxic Substances Control Act (TSCA) in the Federal Register on May 6, 2022 (the “Proposed Rule”). NSSGA represents aggregates producers, as well as those who manufacture equipment and provide services that support the construction industry. Our members are essential to the work that keeps this country moving, and we represent more than 90 percent of the crushed stone and 70 percent of the sand and gravel produced annually in the United States. Our members employ more than 100,000 hard-working people, who are responsible for the essential raw materials found in every home, building, road, port, dam, and public works project.

Though NSSGA agrees with the underlying goals of the Proposed Rule, the way that it is currently drafted could have significant implications for the supply chain of the construction industry because construction aggregates sit at the top of that chain for everything from concrete to asphalt and cement. NSSGA strongly supports science-based workplace health and safety practices and developed the Minerals Identification & Management Guide to offer the industry a reference point to those mining or disturbing areas where incidental amounts of natural occurrences of asbestos (NOA) may be present. NSSGA has also long supported the regulation of currently non-regulated asbestiform richterite, asbestiform winchite, wooly erionite (an asbestiform zeolite), and other potentially harmful asbestiform amphiboles.

It is critical to the industry and users of aggregates that accurate and clear definitions differentiate asbestiform minerals from common rock. EPA should precisely define asbestos based on its chemical makeup, physical and morphological properties, appropriate methods and



criteria for identification, and other relevant factors. This definition should be consistent with the longstanding definition of asbestos in Title II of TSCA and it should exclude common rock fragments, some of which can have identical chemical composition as asbestos – and thus may be mistakenly identified as asbestos when improper analytical methods are applied. These rock particles, sometimes called “cleavage fragments,” are not asbestos and have not been shown to present the health hazards associated with asbestos exposure. Therefore, they should be excluded from the asbestos risk evaluation. EPA should interpret the term “conditions of use,” or construe its obligation to review the conditions of use for selected substances, to exclude rocks, sand and gravel that may contain or come in contact with trace amounts (<1.0%) of naturally occurring asbestos.

Because of the aggregates industry’s strong connection to the construction supply chain, having the Proposed Rule finalized as written would also have implications for the productivity and implementation of the Infrastructure Investment and Jobs Act of 2021 (IIJA). Reporting in the way that is currently proposed would cause the funds designated in the bill to not go as far, slow project delivery and increase cost of all projects. Getting the infrastructure bill across the finish line was a huge priority for the administration and implementing a rule that would make it more difficult for these projects to happen seems counterintuitive.

Please see the attached science-based comments that go into detail regarding the aggregates industry’s specific concerns with the Proposed Rule. Thank you for the opportunity to comment on the Proposed Rule. Please do not hesitate to contact the undersigned if NSSGA can provide any further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Michele Stanley", with a stylized flourish at the end.

Michele Stanley
Vice President, Government and Regulatory Affairs
National Stone, Sand & Gravel Association