



IOWA DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

May 14, 2024

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: ***Reconsideration of the Environmental Protection Agency's Draft
Formaldehyde Toxic Substances Control Act Risk Evaluation (Docket
ID EPA-HQ-OPPT-2023-0613)***

Formaldehyde is a critical building block used to produce many products in many industries. Across the agricultural industry, formaldehyde helps American families access safe meat, poultry, and aquaculture products. It also helps protect livestock against diseases that can cause catastrophic economic losses for farming operations across the United States.

Formaldehyde is a basic chemistry that, EPA acknowledges, “is found nearly everywhere.”¹ “People and animals produce and release formaldehyde.”² Indeed, contributing to background levels of formaldehyde are simple acts like breathing. Yet EPA now seeks to lower exposure limits below levels that may be found at general background levels in everyday American homes.³ That risks important uses of formaldehyde, beyond just building and development but even in areas like ensuring safe production of eggs and preventing avian flu.⁴ America’s farmers need access to formaldehyde to ensure they can continue providing safe and healthy food for the rest of the country at affordable prices.

¹ *Risk Evaluation for Formaldehyde*, ASSESSING AND MANAGING CHEMICALS UNDER TSCA (March 15, 2024), <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-evaluation-formaldehyde#background>.

² *Id.*

³ *Formaldehyde in Your Home*, MINNESOTA DEPARTMENT OF HEALTH (Oct. 3, 2022), <https://www.health.state.mn.us/communities/environment/air/toxins/formaldehyde.htm#:~:text=According%20to%20research%20from%20the,average%20is%20about%2040%20ppb>.

⁴ *Formaldehyde Is Essential to Safety and Economic Stability in Food, Agriculture Sectors*, AMERICAN CHEMISTRY COUNCIL (Sep. 29, 2023), <https://www.americanchemistry.com/industry-groups/formaldehyde/resources/formaldehyde-is-essential-to-safety-and-economic-stability-in-food-agriculture-sectors>.

The undersigned attorneys general from Iowa, Alabama, Arkansas, Florida, Georgia, Idaho, Indiana, Kansas, Louisiana, Mississippi, Missouri, Montana, Nebraska, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah, and Virginia write to express our concern about the Environmental Protection Agency's recent draft risk evaluation for formaldehyde. As leading agriculture states in America, we worry that the proposed Final Rule will, in effect, ban formaldehyde and place billions of dollars of livestock at risk of disease, jeopardize the food supply, and threaten the entire agricultural industry. We urge the EPA to look at the best available science, reconsider its draft evaluation, and maintain the current regulatory levels.

This comment will address four points: first, the practicality of the EPA's draft risk evaluation; second, the best available science in determining real risk; third, the potential impacts of the draft evaluation in its current form; and fourth, proposed improvements of the existing draft evaluation.

EPA's draft risk assessment is impractical. Its proposed occupational exposure values of 11 parts per billion is drastically below the existing Occupational Safety and Health Administration's permissible exposure limit of 750 parts per billion,⁵ and 30 times lower than the European Union's occupational limits of 300 parts per billion.⁶ That number places exposure limits in the workplace below that of concentrations found in American homes and ambient background levels in the air at any given time.⁷

EPA must use the best available science in determining real risk. Statutory requirements under the Toxic Substances Control Act direct the EPA to use the best available science in evaluating the risk of formaldehyde.⁸ Comments submitted by highly respected scientific and agricultural organizations studying formaldehyde express serious concern over the draft evaluation and the EPA's methodologies.

What is more, EPA's lack of consideration for the safety practices that are in place and have been working for years is problematic. There is no evidence of worker complaints suggesting that current safety practices are insufficient, nor is there

⁵ 29 C.F.R. § 1910.1048(c)(2) (2024).

⁶ Press Release, ACC Comments on EPA's Draft Formaldehyde TSCA Risk Evaluation (March 15, 2024).

⁷ *Formaldehyde in Your Home*, MINNESOTA DEPARTMENT OF HEALTH (Oct. 3, 2022), <https://www.health.state.mn.us/communities/environment/air/toxins/formaldehyde.htm#:~:text=According%20to%20research%20from%20the,average%20is%20about%2040%20ppb>.

⁸ 15 U.S.C. 2625(h).

evidence that existing regulations are flawed or insufficient to protect workers or the public.

The effects of EPA's draft evaluation will be felt across the nation. American agriculture relies on formaldehyde. Its products are critical for crop production, veterinary medicine, animal agriculture, and aquaculture. Indeed, formaldehyde helps protect livestock against diseases capable of causing catastrophic economic losses for farming operations across the United States.

Consider the following examples: Egg producers use formaldehyde during incubation to help protect hatching eggs against bacteria like Salmonella.⁹ Pork farmers use formaldehyde to reduce virus infectivity in pigs and as a barn disinfectant to protect against highly infectious diseases like the African Swine Fever—one of the deadliest diseases to pigs.¹⁰ Poultry producers similarly rely on formaldehyde-based disinfectants to reduce animal exposure to staph, avian influenza, E. coli, and other diseases.¹¹ And in aquaculture, formaldehyde is used to control fungi in fish hatcheries and bacterial diseases for catfish, rainbow trout, and tilapia.¹²

Preventing farmers from using those formaldehyde products could be catastrophic. A single outbreak of an infectious disease could cause economic losses in the tens of millions of dollars or more. In fact, even with the use of formaldehyde, it is estimated that between the pork and poultry industries, billions of dollars are lost to disease every year.¹³

The existing draft evaluation can and should be improved. But before EPA can act, interagency collaboration and feedback regarding formaldehyde best practices is essential. This feedback will help EPA understand the ramifications of its evaluation and the ripple effect it would have throughout the federal government.

EPA must also consider all available science. Dozens of scientifically sound, peer-reviewed studies affirm the safety of the current formaldehyde levels. EPA

⁹ *Formaldehyde Is Essential to Safety and Economic Stability in Food, Agriculture Sectors*, AMERICAN CHEMISTRY COUNCIL (Sep. 29, 2023), <https://www.americanchemistry.com/industry-groups/formaldehyde/resources/formaldehyde-is-essential-to-safety-and-economic-stability-in-food-agriculture-sectors>.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Sahar Osman-Sypher, *Flawed EPA Approach Threatens Formaldehyde Access for Key U.S. Industries*, AMERICAN CHEMISTRY COUNCIL (Jan. 31, 2023), <https://www.americanchemistry.com/chemistry-in-america/news-trends/blog-post/2023/flawed-epa-approach-threatens-formaldehyde-access-for-key-us-industries>.

should study this widely available information that shows the current effectiveness of workplace safety mechanisms in reducing formaldehyde exposure, such as the common use of gloves and other personal protective equipment.

EPA should also extend the comment period on this regulation. EPA has expressed the importance of having “an open, transparent and independent peer-review process along with opportunities for public comment” to ensure consistency in establishing the best available science.¹⁴ An extension would provide stakeholders sufficient time to review the nearly 1,000 pages of materials accompanying the draft evaluation, provide for more comprehensive public comment, allow EPA to conduct adequate in-person forums.

EPA’s draft risk evaluation is unmanageable. It reduces exposure levels drastically below what is accepted as safe by the scientific community the rest of the world. This *de facto* ban on formaldehyde has the potential to place billions of dollars of livestock at risk of disease, jeopardize the food supply, and threaten the entire agricultural industry. EPA should take a hard look at the best available science and reconsider its current draft risk evaluation. We look forward to your response.

Respectfully submitted,



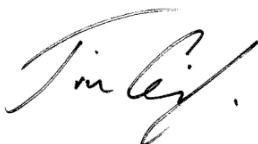
Brenna Bird
Attorney General of Iowa



Steve Marshall
Attorney General of Alabama



Ashley Moody
Attorney General of Florida



Tim Griffin
Attorney General of Arkansas



Chris Carr
Attorney General of Georgia

¹⁴ 88 Fed. Reg. 74307.



Raúl R. Labrador
Attorney General of Idaho



Mike Hilgers
Attorney General of Nebraska



Todd Rokita
Attorney General of Indiana



Dave Yost
Attorney General of Ohio



Kris Kobach
Attorney General of Kansas



Gentner Drummond
Attorney General of Oklahoma



Liz Murrill
Attorney General of Louisiana



Alan Wilson
Attorney General of South Carolina



Lynn Fitch
Attorney General of Mississippi



Marty Jackley
Attorney General of South Dakota



Andrew T. Bailey
Attorney General of Missouri



Ken Paxton
Attorney General of Texas



Sean D. Reyes
Attorney General of Utah



Austin Knudsen
Attorney General of Montana



Jason S. Miyares
Attorney General of Virginia