

**Comments of the Ad Hoc Downstream Users Coalition**

**on the**

**TSCA Chemical Data Reporting Revisions and Small Manufacturer  
Definition Update for Reporting and Recordkeeping Requirements Under  
TSCA Section 8(a)**

**Docket Number EPA-HQ-OPPT-2018-0321**

June 24, 2019

The Ad Hoc Downstream Users Coalition (Coalition) welcomes this opportunity to provide the U.S. Environmental Protection Agency (EPA) with our perspective on EPA's proposed TSCA Chemical Data Reporting Revisions and Small Manufacturer Definition Update for Reporting and Recordkeeping Requirements Under TSCA Section 8(a).<sup>1</sup> The members of the trade associations that compose the Coalition represent well over a thousand companies, including companies that manufacture products and, in some cases, companies along the entire value chain.<sup>2</sup>

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<sup>1</sup> 84 Fed. Reg. 17692 (April 25, 2019).

<sup>2</sup> The Ad Hoc Downstream Users Coalition, in alphabetical order, the American Forest & Paper Association (AF&PA), the Motor and Equipment Manufacturers Association (MEMA), the Plastics Industry Association (PLASTICS), the Toy Association and the US Tire Manufacturers Association (USTMA). Each association is a not-for-profit organization serving as a collective voice for their respective members. There are other trade associations that represent companies in the supply chain and downstream users. These comments represent only the views of the aforementioned trade associations.

AF&PA serves to advance a sustainable U.S. pulp, paper, packaging, and wood products manufacturing industry through fact-based public policy and marketplace advocacy. AF&PA member companies make products essential for everyday life from renewable and recyclable resources and are committed to continuous improvement through the industry's sustainability initiative – *Better Practices, Better Plant 2020*. The forest products industry accounts for approximately 4 percent of the total U.S. manufacturing GDP, manufactures approximately \$200 billion in products annually, and employs nearly 900,000 men and women. The industry meets a payroll of approximately \$50 billion annually and is among the top 10 manufacturing sector employers in 45 states. (<http://www.afandpa.org>).

MEMA represents more than 1,000 members that manufacture motor vehicle systems and component parts for the original equipment and aftermarket segments of the light vehicle and heavy-duty industries. Motor vehicle suppliers provide over 77 percent of the value of a new vehicle and more than 871,000 jobs are directly supported by the motor vehicle supplier industry in all 50 states. MEMA represents its members through four divisions: Automotive Aftermarket Suppliers Association (AASA); Heavy Duty Manufacturers Association (HDMA); Motor & Equipment Remanufacturers Association (MERA); and, Original Equipment Suppliers Association (OESA).

Our members are committed to effective implementation of the provisions of the Frank R. Lautenberg Chemical Safety for the 21<sup>st</sup> Century Act, which served to update and modernize the Toxic Substances Control Act (TSCA) in 2016. The Coalition shares some core values on TSCA implementation that include support for a single federal approach to preempt redundant, state-by-state regulatory actions. We also share a common interest in providing accurate and current use and exposure information about how the chemicals EPA selects are used in our members' products to inform EPA's prioritization designations and risk evaluations. The Coalition supports a robust federal approach for risk evaluations of chemicals, which includes review of all known and reasonably foreseeable conditions of use. The Coalition understands the need for EPA to include safe uses of chemicals in these reviews to secure federal preemption.

We would like to highlight the following points from our comments on the proposed revisions to the Chemical Data Reporting (CDR) requirements discussed in detail below:

- The Coalition recognizes the important role of systematic data collection methods for gathering information on the manufacture, use, and exposure of chemical substances to inform the agency's TSCA section 5 and 6 activities, hurricane disaster management, effluent guidelines, and other EPA activities.

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Representing nearly one million workers in the \$427 billion U.S. plastics industry, PLASTICS promotes plastics manufacturing, works to make our members and the industry more competitive globally, and advances recycling and the stewardship of resources. Plastics innovations continuously improve products ranging from healthcare and medical devices to building and construction, automotive and packaging. From resin suppliers and equipment makers to processors, brand owners and the recycling community, we proudly represent all segments of the U.S. plastics industry. For more information on PLASTICS, please visit [www.plasticsindustry.org](http://www.plasticsindustry.org).

The Toy Association is the not-for-profit trade association representing businesses that design, produce, license, and deliver toys and youth entertainment products with 950+ members. The organization has a long history of working to assure safe play, including working to advance safety standards for toys. Our members account for approximately 85% of the North American toy market, and our industry has an annual U.S. economic impact of \$107.5 billion.

The USTMA is the national trade association for tire manufacturers that produce tires in the U.S. Our 12 member companies operate 56 tire-related manufacturing facilities in 17 states and generate over \$27 billion in annual sales. We directly support more than a quarter million tire manufacturing U.S. jobs – totaling almost \$20 billion in wages. USTMA advances a sustainable tire manufacturing industry through thought leadership and a commitment to science-based public policy advocacy. Our member company tires make mobility possible. USTMA members are committed to continuous improvement of the performance of our products, worker and consumer safety and environmental stewardship.

- We encourage EPA to continue to consider ways in which the CDR can be used to more effectively gather information on processing and chemical use, *i.e.* downstream information, particularly when the agency is identifying uses of high-priority chemical substances. Potential ways to advance this goal include, but are not limited to, accepting information on use that is voluntarily supplied by others in connection with specific manufacturer submissions, and by generally reminding and encouraging suppliers to engage the supply chain. We do not want EPA or others to have to rely on obsolete information. We encourage EPA to have a dialogue with stakeholders on systematic, voluntary mechanisms for fostering the collection of accurate data on the uses of chemicals subject to TSCA.
- Given the usefulness of CDR data for EPA, states, and other stakeholders, we are generally supportive of EPA's proposal to increase the accuracy of reporting by replacing the broad and limited CDR function and use codes to improve the use information on chemical substances. EPA is proposing to rely on an expanded and more detailed coding system issued by the Organization of Economic Cooperation and Development (OECD) in 2017.<sup>3</sup>
- Our members support the continued protection of industrial confidential business information (CBI) for data reported under CDR. Patent protection is not always a feasible option for U.S. industry to protect our innovations. Effective protection of CBI and trade secrets is needed for maintaining US competitiveness. In this regard, we caution the agency not to disclose function and use codes wholesale without first considering whether, in any given single case, such as a market with a small number of participants, disclosure would turn out to reveal specific information on manufacturing and use that is entitled to CBI protection without substantiation, because it would provide a competitive advantage to others through public release.
- We respectfully disagree with EPA's assertion that TSCA section 14(b)(3)(B) *prohibits* confidentiality claims for information that falls under this provision. Instead, we offer a reasonable, pragmatic interpretation of this provision, and further request that EPA consider voluntary submissions from processors and users designed to support the filings the agency requires from their upstream suppliers. Any such voluntary submissions should be distinguished from mandated submissions under the CDR, so that these type of

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<sup>3</sup> Organisation for Economic Co-operation and Development. "Internationally Harmonised Functional, Product and Article Use Categories." 2017. [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=env/jm/mono\(2017\)14&doclanguage=en](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=env/jm/mono(2017)14&doclanguage=en). Reference 8 in the proposed rule on p. 17715.

voluntary submissions will permit these companies to avail themselves of CBI protection, when warranted.

I. **CDR Is an Important Information Collection Tool.**

The EPA's Chemical Data Reporting Rule is a reasonable, time-tested information collection tool for EPA, states, tribes, and the public to use. The information collected through CDR on manufacture, use, and exposure of chemical substances is generally viewed as reliable. Therefore, the Coalition agrees with EPA that the information obtained through the CDR helps support the agency's health, safety, and environmental protection activities related to chemical manufacturing and use. For example, manufacturers and importers of chemical substances must report production volume and exposure information, such as the physical form and maximum concentration of the chemical substance, in addition to the number of exposed workers at the reporting site.

By helping EPA understand exposure to these chemical substances, this information permits the agency to screen and prioritize chemicals when trying to identify potential human health and environmental risks under TSCA section 6. Once EPA initiates a risk evaluation for a chemical substance, information obtained through CDR assists the agency in determining the scope of the evaluation by identifying current uses and production volumes, in addition to legacy uses. When EPA issues problem formulations, the CDR provides EPA with data to understand the extent of exposure from the chemical substance by identifying the number of locations and workers potentially exposed. Finally, if EPA determines that a chemical presents an unreasonable risk under TSCA section 6, the CDR data could help inform the agency's risk management decisions. By requiring this information in a coordinated, predictable manner, EPA affords itself sufficient time to collect robust data to support its TSCA actions – instead of relying on its ad hoc authorities to gather information under TSCA sections 4, 8, and 11. Such information from these other authorities would not provide EPA with the timely, comprehensive, and accurate data that CDR obtains.

The CDR also serves as a useful resource for other important EPA responsibilities. For example, we understand that the CDR helps EPA's Office of Land and Emergency Management prepare for and respond to hurricane disasters by supplying information about chemical substances expected to be found in the affected communities. EPA's Office of Water also uses CDR data to develop effluent guidelines by identifying facilities in specific industry sectors and to inform the Effluent Guidelines Annual Review Reports. And EPA's Office of Research and Development uses this data for its chemical life cycle inventories,

conceptual models, and standardized emission and release estimates from chemical production.

The changes EPA is proposing will make CDR more useful to states, tribes, and other stakeholders to turn to the use of CDR information for their needs as well. As EPA acknowledged in its press release on the proposed CDR revisions, “CDR not only supports the Agency’s TSCA activities, but can be a helpful tool for states, tribes, industry, nongovernmental organizations and all stakeholders.” (EPA Proposes to Reduce TSCA Reporting Burden; Align Reporting with Amended TSCA, <https://www.epa.gov/newsreleases/epa-proposes-reduce-tsca-reporting-burden-align-reporting-amended-tsca>.) We agree with EPA that “[t]his is a continuing effort in every aspect of our program to ensure that the public has information on chemicals in commerce, that EPA has the information necessary to conduct our chemical reviews, and that reporting burden is minimized and simplified.” (*Id.*) The Environmental Council of States (ECOS) has also affirmed that “[s]tates have a deep interest in making sure that U.S. EPA obtains the data it needs to make effective decisions under [TSCA] to protect public health and the environment from toxic chemicals.” (Chemical Data Reporting Requirements for Inorganize Byproduct Chemical Substances; December 11, 2017, Comment from ECOS. EPA-HQ-OPPT-2016-0597-0086.) Indeed, states and tribes may access and use the CDR data through EPA’s information-rich ChemView database, which includes information on 10,049 chemicals from the 2012 and 2016 reporting years. (Introduction to ChemView, <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/introduction-chemview> (last visited June 17, 2019).) Even if the CDR data are treated as confidential business information, states and tribes may avail themselves of TSCA section 14(d)(4) – a new provision enacted with the 2016 TSCA amendments – to obtain CDR data designated as CBI as long as the states satisfy the conditions identified by EPA in its TSCA CBI guidance.<sup>4</sup> (Access to Toxic Substances Control Act Confidential Business Information: A guide for access to TSCA CBI for state, local, and tribal governments, [https://www.epa.gov/sites/production/files/2018-06/documents/san6410\\_tsca-expandedaccess2cbi-guidance\\_access4states\\_2018\\_06-19.pdf](https://www.epa.gov/sites/production/files/2018-06/documents/san6410_tsca-expandedaccess2cbi-guidance_access4states_2018_06-19.pdf).) From the CDR database, states and tribes can obtain information on manufacturing site locations, uses, production volumes, and physical forms of the chemical substances. We

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<sup>4</sup> TSCA section 14(d)(4) requires EPA to disclose CBI data to states and tribes “on written request, for the purpose of administration or enforcement of a law, if such entity has 1 or more applicable agreements with the Administrator that are consistent with the guidance developed under subsection (c)(4)(B) and ensure that the entity will take appropriate measures, and has adequate authority, to maintain the confidentiality of the information in accordance with procedures comparable to the procedures used by [EPA] to safeguard the information.”

encourage EPA to continue engaging with the states and tribes to find ways to make the CDR data more accessible and user-friendly.

**II. The Coalition Supports Certain Proposed Revisions to CDR to Improve Its Use Under Amended TSCA.**

Because of the considerable utility of CDR for EPA, states, tribes, and other stakeholders, the Coalition generally supports EPA's proposal to expand the number of product function, use and article codes to describe consumer applications to improve EPA's information on the use of chemical substances. Specifically, the proposed rule replaces the 2016 processing and use codes (for both industrial function and commercial/consumer product use) with OECD's functional use, product and article codes. EPA is specifically proposing to add a new level of reporting for consumer applications, to require the manufacturers of a reportable chemical to identify the function of the chemical in a given product. With regard to this proposed change, EPA explains that *"[c]urrently, CDR requires the reporting of consumer and commercial product categories but does not require the reporting of chemical function within the product category. The lack of functional use information for consumer and commercial applications has restricted EPA's ability to provide more complete evaluations or more realistic characterizations of exposure for consumer and commercial applications; instead, EPA relies in many cases on scenarios using potentially conservative assumptions"* (84 Fed. Reg. at 17700).

The Coalition has established a record in prior public comments of encouraging and supporting EPA's efforts to gather accurate information on the uses of chemicals in consumer applications. Therefore, we have decided that it is important to support the programmatic shift to increase information on consumer applications, which we think is a significant development. Despite the additional reporting burdens it may entail on the supply chain, we think collecting this information through CDR is consistent with the heightened focus in TSCA on conditions of use and the need to provide EPA with tools to collect information on exposure and use. We think standardizing information collection through CDR in this way may allow EPA and stakeholders to realize program efficiencies later and that this information, when collected through CDR, better informs prioritization and risk evaluation decisions.

In particular, we note that EPA has proposed to implement, with some accommodation to reduce the reporting burden, OECD's 2017 article codes. The number of potential OECD code selections for articles is 69, mainly due to specifications for reporting

material type (complex articles, fabrics and textiles, leather, metal, paper, rubber, wood, plastic, etc.). However, we understand from the technical support document that accompanies this proposed rule (page 6) that EPA will limit reporting to the article category codes (AC codes) and will not incorporate the reporting subcodes that specify material type.<sup>5</sup> Further, it is our understanding that the new AC codes will include the vehicle and machinery AC codes listed in Table 24 of the OECD 2017 guideline, in addition to the other proposed AC code categories (construction and building materials covering large surface areas, packaging (excluding food packaging), toys for children’s use (and child dedicated articles), furniture and furnishings, and two catch-all categories distinguished by direct or non-routine contact) listed in the beginning of section 3.3 of the OECD’s document.

We support EPA’s proposal to maintain a single, consolidated list of the OECD product and article codes and we do not support the use of the separate lists in the OECD document. However, we would like to ask EPA to consider separate lists for consumer uses and commercial uses, which are currently maintained all together in one list under CDR. We think achieving separation between commercial and consumer applications would further simplify the task of reporting and improve the ability to assess exposure, since these are not necessarily fungible uses in terms of use or exposure potential. We think it is important for EPA to recognize in the final rule, as OECD does in its 2017 guideline, that not all of the product and article use categories EPA is proposing to add are likely to result in exposures (OECD 2017 guideline at p. 28). Furthermore, Downstream Users support the article exemption under TSCA, and we urge EPA to continue to fully recognize the U.S. article definition<sup>6</sup> which have much broader coverage than the limited description in the OECD Category document for this term.

Again, given the significant increase in the number of codes, it is not clear that their use will simplify reporting. Nevertheless, the Coalition believes that the use of these codes will certainly better harmonize reporting with the processing and use data codes recommended for use internationally by OECD. This harmonization should aid international uniformity with Canada, Japan and the European Union, among others, in reporting use and exposure information and expand the universe of information available to the EPA for its

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<sup>5</sup> EPA Technical Support Document: Harmonizing CDR Functional and Product Codes with OECD Functional, Product and Article Codes. February 2019. Reference 11 in the proposed rule on p. 17715.

<sup>6</sup> More specifically, the proposed rule explains that, “[t]he OECD Category document uses . . . the term “articles” to generally mean solids, polymers, foams, metals, and woods, all of which are always present within indoor environments for the duration of their useful life, which may be several years.” The U.S. definition is not confined to indoor environments, for example. 84 Fed. Reg. at 17701.

TSCA sections 5 and 6 actions. In particular, it should provide EPA with better use information on TSCA Work Plan chemicals subject to the CDR since the CDR product use, function and article categories are not able to capture the level of detail afforded by the OECD system. As just one an example, the proposed rule explains that products reported under the 2016 CDR category of Fuels and Related Products will be reported in one of three categories – Cooking and Heating Fuels, Fuel Additives, and Vehicular or Appliance Fuels.

After careful consideration, the Downstream User Coalition does not support EPA’s proposal to use the CDR instructions as the vehicle for converting to the use of the OECD’s 2017 product use, function, and article codes. These instructions are over 100 pages long and cover many details associated with reporting. Moreover, EPA provides an unhelpful qualifier at the beginning of the instructions: **“This document is not a substitute for the CDR rule in 40 CFR Part 711.** To the extent that any inconsistencies exist between the CDR rule and this document, the requirements as promulgated in the rule should be followed.” (Instructions for Reporting—2020 TSCA Chemical Data Reporting—Draft for Public Comment, p. 6) (emphasis in original). It will also be more transparent for the CDR codes to remain part of the rule and available in the Code of Federal Regulations. This approach will require EPA to update the codes in the CDR through rulemaking. While we understand this may be more burdensome for the agency than updating an instruction manual, it could facilitate the agency’s responsiveness to suggestions via petitions for rulemaking under section 21 of TSCA to suggest the need to eliminate or consolidate codes now and in the future, since it is important to limit the codes to only those relevant for CDR reporting.

EPA should strive to be precise and selective when choosing which codes to list, without being over-inclusive or under-inclusive. To this end, the proposal recognizes that EPA’s TSCA activities would not benefit from matching with all the OECD harmonized codes. For example, OECD codes for biocides under agricultural products would not inform TSCA activities because those products are regulated under the Federal Insecticide, Fungicide, and Rodenticide Act. Similarly, OECD codes for perfumes and body sprays under personal care products would not assist EPA’s TSCA risk evaluations because those products are regulated under the Federal Food, Drug, and Cosmetic Act. Therefore, an exact match of all the OECD harmonized codes should not be listed where the uses are not regulated by TSCA, because it does not reduce the burden for submitters to report this information under CDR nor benefit EPA’s TSCA activities. Instead, the catch-all “non-TSCA” code for the OECD codes that do not correspond with TSCA is a reasonable approach to CDR reporting. For this same reason, we respectfully ask EPA to exclude the use of the OECD code for articles intended for food contact.



The Coalition recognizes the value in EPA obtaining functional use information for consumer and commercial applications. Therefore, the Coalition agrees with the agency that the addition of information on the function of the chemical in combination with the consumer or commercial product category would improve EPA's ability to consider exposures to consumers and in commercial applications. This information would provide EPA with accurate, fact-based exposure data – instead of relying on models that use conservative assumptions detached from reality.

### **III. EPA Must Continue To Protect Confidential Business Information.**

The Coalition would like to emphasize the importance of EPA's coordination with processors and downstream users. The potential impact of the changes in function and use codes on supply chain communications could be significant. Indeed, some of this information may be confidential business information because certain use information can represent a competitive advantage. Accordingly, we would like to express our deep concerns about EPA's strict interpretation of TSCA section 14(b)(3)(B), as amended by the Lautenberg amendments. In its proposal, EPA asserts that section 14(b)(3)(B) "prohibits confidentiality claims for the following submitted information submitted: 'a general description of a process used in the manufacture or processing and industrial, commercial, or consumer functions and uses of a chemical substance, mixture, or article containing a chemical substance or mixture, including information specific to an industry or industry sector that customarily would be shared with the general public or within an industry or industry sector.'" EPA then proposes to codify in the regulatory text that certain data elements cannot be claimed as confidential because they constitute general descriptions of processes and uses that customarily would be shared with the general public or within an industry or industry sector. These data elements would include how a chemical is used or process, the industrial sector, the industrial function, the product category, whether the chemical is used in commercial or consumer products, and the function of the chemical in the commercial or consumer product. To make a blanket ban on asserting a CBI claim on these data elements would ignore, for example, the market reality that how a chemical is used or processed is a fact that may *not* be shared with the general public or within an industry or industry sector.

We respectfully disagree with EPA's interpretation of TSCA section 14(b)(3)(B) because a plain reading of the statutory text does not require that outcome. When Congress amended TSCA in 2016, it thoughtfully engaged all stakeholders and carefully drafted the new provisions. One of those new provisions was TSCA section 14(b)(3) and its subsections.

Congress specifically chose the words “[s]ubsection (a) does not prohibit the disclosure of” the information identified in this provision. If Congress intended to require the disclosure of this information, the final legislation would have included affirmative language, such as “the following information is not protected from disclosure” or “EPA shall make public, upon request, the following information.” Congress, however, did not write section 14(b)(3) that way. Therefore, the Coalition submits that EPA should take a reasonable, pragmatic approach to this statutory text. EPA should read this provision to create a rebuttable presumption that the information discussed in this subsection should be made public. Companies should then be allowed to make a claim for CBI protection and substantiate it. If EPA agrees that this information should be protected after reviewing the substantiation claims, then the general provisions governing CBI should apply.

If EPA would like to continue with its proposed interpretation of section 14(b)(3)(B), then we submit that EPA should treat function and use codes as *voluntary* disclosures if received directly from processors and downstream users as part of a joint submission. By making these disclosures voluntary, EPA would simply need to apply only the substantive criteria for use in confidentiality determinations under 40 C.F.R. § 2.208:

- (a) The business has asserted a business confidentiality claim which has not expired by its terms, nor been waived nor withdrawn;
- (b) The business has satisfactorily shown that it has taken reasonable measures to protect the confidentiality of the information, and that it intends to continue to take such measures;
- (c) The information is not, and has not been, reasonably obtainable without the business's consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding);
- (d) No statute specifically requires disclosure of the information; and
- (e) Either -
  - (1) The business has satisfactorily shown that disclosure of the information is likely to cause substantial harm to the business's competitive position; or
  - (2) The information is voluntarily submitted information (see § 2.201(i)), and its disclosure would be likely to impair the Government's ability to obtain necessary information in the future.

Because TSCA section 8(a) does not require the disclosure of the function and use information, processors and downstream users may avail themselves of CBI protection if they also meet the other criteria for confidentiality determinations.

The Coalition also believes substantiation is an important backstop to ensure that case-specific facts support the claims seeking CBI protections. Because EPA's substantiation process is new, however, we strongly request that EPA afford companies the opportunity (1) to cure any perceived defects or (2) respond to any potential misunderstandings about the claims before the asserted confidential business information is disclosed to the public. Companies should not have to file a complaint in federal district court within thirty days of an adverse confidentiality determination as their only recourse against a potentially flawed agency substantiation analysis. This framework would inevitably drain resources from both the federal government and stakeholders. We welcome the opportunity to work with the agency to develop a process that is manageable from an agency efficiency standpoint while providing a fair forum for companies to discuss their substantiation claims prior to a final agency determination.

Finally, EPA states that “[f]or purposes of this proposal, EPA believes that other CDR processing and use data elements do not offer a ‘general description’ and therefore do not fall within the limits of TSCA section 14(b)(3)(B).” These processing and use data elements would include percent production volume, number of sites, number of workers, and maximum concentration. The Coalition agrees with EPA that these data elements should be treated as confidential business information when the CBI claim is asserted.

#### **IV. EPA Should Consider Other Changes to CDR To Collect Information in Support of Section 6 Risk Evaluations.**

We urge EPA to consider gathering additional information to assist with the identification of high-priority chemical substances and the subsequent risk evaluations of them. As you know, TSCA section 6(b)(1)(A) requires EPA's prioritization process to consider “the hazard and exposure potential of a chemical substance or a category of chemical substances (including consideration of persistence and bioaccumulation, potentially exposed or susceptible subpopulations and storage near significant sources of drinking water), the conditions of use or significant changes in the conditions of use of the chemical substance, and the volume or significant changes in the volume of the chemical substance manufactured or processed.” When designating high-priority substances, EPA must also be mindful of TSCA section 6(b)(2)(D)'s requirement to give preference to chemical substances that are listed in

the 2014 update of the TSCA Work Plan for Chemical Assessments (1) as having a Persistence and Bioaccumulation Score of 3 and (2) that are known human carcinogens and have high acute and chronic toxicity.

Therefore, EPA should consider using CDR to collect information related these considerations in anticipation of its prioritization decisions. This approach would negate any data-quality issues associated with the next round of prioritization. By collecting information upfront on chemical substances that EPA will need to prioritize and potentially evaluate for risk, the agency can focus its efforts on substances that potentially present the greatest risk, instead of choosing data-rich chemicals that are already highly regulated. We know EPA wants to perform rigorous, legally defensible risk evaluations on the chemicals that may present the greatest risk to human health and the environment. By planning ahead with targeted, comprehensive CDR requirements for chemicals that meet the thresholds discussed above, EPA will fulfill the letter and spirit of the Lautenberg amendments to TSCA.

The Coalition would like to take this opportunity to once again express the importance of a timely and transparent process for assessing existing chemicals. We continue to urge EPA to move ahead with scheduling all 2014 Work Plan chemicals for prioritization to make the process predictable and routine. EPA is required under TSCA section 6(b)(2)(B) to have at least 50 percent of its risk evaluations be on Work Plan chemicals, thus directing the agency to ultimately make prioritization decisions for all of the Work Plan chemicals. As a result, it is not a matter of if, but when, EPA will review each chemical on the Work Plan. We understand this process will necessarily involve many considerations, including data availability. If EPA sought additional information on the Work Plan chemicals through the CDR requirements, the agency could prioritize for risk evaluation the chemicals that may present the greatest risk to human health and the environment.

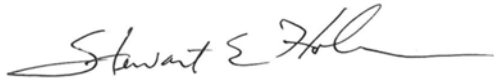
## **V. Conclusion**

The Downstream Users Coalition appreciates EPA's time and consideration of our comments. In closing, we reiterate our support the agency's use of the CDR rule because it provides the most efficient, predictable means to collect robust data on chemical substances. We agree with EPA's decision to harmonize CDR use codes with the OECD codes to provide better use and exposure information reporting, even if it increases the number of reporting categories and does not decrease the reporting burden. We also caution the agency about revealing the confidential business information of downstream processors and users through these use codes, in addition to recommending EPA take a reasonable, pragmatic approach to

treating confidential disclosures about a particular use of a chemical substance. Finally, we ask the agency to consider using its CDR authority to tailor heightened information gathering efforts for TSCA section 6 program needs.

Respectfully submitted,

American Forest and Paper Association  
Stewart E. Holm  
Chief Scientist



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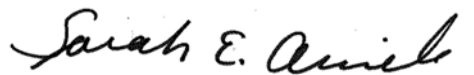
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