



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

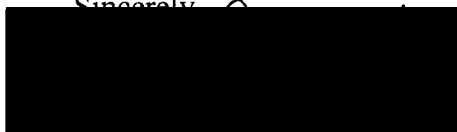
The Honorable John Shimkus
Chairman
Subcommittee on Environment and the Economy
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Shimkus:

Thank you for the opportunity to respond to the questions for the record following the November 13, 2013, hearing on "S. 1009, The Chemical Safety Improvement Act." Enclosed are the EPA's responses to the questions.

If you have any further questions, please contact me or your staff may contact Sven-Erik Kaiser in my office at kaiser.sven-erik@epa.gov or (202) 566-2753.

Sincerely,



Laura Vaught
Associate Administrator

Enclosure

House Committee on Energy and Commerce
Subcommittee on Environment and Economy
Hearing on “S.1009, The Chemical Safety Improvement Act”
November 13, 2013
Questions for the Record

The Honorable Henry A. Waxman

Transparency has been a significant problem under TSCA. Consumers, public health advocates, researchers, and state governments are often in the dark about chemical risks, even when EPA has data. This is because the statute prohibits EPA from sharing information that has been marked as Confidential Business Information, or CBI, but requires no substantiation of CBI claims. Current law includes no penalty for over claiming CBI.

The result is a system where the public has no access to any information about approximately 20% of the 83,000 chemicals on the TSCA inventory, and the chemical identities of 66% of new chemicals covered by pre-manufacture notices (PMNs) are marked CBI. EPA has been working to check these CBI claims, and has made significant strides to make more chemical information public, but the process requires significant public resources.

Waxman 1. Should TSCA reform legislation require upfront substantiation of CBI claims, and why is this important?

S. 1009 would require up front substantiation for some, but not all, CBI claims. The bill contains a long list of types of information that will be presumed to be CBI, without substantiation.

Response: The Administration’s principles for reform of chemicals management legislation state that TSCA reform should include stricter requirements for a manufacturer’s claim of Confidential Business Information (CBI) and that manufacturers should be required to substantiate their claims of confidentiality. This principle is important to assure transparency and public access to information.

Waxman 2. Does exempting large categories of information from the substantiation requirement comport with EPA’s principles for TSCA reform?

Response: As indicated above, the Administration’s principles for reform of chemicals management legislation include the need for stronger provisions for transparency and public access to information, including a requirement for the substantiation of confidentiality claims. Stronger provisions on transparency and increased access will ensure that legitimate CBI claims are protected while providing the American public with greater access to chemical information.

The relevant principle states: “TSCA reform should include stricter requirements for a manufacturer’s claim of Confidential Business Information (CBI). Manufacturers should be required to substantiate their claims of confidentiality. Data relevant to health and safety should not be claimed or otherwise treated as CBI. EPA should be able to negotiate with other governments (local, state, and foreign) on

appropriate sharing of CBI with the necessary protections, when necessary to protect public health and safety.”

One impact of EPA’s review of CBI claims has been a significant decrease in the number of claims being made. For example, under the last Inventory Update Rule, manufacturers claimed that the use of a chemical in children’s products was confidential 24% of the time. In the most recent version – the Chemical Data Reporting Rule, the rate of confidentiality claims for the use of a chemical in children’s products dropped to 0.4%.

Waxman 3. Why does the EPA collect and publish information about what chemicals are used in children’s products?

Waxman 4. Are there other types of uses that might be particularly relevant and important for the public at large and vulnerable populations?

Response to Questions 3 and 4: Chemical Data Reporting (CDR) information is used by the EPA to support risk screening, assessment, priority setting and management activities. Processing and use information reported in 2012 will help the EPA screen and prioritize chemicals for the purpose of identifying potential human health and environmental effects. Collecting the information every four years will assure that the public has timely access to current and improved data. This information will also provide the public with greater access to a wide range of information on those chemicals that are produced in large quantities. Improved data will enhance the agency's ability to more effectively identify and address potential chemical risks.

The 2012 CDR collected information on more than 7,600 chemicals in commerce including information on more than 350 chemicals used in children’s products such as toys, playground and sporting equipment, arts and crafts materials, and furniture. In addition, manufacturers reported on more than 1,700 chemicals used in consumer products generally. Users of the CDR data are able to view chemicals with commercial and consumer uses and by geographic area for facilities where chemicals are being manufactured. This information helps inform potential exposures and would be relevant for the public and vulnerable populations.

For additional information on the 2012 CDR, see the Federal Register Notice for 2012 CDR reporting at: <http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPPT-2009-0187-0393>.