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STATEMENT

OF

THE ALLIANCE OF AUTOMOBILE MANUFACTURERS

BEFORE THE:

ENERGY AND COMMERCE COMMITTEE
THE SUBCOMMITTEE ON ENVIRONMENT
U.S. HOUSE OF REPRESENTATIVES

March 12, 2014

PRESENTED BY:

Jennifer Thomas
Director, Federal Government Affairs

Executive Summary

Automakers have a long history of corporate responsibility with regard to identifying and reducing "substances of concern" in automobiles. For more than a decade, automakers have maintained a global substance of concern list and a tracking database to reduce industry-wide use of substances of concern in global production. Automakers have eliminated the use of mercury switches and lead wheel weights from automobiles; we continue to phase out the use of the flame retardant deca-BDE; and we are eliminating copper in brake pads. Most notably, automobiles are among the most recycled consumer products in the U.S.

But automakers recognize that there is more work to do and we want to be a part of the solution. We welcome the draft Chemicals in Commerce Act as it significantly enhances EPA's ability to more effectively regulate chemical substances, while providing industry with a clear and consistent regulatory environment. In particular, this draft recognizes the need for a national regulatory program for comprehensively managing chemicals in commerce. This federal approach will more effectively regulate chemical substances in a way that protects the health and safety of *all* Americans.

The Alliance also supports the manner in which the draft Chemicals in Commerce Act seeks to regulate chemicals in "articles." The approach taken is consistent with existing EPA policy, which has recognized the complexity of regulating chemicals in articles by exempting them from most TSCA requirements. This draft will allow EPA to regulate chemical substances in articles, but only if the risk to health and environment cannot be addressed by placing restrictions on the chemical substance itself.

Finally, we strongly believe automotive replacement parts should be exempt from any TSCA requirements. In this regard, we urge the subcommittee to consider a full outright exemption for auto replacement parts, rather than a narrow exemption for those parts manufactured prior to the compliance date, as prescribed in this draft. Such an exemption would avoid unnecessary disruptions to the supply of hundreds of thousands of replacement parts – impacting the ability to fulfill warranties, recalls, or repairs of the existing fleet.

The Alliance stands ready to work with the subcommittee as this discussion draft proceeds through the legislative process.

Testimony

Thank you, Chairman Shimkus, Ranking Member Tonko and members of the Subcommittee. The Alliance of Automobile Manufacturers (Alliance) is a trade association of twelve car and light truck manufacturers comprised of BMW Group, Chrysler Group LLC, Ford Motor Company, General Motors Company, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche Cars, Toyota, Volkswagen Group and Volvo Cars. Together, Alliance members account for roughly three out of every four new vehicles sold in the U.S. each year.

On behalf of the Alliance, I appreciate the opportunity to offer our views on the draft Chemicals in Commerce Act. We commend the subcommittee for the thoughtful and thorough approach it has taken on this important environmental issue. The series of educational hearings this Subcommittee has held throughout the past eight months has been informative and productive, and has certainly influenced the discussion draft before us today.

The automobile industry is a massive employer -- reaching well beyond the iconic names of auto companies familiar to us all. Auto manufacturing depends on a broad range of parts, components and materials provided by thousands of suppliers, as well as a vast retail network of dealers, service providers and repairers. Nationwide, eight million workers and their families depend on the auto industry. Each year, the industry generates $500 billion in paychecks, while generating $70 billion in tax revenues across the country.

Automakers have a long history of corporate responsibility with regard to identifying and reducing specific chemicals or “substances of concern” in automobiles. For more than a decade, automakers have maintained an industry-focused global substance of concern list and a sophisticated tracking database to actively reduce industry-wide use of substances of concern in global production. The auto industry has invested more than $30 million on this system, which now tracks more than 2,700 substances used in automotive components to ensure that restricted substances are not in our products. By way of example: automakers have eliminated the use of mercury-containing switches and lead wheel weights from automobiles; we continue to phase out the use of the flame retardant deca-BDE; and we are eliminating copper in brake pads. Most notably, automobiles are among the most recycled consumer products in the U.S.

Approximately 86% of a vehicle's material content is recycled, reused or used for energy recovery.[1]

But automakers recognize that there is more work to do and we want to be a part of the solution. Despite decades of rapid advancement in the science and technology of chemical use and management, TSCA remains the only major federal environmental statute that has not been substantively revised since its enactment in 1976. We welcome the draft Chemicals in Commerce Act as an important and necessary updating of the TSCA regime. It significantly enhances EPA's ability to more effectively regulate chemical substances in a way that better protects public health and the environment, while providing industry with a clearer and more consistent regulatory environment.

In particular, the draft Chemicals in Commerce Act recognizes the need for a single national regulatory program for comprehensively managing chemicals in commerce. The current regulatory environment has created a situation in which states feel compelled to regulate chemicals on their own, creating a patchwork of state standards. But in many cases, states simply do not have adequate resources – budgetary, expertise or otherwise – to implement their own chemical regulatory programs. Nor does it make sense for a chemical to be deemed harmful in one state, but not in another. The unified national policy promoted in this discussion draft of the Chemicals in Commerce Act will more effectively regulate harmful chemical substances in a way that equally protects the health and safety of *all* Americans.

Additionally, multiple conflicting or inconsistent state chemical regulatory programs present insurmountable obstacles to effective chemical management for large industry sectors, in particular manufacturers of complex durable goods that are sold nationwide, such as automobiles. Automakers design and build vehicles to meet an array of individual customer needs and demands, and to comply with thousands of pages of federal regulations. As a practical matter, automakers simply cannot manufacture vehicles on a state-by-state basis. We strongly believe that the approach taken in this discussion draft for a single national program – rather than a patchwork of state chemical regulatory programs – is more in line with today's

[1] Society of Automotive Engineers (SAE). 2011. "Vehicle Recycling, Reuse, and Recovery: Material Disposition from Current End of Life Vehicles"

manufacturing realities and will better protect public health and the environment while supporting U.S. competitiveness, jobs and consumer interests.

The need for a single national program and federal preemption are paramount to automakers' ability to manufacture and distribute the safe and competitively priced automobiles that consumers demand. Some may claim the preemption language contained in this discussion draft erodes states' rights, yet this is simply not the case. States will continue to have a very important role to play in the process and, in this discussion draft, state action on a particular chemical substance is not preempted until EPA takes action on that particular chemical substance. EPA essentially validates the need for preemption on a chemical-by-chemical basis via a formal and scientific risk analysis process. This approach preserves a state's ability to take action if the state believes that there is a chemical risk present that has not yet been addressed by the national program.

Federal preemption also gives industry an incentive to assist EPA in taking action and completing the safety determination process in a timely manner. We believe EPA should continue to seek collaboration with states to achieve chemical and product safety, but that any federal action on a particular chemical substance should be viewed as the *law of the land*. This common sense approach will create a more efficient, effective, and predictable regulatory environment by reducing conflicts and inconsistencies that make compliance unnecessarily burdensome and costly for both the private and public sectors. To the extent that a "black and white" approach is possible, the chemical safety process **must** be designed to definitively address whether certain chemicals, under specific conditions of use or application, present a significant risk or not. A multi-state approach fails to achieve this level of specificity and allows an opportunity for conflicting conclusions and a lack of clarity that could result in the public's uncertainty about a product's safety.

The Alliance also supports the manner in which the draft Chemicals in Commerce Act seeks to regulate chemicals in "articles," as defined in TSCA. The approach taken is consistent with existing EPA policy, which has traditionally recognized the complexity of regulating chemicals in articles by exempting articles from most TSCA requirements. This discussion draft will allow EPA to regulate chemical substances in articles, but only if the risk to health and environment cannot be addressed by placing restrictions on the chemical substance itself.

To be clear, automakers are not seeking a statutory exemption from TSCA requirements. Rather, we believe that any legislation reforming TSCA should recognize the challenges of regulating chemical substances in complex durable goods – such as automobiles – and should target chemical substances in articles only in those circumstances where there is both a significant risk of exposure and that risk cannot be addressed by targeting the actual chemical substance. The average automobile has 30,000 unique components and each individual component is comprised of multiple chemicals and mixtures. Each automaker works with a global, multi-tiered network of more than 1,000 suppliers, spanning multiple sectors from electronics to textiles. Most automotive components are obtained from suppliers as finished products, which are then integrated into the vehicle. Regulating the construction and assembly of automobiles on a component-by-component basis is burdensome, inefficient, and unnecessary to effectively manage chemicals. The approach taken in the draft Chemicals in Commerce Act – by focusing on situations presenting a real potential for consumer exposure to substances of concern – is more effective than the alternative.

As noted above, there may be unique circumstances where EPA must prevent significant risk of exposure by issuing restrictions on chemical substances in articles. The approach proposed in the draft to address these instances seems reasonable, provided that EPA recognizes the operational constraints of the affected industry. For example, the process that EPA undertakes should allow ample involvement by the industry to identify suitable alternatives Then EPA should allow sufficient lead-time to implement any needed changes. Depending on the extent of the changes needed, lead-times in the auto industry can be several years because a number of products or components may be affected and not all vehicles can be reengineered at the same time.

Additionally, we strongly believe automotive replacement parts should be exempt from any TSCA requirements. In this regard, we urge the subcommittee to consider a full outright exemption for automotive replacement parts, rather than a narrow exemption for those parts manufactured prior to the compliance date, as prescribed in this discussion draft. With roughly 250 million registered vehicles currently operating on U.S. roads,[2] it is untenable to reengineer

[2] Polk. 2013. Polk Finds Average Age of Light Vehicles Continues to Rise [Press Release]. Retrieved from https://www.polk.com/company/news/polk_finds_average_age_of_light_vehicles_continues_to_rise

and substitute the chemical profile of affected parts on every vehicle model still in use. Thus, all service parts for vehicles manufactured prior to the compliance date should be exempted from any chemical substitution. Such an exemption would avoid creating unnecessary disruptions to the supply of hundreds of thousands of older model replacement parts – impacting the ability to fulfill consumer warranties, recalls, service campaigns, or repairs of the existing fleet. This is a significant issue since the average age of the typical automobile on U.S. roads is more than 11 years old.[3] That said, the fact that these "grandfathered" vehicles and parts will eventually be retired from service means that their chemical constituents will ultimately be phased out of use, as newer vehicles and safer reformulated parts come into the market.

We appreciate the opportunity to offer our views on the draft Chemicals in Commerce Act. Some may question why an industry that relies heavily on chemical substances would support legislation that would provide EPA more authority and better tools to regulate chemicals. But this is entirely in keeping with our overall desire as auto companies to offer the best and safest products possible to our customers in the most effective and efficient manner possible. We believe the draft Chemicals in Commerce Act will provide EPA the ability to more effectively protect the public and environment from harmful chemical substances, while providing industry a clearer and more consistent regulatory roadmap at the federal level. The Alliance stands ready to work with the subcommittee as this discussion draft proceeds through the legislative process.

Thank you again and I will be happy to answer any of your questions.

[3] Ibid.