Via eDocket

July 21, 2014

Document Control Office
(7407M), Office of Pollution Prevention and Toxics (OPPT)
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460–0001

RE: Agency Information Collection Activities; Proposed Collection; Comment Request; EPA–HQ–OPPT–2013- 0721; 79 Fed. Reg. 29442 (May 22, 2014)

Dear Document Control Officer:

The Society of Chemical Manufacturers and Affiliates (SOCMA) submit the following comments on the *Federal Register* notice referenced above regarding the Information Collection Request (ICR) entitled "Partial Update of the TSCA Section 8(b) Inventory Data Base, Production and Site Reports (Chemical Data Reporting)" and identified by EPA ICR No. 1884.08 and OMB Control No. 2070–0162. Section 8 (b) of the Toxic Substances Control Act (TSCA) requires EPA to compile, keep current, and publish a list of each chemical substance that is manufactured or processed in the United States.

SOCMA is the only U.S. based trade association dedicated solely to the batch, custom and specialty chemical industry. Over 70% of SOCMA's active members are small businesses.

Necessity of Information Collection

Since most of the information the agency seeks via TSCA section 8(b) is specific to a submitter's business and is not likely available in other public sources or offices at EPA, or another agency, it is necessary to request the information from the submitter. For example, full production/import data are normally kept with a company's business records. Some companies have developed systems so that the volumes by chemical are trackable year-to-year.

For the 2016 Chemical Data Reporting (CDR) submission period, manufacturers (including importers) of reportable chemical substances will be required to report the production volume of those chemical substances at each site for each of the years (2012, 2013, 2014, and 2015) since the last principal reporting year (2011). This information should be available for the 2012-2016 timeframe.

At a minimum, the information can be utilized to maintain and keep accurate the TSCA inventory of chemicals. The agency should be able to use some of the information it collects to help with its efforts to prioritize the TSCA inventory as well.

Enhancing Information Collection

As SOCMA has continually noted in Congressional testimony and past comments to the agency it is oftentimes difficult, if not impossible, for manufacturers to know how their chemicals are processed or used downstream of them. The information EPA collects, namely use and exposure information, could be enhanced if EPA were to poll industrial or commercial downstream entities to the manufacturer. While potentially challenging for the agency, this could help provide a more complete profile of risk and help aid prioritization efforts and should be considered.

Regardless of what information the agency requests, to ensure accuracy, it is most important to make clear what information is being collected, why it is being collected, how it will be used and provide companies plenty of guidance and lead time to collect that information. By describing how the information will be used, stakeholders will be in a better position to offer comments to EPA about how best to ask for and use the data, which should prove helpful to the agency in accomplishing its goals.

SOCMA believes the agency provided useful and substantive resources through its webinars, guidance documents and training modules for the 2012 Chemical Data Reporting rule. The use of logic diagrams as examples in the instruction manual was helpful. We believe it was clear what information was required and how to go through the submission process. However, like many in the broader industry, we found that more time was needed to complete the submission. We appreciate the agency's extension of the submission period in response to our request.

Minimizing Burden

SOCMA certainly supports electronic reporting, and believes, overall, it has helped streamline reporting. During the last CDR reporting cycle, submitting data through the Central Data Exchange (CDX) worked well once the information in the e-CDR file was validated.

At the same time, one member reported that the system tended to crash with large submissions of chemicals (i.e., >50 chemicals). There was also a report that the CDX portal can be challenging depending on the IT firewalls companies have in place, necessitating help from CDX programmers. In addition, many smaller companies do not have the sophisticated IT departments necessary to make the xml submission process work effectively. SOCMA believes the EPA should not drive to xml only. A robust tech support staff at EPA is very important to facilitate reporting via CDX and will help allay concerns from companies that may be lacking in IT resources.

As previously noted, timing is critical. Reportable chemicals that are present in imports can present a major time challenge, for example. Smaller companies and batch manufacturers also face time challenges.

ChemStewards® A PROGRAM OF SOCMA 1850 M St NW Suite 700 • Washington, DC 20036-5810 • Tel: 202-721-4100 • Fax: 202-296-8120 • www.socma.com

When chemicals are imported as blends each intentional chemical, regardless of function, must be aggregated. When one aggregates volumes from imports, there may be 10 different sources of a chemical, each of which may be used in different concentrations, in several different markets, resulting in a very complicated matrix to review to see what to report. This is quite different from the time requirements of commodity manufacturers/importers.

Furthermore, with the proposed lowering of the production volume threshold to 25,000 lbs. and 2,500 lbs. for chemicals subject to regulatory action in the upcoming CDR, SOCMA anticipates that the number of chemicals to be reported will increase substantially from previous years. Many smaller companies will now be required to report. This can be a challenge, since employees at smaller companies tend to wear many different hats. It is not clear whether this will have any added benefit to the previous reporting cycles. The ICR should take the volume trigger reduction into consideration.

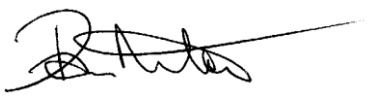
Another issue to consider is the episodic nature of batch and custom manufacturing. Due to the "on-demand" nature of batch and custom manufacturing, production volumes often fluctuate depending on market need. While commodity chemicals make up most of the production volume (by weight) in the global marketplace, specialty chemicals make up most of the diversity (number of different chemicals) in commerce at any given time. What may seem to be a straight forward reporting procedure for large commodity manufacturers, may not be so for smaller batch manufacturers. Batch companies need to spread their work out over years and could end up calculating several years' worth of data for chemicals that in the principle year may not even be reportable.

Conclusion

The timing and clarity of any reporting requirement is extremely important. EPA should demonstrate how it is using the information it collects and utilize it within a reasonable period of time. It should also insure that electronic reporting is reliable and user friendly. The agency should provide guidance and communicate with stakeholders as far out as possible and can do so with workshops, webinars, and participation in conferences such as GlobalChem. More companies, including smaller companies, will be impacted by the upcoming CDR with the proposed lowering of the volume thresholds and this should be considered.

SOCMA appreciates the opportunity to provide comments and would be happy to answer any questions or provide more detail at any time.

Sincerely,



Dan Newton
Senior Manager, Government Relations

ChemStewards® A PROGRAM OF SOCMA 1850 M St NW Suite 700 • Washington, DC 20036-5810 • Tel: 202-721-4100 • Fax: 202-296-8120 • www.socma.com

July 21, 2014

Ms. Loraine Passe
Acting Chief
Existing Chemicals Branch
USEPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Mail Code: 7405M Washington, DC 20460

Re: EPA-HQ-OPPT-2013-0721

Dear Ms. Passe:

The American Chemistry Council (ACC)[1] appreciates the opportunity to submit comments on the consultation questions posed in the Environmental Protection Agency's (EPA's) Information Collection Request (ICR), *"Partial Update of the TSCA Section 8(b) Inventory Data Base, Production and Site Reports, EPA ICR No. 1884.08, OMB Control No. 2070-0162* published in 79 Fed. Reg. 29442, May 22, 2014.

ACC and its members are committed to enhancing the quantity and quality of data and information provided to EPA on chemicals in commerce. ACC supports EPA's commitment to strengthen chemicals management in the US. We recognize that the information gathered in the Chemical Data Reporting (CDR) program helps the Agency promote its mission to protect the health and safety of the public and environment, and ACC wants to contribute to the overall success of the CDR program. In addition, it is very important that EPA accurately reflect the burden on U. S. businesses associated with compliance under this obligation.

1. INFORMATION COLLECTION

(a) Is the information that the Agency seeks under this ICR available from any public source, or already collected by another office at EPA or by another agency? If yes, where can the Agency find the data?

[1] The American Chemistry Council (ACC) represents the leading companies engaged in the business of chemistry. ACC members apply the science of chemistry to make innovative products and services that make people's lives better, healthier and safer. ACC is committed to improved environmental, health and safety performance through Responsible Care®, common sense advocacy designed to address major public policy issues, and health and environmental research and product testing. The business of chemistry is an $812 billion enterprise and a key element of the nation's economy. It is the nation's largest exporter, accounting for twelve percent of all U.S. exports. Chemistry companies are among the largest investors in research and development. Safety and security have always been primary concerns of ACC members, and they have intensified their efforts, working closely with government agencies to improve security and to defend against any threat to the nation's critical infrastructure.

No, to the best of ACC's knowledge, the information collected under the CDR is not available elsewhere to the Agency.

(b) Is it clear what is required for data submission? If not, are there any suggestions for clarifying instructions?

ACC does have unresolved questions about the requirements for data submission in the 2016 CDR. The majority of ACC's concerns and questions concerning the 2016 CDR were provided to EPA in December of 2013, in a Summary of Key Lessons Learned, Issues, and Recommendations from the 2012 Chemical Data Reporting Period. That summary document is attached and incorporated by reference as Appendix A. ACC believes that the most effective and efficient way to enhance the 2016 CDR is through in-person collaboration between industry and EPA. However, ACC responds to the specific questions posed in this ICR Consultation as follows:

Questions continue to exist concerning the chemical volumes tracked in non-principal reporting years, the tracking/reporting of chemicals which trigger the under-2,500 pounds threshold (e.g., questions on the chemicals and the rule), process and use reporting, and clarifications concerning contract manufacturers/toll manufacturers. Some specific examples include:

- Under 2,500 lb. reporting: At what point in the four-year reporting period between 2012 and 2016 should the list of chemicals be considered? If a chemical is added to the regulated list in 2015, is the volume of that chemical required to be reported at the 2,500 lbs. threshold all the way back to 2012?
- Processing and use information: How far downstream does a company have to look? For example, for a pigment that is: 1) sold to customer that compounds it into a pellet; 2) next customer molds pellet into a part for an article; 3) who sells to a company that assembles the article; and 4) the article is sold to industrial/commercial and/or consumers. What is reasonable for the pigment manufacturer to know?
- Process & use into articles: A particular concern exists when an article is made by a downstream customer's customer. EPA states that "for products used by children" to include "presence in" or "on articles," regardless of the concentration remaining in or on the product. Perhaps the general instructions regarding Commercial/Consumer use of chemicals, "including as part of an article" should add clarifying language stating, "regardless of the concentration remaining in or on the product." For example, a lead acid battery article containing sulfuric acid, which is not intended for use by children, but might be contained in a larger article, such as a go-cart or children's All-Terrain Vehicle or motorcycle or dirt bike, etc., which is intended to be used by children age 14 & under.
- Contract Manufacturers/Tollers: Understandably, toll manufacturers and contracting parties are responsible for reporting under the CDR, however, after consultation with one another, one party ultimately must "trust" the other party to submit the information to the CDR. Perhaps this could be remedied with a variation of joint submission, where Parts I and II are completed by the toll manufacturer and Part III by the contracting agent.
- Imported Mixtures: an especially complex requirement for the CDR is the calculation of chemical substances in imported mixtures and exported chemical products. ACC does not believe this complexity has been acknowledged sufficiently by EPA.

2. ELECTRONIC REPORTING AND RECORDKEEPING

(a) The 2011 CDR collection was the first time that the electronic reporting was mandatory. How would you rate your overall experience using the electronic tool? Specifically, how would you describe your experience with the following?

ACC supports the electronic reporting of information under the CDR, but a number of system issues adversely impacted the functionality of the electronic system. ACC believes these system issues should be corrected ahead of the 2016 reporting period.

(b) If you encountered difficulties, what suggestions for improvement would you suggest?

The xml schema

- Providing a schema that companies used to upload bulk data via xml to the eCDR tool was a benefit for companies with large numbers of chemicals to report and should be maintained and made available by EPA as an option.

- There were significant issues associated with the first schemas EPA provided to industry for the 2012 CDR. Companies that chose to automate their upload data and information had to wait until early April 2012 before the schema was operational. **Recommendation**: Based on ACC members' 2012 experience, EPA should provide a working and validated xml template for industry well ahead of the submission window to minimize issues that might be associated with uploading errors during the submission period. In addition, EPA should supply an excel form with the xml file that would allow conversion to the correct xml format for uploading into the EPA software.

- In the 2012 reporting period, when a schema would not load, the system did not identify the location of errors made during format validation and defaulted to a system error message. In some cases, the system reported an error message when it was simply overloaded (i.e., no actual errors were made during the submission process, but the eCDR system could not support the volume of submissions being entered and inaccurately reported those problems as an error). The eCDR did not provide a method for submitters to distinguish between an error in the report and one resulting from an eCDR system's functionality.

- Regarding individual site reports, when the eCDR indicated a code was missing, the system did not have the functional capability to identify the specific chemical for which the error occurred. At a minimum, the error message should indicate the section in which the error is contained or which chemical caused the error, since some sites may have hundreds of chemical substances. The inability to identify the location of errors led to significant effort on the part of EPA, its contractors, and industry to locate the problem. **Recommendation**: Based on 2012 experiences, EPA should develop a good system for detecting and communicating errors both with format validation, automated uploading, and data entry in the eCDR.

The use of validating signatures in CDR

- The eCDR's ability to designate more than one Primary Authorized Official per Company was an excellent feature of the 2012 CDR and should be retained. The level of security offered by the system provided reassurance to companies as they provided confidential and competitively sensitive information.
- Many companies experienced signature validation issues in the 2012 CDR reporting, which prevented use of the eCDR system in the first 2 months of the reporting window. There were significant issues for companies that tried to complete the work early with the electronic Lexis

Nexis signature validation. For some companies, it took more than a month to receive electronic signature verification via hard copy mail for the Primary Authorizing Official. The facilities/data could not be added until the verification process was complete; delaying significantly those companies that were prepared to enter data. **Recommendation**: Ensure that validated CDX registration and electronic signature is in place well in advance of the 2016 submission period. Since many companies will already have registered to use CDX, this should be less of an issue in 2016.

- **eCDR Reporting Roles**
  - ***Technical Administrator*** - The CDR Primary Authorizing role does not correspond to business work processes for someone at a level appropriate for CDR signature. The eCDR creates administrative work for the Primary Authorizing Official at the beginning of the submission process and nothing can be entered into the system without completing this administrative work up-front. One suggestion is to have one role for a technical administrator who can initiate forms, input, and finalize the data, and another role established for a higher-level company official to formally submit the eCDR information. By way of illustration, while the EPA Administrator might very well be the person who would sign-off on the work of other EPA staff, it is doubtful that she would be the appropriate person to actually do the administrative work to set up the facilities and technical contact assignments for a project comparable to the CDR. In addition, once an Authorized Official has submitted the report for a site, the Primary Support person for the company submitting the eCDR information should be able to download a Copy of Record. **Recommendation**: Create a new role in the eCDR as Primary Administrating Official. This person should be responsible for the setup work required for the CDR and should have the same access capability to all forms and submissions as the Primary Authorizing Official; the Primary Authorizing Official role should be reserved for final signatory authority for all company facilities. In addition, all those in Primary Support roles should have the same access authority to all company reports and XML as the Authorized Official.
  - ***Multiple Primary Authorized Officials*** - In addition to issues setting up the eCDR forms, adding multiple authorized company officials was complex. In some cases, companies with multiple Primary Authorizing Officials found they were unable to view reports for other Authorizing Officials from the same company. **Recommendation:** Please offer some guidance for companies that add multiple Authorizing Officials, and ensure the system has the capability to allow multiple Authorizing Officials to view all company sites.

The ease of using the e-CDR reporting tool

- The web-based functionality of the eCDRweb tool offered easy access and portability via internet connection. The Webinars and instruction manuals for industry helped navigate both the rule and the new electronic submission process.
- There were some features of the tool that made it more difficult to input and correct data.
  - ***Chemical Names*** - The eCDR defaulted to chemical names in the reporting forms. Many chemical names are very similar and some are so long that they were truncated in the system. While the 2012 eCDR did allow companies to change the name to a CAS registry number, this was especially burdensome for sites with a large number of chemicals. CAS numbers would be a better unique identifier to include in the system at the outset. **Recommendation:** The eCDR forms should use CAS registry numbers as a default instead of chemical names for the folder identities.

- ***Search Capability*** - The eCDR form lacked the ability to search for a chemical within a report based on CASRN or name. When a report contained a large number of chemicals, and updates or edits were needed, it was difficult and time consuming to locate a specific chemical. This problem was especially difficult concerning imported chemical substances, where many companies typically saw the highest number of chemicals (some >200 substances) in a single report. The lower thresholds for 2016 will increase both the number of substances and complexity for companies. The ability to sort the list of chemicals by CAS number or name is needed. **Recommendation:** To increase efficiency, EPA should update the eCDR to allow the ability to search and sort for a chemical within a report based on CASRN or name.
- ***PDF Copies of Form U/Copy of Record*** - The PDF copies of Form U generated in eCDR were not well formatted in 2012. There was excessive white space resulting in numerous pages and the data in some of the fields are left-justified rather than centered, making them much more difficult to review. These PDFs are necessary for required company review of the data. **Recommendation:** Modify PDF form to reduce the amount of excess white space.
- Draft PDFs of Form U and Final PDFs from the Copy of Records did not always accurately represent the data submitted via eCDRweb following submission of site reports. **Recommendation**: A solution is needed so that the PDF of the Form U exactly matches the Form U content in the eCDRweb. The formal copy of record should contain all data submitted as well as any identity code EPA considers important for its internal recordkeeping.
- The following examples are noted:

    - Company CBI substantiation responses did not always correspond with the respective chemicals on the Form U. This was particularly true on lengthy CDR reports.
    - Records or documentation of company amendments to Form U for resubmitted site reports are not, but should be, tracked in the draft PDFs or in the PDFs contained in amended Copy of Records.
    - Entry for "other" was placed on a separate page by itself and not connected on the form to the data field it represented.

- ***Exempted Chemicals*** - eCDR should have the capability to recognize its own exempted (XU) and partially exempted chemicals. For XU chemicals, the application should be able to notify users that reporting is not required. For chemicals with partial reporting exemptions (e.g., petroleum process streams), the application should be able to automatically enter "N/A" in the processing and use sections of Form U.
- ***Validation Warnings*** - eCDRweb generated a validation warning to notify users that processing and use data were not required for chemicals with volumes <100,000 lbs. This system default created a fair amount of unnecessary clutter in the validation reports and should be removed. A link between entered production volume and thresholds for required data fields (in processing and use information) would be helpful and would eliminate numerous validation steps in use reporting.
- ***CBI Substantiation*** - The CBI substantiation for processing and use data is cumbersome. Each individual element that is claimed CBI requires substantiation. The answers to the substantiation questions are usually the same for all fields in a given data row, resulting in a lot of copy and paste work. This burden could be reduced by linking all of the CBI elements in a processing or use row to a single set of substantiation questions, or adding a check-box that users can check to automatically copy over CBI substantiations from one field to the next.

- ***"Delete Form" functionality*** - The "Delete Form" functionality in the eCDRweb does not appear to work properly. If the information from a site was uploaded to the eCDRweb from CDX and later determined to be incorrect (e.g., inaccurate site name), the incorrect Form U remains in the eCDRweb system even after several deletion attempts. **Recommendation**: Repair the eCDRweb delete function so users can remove inaccurate Form Us from the Forms page.
- ***Folder Functions*** -- eCDR should have "expand all" and "collapse all" functions for the folders in the left sidebar menu of the eCDR to reduce the amount of scrolling required for sites that report a large number of chemicals.
- For companies that entered data manually (vs. using the XML upload) into the eCDR, the process was very inefficient and time consuming. A significant and unnecessary amount of time was wasted simply clicking from page-to-page to enter the required information. One member company estimates it likely spent more than 8 hours simply waiting for the system to move from page-to-page. **Recommendation:** If all of the necessary reporting information (manufacturing, technical contact, processing and use information, etc.) required is contained on one page, the time spent on manual entry would be significantly reduced.

Submitting data through the Central Data Exchange (CDX)

- The 2012 eCDR system was slow to open, navigate, and validate forms for large numbers of chemicals (especially when the number of chemicals was > 100). The system was particularly slow to operate when attempted later in the week as opposed to early in the week or on weekends. Most companies worked weekends to reduce the time delays to ensure that each site was properly validated, but then needed to re-validate in the presence of the Authorizing Official (AO). It would be helpful to have the validation step separated from the signature of the AO so the AO does not have to be present for the validation step.
- ***System "Timeouts"*** – System timeouts during data entry and system access required users to re-enter the system or utilize the "back" button on the browser (in some instances) when:
    - Entering data
    - Accessing report – Primary Support and Authorized Official
    - Generating *.pdf files for review
    - Submitting Report – Authorized official
    - System response time (slow to almost non-responsive)

Recommendation: For 2016 reporting, EPA should ensure a more robust eCDR system in which multiple companies can submit data without compromising speed or quality. The eCDRweb system should be optimized to handle higher demand during peak usage. Industry recommends that EPA explore ways to increase the speed to open forms, perhaps enabling the form to create sub-reports for sites with large number of chemicals.

3. *BURDEN COST ANALYSIS*

(a) Do you agree with EPA's estimated burden and costs related to submitting information to the CDR database? EPA is particularly interested in your input on the burden hours related to reporting processing and use data in Part III of the Form U as described in the ICR renewal.

(b) Are the Bureau of Labor Statistics (BLS) labor rates accurate? If you have any reason to consider the BLS labor rates inaccurate or inappropriate as used by EPA, please explain your rationale.

The level of detail that EPA has provided in the burden analysis is appreciated. EPA has provided a much better picture than in the past of the effort required to complete the CDR reporting by breaking out each data element and estimating the time required. Nevertheless, ACC does not believe EPA's estimates provide a realistic projection of the burden that will be placed on industry to comply with the 2016 CDR.

A significant difficulty in developing burden estimates for the CDR is the use of averages, which tends to dilute the magnitude of the burden for companies with large numbers of chemicals to report. The average used by EPA is 7-8 chemicals per report. This average is significantly below the typical average for ACC companies. Based on input from a subset of ACC member companies, the averages ranged from 9 and 42 per site reported to the CDR in 2012.

In addition, the reduced volume trigger of 2,500 lbs. for some regulated chemicals requires many companies to develop systems to track *all* chemicals and develop data on more chemicals than will ultimately be reported. This adds to the ongoing burden of developing systems to generate the required information.

EPA estimated 2-3 hours per chemical to obtain the information on production volume (Part II). Since most company enterprise systems have been developed to track products sold rather than chemicals made, obtaining manufactured volumes may not be a trivial activity. This is especially true for imports where a significant percentage of these chemicals are imported as part of mixtures, e.g., additives in polymers or formulated consumer products. To accurately report the volume of chemicals imported requires deconstructing the compositions of many product mixtures and calculating the volumes of the individual chemicals contained within the mixtures. Determining the volumes of individual chemicals within a mixture typically requires additional system design or significant manual work to accurately calculate the volumes of imported chemicals for CDR. The complexity increases for companies with large numbers of imported mixtures, and especially when ingredients in different product mixtures overlap. In addition, because product formulations can change, it is necessary to obtain current product mixture data and perform these calculations on at least an annual basis. Based on the 2012 CDR data, 14 – 25 % of the chemicals reported appear to be from imported mixtures[2] where this additional CDR burden applies.

The average burden per site as determined by EPA is 623 and 804 hours (for old and new submitters respectively, based on 7.28 chemicals per site). While this is lower than the time spent by most of the ACC companies, the greater concern is that EPA converts this number to an annual burden of 155 and 200 hours per site by dividing by the four-year cycle of the CDR. ACC believes that the total burden is a more accurate reflection of the time a company would spend in the principal reporting year, but EPA's estimations do not reflect the burden companies will experience in the interim years—especially when interim reporting is new to the CDR and companies do not have any experience with this new reporting obligation.

One item that does not appear to be adequately reflected in the burden estimates is the time needed to become familiar with the eCDR software, even for experienced submitters because modifications to the 2012 CDR software will be required. At a minimum, the eCDR software

[2] The 2012 CDR file was used to obtain an estimate of the number of chemicals imported as part of a mixture. The CDR file contains 33,031 entries. Of these 4767 (14%) are marked with an activity of Import or Both and a concentration range other than 90+%. Since many chemicals have the activity marked as CBI if these chemicals are also included then the number of chemicals with activity Import, Both or CBI and a concentration range other than 90+% is 8440 (25%).

will need to be adjusted to accept three years of interim volume data rather than just one. This will necessitate changes to the EPA schema and companies that use the schema approach to load data will need to modify and test their own systems based on EPA changes. Ideally, beta testing will begin well before the reporting window opens. Based on ACC's experience with the 2012 CDR, beta testing can be a time consuming process for industry, EPA, and its contractors. Therefore, sufficient time provided for beta testing is essential to ensure that the reporting period runs smoothly.

4. ***REPORTING PRODUCTION VOLUME FOR EACH YEAR OF FOUR YEARS***

(**a) For the 2016 submission period, manufacturers (including importers) of reportable chemical substances will be required to report the production volume of those chemical substances at each site for each of the years (2012, 2013, 2014, and 2015) since the last principal reporting year (2011).**

How will your company track annual production volumes for each of the four years since the last principal reporting year in order to report in 2016?

In general, most companies will track the production volume on an annual basis. This is necessary for several reasons. As noted above, especially for imported mixtures, it is necessary to ensure that the correct formulation is used to calculate the individual chemical components. Since formulation can change over time, this cannot be done easily looking back three to four years. Based on input from member companies, ACC estimates that on average 50-200 hours per year per site will be spent collecting this interim data.

In addition, during any four-year cycle, there will be a significant number of chemical companies that will make changes to their enterprise IT systems to better meet their business needs. When this occurs, it is more difficult to go back to retrieve historical data needed to comply with the CDR. In addition, these system changes often require companies to develop other appropriate supporting systems to collect data for the CDR.

Thank you again for the opportunity to participate in the ICR Consultation. ACC looks forward to collaborating with in the coming months to strengthen the quality and value of the 2016 CDR.

Sincerely,

Christina Franz

Christina Franz
Senior Director, Regulatory & Technical Affairs

December 23, 2013

Leslie Cronkhite
Chief, Existing Chemicals Branch
USEPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 7405M
Washington, DC 20460

Re: ACC's Summary of Key Lessons Learned, Issues, and Recommendations from the 2012 Chemical Data Reporting (CDR) Period

Dear Ms. Cronkhite:

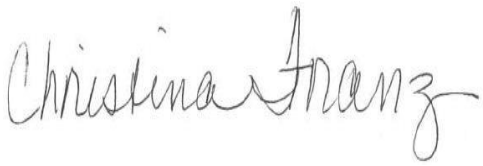
The American Chemistry Council (ACC) and its members are committed to enhancing the quantity and quality of data and information provided to EPA on chemicals in commerce. ACC supports EPA's commitment to strengthen chemical management in the US, and is dedicated to the overall success of the Chemical Data Reporting (CDR) effort. We fully recognize that information gathered in the CDR supports the Agency's mission to protect the health and safety of the public and environment.

Over a year has passed since the 2012 submission and EPA has already made use of the data for its Work Plan Chemicals and included it in the new ChemView portal. Once the 2012 submission window closed, ACC member companies undertook a full review of the issues that arose during the 2012 CDR submission, reflected on the key lessons we learned in the process, and developed some recommendations to improve the overall efficiency of the system for 2016. I have enclosed ACC's summary and our recommendations in an effort to strengthen the 2016 CDR report.

ACC and its members recommend that EPA and industry begin working together early in 2014 on some targeted areas where the CDR can be strengthened and improved. ACC appreciates the opportunity to provide comments to the Agency and hopes that by sharing this information with you, we can begin to discuss the 2016 CDR report to ensure the most robust data set for the 2016 CDR report.

We would like to meet with you at your earliest convenience after the first of the New Year to begin what we hope will be an ongoing discussion and collaboration to improve the 2016 and future CDRs. In the interim, please do not hesitate to contact me if you have any questions or comments on the enclosed summary. I hope you have a wonderful holiday and a happy New Year.

Sincerely,



Christina Franz
Senior Director, Regulatory & Technical Affairs

cc: Wendy Cleland-Hamnett
Jeff Morris
Maria Doa
Matthew Leopard

Strengthening the 2016 Chemical Data Reporting (CDR) Report

Worked Well in the 2012 CDR

1. EPA's early and continuous engagement with industry on the eCDRweb tool.

2. EPA's delivery of a schema that companies could use for uploading bulk data via xml to the eCDR tool.

3. The eCDR's ability to designate more than one Primary Authorized Official per Company.

4. The level of security offered by the system provided reassurance to companies as they provided confidential and competitively sensitive information.

5. The level of technical support provided by EPA staff and its contractor CGI – both were responsive and willing to help rectify issues.

6. The web-based functionality of the eCDRweb tool offered easy access and portability via internet connection.

7. EPA provided a number of Webinars and instruction manuals for industry that helped navigate both the rule and the new electronic submission process.

2012 CDR Concern Areas

A. TIMING ISSUES

An overriding concern for industry related to the 2012 reporting requirements were directly related to the short timing within which to comply with the rule and the large number of new, additional elements.

- The length of time between the final rule and the reporting window was extremely short. It was neither long enough a period of time for EPA to deploy a fully functional eCDR system nor to provide the clarifications necessary in a timely manner as industry implemented new requirements within a new electronic system.

- There were many clarifications needed concerning the reporting requirements and issues that arose with the functionality of the eCDR web tool.

- Company systems needed to be calibrated to meet the new requirements in the rule (e.g., reporting of exported chemicals) as well as to ensure company software was adapted to interface with the EPA's new eCDR, which was not piloted with industry until the end of 2011.

- While EPA did provide webinar and online training, industry still had to work actively with EPA on both regulatory clarifications and system issues.

- The system issues in particular added to the compliance burden for most companies.

- While many system and regulatory issues were addressed as quickly as possible by EPA and its system contractor, other regulatory questions (e.g., updated information on articles) were not available until near the end of the submission period.

- An especially complex requirement for the CDR is the calculation of chemical substances in imported mixtures for CDR and exported chemical products. This complexity has not been acknowledged sufficiently by EPA and industry believes this is an important point for EPA to recognize for the upcoming 2016 CDR.

Recommendation: ACC recommends that EPA acknowledge the significant changes to be implemented in 2016 that were contained in the 2011 final rule and not make substantial changes to the rule again for the 2016 reporting. In particular, industry requests that EPA not make significant changes to the processing and use data requirements without adequate time for companies to integrate the changes in their systems.

B. SYSTEM ISSUES

ACC recommends that EPA begin working with industry early on in the process to ensure that the eCDR web tool is fully operational well before the 2016 CDR submission window opens. The lack of a robust pilot caused a number of issues with the web tool in 2012, and industry was very active in reporting and working with EPA to develop appropriate updates and fixes to the eCDR system. We believe that if EPA and industry begin working together early in the process, especially with the eCDR web tool, we can strengthen the tool for 2016.

1. CDX Sign-up & Electronic Signature Validation

Many companies experienced signature validation issues, which prevented use of the eCDR system in the first 2 months of the reporting window. There were significant issues for companies that tried to complete the work early with the electronic Lexis Nexis signature validation. For some companies, it took more than a month to receive electronic signature verification via hard copy mail for the Primary Authorizing Official. The facilities/data could not be added until the verification process was complete; delaying significantly those companies that were prepared to enter data.

Recommendation: Ensure that validated CDX registration and electronic signature is in place well in advance of the 2016 submission period.

Facility Site Names – Site names uploaded to the eCDR web tool from the Facility Registry System (FRS) were not always consistent with actual company site names. This resulted in the user having to manually create site names in CDX. **Recommendation**: Update the FRS with accurate site names or populate the 2016 eCDR site names from a database of sites created from the 2012 CDR.

EPA Registry ID issues - Site names that were created in CDX were not assigned an EPA Registry ID and are currently identified as still "Pending" in the system. **Recommendation**: Assign EPA Registry IDs to sites that were created in CDX for 2012 CDR.

Acronyms - The eCDRweb system does not contain easy-to-understand names and acronyms to navigate the links in the system. For example, the very first link does not refer to the CDR, but only to CSPP in the title. **Recommendation**: The ability to locate the eCDR should be made much clearer to users.

2. eCDR Reporting Roles

Technical Administrator - The CDR Primary Authorizing role does not correspond to business work processes for someone at a level appropriate for CDR signature. The eCDR creates administrative work for the Primary Authorizing Official at the beginning of the submission process and nothing can be entered into the system without completing this administrative work up front. One suggestion would be to have one role for a technical administrator who can initiate forms, input, and finalize the data, and another role established for a higher-level company official to formally submit the eCDR information. By way of illustration, while the EPA Administrator might very well be the person who might sign-off on the work of other EPA staff, it is doubtful that she would be the appropriate person to actually do the administrative work to set up the facilities and technical contact assignments for a project comparable to the CDR. In addition, once an Authorized Official has submitted the report for a site, the Primary Support person for the company submitting the eCDR information should be able to download a Copy of Record. **Recommendation**: Create a new role in the eCDR as Primary Administrating Official. This person would be responsible for the setup work required for the CDR and should have the same access capability to all forms and submissions as the Primary Authorizing Official; the Primary Authorizing Official role should be reserved for final signatory authority for all company facilities. In addition, all those in Primary Support roles should have the same access authority to all company reports and XML as the Authorized Official.

Multiple Primary Authorized Officials - In addition to issues setting up the eCDR forms, adding multiple authorized company officials was complex. In some cases, companies with multiple Primary Authorizing Officials found they were unable to view reports for other Authorizing Officials from the same company. **Recommendation:** Please offer some guidance for companies that add multiple Authorizing Officials, and ensure the system has the capability to allow multiple Authorizing Officials to view all company sites.

3. Electronic Reporting Forms

Chemical Names - The eCDR defaulted to chemical names in the reporting forms. Many chemical names are very similar and some were so long that they were truncated. While the 2012 eCDR did allow companies to change the name to a CAS registry number, this was especially burdensome for sites with a large number of chemicals. CAS numbers would be a better unique identifier. **Recommendation:** The eCDR forms should use CAS registry numbers as a default instead of chemical names for the folder identities.

Search Capability - The eCDR form lacked the ability to search for a chemical within a report based on CASRN or name. When a report contained a large number of chemicals, and updates or edits were needed, it was difficult and time consuming to locate a specific chemical especially for imported chemical substances, where many companies typically saw the highest number of chemicals (some >200 substances) in a single report. The lower thresholds for 2016 will increase

both the number and complexity for companies. The ability to sort the list of chemicals by CAS number or name is needed. **Recommendation:** To increase efficiency, EPA should update the eCDR to allow the ability to search and sort for a chemical within a report based on CASRN or name.

PDF Copies of Form U/Copy of Record - The PDF copies of Form U generated in eCDR are not well formatted. There is excessive white space resulting in numerous pages and the data in some of the fields are left-justified rather than centered, making them much more difficult to review. These PDFs are necessary for required company review of the data. **Recommendation:** Modify PDF form to reduce the amount of excess white space.

Draft PDFs of Form U and Final PDFs from the Copy of Records did not always accurately represent the data submitted via eCDRweb following submission of site reports. The following examples are noted:

- Company CBI substantiation responses did not always correspond with the respective chemicals on the Form U. This was particularly true on lengthy CDR reports.

- Records or documentation of company amendments to Form U for resubmitted site reports are not, but should be, tracked in the draft PDFs or in the PDFs contained in amended Copy of Records.

- Entry for “other” was placed on a separate page by itself and not connected on the form to the data field it represented.

Recommendation: A solution is needed so that the PDF of the Form U exactly matches the Form U content in the eCDRweb.

In several instances following the successful submission of a CDR report by the Primary Authorized Official (i.e., no validation errors, completed CROMERR activity, and certification), it was discovered that the status of the report on the Forms page of the eCDRweb still reflected that the report was "In Progress" rather than "Submitted." Following a second attempt a moment or two later, the report was again successfully submitted and the status of the Form for the site in the eCDRweb would then correctly reflect that it was, in fact, "Submitted." However, the Form U in the copy of record would incorrectly reflect that the submission was a "Revision to an original submission" even though the Form was not ever actually revised. **Recommendation**: EPA is aware of this problem and it may have been associated with the slow system response time during the latter part of the submission period. This problem should be resolved for 2016 so that the eCDRweb accurately reflects the submission status without the need to re-submit the report a second time.

Working in Multiple Forms - Some companies had only one person with responsibility for completing several forms for different sites, the person completing multiple forms for each site should be able to switch among the various site forms to check and verify information. **Recommendation:** eCDR should allow Primary Support to easily switch from site form to site form.

Exempted Chemicals - eCDR should have the capability to recognize its own exempted (XU) and partially exempted chemicals. For XU chemicals, the application should be able to notify users that reporting is not required. For chemicals with partial reporting exemptions (e.g., petroleum process streams), the application should be able to automatically enter "N/A" in the processing and use sections of Form U.

Validation Warnings - eCDRweb generated a validation warning to notify users that processing and use data were not required for chemicals with volumes <100,000 lbs. This system default created a fair amount of unnecessary clutter in the validation reports and should be removed. A link between entered production volume and thresholds for required data fields (in processing and use information) would be helpful and would eliminate numerous validation steps in use reporting.

CBI Substantiation - The CBI substantiation for processing and use data is cumbersome. Each individual element that is claimed CBI requires substantiation. The answers to the substantiation questions are usually the same for all fields in a given data row, resulting in a lot of copy and paste work. This burden could be reduced by linking all of the CBI elements in a processing or use row to a single set of substantiation questions, or adding a check-box that users can check to automatically copy over CBI substantiations from one field to the next.

"Delete Form" functionality - The "Delete Form" functionality in the eCDRweb does not appear to work properly. If the information from a site was uploaded to the eCDRweb from CDX and later determined to be incorrect (e.g., inaccurate site name), the incorrect Form U remains in the eCDRweb system even after several deletion attempts. **Recommendation**: Repair the eCDRweb delete function so users can remove inaccurate Form Us from the Forms page.

Folder Functions -- eCDR should have "expand all" and "collapse all" functions for the folders in the left sidebar menu of the eCDR to reduce the amount of scrolling required for sites that report a large number of chemicals.

4. Automated Upload of Data

XML Schemas - There were significant issues associated with the first schemas EPA provided to industry to automate transfer of large amounts of data. Companies that chose to automate their upload had to wait until early April 2012 before the schema was operational. **Recommendation**: Based on our 2012 experience, EPA should provide a working & validated xml template for industry ahead of the submission window to minimize issues that might be associated with uploading errors during the submission window. In addition, EPA should supply an excel form with the XML file that would allow conversion to the correct xml format for uploading into the EPA software.

Error Identification – The eCDR did not identify the location of errors made during format validation and defaulted to a system error message without identifying where errors were located. In some cases, the system reported an error message when it was simply overloaded (i.e., there weren't any actual errors during the submission process, but the eCDR system had problems and reported those problems as an error). The eCDR did not provide a method for

submitters to distinguish between an error in the report and one resulting from an eCDR system's functionality.

Regarding individual site reports, when the eCDR indicated a code was missing, it did not have the capability to identify the specific chemical for which the error occurred. At a minimum, the error message should indicate in which section or which chemical caused the error, since some sites may have hundreds of chemical substances. The lack of the ability to identify the location of errors led to significant effort on the part of EPA, its contractors, and industry to locate the problem.

Recommendation: Based on 2012 experiences, EPA should develop a good system for detecting and communicating errors both with format validation, automated uploading, and data entry in the eCDR.

5. Manual Data Entry

For companies that enter data manually (vs. using the XML upload) into the eCDR, the process was very inefficient and time consuming. A significant and unnecessary amount of time was wasted simply clicking from page-to-page to enter the required information. One member company estimates it likely spent more than 8 hours simply waiting for the system to move from page-to-page. **Recommendation:** If all of the necessary reporting information (manufacturing, technical contact, processing and use information, etc.) required was contained on one page, the time spent on manually entry would be significantly reduced.

6. System Speed

The eCDR system was slow to open, navigate, and validate forms for large numbers of chemicals (especially when the number of chemicals was > 100) and when attempted later in the week as opposed to early in the week or on weekends. Most companies worked weekends to reduce the time delays to ensure that each site was properly validated, but then had to re-validate in the presence of the Authorizing Official.

System "Timeouts" – System timeouts during data entry and system access required users to re-enter the system or utilize the "back" button on the browser (in some instances) when:

- Entering data
- Accessing report – Primary Support and Authorized Official
- Generating *.pdf files for review
- Submitting Report – Authorized official
- System response time (slow to almost non-responsive)

Recommendation: For 2016, EPA should ensure a more robust eCDR system in which multiple companies can submit data without compromising speed or quality. The eCDRweb system should be optimized to handle higher demands during peak usage. Industry recommends that EPA explore ways to increase the speed to open forms. One suggestion is to enable the form to create sub-reports for sites with large number of chemicals.

C. 2016 REPORTING REQUIREMENTS

In addition to ensuring that the electronic issues with the eCDR are addressed and resolved for 2016, industry has questions about new portions of the CDR that will be implemented for the 2016 report. There are outstanding questions in the new rule about the chemical volumes tracked in non-principal reporting years, tracking/reporting of chemicals which trigger the under-2,500 pounds threshold (e.g., questions on the chemicals and the rule), process and use reporting for articles, and clarifications concerning contract manufacturers/tollers.

Recommendation: We encourage EPA to avoid making significant additional changes for 2016 CDR. There are still quite a number of questions and issues relating to the updates finalized in 2011 for the 2016 CDR. Industry representatives would very much like to meet with EPA to clarify issues with the rule on the 2016 submission as soon as possible. Most companies must track data annually to ensure robust compliance for 2016 because of the complexities involved. Without early guidance, industry will not have the appropriate clarifications needed to track data successfully for 2012 and beyond. We have outlined a considerable number of recommended improvements to the eCDR in this report. Given the lower thresholds for 2016 reporting, it is expected that industry, as a whole, will report on more chemical substances than ever before. Therefore, we believe early engagement between the Agency and industry will ensure appropriate clarifications in the rule and improvements to the eCDR are made the 2016 CDR.

D. OTHER PROCESSING & USE CLARIFICATIONS

- In general, the examples of processing and use reporting included in EPA's instructions and guidance are overly simplistic. Scenarios in need of more discussion include:
    - Import of finished products.
    - Products that undergo multiple industrial processing steps prior to commercial distribution (i.e., cases where the sum of production volume percentages exceed 100%). Passing reference is made to this issue several times in the instructions and guidance, but concrete examples would be helpful.
    - Reporting of chemicals after they have been incorporated into an article.
    - Reporting processing and use data when a portion of the chemical is directly exported.
    - End use of finished products in industrial settings.
- EPA provided guidance that when a chemical is manufactured or imported both for commercial and R&D purposes, the volumes associated with R&D should be subtracted from the overall production total. This was not obvious from the text at 40 CFR 711.10(a), since these chemicals are not manufactured or imported *solely* for R&D (i.e., only fractions of the totals are R&D).

- EPA appears to draw a distinction between "finishing" steps that are part of manufacturing and processing steps that should be reported separately. Further guidance on this topic would be appreciated, especially as it relates to distillation (both onsite and offsite).

- EPA's instructions should include definitions for the industrial sectors. In the absence of definitions, the guidance is confusing as to which sector a particular instruction applies. For example, page 12 of the reporting examples document (http://www.epa.gov/cdr/tools/2012_CDR.Examples.pdf) contains the example shown below. Why isn't the industrial sector for this step "Adhesive manufacturing" (IS28), since an adhesive product is being formulated? IS7 seems to be a more appropriate code for the downstream use of the resulting adhesive formulation in the textile industry.

  The fourth scenario is the formulation of Chemical Y into an adhesive for use in industrial textiles. The following codes apply to this scenario (Data Elements 3.A.4):
  - PF – Processing–incorporation into formulation, mixture, or reaction product
  - IS7 – Textiles, apparel, and leather manufacturing
  - U002 – Adhesives and sealant chemicals

- Examples such as the one above also confuse the issue of chemical function codes. Based on the scenario above, it appears that U002 was selected because the chemical was incorporated into an adhesive formulation, regardless of its function within the adhesive (e.g., solvent, filler, plasticizer, or actual adhesive). The CDR instructions document (http://www.epa.gov/cdr/tools/InstructionsManual.041712_revised-7_9_12.pdf), on the other hand, appears to focus on the function of a chemical within a formulation, not the function of the formulation. EPA's guidance delivered to industry in the final days before the reports were due, added to the complexity of the reports for some companies. Specifically, EPA changed the definition article so that welding rods and solder wire were no longer considered articles. This changed the article definition in 40 CFR by adding an un-vetted condition of "no phase change," even upon end use.

- Better guidance on reporting requirements in tolling situations would be helpful. Toll manufacturers and contracting parties are responsible for reporting (which makes sense), but after consultation with one another, one party has to 'trust' the other party to submit. Perhaps a variation of joint submission is possible, where Parts I and II are completed by the toll manufacturer and Part III by the contracting agent.

- Better guidance on processing and use information, how far downstream does one have to go? For example, for a pigment: 1) sold to customer who compounds it into a pellet; 2) next customer molds pellet into part for article; 3) sells to company that assembles the article; and 4) article sold to industrial/commercial and/or consumers. What is reasonable for the pigment manufacturer to know?

- The best code to use for purification processing via distillation or filtration to remove impurities should be code PK "Processing-Repackaging." We recommend that EPA add the

word "purity" or "concentration" to clarify their Appendix D Processing & Use Description for PK- Repackaging to read "Preparation of a chemical substance for distribution in commerce in a different form, state, *purity, concentration*, or quantity."

- Use of Industrial Processing IIIA report instead of Commercial IIIB Processing for an industrial setting which does not manufacture chemicals but processes chemicals – i.e., automotive body paint refinish shops.

- Confusion over Production Volume Exported report in 2.B.9. EPA's instructions are clear for Volume Exported 2.B.9, but cumbersome to explain to marketing & supply chain. EPA should change 2.B.9 title to "Production Volume Exported in same containers from site of manufacture without process, repackage or use in the USA."

- Report of total pounds manufactured in 2011 for commercial purposes would include amounts in crude form if TSCA-regulated. Some sites first reported only "good quality" or amounts shipped rather than total manufactured for commercial intent. EPA should clarify TSCA-regulated manufactured pounds for commercial intent report for 2.B.5. The 2.B.5 instructions should clarify for commercial intent, exclude pounds later disposed as waste, etc.

- The CDR covers only TSCA uses, but EPA has NON-TSCA use code C980. No further data should be required such as Commercial/Consumer/Children's Use boxes, concentration and number of commercial workers exposed.

- EPA should clarify reporting process & use into articles, particularly when the article is made by a downstream customer's customer. EPA states that for products used by children to include presence in or on articles, regardless of the concentration remaining in or on the product. Perhaps the general instructions to report for Commercial/Consumer use of chemicals "including as part of an article" should also add "regardless of the concentration remaining in or on the product" to clarify. One example is an article lead acid battery containing sulfuric acid, which is not intended for use by children, but contained in a larger article such as a go-cart or children's All-Terrain Vehicle or motorcycle or dirt bike, etc., which is intended to be used by children age 14 & under.

- EPA deleted the 2006 Industrial Use Code U029 for Solvents used for chemical manufacture & process which are not part of product at greater than 1% by weight, and left for the 2012 Use Codes only U029 Solvents for Cleaning & Degreasing and U030 Solvents which become part of the product formulation or mixture. Since there was no code for solvents used in processing, but not present in the product at 1% or greater, sites were forced to choose.

- EPA should clarify the reporting requirements for circumstances when a chemical is blended into a polymer matrix to clarify that the report is still required if present in or on the polymer matrix. If EPA intends that "presence alone" requires reporting without an exposure assessment for possible release of the chemical from the polymer matrix, a clarification would be helpful. Some editors felt that if the polymer matrix did not easily release the chemical, it did not require reporting in Part III A or B. EPA should clarify what is intended.