Consultation Questions for Confidential Business Information Claims under the Toxic Substances Control Act (TSCA)

Occidental Chemical Corporation Response

March 27, 2026

(1) Publicly Available Data

A. Is the data that the Agency seeks available from any public source, or already collected by another office at EPA or by another agency?

No. By definition, the confidential business information (CBI) subject to EPA ICR No. 2706.04 ("ICR") is information treated as confidential by the Occidental Chemical Corporation ("OxyChem").

OxyChem has taken considerable steps to ensure that its confidential information is only disseminated on a need-to-know basis, even internally. These steps include background checks on all employees that handle confidential information, and all contractor and project partner agreements include confidentiality provisions. All OxyChem employees and contractors are also subject to the corporate security policy, which includes restrictions on the use and dissemination of propriety information relating to OxyChem equipment and facilities.

OxyChem also implements robust physical security measures at corporate offices and manufacturing plants. These sites are not generally open to the public, require badged access and, for third parties, a constant escort. Access to computer files with confidential information is only granted to specific employees and this confidential information is physically secured or electronically secured and only accessible to OxyChem employees and contractors with the appropriate credentials needed to access the specific business and/or electronic information. In fact, employees eligible to access SAP databases holding CBI are verified by management twice a year.

Accordingly, OxyChem asserts that this information satisfies the requirements of TSCA §§ 14(c)(1)(B)(i) and the first prong of the *Argus*[1] decision as to FOIA, *i.e.*, reasonable measures have been implemented to ensure that the information is customarily and actually treated as confidential.

[1] See *Food Mktg. Inst. v. Argus Leader Media*, 139 S. Ct. 2356, 2366 (2019)

B. If yes, where can you find the data?
(Does your answer indicate a true duplication, or does the input indicate that certain data elements are available, but that they do not meet our data needs very well?)

Not applicable, as the data subject to the ICR is deemed CBI by OxyChem.

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(2) Frequency of Collection

Can the Agency collect the information less frequently and still produce the same outcome?

On the topic of CBI substantiation, we urge EPA to limit the number of times a company must substantiate a CBI claim to once every 10 years, as provided by TSCA § 14(e). We recommend that once a CBI claim is substantiated, that CBI claim will continue to be considered substantiated for the entire 10 years by providing the EPA's Unique Identifier and any additional supporting documentation related to the previously approved substantiation. This process will reduce the burden on both industry and EPA staff. EPA should revise its CBI procedural rule to allow for this Unique Identifier concept, particularly for TSCA Chemical Data Reporting under TSCA Section 8(a), which EPA seems to have excluded[2] from the list of TSCA activities that may include CBI claims and thus subject to the CBI procedural requirements.

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(3) Clarity of Instructions

A. The ICR is intended to require that respondents provide certain data so that the Agency can utilize them.

Understood.

[2] See *EPA ICR No.: 2706.01*, p. 1 (2026)

B. Based on the instructions (regulations, PR Notices, etc.), is it clear what you are required to do, and how to submit such data? If not, what suggestions do you have to clarify the instructions?

EPA should provide clear instructions for CBI submittal, substantiation, and re-substantiation requirements.

C. Do you understand that you are required to maintain records?

Yes.

D. Considering that there is no required submission format, is it difficult to submit information in ways that are clear, logical, and easy to complete?

EPA's sample substantiation templates are helpful for the regulated community as a starting point in preparing CBI substantiations for uploading into Central Data Exchange (CDX) electronic reporting applications. As EPA recognizes, the current templates available on www.epa.gov "have largely been superseded by the requirements of the CBI procedures rule and corresponding development or updates to most TSCA electronic reporting applications which now incorporate substantiation requirements."[3] The templates were last updated in 2023 and should be updated again to align with the TSCA CBI procedural rule and potential future TSCA regulations (e.g., changes to Chemical Data Reporting (CDR)). The templates help reduce burden on the regulated community in fulfilling TSCA substantiation activities when completing the relevant electronic reporting modules in CDX. EPA should update its existing templates for Section 5, Notice of Commencement, Polymer exemption report, Section 8(e) notice of substantial risk, Section 12(b) export notice, Chemical Data Reporting, and General substantiation. At a minimum, EPA should commit to updating the template for Chemical Data Reporting next year in advance of the 2028 CDR reporting cycle.

E. Are there forms associated with this process? Do you use them? Are they clear, logical, and easy to complete?

EPA TSCA substantiation typically requires submission via CDX. However, OxyChem has experienced a recent instance where EPA did not provide an opportunity to provide substantiation for CBI in CDX at the time of submittal, and, instead required substantiation be submitted via CDX post submission. When EPA does not require substantiation in CDX at the time of submittal, the result is increased burden and cost on the regulated community.

For example, through a letter dated February 3, 2026, EPA notified OxyChem that the Agency did not prompt submitters to respond to a substantiation question when making

[3] See https://www.epa.gov/tsca-cbi/what-include-cbi-substantiations

CBI claims in completing the *Risk Evaluation Initial Response* filing for vinyl chloride. EPA asked OxyChem to provide substantiation via CDX within 10 business days to enable EPA to review and make a determination on the CBI claim. Subsequently, we submitted a letter in support of our request for confidential treatment of certain information submitted in connection with the *Risk Evaluation Initial Response Filing* for vinyl chloride.

This after-the-fact request was more burdensome than the substantiation process that should have been executed when claiming CBI in the relevant TSCA module in CDX. Additional staff managerial and legal time was required for development and submittal of a letter to EPA in response to the Agency's request. EPA's TSCA modules in CDX should be reviewed to ensure that CBI substantiation questions are appropriately posed to the submitter at the time of the initial submission.

(4) Electronic Reporting and Record keeping

The Government Paperwork Elimination Act requires agencies make available to the public electronic reporting alternatives to paper-based submissions by 2003, unless there is a strong reason for not doing so. One such reason is that, at the present time, the Agency is unable to ensure the security of CBI that might be transmitted over the Internet.

A. Are you keeping your records electronically? If yes, in what format?

Yes. The format is a function of the underlying data.

B. Would you be more inclined to submit CBI on diskette (CD or DVD) than on paper?

The preferred method for submittal of confidential information is electronically through EPA CDX.

However, we note industry has previously provided EPA with detailed information regarding the numerous difficulties industry has encountered in utilizing CDX to submit information to, and receive information from, EPA.[4] Given the inherent unreliability of CDX and the frequency with which users encounter problems with the system, as well as the importance of shielding legitimate CBI from public disclosure, it is not appropriate for EPA to rely on CDX as the sole avenue for communicating with submitters regarding their CBI claims. Communications should also be sent to submitters by regular mail, to the physical address EPA has on file for the submitter, and by electronic mail.

[4] Comments of the American Chemistry Council on the Agency's Information Collection Activities; Proposed Renewal of an Existing Collection and Request for Comment; Chemical Data Reporting Under TSCA, 86 Fed. Reg. 52457 (September 21, 2021); Docket No. EPAHQ-OPPT-2013-0721; FRL-8768-01-OCSPP (11/22/2021)

In addition, any future changes to CDX must be thoroughly beta tested well in advance of those changes going "live" in CDX. Previous roll-outs of new or revised reporting tools in CDX have been plagued by difficulties and delays because of inadequate beta testing prior to roll-out.[5] EPA should avoid a repetition of this mistake by ensuring ample field-testing of any future CDX modifications, well in advance of going live with those modifications.

C. What benefits would electronic submission bring you in terms of burden reduction or greater efficiency in compiling the information?

Electronic submission substantially reduces the burden associated with reporting. However, EPA's requirement to rely almost exclusively on CDX for communicating with submitters about their CBI claims is fraught with difficulties and has the potential for improper release of information that is entitled to CBI protection. Years of experience have demonstrated that the CDX is an inherently unreliable and often ineffective tool for communicating important, time sensitive information to submitters. Therefore, in light of the harm that might result from missed communications pertaining to CBI claims, it is not appropriate for EPA to rely solely on CDX as the only vehicle for communicating with submitters regarding their CBI claims. Instead, to ensure that EPA's communications reach the appropriate recipient, the regulations in 40 C.F.R. §§ 703.7(e) and 703.5(h)(2) should be revised to require EPA to notify submitters of deficient CBI claims and/or substantiations by CDX ***and*** by regular mail sent to the physical address EPA has on file for the submitter and by electronic mail to the submitter's email address on file with the Agency.

Furthermore, OxyChem recognizes the importance of maintaining current contact information on file with EPA. To facilitate this, we recommend that EPA make available to Authorized Officials of each company registered in CDX a "master list" of all regulatory contacts associated with that company within CDX. The Authorized Officials of each company should be notified periodically (*e.g.*, quarterly) to review and update this list, as needed to keep the list current. The update of this contact information should not be considered an amendment of prior submissions or otherwise result in the publication of a *Federal Register* notice.

(5) Burden and Costs

A. Are the labor rates accurate? (**Please see question 12 of the supporting statement**)

No. The labor rates provided in the ICR underestimate private sector wage rates. We have reviewed 2025 average wage rates for the managerial, professional/technical, and

[5] *Id.*

clerical labor categories within OxyChem. The labor rates for all categories are higher than the labor rates provided in the ICR.

EPA should work with relevant trade associations to develop more accurate chemical industry wage rates for these labor categories and update the ICR accordingly.

B. The Agency assumes there is no capital cost associated with this activity. Is that correct?

We agree that there are no capital costs associated with this activity.

C. Bearing in mind that the burden and cost estimates include only burden hours and costs associated with the paperwork involved with this ICR, *e.g.*, the ICR does not include estimated burden hours and costs for conducting studies, are the estimated burden hours and labor rates accurate? If you provide burden and cost estimates that are substantially different from EPA's, please provide an explanation of how you arrived at your estimates.

EPA's burden estimates fail to consider industry activities associated with the assertion of TSCA CBI claims. EPA in the ICR discusses the burden associated with withdrawing confidentiality claims, amending public copy, and extending CBI claims. Table 2 *Activity Level Burdens* provides estimates for the following three activities: (1) compliance determination; (2) withdrawing confidentiality claims and amending public copy and extension of claims; and (3) re-substantiation. EPA's estimates of burden completely ignore the assertion of CBI claims.

EPA should update Table 2 to account for burden associated with TSCA CBI assertation activities. To provide an illustrative example of CBI assertation burden associated with TSCA section 8(a) and specifically CDR, OxyChem reviewed the CDR Form U submitted by one of its facilities in the 2024 CDR reporting cycle. This facility manufactures 12 chemicals subject to CDR reporting. Average CBI claims requiring substantiation associated with one chemical ranges from 8 substantiated claims to 44 substantiated claims. The average number of CBI claims requiring substantiation across the 12 chemicals is 19, totaling 230 substantiated claims for all 12 chemicals (for the one facility). If EPA were to assume only 5 minutes for the respondent to substantiate each claim in CDX, which is a **low end** estimate, the burden for this one facility subject to CDR would be an estimated 1,150 minutes (230 CBI claims with substantiation x 5 minutes), or an average of **19 hours**. This estimate is for one facility's most recent CDR Form U, where OxyChem had a total of 19 facilities submitting Form Us to EPA in the 2024 CDR cycle—all with confidentiality claims requiring substantiation. EPA completely ignores this activity in its burden estimates, along with all other CBI assertion activities.

In the ICR, EPA wrongly assumes 0 total burden hours for compliance determination activities. The Agency assumes no legal review in terms of rule familiarization, substantiation, etc. The only burden EPA associates with the TSCA regulations referenced in the ICR involves managerial, professional/technical, and clerical workers.

Yet firms employ attorneys and policy professionals in implementing this rule. The Agency should correct this deficiency to ensure a more accurate estimate of burden.

EPA's estimates for withdrawing confidentiality claims (0.7 total burden hours) and re-substantiation (0.25 total burden hours) are also inconsistent with the time associated with these activities. Re-substantiation for a CBI claim is anticipated to take an hour, on average, for TSCA CBI activities within OxyChem, for each CBI claim requiring review. In summary, EPA should update the ICR to take into account the real burden/costs associated with TSCA compliance determination, CBI assertation, re-substantiation, and withdrawing confidentiality claims.

D. Are there other costs that should be accounted for that may have been missed?

EPA should account for costs associated with CDX failure and downtime. When CDX is not operational or when an error arises, the regulated community expends significant time troubleshooting the error with the CDX Help Desk and/or the TSCA Hotline. EPA should update its cost estimates in the ICR using data provided by the CDX help desk on the number of issues respondents encounter associated with CBI substantiation, re-substantiation, and related activities. This data should be readily obtainable to help the Agency develop a cost estimate associated with CDX failure.

March 13, 2026

Katherine Sleasman
Office of Mission Critical Operations
Office of Chemical Safety and Pollution Prevention
United States Environment Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Docket: EPA-HQ-OPPT-2025-3955

Subject: Dow Input on Renewal of TSCA CBI ICR (OMB Control No. 2070-0223; EPA ICR No. 2706.04)

Dear Katherine Sleasman,

Dow appreciates the opportunity to provide input on the renewal of the Information Collection Request (ICR) titled "Confidential Business Information Claims under the Toxic Substances Control Act (TSCA)" (EPA ICR No. 2706.04; OMB Control No. 2070-0223), as part of the consultation required under the Paperwork Reduction Act (PRA). Dow regularly submits information to EPA under TSCA and therefore has direct experience with the requirements addressed in this ICR. Our responses to EPA's consultation questions are provided below.

(1) Publicly Available Data

The information collected under this ICR—specifically the assertion, substantiation, maintenance, withdrawal, and renewal of TSCA Confidential Business Information (CBI) claims—is not available from public sources or from other EPA offices or federal agencies. By its nature, CBI-related information is uniquely held by submitters and cannot be obtained through alternative means without compromising confidentiality protections. Accordingly, Dow does not believe the ICR duplicates other existing data collections.

(2) Frequency of Collection

Dow seeks clarification on how EPA intends to account for and track the ten-year re-substantiation period for CBI claims across multiple TSCA submissions. It is not apparent how EPA will manage the frequency or aggregation of these obligations, and Dow is concerned that each individual submission referencing the same chemical substance may be treated as a separate CBI claim, each with its own independent ten-year clock starting from the date of submission.

If implemented in this manner, the result would be significantly inefficient and an administrative burden, effectively creating a perpetual cycle of re-substantiation obligations that would be difficult for both submitters and the Agency to manage.

By way of example, consider a single chemical substance ("Chemical A"):

- Chemical A is submitted under a Premanufacture Notice (PMN) on January 1, 2030, with the chemical identity claimed as confidential.

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- A 5e Consent order is issued for the Substance January 1, 2031.
- A Notice of Commencement (NOC) for Chemical A is submitted on June 1, 2031.
- Chemical A is then reported under the Chemical Data Reporting (CDR) rule in 2032, 2036, and every four years thereafter.
- In addition, health and safety studies may be conducted on Chemical A, some of which could trigger TSCA section 8(e) notifications in which the chemical identity is again claimed as confidential, each with its own submission date.

Under an approach in which each submission is treated as a distinct CBI claim with its own ten-year substantiation period, Dow would be required to re-substantiate confidentiality for the same chemical identity repeatedly and indefinitely. In the example above, this could require re-substantiation in 2040 (PMN), 2041x2 (5e) & (NOC), 2042 (CDR), 2046 (subsequent CDR), and additional future years for any other filings that reference the chemical identity. In practice, this means that a "ten-year" confidentiality period would not function as a true ten-year protection, but rather as a rolling and overlapping series of substantiation deadlines.

Dow instead recommends that EPA consider an approach in which CBI claims are tracked at the **chemical substance level**, rather than at the individual submission level. Under this approach, a single ten-year substantiation period would apply to all claims of confidentiality for the chemical identity across TSCA submissions during that period. Such an approach would better align with the intent of TSCA section 14, reduce unnecessary administrative burden, and improve predictability and manageability for both submitters and the Agency, while still preserving EPA's ability to review and assess confidentiality claims as required.

(3) Clarity of Instructions

New Chemicals:

Overall, Dow finds the regulatory requirements in TSCA section 14 and the implementing regulations at 40 CFR part 703 to be generally clear with respect to what information must be submitted, substantiated, and maintained. However, significant uncertainty remains regarding how EPA intends to implement the re-substantiation process in practice.

To date, EPA has not provided sufficient guidance, regulatory text, or procedural detail describing how the re-substantiation process will function. In particular, EPA has not clearly articulated how submitters will be notified that a CBI claim is approaching expiration. While EPA has indicated that it intends to rely on postings to an Agency webpage and communications through CDX to the contacts associated with the original submission, EPA has not explained how it will account for or track the ten-year substantiation period for CBI claims.

EPA also has not addressed how changes within submitting companies—such as personnel turnover, changes in responsible officials, reorganizations, and divestures will be managed. EPA's approach appears to rely on contacting the original submitting officials; however, it is unclear how EPA will ensure that notifications are received by the appropriate individual who currently represents the entity responsible for re-substantiating the claim. Without a clear mechanism to verify and update responsible contacts, there is a risk that critical notifications may not reach the correct party.

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EPA has indicated that it will post information regarding expiring confidentiality claims 60 days prior to their expiration and will require submission of substantiation materials 30 days prior to expiration. This framework effectively provides only a 30-day period for regulated entities to respond. Dow believes this timeframe is insufficient to identify claim ownership, assess whether continued confidentiality protection remains warranted, and coordinate a complete and accurate response within a large organization, particularly in cases involving legacy submissions.

As previously noted, Dow recommends that the ten-year substantiation period be assigned at the **chemical substance level**, rather than at the individual submission level. However, even under such an approach, it remains unclear how EPA would effectively disseminate and manage these claims, particularly where the submitting company itself—or information identifying the submitting company—has been claimed as confidential and therefore would also require re-substantiation.

Dow further recommends that EPA implement a process to proactively request and confirm current contact information for each company with active CBI claims prior to initiating re-substantiation. In addition, Dow suggests that claims requiring re-substantiation be managed through a dedicated communication mechanism, such as a standardized “Notice of Claims Expiration Response” communication type. At present, the available forms and communication tools do not appear capable of supporting the volume, complexity, and coordination required for this process.

Requiring companies to reopen and amend historical submissions is also not a practical or viable solution, particularly for older submissions that may no longer be readily accessible or associated with current personnel.

As the initial ten-year substantiation period for CBI claims asserted around the time of the Lautenberg amendments begins to expire in 2026, the absence of a clearly defined implementation plan raises significant concerns. Without clarity on how claims will be accounted for, how notifications will be issued, and how re-substantiation requests will be processed, the burden associated with re-substantiating individual claims may become unmanageable.

Based on the current framework, Dow is concerned that EPA may not yet be equipped to efficiently receive and process the anticipated volume of re-substantiation requests. Moreover, absent clear procedures and adequate safeguards, there is a substantial risk that confidential business information could be inadvertently disclosed during the re-substantiation process for the reasons described above.

CDR:

It is also unclear which entity would be responsible for re-substantiating a CBI claim in order to maintain the confidentiality of a chemical substance. EPA has previously stated that no single company “owns” a chemical identity once it is listed on the TSCA Inventory, as any company may subsequently manufacture or import that substance. This position introduces additional complexity into an already challenging re-substantiation framework.

This issue is particularly relevant in the context of Chemical Data Reporting (CDR). Given the unique nature of CDR reporting, Dow believes it should be treated as a distinct process for purposes of CBI re-substantiation. Production volume information reported under CDR is generally exempt from substantiation under TSCA section 14(c)(2), and manufacturing site information is already publicly available. As a result, requiring re-substantiation of chemical identity CBI claims solely due to CDR reporting would provide limited additional value while significantly increasing administrative burden.

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Dow therefore recommends that CBI claims associated with CDR submissions be addressed during the subsequent CDR reporting cycle, rather than triggering independent re-substantiation obligations tied to prior submissions. For example, if a company asserts a chemical identity as confidential in a 2024 CDR submission, reasserting that claim in the next CDR cycle in 2028 should be sufficient to support continued confidentiality for the standard ten-year period typically associated with such claims.

Treating CDR reporting in this manner would provide a clearer, more predictable framework for maintaining CBI protections, reduce unnecessary duplication of effort, and better align the re-substantiation process with the structure and timing of existing TSCA reporting obligations.

CBI exemptions: TSCA section 14(c)(2)

Additionally, Dow is supportive of EPA's determination that information claimed as exempt from Confidential Business Information (CBI) substantiation under TSCA section 14(c)(2) not be subject to re-substantiation. Where a CBI claim qualifies for an exemption, that claim remains exempt even if it is subsequently selected for review. Accordingly, with this understanding, the exemption under TSCA section 14(c)(2) should not be required to be included in, or subject to, re-substantiation.

(4) Electronic Reporting and Recordkeeping

Dow maintains records related to TSCA submissions and CBI claims electronically, consistent with modern records management practices. Dow supports EPA's use of secure electronic reporting systems, including the Chemical Information Submission System (CISS) accessed through the Central Data Exchange (CDX), for the submission and management of TSCA CBI claims.

Electronic reporting significantly improves efficiency, reduces administrative burden, and facilitates clearer communication between EPA and submitters, particularly with respect to notifications, claim reviews, and claim expiration reminders. Dow believes that continued reliance on secure electronic submission and correspondence is appropriate and beneficial for both EPA and regulated entities.

(5) Burden and Costs

Dow has reviewed the burden and cost estimates presented in the ICR supporting statement. Based on our experience, the general magnitude of the estimated labor hours for activities such as CBI substantiation, re-substantiation, and extension requests appears reasonable on a per-submission basis.

However, as CBI claims asserted around the time of the Lautenberg amendments reach their initial 10-year expiration, companies with large and diverse TSCA portfolios may experience a cumulative burden that is higher in certain years than suggested by annualized averages. Dow encourages EPA to remain attentive to the potential for workload clustering during peak expiration periods and, where feasible, to consider process efficiencies or additional guidance that could help manage that burden.

Additional Comments

Dow supports the objectives of TSCA section 14 and EPA's efforts to implement consistent, transparent procedures for CBI claim review while protecting legitimate confidential information. Continued clarity,

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predictability, and effective electronic communication will be key to minimizing burden while ensuring statutory requirements are met.

The proposed CBI re-substantiation framework, however, would result in markedly different outcomes for different types of companies. For example, companies that primarily manufacture commodity chemicals and have limited innovation portfolios—whose substances are either public or were placed on the confidential TSCA Inventory prior to 2016—would continue to incur minimal or no administrative cost to maintain their CBI claims.

In contrast, an innovative company that regularly develops new chemistries and conducts extensive testing to ensure product safety may have dozens of new chemical substances and associated submissions subject to CBI substantiation and re-substantiation requirements. For such companies, the cumulative administrative burden associated with maintaining confidentiality would be substantial.

As a result, the proposed program would disproportionately impact innovative and responsible companies by imposing higher ongoing administrative costs solely because they introduce new substances and generate more data. In effect, the program functions as a progressive administrative tax on innovation: the more new products a company develops, the more safety data it generates, and the longer it seeks to protect legitimate confidential business information, the greater the associated cost becomes.

Dow is concerned that this outcome is inconsistent with the goals of TSCA and could disincentivize innovation and proactive product stewardship. While Dow agrees with EPA's assessment that there are no significant capital or operation and maintenance costs uniquely attributable to this ICR—since the activities rely on existing internal systems and personnel—the recurring labor and administrative burden associated with repeated re-substantiation obligations represents a meaningful and uneven cost that is not fully captured in the ICR's burden analysis.

Thank you for the opportunity to provide input on this ICR renewal. If you have any questions or would like to discuss further, please contact me by phone at 989.638.2066 or by email at amessing1@dow.com.

Sincerely,

Andrew Messing

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REGULATORY COMMENTS

Submitted Electronically to: [EPA-HQ-OPPT-2025-3955, regulations.gov]

April 27, 2026

Katherine Sleasman
Office of Mission Critical Operations (Mail Code 7602M)
Office of Chemical Safety and Pollution Prevention
Environmental Protection Agency
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Re: American Chemistry Council Comments on Agency Information Collection Activities; Proposals, Submissions, and Approvals: Confidential Business Information Claims under the Toxic Substances Control Act (TSCA) (Renewal); EPA-HQ-OPPT-2025-3955

Dear Ms. Sleasman:

The American Chemistry Council (ACC)[1] appreciates the opportunity to submit comments in response to Agency Information Collection Activities; Proposals, Submissions, and Approvals: Confidential Business Information Claims under the Toxic Substances Control Act (TSCA). EPA indicates it is soliciting comments to (1) evaluate the necessity and practical utility of the collection, (2) evaluate the accuracy of burden estimates and underlying assumptions, (3) enhance the quality, utility, and clarity of information collected, and (4) minimize respondent burden through appropriate information technology and electronic submission.

ACC supports effective implementation of TSCA CBI provisions, including the statutory option to request extensions. However, members have identified substantial practical questions and potential burdens associated with implementation—particularly around scope, notifications, CDX usability, contact information management, ownership/transfer issues, and treatment of certain data elements such as Personally Identifiable Information (PII). ACC offers the following recommendations to improve clarity, reduce burden, and improve the practical utility of the information collection.

Practical Utility and Necessity: Clarify Scope and Applicability of the Collection

EPA's notice explains that the ICR covers activities concerning the "assertion and maintenance" of CBI claims and references procedures in 40 CFR 703 for EPA review, submitter maintenance, time

[1] The American Chemistry Council's mission is to advocate for the people, policy, and products of chemistry that make the United States the global leader in innovation and manufacturing. To achieve this, we: Champion science-based policy solutions across all levels of government; Drive continuous performance improvement to protect employees and communities through Responsible Care®; Foster the development of sustainability practices throughout ACC member companies; and Communicate authentically with communities about challenges and solutions for a safer, healthier and more sustainable way of life. Our vision is a world made better by chemistry, where people live happier, healthier, and more prosperous lives, safely and sustainably—for generations to come.

limits, and extension requests. To make sure the collection has practical utility and is implemented consistently, EPA should clarify the following items directly in associated guidance:

- **The submission types in scope for the 10-year expiration and extension process** (and therefore the associated information collection burden), including whether any categories of submissions are excluded or handled differently. ACC has observed that some submission types appear to be missing from EPA-provided lists and ACC need clarity on whether this is an error or reflects scope limitations.
- **How the expiration date of a CBI claim is calculated:** ACC seeks confirmation of whether the expiration is strictly tied to the original submission date and whether subsequent amendments affect the expiration clock. ACC's current understanding is that the clock is tied to the original submission date and amendments do not reset the expiration. EPA should confirm this explicitly in guidance because it affects how companies must track and manage compliance (and thus affects burden and frequency assumptions).
- **Interaction with other TSCA submissions:** ACC seeks clarity on whether claims that were re-substantiated or extended in other reporting cycles (e.g., CDR, other TSCA reporting) are excluded from the 10-year CBI extension obligations or how EPA will avoid duplicative substantiation where a claim has already been extended. EPA should confirm the determination it will apply and the approach it will use to prevent duplicative burden.
    a. **For example:** If a company re-substantiated a non-chemical identity CBI claim in both the 2020 and 2024 CDR for the same chemicals, and those claims will therefore expire in 2030 and 2043, respectively, is it still necessary to request an extension in 2026?

Recommendation: EPA should develop guidance with a concise "Scope and Applicability" section with associated instructions that: (a) lists submission categories in scope; (b) confirms how original submissions vs. amendments affect expiration; and (c) explains how EPA will treat claims already extended/re-substantiated in other TSCA contexts to avoid duplicative collection. This directly advances PRA objectives of practical utility, clarity, burden minimization.

Burden Estimates: Ensure Methodology Reflects Real-World Compliance Burdens

EPA provides the estimated annual burden and indicates an adjustment in burden compared to the last approval. ACC member experience suggests that the ICR burden of hours may be understated if it does not account for the operational steps companies must undertake to comply with the expiration/extension program, including:

- Locating historical submissions and associated claims for large portfolios, particularly where staff turnover and corporate transactions occur.
- Updating technical contact information and managing CDX administrative tasks across many (often hundreds) submissions; ACC members report that the CDX process is difficult and time-consuming, and mass updates may create additional burden and potential system performance concerns.

- Internal coordination across legal, regulatory, IT/CDX administrators, and business stakeholders to validate claim necessity, prepare substantiation, and ensure submissions occur before deadlines.
- Ownership/transfer complexities where CBI claims may relate to entities that have merged, sold product lines, or otherwise transferred assets, raising questions about who must act to preserve a claim and whether EPA's notice processes reliably reach responsible persons.

Recommendation: EPA should revise (or supplement) the burden methodology discussion in the ICR to transparently account for: (a) contact management and authorization administration, (b) internal record retrieval and corporate transaction scenarios, and (c) the time required to reconcile EPA lists/notifications with company inventories. Doing so supports PRA's requirement to evaluate the validity of assumptions used in burden estimates.

Burden Minimization Through Information Technology: CDX Improvements and "Dashboard" Approach

EPA specifically requests comment on minimizing burden through "automated electronic…or other technological collection techniques" and "permitting electronic submission." Because extension requests and ongoing claim management depend on CDX workflows, CDX design will have significant impact on determining the respondent's burden.

ACC has asked for improvements such as:

- A CBI claims interface (tab/dashboard) enabling authorized company users to view expiring claims and initiate extensions without relying on email notices or manually opening numerous historical submissions and access for all authorized users within a company organization.
- A simplified process for updating contact information or using a group mailbox so EPA notices reach the appropriate party despite turnover.
- Assurance that mass contact updates will not interfere with system performance or cause submission errors/delays.
- Fixing foundational issues with CDX would decrease the amount of time the system may be "down" or the amount of time that a company is working with the help desk to fix a system error. The regular frequency with which these issues arise is a great burden and cost to submitters. EPA should consider fixing the foundational issues that lead to system malfunctions.

Recommendation: EPA should treat these *CDX enhancements as core burden-reduction measures* within the ICR and describe them as part of the "use of information technology" strategy supporting this collection. At a minimum, EPA should (a) describe how it will ensure notices are delivered reliably, (b) provide a centralized CDX view of expiring claims by organization, and (c) enable multi-user access consistent with company compliance operations.

Notices, Deadlines, and Consequences: Clarify and Support Compliance

The ICR notice explains that 40 CFR 703 includes "procedures EPA will use to provide notices to submitters" and "the manner in which EPA will notify submitters concerning the impending expiration of certain claims." ACC is asking for clarity on:

- Whether EPA will provide company-specific notifications, and to whom notices are sent when there is a change in ownership or change in technical contact.
- What happens if a submitter misses an extension due to lack of EPA notice or organizational changes.

Recommendation: EPA should include in guidance materials (supporting statement or instructions): (a) the notification channels EPA will use, (b) the specific CDX roles/contacts that receive notices, (c) a mechanism for organizations to designate a durable "compliance mailbox," and (d) clear compliance instructions for corporate changes and successor entities. These steps enhance practical utility and reduce preventable burden from missed notices.

Data Elements and Substantiation Scope: Specify What Must Be Re-Substantiated

ACC seeks greater specificity on which data elements must be re-substantiated in extension requests and whether the substantiation scope includes information beyond the original submission (e.g., site inspections).

ACC has also raised questions about Personally Identifiable Information (PII) and how EPA expects it to be handled within substantiation, noting the distinction between PII and CBI and the potential for handling PII within a single substantiation narrative rather than element-by-element.

Recommendation: EPA should add a concise, operational "What must be substantiated" checklist within the ICR guidance materials—by data element category and submission type—so respondents can provide consistent, high-quality information and so burden estimates accurately reflect what is required. This supports the PRA objective of enhancing quality, utility, and clarity of collected information.

Ownership/Transfers and Multiple Claimants: Reduce Confusion and Duplicative Burden

ACC members have raised significant questions regarding changes in company ownership and how EPA will treat cases where multiple companies substantiate the same claim (e.g., shared accession-based reporting scenarios). Ambiguity here can create both compliance risks and duplicative submissions leading to unnecessary burden).

Recommendation: EPA should address, within associated guidance documentation, how it will treat: (a) successor entities after mergers/acquisitions, (b) responsibility to extend claims where the original submitter no longer exists, and (c) scenarios with multiple claimants tied to the same chemical identity/accession context. Clarifying these points improves practical utility and reduces unnecessary burden.

Conclusion

ACC appreciates EPA's efforts to renew this ICR and implement TSCA's confidentiality provisions. Incorporating the clarifications and burden-reduction measures described above will improve the utility of the collection, strengthen compliance outcomes, and reduce unnecessary administrative burdens—consistent with the stated PRA objectives for this notice.

We appreciate the opportunity to submit comments in response to EPA's request. If you have any questions or need further clarification, please feel free to contact me at 202-249-6705 or caroline_tuckhorn@americanchemistry.com.

Sincerely

Caroline Tuckhorn

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Director, Chemical Management
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