



EDF/Stockman oral comments at EPA 12-11-17 public meeting on identifying candidates for prioritization

My name is Rob Stockman, and I am here today on behalf of EDF. EDF urges EPA to proactively use its enhanced information-gathering authorities under the revised TSCA to collect information about potential candidate chemicals early in the process in order to ensure sufficient information exists on which to base prioritization decisions.

Any information that EPA can reasonably collect under its broad information-gathering authorities is “reasonably available information,” so EPA must exercise those authorities to inform the prioritization process or provide an explanation, supported by evidence, that EPA’s alternative approach will otherwise obtain that information.

1. TSCA § 26(k) requires that in carrying out § 6, EPA must consider “[r]easonably available information,” and EPA has now defined “reasonably available information” to mean “information that EPA possesses or can reasonably generate, obtain and synthesize for use, considering the deadlines *** for prioritization.” 40 C.F.R. § 702.1. But deadlines cannot be an excuse for failing to collect information relevant to chemicals’ conditions of use, hazards, and exposures if EPA consciously fails to exercise its authorities to collect information early.
2. TSCA § 4(a)(1)(A) provides EPA with broad authority to require testing for chemicals that may present an unreasonable risk of injury, and EPA should consider using this authority early when there are risk concerns that require longer-term testing, such as concerns about developmental risk, neurotoxicity, reproductive risks, and cancer. 15 U.S.C. § 2603(a)(1)(A). TSCA § 4(a)(2)(B) also provides EPA with additional authority to require testing when the information is “for the purposes of prioritizing a chemical substance,” though EPA should use that authority mindful of the deadlines for action that accompany it. But, for example, exposure monitoring and similar studies can be completed within the timeframes set forth for prioritization.
3. If EPA has not already done so, when EPA identifies a candidate for prioritization, EPA must promulgate reasonable regulations under § 8(a) and 8(d) to obtain information about hazards, exposures, and conditions of use for the candidate; EPA should also exercise its authority under § 8(c) to obtain additional information. Finally, EPA should consider using its § 11(c) subpoena authorities when necessary and appropriate.
4. EDF particularly urges EPA to use its information-gathering authorities to obtain more information about the chemicals in the 2014 Work Plan as well as the chemicals identified as “Potential Candidates for Information Gathering” through the Work Plan process. EPA’s prior analyses of these chemicals should assist EPA in identifying information gaps that need to be addressed before these chemicals can be evaluated for prioritization. In addition, EPA’s

prioritization regulation provides that EPA will “ensure that, at any given time, at least 50 percent of risk evaluations being conducted by EPA are drawn from [the Work Plan] until all substances on the list have been designated.” 40 C.F.R. § 702.5(b)(2). Thus, EPA already knows it will need all reasonably available information on the Work Plan chemicals relatively soon, so EPA should start collecting it now, conscious of the deadlines that would apply when EPA begins the formal prioritization process. EPA cannot reasonably decline to exercise those authorities now and then later point to the deadlines as an excuse for not collecting the information.

5. In sum, EPA should first use its section 4, 8, and 11 authorities no later than when EPA identifies a candidate for prioritization, but EPA should also use these authorities when appropriate earlier in the process to assist in its selection of candidates.