

**Before the United States Environmental Protection Agency  
Carbon Tetrachloride; Regulation Under the Toxic Substances Control Act  
88 Fed. Reg. 49180 (July 28, 2023); Docket EPA-HQ-OPPT-2020-0592**

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**Comments of the Chemical Users Coalition**

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Chemical Users Coalition (“CUC”)<sup>1</sup> appreciates the opportunity to provide these comments regarding the U.S. Environmental Protection Agency’s (“EPA’s” and “the Agency’s”) Proposed Rule for the Regulation of Carbon Tetrachloride (“CTC”) under Section 6(a) of the Toxic Substances Control Act (“TSCA”) (the “Proposed Rule”). CUC is an association of companies from diverse industries that typically acquire and use, rather than manufacture or import, chemical substances. Our members depend on the availability of certain existing substances for which there are not technically feasible substitutes as well as a reliable pipeline for innovative new chemistries to be able to thrive in a competitive, global economy. Consequently, our members encourage EPA to develop regulatory approaches that encourage innovation and permit sustainability. Thus, CUC supports measures that protect health and the environment in a manner that enables the regulated community to pursue technological innovation simultaneously with economic development in the United States. This is critical in the area of chemical regulatory policy, which necessarily addresses emerging information about health and environmental risk.

**Overview of CUC Comments**

CUC recommends: (a) EPA adjust risk management rules to focus on risk reduction, not elimination of all uses of high priority chemicals; (b) EPA streamline and simplify its workplace chemical protection program (“WCPP”) requirements for CTC; (c) EPA implement exemptions for the presence of CTC as a byproduct or impurity in other products or mixtures and establish a de minimis exemption for CTC in products when present at less than 0.1%; and (d) EPA clarify that the CTC regulations and prohibition will not affect articles that might contain CTC.

CUC also reiterates its general concerns noted in previously submitted comments concerning other TSCA Section 6 proposed rulemakings and risk determinations. CUC finds the Agency’s revised risk evaluation policies (and assumptions), as announced in June 2021, do not provide an accurate picture of the conditions of use and potential risks presented by the substances subject to EPA’s Section 6 program. In sum, CUC considers it to be appropriate for EPA to reasonably assume personal protective equipment (“PPE”) will be worn by employees who are working in commercial manufacturing enterprises of a substantial size. In its comments, CUC also has encouraged EPA to assess risks and to make risk determinations on a condition-of-use-specific basis, including for CTC. CUC considers such an approach to be grounded in the 2016 amendments to TSCA and the pertinent Framework Regulations, and supported by sound science. CUC advocates for a more

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<sup>1</sup> The members of CUC are Airbus S.A.S., The Boeing Company, Carrier Corporation, HP Incorporated, IBM Company, Intel Corporation, Lockheed Martin Corporation, National Electrical Manufacturers Association, RTX, Sony Electronics Inc., and TDK U.S.A. Corporation.

appropriate approach for conducting risk evaluations which reflects a practical awareness of workplace practices and information and data which are reasonably available to EPA about real-world conditions of use. In addition, CUC has noted that EPA's Section 6(a) risk management rules—including WCPP requirements and existing chemical exposure limits (“ECELs”)—should be developed with the input of industrial hygienists and be consistent with best industrial hygiene practices and standards. CUC also has urged that EPA, prior to finalizing risk management rules, provide information to stakeholders and the public about the planned framework for the Agency's compliance and enforcement efforts, including how such efforts will be coordinated with the Occupational Safety and Health Administration (“OSHA”).

### **EPA Risk Management Requirements Should Be Fine-Tuned to Conditions of Use**

CUC Members consider EPA's TSCA Section 6 risk mitigation approach to be overly simplistic. CUC recommends mitigation methods be suited to actual conditions of use and focused on regulating “to the extent necessary”<sup>2</sup> the identified unreasonable risks.<sup>3</sup> For example, where compliance with a WCPP (or chemical concentration limits, or limitations on releases to the environment) can mitigate unreasonable risks, Section 6 of TSCA requires that EPA allow the use of such risk management measures and permit any continued uses of a substance of potential concern. CUC has observed that proposed risk mitigation rules under Section 6 of TSCA tend to default to prohibiting certain uses based on EPA's predetermined conclusions about which conditions of use can or cannot be mitigated using, for example, a WCPP. TSCA Section 6 provides a menu of risk mitigation methods at EPA's disposal; the Agency should work more collaboratively with the regulated community to arrive at mitigation methods that are suited to purpose and in keeping with the direction Congress has given EPA to select mitigation methods that reduce risk only to the extent necessary.

### **The Workplace Chemical Protection Program Should Be Simplified**

The WCPP EPA has proposed for CTC reflects the overly simplistic approach to risk mitigation the Agency has preferred. For example, in certain applications, CTC is used in enclosed systems, where the only potential for human exposures are those that might occur (if at all) during periodic (perhaps only annual) maintenance. However, the WCPP program does not provide any accommodations for systems (such as enclosed systems) where CTC might be used but that strictly limit worker exposures, and for which an elaborate WCPP program with initial and periodic monitoring is required (although unnecessary based on exposure risk). The WCPP requirements should permit differentiation between different types of workplaces and operations, whereas EPA presumes all are the same. EPA should make changes to the rule before issuing it in final form to

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<sup>2</sup> Section 6(a) of TSCA states:

If the Administrator determines in accordance with subsection (b)(4)(A) that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture, or that any combination of such activities, presents an unreasonable risk of injury to health or the environment, the Administrator shall by rule and subject to section 2617 of this title, and in accordance with subsection (c)(2), apply one or more of the following requirements to such substance or mixture *to the extent necessary* so that the chemical substance or mixture no longer presents such risk .... (emphasis added).

<sup>3</sup> For example, one ongoing use identified by a CUC Member is as a research laboratory chemical where strict occupational health controls are in place to support its safe use.

permit flexibility in the WCPP requirements to accommodate the practical realities of a variety of manufacturing operations and practices.

EPA's proposed ECEL (0.03 ppm) is two orders of magnitude lower than the American Conference of Governmental Industrial Hygienists ("ACGIH") 8-hour time-weighted average Threshold Limit Value ("TLV") of 5 ppm. For some facilities, especially facilities not covered by an OSHA permissible exposure limit for CTC, meeting the TSCA ECEL requirement in the time allotted by EPA will be a challenge. An important improvement in the WCPP that EPA could implement is to lengthen the compliance timeframes in the proposal to allow for ease of achieving the ECEL and other requirements in the CTC rule. A large business with many different types of processes and facilities will need time to work through how the new requirements impact operations and processes and to determine the application of the new requirements to the various products and processes that use CTC. CUC suggests EPA consider a phased-in approach for the WCPP requirement, permitting facilities that produce or process CTC to first achieve compliance with the ACGIH TLV within two years following the effective date for the TSCA CTC rule and to meet the TSCA ECEL within three years of the effective date. A phased-in approach will allow for an orderly transition (and permit employee training and PPE outfitting, where necessary).

As CUC has commented previously, the WCPP also requires clarifications to address the identification of the responsible entity for WCPP implementation and compliance in environments where workers employed by differing parties (such as contract personnel) may be present. CUC recommends EPA reexamine the use of the term "owner/operator" in Section 6 proposals for the entity responsible for implementation of the WCPP. The TSCA WCPP, and determination of responsibilities, should align more closely with the term "employer" when used by OSHA. For TSCA regulatory purposes for CTC (unless the Proposed Rule is modified) "owners/operators" – not employers – will be responsible for providing respiratory protection and other PPE to personnel on site who might not be their direct employees. For a facility that may have contractors on site, the TSCA regulation could create unnecessary complications. CUC, therefore, recommends that EPA adopt the approach of requiring "employers" to be the entities responsible for providing respiratory protection and other PPE to their employees. This language change would be consistent with current OSHA practice and still ensure protections are in place while not being overly burdensome.

CUC recommends EPA simply drop the proposed terms requiring that facilities should implement the WCPP "in accordance with the hierarchy of controls" and to use "pollution prevention to control exposures whenever practicable." CUC Members do not agree that the terms of the CTC regulation should mandate that companies implementing the WCPP requirements create records or otherwise substantiate that they have "institute[d] one or a combination of elimination, substitution, engineering controls, or administrative controls to reduce exposure to or below the ECEL" or "demonstrate that such controls are not feasible." EPA should trust that industrial hygiene professionals will work with their colleagues to design and implement appropriate methods to mitigate workplace exposures to CTC and to meet the overall objectives of the WCPP and ECEL. CUC considers it to be unnecessary for EPA (and presumably its enforcement staff) to expect a business to create records reflecting how such determinations were made. This is

especially concerning to CUC Members because in many cases CTC has been in use for decades or more, and new requirements being considered by EPA would require a paperwork exercise undertaken simply for purposes of creating records of compliance with the proposal's hierarchy of controls requirements. This requirement is unworkable, and should be abandoned before the CTC rule is finalized.

CUC also does not think it is appropriate, as EPA has proposed, to require owners/operators to attest to whether and why the exposure controls they have selected would not result in increased air releases of CTC to the atmosphere from the workplace, and to keep records of that statement as part of the WCPP exposure control plan. CUC considers such attestation to be unnecessary. This is another burdensome documentation requirement that complicates compliance. Rather than attesting, this information should be documented through the results of the sampling done when, and if, there are process changes.

### **De Minimis Levels, Byproducts, Impurities, and Articles**

CUC requests that a de minimis level of CTC present at 0.1% or less in products be exempt from all provisions of the regulation. Adding such terms to the proposed CTC rule will contribute to harmonizing TSCA Section 6 regulations in terms of their overall substance and organizational framework. EPA should also clarify that the presence of CTC as an impurity or byproduct in a substance or product would not subject that substance or mixture to the proposed ban and other requirements. In the same way EPA has excluded impurities and byproducts from other regulations under TSCA (such as the Chemical Data Reporting), EPA should explicitly exclude trace amounts of CTC as an impurity or byproduct from the prohibitions. Similarly, EPA should explicitly exclude CTC in articles from the restrictions.

### **Conclusion**

CUC Members would be glad to make themselves available to discuss any questions EPA personnel may have concerning CUC's comments and/or to discuss any issues related to the Agency efforts to evaluate and to mitigate risks associated with the use of high priority substances.