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RPTS J. BROWN

HIF192.180

``REGULATION OF NEW CHEMICALS, PROTECTION OF CONFIDENTIAL BUSINESS INFORMATION, AND INNOVATION''

THURSDAY, JULY 11, 2013

House of Representatives,

Subcommittee on Environment and the Economy

Committee on Energy and Commerce

Washington, D.C.

The Subcommittee met, pursuant to call, at 9:43 a.m., in Room 2322 of the Rayburn House Office Building, Hon. Phil Gingrey [Vice Chairman of the Subcommittee] presiding.

Members present: Representatives Gingrey, Murphy, Latta, Cassidy, Johnson, Tonko, Green, McNerney, Barrow, and Waxman (ex officio).

Staff present: Nick Abraham, Legislative Clerk; Charlotte Baker, Press Secretary; Sean Bonyun, Communications

Director; Jerry Couri, Senior Environmental Policy Advisor; David McCarthy, Chief Counsel, Environment and the Economy; Andrew Powaleny, Press Secretary; Jacqueline Cohen, Democratic Senior Counsel; Greg Dotson, Democratic Staff Director, Energy and Environment; and Caitlin Haberman, Democratic Policy Analyst.

Dr. {Gingrey.} The committee will come to order. The chair recognizes himself for 5 minutes for an opening statement.

Last month, the subcommittee held a hearing on the history and the impact of Title 1 of the Toxic Substance Control Act, better known as TSCA. The June 13 hearing was a good start to understanding a law as complex as it is broad. Today, we take a deeper dive and focus on new chemical regulation protection of sensitive businesses' information, and their effect on innovation. I believe evaluating TSCA Sections 5, New Chemicals, and 14, Disclosure of Data, is fundamental to judging progress in new technologies and manufacturing frontiers in our country.

Testimony in our June 13 hearing supports this notion. American companies are on the cutting edge of chemical innovation, and the new chemical structure in TSCA has allowed us to lead the world. For example, the European Union's new chemical requirements saw 3,000 new chemicals introduced, while the United States saw six times as many new chemicals introduced over that same period of time. One out of six of the chemicals currently used in commerce did not exist in 1979.

TSCA Section 5 does not merely set out the notification

requirements for these chemicals, it provides EPA an opportunity to review and evaluate information about a chemical to determine if its manufacture, if its processing, commercial use, or disposal should be limited, delayed, or prohibited. To do this job, pre-manufacturing notices, PMNs, submitted to EPA include information on chemical identity, description of byproducts, anticipated production volumes, molecular formula, intended categories of use, and other available information on the substance. EPA can employ predictive modeling technologies to help it decide if a new chemical raises concerns. EPA then may also extend the review period of a chemical or new use of a chemical if it needs more than 90 days to consider all of the facts before acting. EPA then decides whether entry into commerce is allowed, allowed with restrictions, allowed after submission of additional data, or allowed with certain regulatory or testing actions applied. As of May, 2013, I am told that 52 percent of chemicals for which EPA received a pre-manufacturing notice, PMN, actually went to market. According to former EPA Chemicals Office Director Charlie Auer, who testified at our June hearing, 90 percent of new chemicals program decisions are made within 90 days, and over 15,000 new chemicals, or 30 percent, have received some kind of regulatory action under TSCA Section 5.

We want EPA to have information to make good decisions about a chemical; however, we must be careful about disclosure of that detailed information, obviously. In a recent paper on trade secret privacy, William Fitzpatrick and two others suggested that approximately 70 percent of the market value of U.S. firms resides in their trade secrets and their intellectual properties. This is what drives innovation.

TSCA Section 14 protects information submitted to the EPA as a privileged and confidential trade secret. Disclosure by EPA employees is not permitted, except to other federal employees, or when necessary to protect the health or the environment. Beth Bosley, who with six employees operates a specialty chemical maker in Pittsburgh, reinforced these points at our last meeting: one, disclosure of chemical identity may be all it takes to give a way a competitive advantage to an offshore manufacturer; and second, the majority of Freedom of Information, FOIA Act requests to EPA on new chemicals come from potential competitors, many of which are overseas, not curious members of our public.

While we cannot have a system that prevents regulators from having access to information that allows them to make important judgments on risk, I think we should not be naïve

about the value of this information to non-regulatory interests, their cleverness in trying to obtain and exploit, and the real damage its leak could cause to American jobs and our prosperity.

I want to thank our distinguished witnesses for joining us today to help us get a better handle on what the law is, how EPA has been implementing it, what it is like being regulated under it, and where witnesses think its successes and shortcomings lie. I urge members of the subcommittee to make every effort at this hearing to learn the fundamentals of these sections of this law, TSCA.

[The prepared statement Dr. Gingrey follows:]

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Dr. {Gingrey.} I now yield 5 minutes to the ranking member of our subcommittee, Mr. Tonko from New York.

Mr. {Tonko.} Thank you, Mr. Chair. Good morning, and I am pleased to be here this morning for this second hearing on the Toxic Substances Control Act, better known as TSCA. And thank you, Chair Gingrey, Dr. Gingrey. I am sure you will do an excellent job of filling in for our colleague, Chairman Shimkus, who cannot be with us today. It is a pleasure to be with you at the hearing. And welcome to all of our distinguished guests as members of the panel.

Our first hearing provided a very useful overview of the Toxic Substances Program administered by the Environmental Protection Agency. We have an opportunity today to hear from an excellent panel of witnesses on two particular aspects of this law, Section 5, the New Chemicals Review Program, and Section 14, the provision that governs the handling of confidential business information.

The New Chemicals provision was intended to provide an opportunity to screen new chemicals coming into commerce for possible safety problems. The process was also to provide sufficient information about the chemicals in commerce to enable EPA to make a credible evaluation of their safety.

The law currently falls short of these goals. The

information available on chemicals has failed to keep pace with the numbers of chemicals in commerce. We have developed incredible analytical, computational, and communications tools over the past few decades. We should be able to apply these tools more effectively to produce reliable information about the chemicals in commerce and make it available to the public, but this has not happened to the extent needed. An effective early evaluation process also provides benefits to industry. Prevention certainly is much less expensive than mitigation. The earlier a company detects a potential problem with their product, the easier and less expensive it is to engineer around that problem or to pursue a different design.

We need chemicals. We use them every day in a wide range of products essential to the quality of our lives and to our modern society. But these products must be safe for people and must be safe for the environment. We need to find the proper balance. The program must enable manufacturers to bring new chemicals to the market while providing assurances to the public that these substances are indeed safe. EPA needs sufficient resources to evaluate chemicals in an expeditious and reliable manner, and the authority to remove problem substances from the market in a timely and orderly fashion. In a fast-paced, competitive global economy,

protecting trade secrets is important and is challenging, but an overuse of confidential business information claims is unwarranted and serves only to bar the members of the public from information they need to make informed choices about the products they purchase and that they use.

I expect we will hear a variety of views today on the type of extent of changes that are needed to improve this law. Working together, however, we can update and improve this law so that it works for everyone.

I look forward to the testimony of all of our expert witnesses, and I thank you all for participating this morning and for sharing your views on what I believe is an incredibly important topic. Thank you.

With that, Mr. Chairman, I yield back.

[The prepared statement of Mr. Tonko follows:]

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Dr. {Gingrey.} I thank the gentleman from New York, and if there are any other members seeking time for an opening statement--seeing none, the chair wishes to recognize Mr. Latta for the purpose of introducing the first two of our witnesses. I yield to the gentleman from Ohio.

Mr. {Latta.} Well I thank the chairman for yielding to me, and I appreciate it. I would just like to introduce our two first witnesses today, and both from Ohio. You know, in the Buckeye State, we like to stick together.

Our first witness that will be testifying today is Mr. Craig Morrison, and Mr. Morrison is the President and Chief Executive Officer of Momentive Performance Materials Holding, and its operating subsidies--subsidiaries. It is based in Columbus, Ohio, and Momentive is a world leader in specialty chemicals and materials.

Our next witness that will be testifying is from Procter and Gamble, and that is Mr. Len Sauers, who is Vice President for Global Sustainability, Product Safety, and Regulatory Affairs. Of course, Procter and Gamble is located in Cincinnati.

I just want to thank you both for being here to testify, and with that, Mr. Chairman, I yield back.

Dr. {Gingrey.} And I will now introduce our other three

witnesses. Mr. David Isaacs is Vice President of Government Affairs for the Semiconductor Industry Association. Welcome, Mr. Isaacs. Dr. Rainer Lohmann. Dr. Lohmann is a professor of oceanography from the University of Rhode Island. Welcome, Professor. And last, but certainly not least, Ms. Heather White, Executive Director of the Environmental Working Group. So I welcome all of our witnesses, and our first witness, we will start with Mr. Morrison. You are recognized for 5 minutes.

I want to tell the witnesses that I am going to have a soft gavel, so don't worry about--I am not going to let you go 10 minutes, but I certainly could let you go 5-1/2 to 6, and anything that you want to say that you don't get time to say, I ask unanimous consent for that to be submitted for the record. Hearing none, so ordered, and we will start with Mr. Craig Morrison.

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^STATEMENTS OF CRAIG MORRISON, CEO OF MOMENTIVE PERFORMANCE MATERIALS HOLDING, LLC, AND CHAIRMAN OF THE EXECUTIVE COMMITTEE, AMERICAN CHEMISTRY COUNCIL; LEN SAUERS, VICE PRESIDENT, GLOBAL SUSTAINABILITY, PROCTER AND GAMBLE; DAVID ISAACS, VICE PRESIDENT, GOVERNMENT AFFAIRS, SEMICONDUCTOR INDUSTRY ASSOCIATION; RAINER LOHMANN, PROFESSOR OF OCEANOGRAPHY, UNIVERSITY OF RHODE ISLAND; AND HEATHER WHITE, EXECUTIVE DIRECTOR, ENVIRONMENTAL WORKING GROUP

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^STATEMENT OF CRAIG MORRISON

} Mr. {Morrison.} Thank you, Mr. Chairman. I am Craig Morrison, President and Chief Executive Officer, and Chairman of Momentive Performance Materials based in Columbus, Ohio. I am testifying today on behalf of the American Chemistry Council, the ACC, where I am currently chairman of the board of directors. On behalf of the ACC and our members, I would like to thank the chairman and the committee for holding today's hearings.

Momentive is a world leader in the development and production of specialty chemicals and materials. Momentive chemistries are used in thousands of products that enhance the safety, convenience, and efficiency of modern life. Our

products can be found in automotive, energy, construction, personal care, electronics, and many other segments. In fact, Momentive materials can be found in the semiconductors produced by some of the members of the Semiconductors Industry Association, represented here by my fellow panelist, Mr. Isaacs. Momentive has over $7 billion in sales and operates 90 manufacturing facilities in 37 countries, including 35 manufacturing facilities in 18 States in the U.S., which provides approximately 4,000 American women and men high paying manufacturing jobs.

Innovation is critical to the survival and growth of our industry and the downstream industries that we supply. To remain a market leader, our process of research, development, product testing and introduction is nearly constant. That is why an efficient, effective process to evaluate and approve new chemical innovations is vitally important to the chemical industry and why I will be focusing my comments on Section 5 of the Toxic Substances Control Act, known as the New Chemicals Program.

There is broad agreement among industry and other stakeholders that TSCA needs to be reformed in order to reflect modern understanding of chemicals and today’s scientific knowledge. We have been encouraged by the recent introduction of the bipartisan Chemical Safety Improvement

Act in the Senate and by this committee's interest in examining current law to gain a better understanding of needed reforms. But it is also widely understood that TSCA's New Chemicals Program works well, a fact that has been reinforced by senior officials from previous administrations of both political parties.

New chemicals undergo a thorough but efficient multi-step regulatory review before being approved for manufacture and marketing. This well-functioning framework has three particular strengths. First, the program ensures a scientifically robust review of the potential hazards and exposures associated with a chemical substance. Second, it allows the EPA to tailor the process to fit the specific characteristics of an individual chemistry. And third, the process and timing of EPA's review generally meets demands of the marketplace.

The program leverages significant data about chemicals already available to the EPA, and employs advanced modeling techniques to predict a new chemical's physical and chemical properties, health hazards, and potential environmental effects. Section 5 also gives the EPA, which it regularly exercises, to request more testing and data about a new chemical if the Agency feels it is necessary, and to manage potential risks appropriately. This sophisticated risk-based

approach reduces the cost of innovation and time needed for review and approval of new chemical products. It has facilitated a dialog between manufacturers and regulators that has helped industry move away from potentially problematic chemistries and has enabled the introduction of even safer and more sustainable chemistries.

Momentive submits, on average, 10 new chemistries for review each year, and has submitted approximately 120 new chemistries for review over the past 10 years. Thanks to the EPA's efficient and well-functioning process, 90 percent of these new products introduced in the last 5 years have been able to come to market without the need for new animal testing. The advantage created by TSCA Section 5 for American innovation and competitiveness is clear. For example, the chemical industry invests $11 billion on average each year in research and development. Roughly 20 percent of all U.S. patents are chemistry-related. Three times more chemical innovations are brought to the market in the U.S. than other major regions of the world, such as Europe and Japan. Taken together with abundant, affordable supplies of domestic natural gas, the current New Chemicals Program helps create a strong incentive for companies that rely on chemistry to invest in the U.S. In fact, as of June, 2013, more than 100 new plants, expansions, and restarts of

previously shuttered sites have been announced, which is projected to create 310,000 new American jobs by 2020.

TSCA Section 5 established a rigorous process to evaluate and approve new chemistries in a way that protects health and the environment, enables continuous innovation, and allows new transformative products to come to market. Ensuring that this remains the case as part of any new effort or reform to modernize TSCA should be a top priority.

Thank you very much for allowing me to participate, and I am happy to answer any questions.

[The prepared statement of Mr. Morrison follows:]

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Dr. {Gingrey.} Mr. Morrison, thank you.

We will now hear from Mr. Len Sauers, Vice President of Global Sustainability with Procter and Gamble. Mr. Sauers, 5 minutes.

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^STATEMENT OF LEN SAUERS

} Mr. {Sauers.} Thank you, Mr. Chairman and Ranking Member Tonko, members of the committee. Thank you for inviting me here today. As has been said, my name is Len Sauers. I am the Vice President for Sustainability, Product Safety, and Regulatory Affairs at the Procter and Gamble Company.

P&G is the largest consumer products company in the world. Our products are used by 4.6 billion people around the world every day. We have operations in nearly 80 countries, and 99 percent of American households have at least one P&G product in their home. Since our founding over 175 years ago, innovation has been integral to everything we do, and has been critical to our success. To support our innovation efforts today, we have dedicated R&D facilities in five continents, and we employ over 9,000 R&D employees.

P&G supports comprehensive modernization of TSCA for two primary reasons. First, federal action is urgently needed to enhance consumer confidence in the safety of the ingredients that they use in their everyday household products; and secondly, reform will give States confidence in a strong federal chemical management system, and thereby avoid a

patchwork of varying requirements across multiple States, which will slow innovation and increase complexity.

I would like to turn now to the regulation of new chemicals. Over the past 30 years, P&G has either submitted or been the major contributor to over 175 pre-manufacture notices. From our experience, we believe that both the law and EPA's governance of the New Chemicals Program have provided for scientifically robust reviews of the potential hazards and exposures of new chemicals entering the U.S. market and ensured appropriate health and environmental protection.

There are many strengths to EPA's New Chemicals Program. One is the ability to tailor customly the data submitted in a PMN to the specific new chemical, as opposed to requiring a minimum data set. This approach assures that the information which is necessary and relevant to evaluate the safety of the chemical is received. EPA also utilizes modern science, such as sophisticated predictive models and structure activity relationships to evaluate new chemicals. New safety data is only requested when necessary to make decisions, thereby avoiding unnecessary animal testing. EPA is very receptive to pre-submission consultations with companies to help them plan for and anticipate the needs that EPA will have during their review. And finally, when deemed necessary, EPA has a

broad range of regulatory tools that they can use to limit exposure to a new chemical.

New chemical review is a key element of TSCA. It is P&G's opinion that the new chemical provisions of TSCA function efficiently and effectively.

Now I would like to turn to confidential business information. P&G invests over $2 billion annually in research and development. We have a significant interest in protecting our new to the world chemistries and confidential business information from public disclosure to our competitors. We rely heavily on the protection of confidential business information afforded by Section 14 of TSCA to remain competitive in the marketplace, and are very concerned with EPA's recent decision to reverse current practice and publically disclose the specific structure of chemicals for which companies currently consider confidential, when the health and safety studies of these chemicals are made public.

P&G fully supports transparency when health and safety information in EPA's administration of TSCA Section 14 and we agree that all health and safety data should be made public, but the disclosure of specific, confidential chemical identities is not needed for one to understand the safety of a new chemical. Structurally descriptive, generic chemical

names, like those P&G provides today on its website as part of our consumer information program are sufficient. For example, consider P&G's development and market introduction of Tide Cold Water laundry detergent. P&G's scientists discovered a new technology that enabled consumers to get the same cleaning performance in cold water as they expected in hot or warm. This innovation enabled them to save money on their energy bills and meaningfully decrease their greenhouse gas emissions by no longer having to heat water for laundry. P&G submitted two PMNs to EPA to create Tide Cold Water. Over 150 pounds of safety data were submitted with the PMN, and we requested that the specific chemical structure of our new technologies be kept confidential to prevent our competitors from piecing together the required chemistry needed to duplicate the formula. P&G's development costs of the two PMNs totaled about $150 million. EPA'S new interpretation of TSCA Section 14 would have meant disclosing to competitors those confidential chemical identities and allowing them to benefit from our work without an investment on their part.

A modernized TSCA must continue to strike the right balance of protection of confidential business information with public access to health and safety information about chemicals in commerce.

Mr. Chairman, Ranking Member Tonko, thank you again for the invitation to testify this morning. P&G values our partnership with you and this subcommittee, and we remain committed to working with you to develop a practical, scientifically sound, chemical management program that strengthens protection of human health and the environment, and ensures U.S. leadership of sustainable innovation in the global marketplace. Thank you.

[The prepared statement of Mr. Sauers follows:]

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Dr. {Gingrey.} Mr. Sauers, thank you.

Next witness, Mr. David Isaacs, Vice President of Government Affairs, Semiconductor Industry Association. Mr. Isaacs, you are up for 5 minutes.

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^STATEMENT OF DAVID ISAACS

} Mr. {Isaacs.} Thank you, Mr. Chairman and Ranking Member Tonko, and members of the subcommittee. My name is David Isaacs, and I am testifying on behalf of the Semiconductor Industry Association.

SIA is the trade association of U.S.-based semiconductor companies that design and manufacture semiconductors, and as many of you know, semiconductors are the integrated circuits or sometimes called computer chips that are the basic building block for all modern electronics. These innovations enable the revolution we have experienced in information technology, communications, transportation, medical devices, and national defense, so they are a fundamental part of our economy and American economic leadership.

Our industry employs directly a quarter of a million people in the United States, and supports over a million indirect jobs. We are consistently among the top export industries in the United States, and a key part of America's advanced manufacturing infrastructure.

So before I speak to our views on the current TSCA system, I wanted to provide some context on our industry's use of chemicals. Our industry relies, in our manufacturing

processes, on the--on specific chemicals that have particular chemical and physical properties and unique functional attributes that enable us to produce, you know, up to a billion transistors on a chip the size of your fingernail. We integrate these chemicals in advanced manufacturing equipment with high levels of precision, very rigorous controls, and enclosed processes, high levels of automation, and that results in a very precise process and also an exemplary environmental and safety record. And that background informs our views on the New Chemical Program. We believe that the existing program generally strikes the right balance between environmental protection and the approval of new chemicals that help drive our innovation. It is important to note that semiconductor companies do not traditionally submit PMNs for approval by the EPA, and we rely on our chemical suppliers for that function, but we have a strong interest in ensuring our access to new chemicals that can help drive our advances.

The key attributes of the current system are the risk-based approach, and as others have mentioned, the tailored and customized evaluation of chemical uses. In our industry, the unique attributes of our manufacturing processes result in very low levels of risk and exposure, and we believe that that very much needs to be kept into account in any reform

efforts going forward.

My testimony outlines other attributes of the system that we think are very important, such as an expedited timeframe that allows speed to market, and critical exemptions for activities like research and development. And then, of course, the protection of confidential business information is critical to our industry as well. Our industry is very much driven by intellectual property. We invest, on average, 18 percent of revenue into R&D. Last year, that amounted to $32 billion in R&D investments. We are a leader in patents and many of our processes are protected as trade secrets. So the protection of CBI under the TSCA is very, very important to us, and we think it generally works well and strikes the right balance between the need for the public to have available information on health and safety data while at the same time protecting confidential business information.

So going forward, we look forward to working with the Congress and this subcommittee on efforts to modernize TSCA and we would like to play a constructive role in that effort. So thank you very much for the opportunity to testify.

[The prepared statement of Mr. Isaacs follows:]

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Dr. {Gingrey.} Mr. Isaacs, thank you. Yielding back 13 seconds.

Next witness, Mr.--excuse me, Dr. Rainer Lohmann, Professor of Oceanography at the University of Rhode Island. Dr. Lohmann, 5 minutes.

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^STATEMENT OF RAINER LOHMANN

} Mr. {Lohmann.} Good morning. Dear members of the House Committee on Environment and the Economy, I want to thank you for inviting me to testify today. I would also like to thank my wife for letting me go to D.C. on our wedding anniversary. My name is--I will be back tonight. My name is Rainer Lohmann. I am professor of oceanography at the University of Rhode Island. I have spent the last 15 years researching organic contaminants around the world. My written testimony contains several more recommendations on TSCA reform that I worked on with my colleagues, Dr. Heather Stapleton from Duke, and Dr. Ron Hites from Indiana. I will use excerpts here.

First, open dialog, not CBI. Let me frame my testimony by quoting Andrew Liveris, CEO of Dow Chemical. ``Over the decades, the chemical industry has not done enough to operate with transparency and to lead on matters such as sustainability, spawning legacy issues that we are still resolving today. Further,'' he said, ``the chemical industry went from defiance, then denial towards debate, and finally has reached dialog.'' In this spirit, I submit that the current use of CBI is in strong conflict with dialog and

transparency. TSCA does not limit the period in which a chemical can be considered proprietary or a trade secret. Even new pharmaceuticals, which are much more expensive, are only pertinent for up to 20 years, providing a drug company time to recoup its research investment and make a profit. Within TSCA, the chemical industry should have limited time during which the information submitted to the EPA will be considered proprietary. After this time, information should be publicly available, including site specific production volumes. The public has a right to know what is produced and where. This will foster dialog, build trust, and eventually lead to safer chemicals on the market.

In addition, because research on many chemicals is hindered by a lack of authentic standards, samples of any chemical substance produced or imported into the U.S. should be archived in a national repository funded by the chemical industry. This will open dialog between industry academia and geos to identify worst compounds and assess safer alternatives.

Second, spur innovation. We need safer, newer, and green chemicals as part of chemistry’s contribution towards sustainability. How do we get there? First, we need to identify and replace the worst chemicals in commerce, those which are strongly bioaccumulative, persistent, and toxic.

Priority should be given to reassessing the chemicals that were grandfathered in TSCA. This will spur industry to invent, establish and market safer alternatives.

How big is the problem? The TSCA inventory contains probably hundreds to thousands of chemicals that are persistent, bioaccumulative, and toxic at the same time. Many of these are found in the environment and in humans. Recent examples include perfluorinated compounds and brominated flame retardants, both of which are present in roughly 97 percent of the U.S. population, including children, and the environment.

Our efforts to fully understand the presence and effects of persistent organic chemicals in the environment are hampered by a lack of basic information about the chemical identity, properties, toxicology, and production volumes. Some of that information is currently protected by CBI.

Moving forward, TSCA reform should make use of EU's REACH Program. The information on chemicals that are submitted as part of REACH should be able to be used in the U.S. to move toward safer and greener chemicals at no additional cost, basically.

Third, testing of new chemicals. Dr. Heather Stapleton discovered Firemaster 550 by accident while she was screening house dust samples for PBDEs, which are basically phased out

in the U.S. Her research on dust and hand wipe measurements demonstrated that Firemaster 550 is a ubiquitous indoor contaminant, and exposure is highest for infants and toddlers, rather than adults. Last year, she already showed that Firemaster 550 is the second most common flame retardant in residential furniture today, and it might be number one as we speak. In their most recent work, Dr. Stapleton and colleagues demonstrated that prenatal exposure to Firemaster 550 in rats resulted in obesity, early puberty, insulin resistance, and disruptive thyroid hormone signaling.

I would like to stress the effects of exposure to chemicals in our households with typical modern health problems, obesity, early puberty, diabetes. In 2005, EPA issued a consent order requesting that Chemtura, the manufacturer, conduct more testing on Firemaster 550's health effects. Of the four ingredients that the Firemaster has, two were grandfathered in TSCA, so EPA could only require testing on the two new brominated compounds, and not the entire mixture. This highlights the shortcomings of TSCA, and how it violates common sense. If you market a chemical mixture, you should perform toxicity tests on that whole mixture as it will be used and how people will be exposed to it in the environment and in their households.

Professor Stapleton's research on Firemaster 550 is the

only study to date to examine health effects from the mixture as it is used today. The data demonstrated that significant effects occur at much lower doses than what the chemical company declared to be safe.

In closing, I would like to note that my research has been funded by the NSF, the U.S. EPA, and the Hudson River Foundation, and I thank you for your attention.

[The prepared statement of Mr. Lohmann follows:]

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Dr. {Gingrey.} Dr. Lohmann, thank you for your testimony.

I will now turn to Ms. Heather White, Executive Director of the Environmental Working Group. Ms. White, 5 minutes.

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^STATEMENT OF HEATHER WHITE

} Ms. {White.} Mr. Chairman and distinguished members of the subcommittee, I am Heather White, Executive Director of Environmental Working Group, a nonprofit research and advocacy organization based in Washington, Iowa, and California. Thank you for the opportunity to testify.

EWG wants the United States to be the world leader in innovative chemical production. Some of the best and brightest scientists in the world are at the companies represented here today, but innovation is not just about lowering costs and boosting profits. Americans believe that innovation must also mean creating chemicals that are not just cheap, but safe. Strong chemical regulation promotes innovation. We cannot compete internationally on labor or production costs. We will not win that race to the bottom. But America ultimately will win on chemical quality and safety through toxics law reform.

For 20 years, EWG has advocated greater protection of people and the environment from toxic chemicals. Our groundbreaking research detected nearly 300 toxic industrial chemicals in the umbilical cord blood of newborn babies. The reality is industrial chemical pollution begins in the womb.

Yet a century into the chemical revolution, we still don't know what these low level exposures to substances, alone or in combination, do to our health, especially our children's health. No one has basic answers, not the government, academic researchers, or the chemical industry.

In 2010, the President's Cancer Panel concluded that the number of cancers caused by toxic chemicals is grossly underestimated. Americans have lost faith in a chemical regulatory system that they suspect, with good reason, doesn't protect them and their children. Many of these chemicals have not been adequately tested for safety under the Toxic Substances Control Act. Its New Chemicals Program is woefully inadequate, and its secrecy provisions threaten human health.

There are three major problems with the New Chemicals Program. First, most Americans assume that a chemical can't be sold until proven safe. Not so. A chemical company can get a new chemical on the market today without providing any information about the toxicity of that chemical. Companies do it every day. In fact, 85 percent of the pre-manufacture submissions have zero information about the toxicity of these new chemicals. Second, EPA faces a chemical Catch-22. The agency cannot demand more test data without solid evidence that the new chemical could be a reasonable risk, and it

cannot come up with that evidence without the test data. The law places the burden on EPA, not the manufacturer, to determine whether a new chemical is unsafe before it goes into use. The trouble is that chemicals are entitled to a presumption of innocence. That works in criminal law, but that shouldn't exempt chemicals from investigation. Not surprisingly, EPA attempts to restrict less than 10 percent of new chemicals. Finally, chemical makers don't necessarily know how the chemical might be used when they make it. After a new chemical is approved, they do not have to tell EPA when the planned use changes.

As for secrecy, the current law's Confidential Business Information scheme is a regulatory black hole where critical information goes in, and little comes out. Even the intelligence community declassifies highly sensitive information after a while, but TSCA confidentiality claims never expire.

Companies have a legitimate interest in keeping some information confidential, but unwarranted claims directly threaten human health and the environment. TSCA permits a manufacturer to claim confidentiality without substantiation for virtually any information it submits to EPA. Confidentiality claims mask the identities of nearly 2/3 of all new chemicals introduced since 1976, including substances

used in consumer and children's products.

Chemical makers assert that secrecy protects their competitive advantage, but they knew very well that competitors commonly reverse engineer their products. Everybody else is left in the dark: ordinary citizens, first responders, workers, medical personnel, independent researchers, State and local governments, and fence line communities that are often hotspots of chemical exposure.

We deserve better. Congress can overhaul the broken toxics law to protect public health and the environment, and at the same time, spur development of better, safer, innovative chemicals.

Thank you, and I welcome any questions you may have.

[The prepared statement of Ms. White follows:]

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Dr. {Gingrey.} Thank you, Ms. White.

We will now turn to questions from the members of the subcommittee, and each will have 5 minutes. I will say to the members, if you decide to speak for 4-1/2 minutes and give a speech, and then ask a question in the last 30 seconds, I will let the witness respond to the question.

I will begin yielding to myself for the first 5 minutes, and my first question is going to be to Monsieurs Morrison, Sauers, and Isaacs, the first three witnesses. How do TSCA regulations for new chemicals and new uses and TSCA provisions on the production of Confidential Business Information affect your ability to innovate? Mr. Morrison first, then Mr. Sauers, then Mr. Isaacs.

Mr. {Morrison.} Thank you, Mr. Chairman. For us, innovation is our lifeblood and what allows us to succeed and our economy to succeed is delivering performance capability to our customers, such as the two gentlemen to our left, with unique products, and our chemical formulations are at the heart of those products. What TSCA has allowed us to do is drive that innovation and also ensure that it is safe from a health and environmental standpoint, but protect the necessary information so that it is not disseminated to foreign governments, et cetera.

If you look at our company alone, we have had multiple cyber attacks by foreign governments that we were unaware of that the Federal Government made us aware of and notified us that our IP and other trade secrets had been penetrated and was being downloaded. That is exactly the information we are discussing today and that we need to protect, and that we are talking about if we change TSCA where we voluntarily disclose that information, we lose the very competitive advantage that we deliver to our company, to our customers, and to the U.S. economy.

Dr. {Gingrey.} Mr. Sauers?

Mr. {Sauers.} Thank you, and maybe I will just add to what Mr. Morrison has said. Innovation is quite important to Procter and Gamble, you know, as a company of $90 billion in sales, 9,000 R&D employees. It is something that is very important to us, and what we have appreciated most about TSCA has been our ability to get our chemicals into commerce in a very reasonable timeframe and work with an agency that is highly competent in the evaluation of the safety of these materials. We have appreciated very much the opportunity to sit down with EPA scientists prior to the submission of a PMN to talk about our chemical, talk about the safety needs that TSCA will have, the EPA will have, to make sure that what we bring forward to them is complete. We have appreciated the

risk-based approach that the agency has used. We have also appreciated their sensitivity to animal testing. The Procter and Gamble Company has spent about $300 million over the years developing methods to prevent the needless killing of animals for safety testing through the development of predictive methods, structure activity relationships, modeling, and things like that, and we appreciated the EPA incorporating those technologies.

Dr. {Gingrey.} Mr. Isaacs?

Mr. {Isaacs.} Mr. Chairman, as I outlined in my comments and in my testimony, we very much rely on the continued access to new chemicals as part of our ability to advance in semiconductor manufacturing. We believe that our processes are fundamentally based on automated systems and enclosed processes that result in minimal exposure, very limited releases to the environment, and therefore, we think our responsible use of chemicals, along with other environmental laws, protects human health and the environment in an appropriate manner.

Dr. {Gingrey.} Thank you. In my time remaining, I am going to--probably I will only time for one more question and I will direct it to Mr. Morrison. How does TSCA's New Chemicals Program work in practice? Could you walk me through manufacture, pre-manufacturing notice submission,

that EPA 90-day review, and notice of commencement?

Mr. {Morrison.} Yes, sir. Well essentially we start off by conducting our own tests on the chemicals, and then we put together a pre-manufacturing notice, which is the PMN submitted to the EPA. They scrutinize the data. They apply that to predictive models and analogous materials. They then go ahead and assess the various chemical properties. They look at the exposure potentials and risks, and ultimately come out with a ruling that could be a pass, a limited use, a restricted, or in fact, stop the PMN from going forward and require more testing.

If it is approved, either under restricted or fully approved to go ahead, then we are given permission and we issue a notice of commencement of the manufacturing process at that point. Essentially, this usually takes approximately a 90-day period, which is key because it allows us to turn our innovation in a timely manner, and in many industries, like semiconductor and others, that is absolutely critical for their success.

Dr. {Gingrey.} You heard the testimony from Dr. Lohmann and from Mrs. White--Ms. White, and their concerns. Are there any exemptions, exclusions from the new chemicals provisions of TSCA?

Mr. {Morrison.} There are some, such as certain sets of

polymers and other materials, that the EPA has very extensive experience with that they know don't pose any hazard or risk, and therefore, they are exempted from the process because it makes the EPA and it makes the chemical companies much more efficient, rather than just submitting everything where there is no added benefit to submission.

Dr. {Gingrey.} I thank all three of you and I have gone almost a minute over. At this point, I will yield 5 minutes to the ranking member of the subcommittee, the gentleman from New York, Mr. Tonko.

Mr. {Tonko.} Mr. Chair, the ranker of the Energy and Commerce Committee has a conflict with scheduling, so I would ask if you call upon your--

Dr. {Gingrey.} Absolutely. I will be glad to yield to the ranking member of the overall Committee of Energy and Commerce, the distinguished gentleman from California, Mr. Waxman, for 5 minutes.

Mr. {Waxman.} Thank you, Mr. Chairman, thank you, Mr. Tonko.

Four years ago, this committee spent a considerable time examining the Toxic Substances Control Act, and worked to craft policy solutions for its failures. It was a challenging endeavor, because we found that even as some in industry claim to want to make our regulatory system safer,

we found strong resistance to actual reform. Mr. Morrison, you testified that Section 5 is ``one of the major successes of TSCA, and that we should be careful to preserve its essential elements.'' I would like to take a moment to examine one chemical that has gone through Section 5 review, Firemaster 550. It is a flame retardant that as Dr. Lohmann has stated is gaining significant market share in the United States. The maker of this flame retardant, Chemtura, markets this chemical as a safer alternative, saying that it has ``an improved environmental profile'' compared to its predecessors. In promotional materials, Chemtura touts EPA's review of Firemaster 550 under Section 5(s) ``extensive'' and states that ``consumer exposure is extremely low.'' But as Dr. Lohmann reports, scientists have shown that consumers are being exposed to this product at significant and dangerous levels.

Dr. Lohmann, can you elaborate briefly on some of the exposure and hazard data that has been produced on Firemaster 550?

Mr. {Lohmann.} Thank you for the question. I should point out that is Dr. Stapleton's work from Duke University. What she has shown builds on a legacy--well, it is almost an endless story. It starts off with flame retardants, PBB, polybrominated biphenyls, that were discovered by accident

because they contaminated cows in Michigan. They were withdrawn from the market and replaced by polybrominated diphenyl ethers, which were found to accumulate in blood in the U.S. adult population 10 times higher than Europe, so it was finally withdrawn from the market to be replaced by Firemaster 550, which could only be partially evaluated because it was a mix of grandfathered in chemicals and new chemicals. And as all other flame retardants, they are not physically bound or chemically bound to the product, so they escape over time and mostly the exposure for all of us is in our houses through dust.

Mr. {Waxman.} Ms. White, you mentioned in your testimony EPA didn't have access to all of the information it needed to thoroughly evaluate Firemaster 550 before it went on the market. Can you elaborate briefly on that?

Ms. {White.} Absolutely. Because of the draconian measures of Confidential Business Information in TSCA, EPA's own scientists weren't actually able to look at the full health and safety profile, so the leading expert actually has said on the record that if she had known about the issues of Firemaster 550, then the chemical would not have been approved and there certainly would have been a request for more chemicals.

Mr. {Waxman.} EPA developed a work plan to conduct a

risk assessment of numerous chemicals identified as potentially hazardous, including a chemical that is the active ingredient in Firemaster 550 known as TBB. EPA gave the active ingredient in Firemaster 550 the worst score possible for exposure risks and plans to assess it this year, yet the promotional materials for the product still say that it has been approved by EPA and that consumer exposure is low. Mr. Morrison, do you believe that Section 5 has worked in the case of Firemaster 550?

Mr. {Morrison.} I think, you know, Section 5 in general works very effectively. I haven't studied that in great detail from a scientific standpoint or understand the full history of it. I would be the first to admit that at times, more information comes out and we have an obligation as an industry when we identify a substantial risk, we have to notify the EPA if we have additional data. Additionally, if the EPA determines there is an unreasonable risk, they have every right to go back in and revisit the chemical itself.

Mr. {Waxman.} So you would go back and revisit it, but Ms. White, what do you think? Do you think that Section 5 worked in the case of Firemaster 550?

Ms. {White.} Absolutely not. I think that that really is a great example of how everything is turned upside down when it comes to the New Chemicals Program, because we have

the burden of proof being on the EPA to raise this situation and raise concerns about chemical safety, as opposed to the chemical manufacturer fully disclosing and testing in advance and being required to test the chemicals before they go on the market.

Mr. {Waxman.} Thank you. Firemaster 550 is already on the market, in furniture, in baby products and other consumer goods, and there are now serious questions about its safety. I guess the question that I think that raises is would it have been better--would the public have been better served understanding these risks before it was brought into widespread use?

I would like to introduce, Mr. Chairman, into the record a letter from the Center for International Environmental Law dated July 11, 2013. This letter summarizes work CIEL has done to examine trends in chemicals regulation and patent filings to evaluate the impacts of stronger rules for hazardous chemicals on the innovation of new chemical products. They find that stricter regulation of hazardous chemicals drives innovation and creates a safer marketplace. They explained that implementation of Section 5 has resulted in one dangerous chemical being substituted for another dangerous chemical. They point out that when a different approach is taken, when dangerous chemicals are removed from

the market, it accelerates the invention of alternative chemical products. It makes a lot of sense to me and I hope we can focus on getting this policy right as it can be.

Dr. {Gingrey.} Without objection, the letter is accepted into the record.

[The information follows:]

********** COMMITTEE INSERT **********

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Dr. {Gingrey.} We now turn to the subcommittee chairman on oversight, the gentleman from Pennsylvania, Mr. Murphy, for 5 minutes.

Mr. {Murphy.} I thank the panel for being here.

I want to start off, because it is always important for me to hear from some of you your corporate philosophy, and I want to ask you this, Mr. Sauers. Your corporate philosophy with regard to dealing with the health and safety of your customers and your employees when it comes to developing chemicals, could you just describe to me what that is?

Mr. {Sauers.} Sure. Thank you, Congressman. I mean, I can't think of anything more important to Procter and Gamble than the safety of our customers and employees. Four point six billion people use our products every day, so it is imperative that we ensure that the products we put on the market are safe for them and safe for the environment. I think to illustrate that best, my department at Procter and Gamble has 700 employees in it, 200 of whom have Ph.D.s in sciences related to human and environmental safety. So everything we evaluate for the--to go on the market has a thorough and comprehensive risk assessment prepared for it to ensure that it is safe.

Mr. {Murphy.} Mr. Isaacs, do you have a comment on

that?

Mr. {Isaacs.} Well as an industry, I think we have a similar dedication to the protection of the environment and our workers. My written testimony highlights some of the successes we have had in substituting or phasing out materials of concern in our processes and reducing emissions, and that remains a very high priority for the industry globally.

Mr. {Murphy.} And again, Mr. Sauers, in the developing of chemicals in your company, do you--and following what you said as far as your mission of corporate responsibility, do you review chemicals and make decisions that some of them should not be brought to the market because in your determination, they are not passing muster for health and safety?

Mr. {Sauers.} Yes, sir. We go through a complete evaluation from the beginning of first proposal by our technologists. Evaluating in the beginning, if we show that materials will be problematic as they are marketed, for example, show unreasonable sensitization, toxicities associated with various organs or things like that, if we think those issues will be a problem considering the exposure that individuals will get to them, we will stop them. We have done that in many instances. As a company, we chose not

to market nonylphenol ethoxylates, which were a major surfactant because of environmental quality and their inability to be completely biodegraded. So those decisions are made every day by our toxicologists.

Mr. {Murphy.} Thank you. Now for Mr. Morrison, Sauers, and Isaacs, a question. As Congress is probably going to be dealing with the TTIP, that is, dealing with the Transatlantic Trade--Pretrade agreement coming up, one of the questions that is going to come up is with regard to regulations between the United States and European nations, and particularly, I am sure that the question of sharing of CBI with State and foreign governments, the TSCA permits, et cetera. I wanted to ask you if any of you are anticipating any concerns in terms of should States and foreign governments be permitted access to CBI, or if you have begun to put any thoughts into how this would be handled? Mr. Morrison?

Mr. {Morrison.} Yeah, at this time we do not, as the ACC or I as the CEO of a company, support sharing CBI with foreign governments. We don’t feel we have the ability to control and protect that information. We do take a different stance on sharing information with States where they demonstrate an ability to protect the information, as well as an applicable use around safety or environmental purposes.

But we do not feel secure in today's environment passing out CBI information internationally, so we would not support that.

Mr. {Murphy.} Let me expand this, and the three of you, as it goes through, because it is something we are going to have to deal with, and there are regulatory issues how the United States and the EU will deal with these issues to make sure that any products that are sold across the Atlantic from either side dealing with their environmental concerns and our environmental concerns with health and safety of customers. So how do each of you--what are your thoughts on does the EPA protect trade secrets while still providing a mechanism for evaluation of safety and health review? I will start with Mr. Morrison and go across.

Mr. {Morrison.} Yeah, I think there is very much a capability to share the pertinent information without giving chemical identity and other things that we currently protect. So the important aspect around safety, environmental and et cetera, we feel we are very capable of sharing that. What we don't agree with is sharing the proprietary information such as chemical identity.

Mr. {Murphy.} Do you feel that they protect that information, or does it get out?

Mr. {Morrison.} Well, we have ability to protect that

with generic names that we talked about before, but we are afraid if you gave out chemical identity, once it goes to other governments you lose control of the ability to protect chemical identity.

Mr. {Murphy.} A few more seconds. Mr. Sauers, with regard to the EPA protecting that proprietary data while it is still providing information to help them evaluate health and safety, do you feel confident that they protect that top proprietary information?

Mr. {Sauers.} Yes, I do, and I think there is a balance that needs to be weighed here. There no CBI with the EPA itself. I mean, they get full access to all the information and the specific chemical names. I mean, they have full access so they are able to make their evaluation. And then a generic, less descriptive chemical name is given and that is what is made public, which allows the public to be able to draw their own conclusions about the material. And as a toxicologist, that information that is provided is sufficient for individuals to make evaluation and draw to corollary materials, for which there is available information.

Mr. {Murphy.} Thank you. Mr. Chairman, I see my time expired but I would hope that that question could also be forwarded to the other panel members and ask for their response as well. Thank you.

Dr. {Gingrey.} Thank you, Mr. Murphy. We now turn to the ranking member from New York, Mr. Tonko, for 5 minutes.

Mr. {Tonko.} Thank you, Mr. Chair. Reviews by the Government Accountability Office and testimony that we had heard at our last hearing indicated shortcomings with respect to Section 5 of TSCA. Last year, EPA announced a work plan to conduct the risk assessment of numerous chemicals identified as potentially harming children's health, causing cancer or posing other health concerns. Several of these chemicals were reviewed under TSCA's Section 5 New Chemicals Program, but made it on the market anyway.

So to Dr. Lohmann, my question is if we suspect a chemical harms children's health or has another serious effect, shouldn't we try to understand that before it goes on to the market rather than after?

Mr. {Lohmann.} I would fully concur. You would expect these days that we would first make sure a chemical is safe before we produce it. Unfortunately, that is not the way it works in this country right now.

Mr. {Tonko.} Well how could a stronger Section 5 provide proactive protection for the American public?

Mr. {Lohmann.} What you see happening in Europe under the REACH Program is that the manufacturers have to take responsibility for their product and have to convince the

regulatory agency, in this case, the European Chemicals Agency, to show that their product is safe in its different uses. So the manufacturer has to go all the way through from cradle to grave what I am producing is safe and where it is going to be used. And that kind of approach really means the responsibility is with the person or the company who makes it, and they have to show it is safe. And that, I think, is a much more forward looking approach than just having here is a new chemical, EPA, just evaluate it quickly and we will market it anyhow.

Mr. {Tonko.} Thank you. Ms. White, you testified that the current structure of Section 5 leaves EPA without the data it needs to effectively evaluate chemicals and that the structure creates a disincentive to producing that post data. Could you please elaborate on that?

Ms. {White.} Absolutely. So EPA right now is not able to require testing before a chemical goes on the market. If the industry has tests, it is supposed to disclose them. But in order to request more information, it has to find two things. That one, there is an unreasonable risk of injury, or two, that the chemical is going to be manufactured in such a high volume that there would be a significant human exposure. So what happens is, there is this chemical Catch-22, which EPA has to try to figure out that there may be a

risk, but it can't require testing until it has evaluated testing. So it is this really difficult cycle. It is like grading students without actually asking them to take a test. So for example, I will just give you an A because I know that maybe your son was a really good student and maybe you are a neighbor of so-and-so, but I am not actually requiring you to take any tests. So it is a very difficult situation that EPA is in.

Mr. {Tonko.} EPA can't thoroughly review new chemicals for potential health effects if it doesn't have adequate data to do so. One policy that has been discussed over the years is the concept of requiring a certain minimum amount, minimal amount of data prior to a new chemical being brought onto the market. What do you think of this approach? Does it have merit?

Ms. {White.} It absolutely has merit, and frankly, I think most Americans assume that that is already in place. They are very surprised to find out that EPA doesn't require a series of tests before chemicals go on the market, so that is absolutely where we should be heading, and that is where we should be targeting reform for Section 5.

Mr. {Tonko.} And Dr. Lohmann, your thinking on the data requirement?

Mr. {Lohmann.} I certainly agree, and that is--most

global players who deliver to the European market have to provide this kind of data now to get onto the European market, get reevaluated, or reassessed, reauthorized for their chemicals. So the best thing the U.S. should do is find an agreement with the European program to use the dossiers that are provided anyhow, and they will all have to provide data. If you have no data on your chemicals, there is no market in the EU. It seems a very logical approach.

Mr. {Tonko.} Mr. Morrison, it seems to me that building safety into the developmental process earlier is likely to be a better approach to product development. This is the idea, I believe, behind the green chemistry movement. Would you agree with that in concept?

Mr. {Morrison.} Well, I think there is a basic underlying assumption in your comment, which is we don't build safety, and I think we do extensive testing. We have the greatest to lose if we put products on the market that are hazardous, that hurt health, that hurt environmental, et cetera, so we do extensive testing when we develop new products. All of that information is turned over to the EPA. They have very extensive databases that they run and they run on analogous materials. And so I think the underlying assumption that if the EPA doesn't force the test it isn't done, they don't have to force the test in many cases because

it is already being done by us.

As far as green, we fully support green where appropriate. Our company and many in the industry aggressively push it, but it is one form of innovation. It is not the only form of innovation.

Mr. {Tonko.} Is there any chance for added safety by requiring the submission of a basic safety data set as part of the initial pre-market review process?

Mr. {Morrison.} I actually think it would have an adverse effect, because what you have to take into account is the workload you would put on companies and EPA, you would take the higher hazardous and now be swamped with all chemicals there when there are much more effective and efficient ways to deal with the vast majority. And so you are creating an unneeded workload, which I believe would add very little or no benefit and would, in fact, just swamp the EPA and they wouldn't be able to prioritize their resources. It would also kill innovation. The reason we produce three times more chemical innovation than Europe, Japan, and others is because I think our process works very effectively.

Mr. {Tonko.} I guess I am also hearing that they might require more resources for EPA also to develop that plan, but I believe I have extended my amount of time, so--exhausted my amount of time, so I will yield back.

Dr. {Gingrey.} Thank the gentleman, and we now turn to the gentleman from West Virginia, Mr. McKinley, for 5 minutes.

Mr. {McKinley.} Ms. White, I want to see whether I heard it properly. Did I hear you say that often products going to the market are not confirmed prior to going to market for toxicity?

Ms. {White.} That is correct. According to EPA, 85 percent of the pre-manufacture notice, this approval process for chemicals, do not have toxicity data. They have not submitted that to EPA.

Mr. {McKinley.} Are you contending, then, that--are you suggesting that they are trying to circumvent something by doing that?

Ms. {White.} I am suggesting that the system is broken. There actually isn't incentive for testing. There is an incentive not to test because if you don't--

Mr. {McKinley.} You think that they are testing themselves?

Ms. {White.} If they are, they are required to give that to EPA.

Mr. {McKinley.} Okay, thank you.

Ms. {White.} But in 85 percent of instances, they don't.

Mr. {McKinley.} The other three panelists, can you respond to that? I thought that was an interesting comment. I guess I did hear that properly. Do you want to respond back to the going to market without testing for toxicity?

Mr. {Morrison.} You know, where appropriate and data is required, we of course test for toxicity and the idea that we would put out products where we thought there was a risk simply for economic reasons, first of all, it doesn't make any economic sense because the risks would overwhelm any sales potential. B, we apply the tests that are appropriate but we don't blindly apply all tests to everything. It is not economically viable, either. So I think the underlying assumption is one I don't agree with.

Mr. {McKinley.} Mr. Sauers?

Mr. {Sauers.} And I think we have to distinguish between the EPA's ability to do an evaluation of a chemical, and then the toxicity data that is being mentioned here. You can evaluate the safety of a material without having animal toxicity data. There are other avenues available to you. The EPA has it its disposal, you know, a vast database of animal data on historical chemicals and they are experts in applying structure activity to the relationships and productive modeling type systems to evaluate the safety of materials. So just because they don't get new animal testing

data on a chemical that is coming in does not mean that they don't have an ability to evaluate that chemical for safety.

Mr. {McKinley.} Thank you. Mr. Isaacs?

Mr. {Isaacs.} Yes, sir. We actually think there would be a benefit to improved tools and better predictive modeling at the agency, and we also think that increased access and transparency to existing data that is out there would benefit the system as a whole. I understand that EPA is making some efforts in that direction and we look forward to seeing the results of that.

Mr. {McKinley.} Thank you for your responses back on that. I am just curious, the fact that apple juice has arsenic traces, arsenic in it. Should we be banning the drinking of apple juice in America because there is a trace level of toxicity in that material? Ms. White?

Ms. {White.} We would not say we need to ban apple juice, but certainly a cause for concern when we have all these situations where these low doses of chemicals--and arsenic is a different situation--but when we are talking about chemicals that are manufactured and not required to be tested before they go on the market, that is shocking for most Americans.

Mr. {McKinley.} Ms. White, I just think I am with you more than you realize, but I am also wondering how often we

get to maybe hysteria levels on some things. When we are burning coal, we have the issue of toxicity that people use exaggerated numbers and fears that are unwarranted and it puts the fear in the minds of people, and the same thing. So I really do appreciate the responses that we have had here today. If people are going to market without checking for toxicity, whether it is internal or through the agency, I think we need to determine that but it sure sounds like the companies are doing the job themselves, it appears, and I would hope that we wouldn't be putting out false concerns to the public if they are out there on that.

So with that, thank you and I yield back the balance of my time.

Dr. {Gingrey.} Thank the gentleman, and I turn to the gentleman from California, Mr. McNerney, for 5 minutes.

Mr. {McNerney.} Thank you, Mr. Chairman. I thank the witnesses this morning.

I think it is pretty clear there is a conflict between the industry's legitimate wish to keep trade secrets confidential, and on the other hand, the risk of releasing chemicals whose long-term and low exposure health impacts may not be very well understood, especially when they are put in an environment where they are going to be mixed with other very complex chemicals. So everyone understands that it is

in the industry's interest to have consumer safety and consumer confidence. There is no problem there. It is our duty, it is our job as a committee, as a subcommittee, to try and resolve that conflict. We are going to do the best we can and I appreciate your participating this morning.

Mr. Sauers, I think I heard you say that an update of TSCA is urgently needed. One of the reasons is to give consumers confidence in the process, and I think that is pretty well agreed to. But then you said later that the EPA's recent decision to disclose specific confidential information is hurtful. So I see that that is a little bit of a conflict in my mind between wanting to improve consumer confidence and yet thinking the EPA's decisions are problematic.

Mr. {Sauers.} Sure, and maybe just to clarify, we just had a discussion about questions being raised about trace levels of arsenic, for example, in apple juice. That does raise concern to consumers' minds about the safety of products that are in the marketplace. Many times a company like Procter and Gamble doesn't have all the credibility as it communicates to consumers about safety. The EPA does, so having and EPA with a very robust system in place that is recognized will give a credibility when they say that materials are safe, and we would support that very much. We

think that they do have the tools today to do that with the information that is provided as part of the PMN process.

Mr. {McNerney.} Well I will just suggest that, you know, implying that EPA's new rules to release the information might actually help in terms of the company's long-term credibility, so that is my two bits on that.

Mr. Lohmann, you mentioned that one of the things we should do is ID and replace the most dangerous chemicals, including grandfathered chemicals. How big of a job would that be?

Mr. {Lohmann.} It would certainly be a major undertaking, but luckily, the Europeans are doing that now anyhow, so they are taking care of that and most global companies, like Procter and Gamble, have filed all their dossiers so information on most of those chemicals will be available. As I will also point out, it will actually spur innovation towards safer chemicals so I think it is a worthwhile endeavor.

Mr. {McNerney.} So it might spur innovation and profitability then?

Mr. {Lohmann.} Because some of the comments we have already brought, most right now in the environment were grandfathered in. They had no testing. Some of the new ones we also worry about, but certainly the grandfathered in are--

should be reassessed.

Mr. {McNerney.} Well one of the most striking things you said was that there is a strong correlation between chemicals in households and health problems that we are experiencing in our country. Did you want to expand on that a little bit?

Mr. {Lohmann.} Certainly. I guess we can never know for sure because etymology is very difficult to do, but it is striking that a lot of the results that we see from either controlled tests or even in the field of animals to low doses are exactly the health problems that we see in modern society. So I am not saying that chemicals are the sole cause of all the problems, but there is probably a correlation, and that should worry us.

Mr. {McNerney.} Mr. Lohmann and Ms. White, have you heard of the term chemical trespass, and if so, would you describe what you think that term means?

Ms. {White.} Yes, chemical trespass means there is unwanted chemicals that are in your body and rather than trespassing on someone's land, in fact, a chemical has trespassed into your body. It is a developing concept in tort law, and there is certainly a lot of concern. Our studies have shown that, in fact, these chemicals that we find in consumer products like lotions and stain removers and

laundry detergents and nail polish are actually building up in people's bodies, and as I said in my testimony, also in newborn babies.

Mr. {McNerney.} Would you, Ms. White, offer some specific suggestions on how to improve the TSCA process?

Ms. {White.} Absolutely. With respect to the new chemicals provision, we really need to make sure that the burden of proof shifts from EPA to the manufacturers to show that their products are safe before they go on the market. We also do need a minimum data set so we know what the rule are, and so consumers, we hear a lot about confidence. Consumers want to know that when they have a nap mat, you know, where our colleagues at the Center for Environmental Health released a really great study that nap mats have flame retardants it is really concerning. Parents want to know when their kids are taking a nap at preschool that they aren't going to have a chemical in their body, and that certainty would be really key.

Mr. {McNerney.} Mr. Lohmann, would you agree with that response?

Mr. {Lohmann.} I would agree.

Mr. {McNerney.} I am sorry, I said Mr. Lohmann and I was looking at Mr. Morrison. Mr. Morrison?

Mr. {Morrison.} Which element of a response, just to

make sure that--

Mr. {McNerney.} Well, if the--I will let my time expire on that.

Mr. {Johnson.} [Presiding] I thank the gentleman for yielding, and Dr. Gingrey went to the Floor, so I am going to sit in for him. I am Congressman Bill Johnson from Ohio, and I will take my 5 minutes now. I would like to thank the panel for--you want me to go ahead? I was next until Dr. Cassidy walked in.

Okay, restart the clock. I would like to thank the panel for being here. Thank you so much.

Mr. Sauers, since testing is not required when you first file a Section 5 pre-manufacturing notice, does that mean you have not tested that chemical?

Mr. {Sauers.} I think I will maybe answer by saying that evaluations are made of the material and there are many ways of making an evaluation of a chemical for safety. One way is to do safety testing, you know, rodent test like an oral toxicity test in rodents. There are also other ways to evaluate the safety of a material, using tissue culture, using structure activity relationships, predictive modeling, and things like that. So materials are always evaluated. How they are evaluated can be different, depending on the circumstance.

Mr. {Johnson.} Well, if you do testing before submitting a PMN, do you assess a broad range of possible hazards?

Mr. {Sauers.} Um-hum, and it really would depend on the exposure that one expects the material to have. So if it broad scale exposure, you will find testing and evaluation across a variety of toxicity end points. If it is specific for inhalation, it will be different. If it is going to be a large volume exposure versus a very small exposure, the degree of testing could be different.

Mr. {Johnson.} Okay. How standard is this practice within the industry?

Mr. {Sauers.} I would say that most companies approach it the same way, a risk-based approach of assessing exposure and hazard. Most companies have toxicologists, like Procter and Gamble, that will approach it this way.

Mr. {Johnson.} Okay. Do you do additional tests on your own after the PMN has been submitted?

Mr. {Sauers.} Generally by the time we have submitted the PMN, the bulk of our testing is done because we are commencing to manufacture and put the material in the marketplace, so we want to have a full assurance of safety prior to that happening. If in the course of marketing something comes through our 800 line or through consumer

comments that could cause a question to be raised, we would go back and evaluate it.

Mr. {Johnson.} Okay. Mr. Morrison, do you agree with these responses, consistent your--

Mr. {Morrison.} Yes, absolutely. You know, as an industry, the chemical industry, we have a responsible care management system that we share across all chemical companies that are part of it, and that is the vast majority, and common best practices are shared and employed, and I think we are very consistent with Mr. Sauers' answers.

Mr. {Johnson.} Okay. Do other forms of intellectual properties, such as patents, provide adequate protection to confidential chemical identities, in your view?

Mr. {Sauers.} Yes, they do provide some protection, but it is not complete. There are very strict--

Mr. {Johnson.} Operative word was adequate, so do you consider them to be adequate?

Mr. {Sauers.} Patents--for the purpose of patents and what they cover, they are adequate.

Mr. {Johnson.} Okay, Mr. Morrison?

Mr. {Morrison.} There is much confidential information that is not covered by patents, and so while patents are effective for the, you know, actual material that is under a patent, that is fine, but there are many others that come

under trade secrets that are just as critical to our business and we don't patent for very specific reasons.

Mr. {Johnson.} Okay. Mr. Isaacs, Ms. White and Dr. Lohmann have suggested that TSCA chemical review operate like reviews for drugs by the Food and Drug Administration. What do you think could be a reasonable reaction from your members if this were to occur?

Mr. {Isaacs.} Well, of course I am not an expert in the drug review process, but I think that would not be the right approach. I think that would be--impose a time delay that would impede the time to market that we require, but at the same time, the key point that we would like to emphasize in all this is the need for chemical assessments to be tailored to the risks and exposure to the use in question. And we are confident that in our industry, with the high degree of controls that we impose on our processes, that the exposure and releases are very, very low and the chemicals that we use are done safely and responsibly.

Mr. {Johnson.} Okay. Mr. Sauers, back to you. Doesn't Europe require manufacturers to submit a minimum information set on new chemicals?

Mr. {Sauers.} Yes, as part of REACH.

Mr. {Johnson.} Okay, so if you are doing it in Europe, why not do the same thing here in the United States?

Mr. {Sauers.} I think this is what we appreciate most about TSCA is that the amount of data that is submitted is tailored to the chemical and the exposure that individuals can expect from it and its toxicity. You know, like Procter and Gamble, a new chemical that is going into a laundry detergent, for example, there will be vast exposure to that so that is something you want to have a full, complete toxicity data set on. And you can contrast that all the way back to maybe an intermediate in manufacturing for which there is no exposure. So really the amount of data needed for something like that is minimal. So this ability to tailor the amount of information to the need of the chemical to assure safety is really the best approach.

Mr. {Johnson.} Okay, thank you. Thank you all for your answers. At this time, we will go to Mr. Barrow from Georgia.

Mr. {Barrow.} Thank you, Mr. Chairman. Something we have talked a lot about is the over-classification of Confidential Business Information problem here. We haven't talked much about efforts to declassify stuff that is no longer necessary. Mr. Morrison, in your written testimony, I think you talk about a voluntary effort that is underway between the EPA and the industry to try and declassify stuff that is no longer nor needs to be confidential. Can you

share--tell the committee what that effort looks like?

Mr. {Morrison.} Yeah, it is essentially with the EPA there is an effort to identify what you might consider obsolete and information that doesn't have to be classified anymore, and actually working through a backlog of that and declassifying, and it is one of the areas of opportunity that we think as the new bill comes out hopefully that we can be more progressive about and more effective with, both in classifying originally on a CBI basis, but also declassifying.

Mr. {Barrow.} Building on that, and talking about conflicting demands between the right to know between claims that everybody has a right to know everything about this, and there is a legitimate interest in keeping things confidential. I want to shift just a little bit from competing demands about the right to know, to a more pragmatic understanding about what we can do to share information to folks who have need to know. For example, Ms. White, in your testimony you talk about the needs that some folks have, the legitimate needs of first responders in emergency situations, and Mr. Morrison, you talk about efforts to declassify stuff that no longer needs to be kept confidential. Is there any kind of process that you all can agree on that would sort of if not address completely to

everyone's satisfaction the issue of one's right to know would still result in a practical dissemination of stuff to folks who have a need to know? Is there some kind of process that we can agree on that would move us forward in that direction? Mr. Morrison, then you, Ms. White.

Mr. {Morrison.} There is actually a process in place now that when an emergency situation happens, a spill, other type of emergency situations for emergency responders, there is information that is mandated, including material safety data sheets, et cetera, which are very explicit and the up-front section is all about emergency response to that particular material.

So when you are in an emergency situation, either health or environmental, the rules change automatically and we disseminate information on it on an as-needed basis. So that is already addressed, but we certainly look forward in the new TSCA bill to see if there are any gaps that we can be more effective.

Mr. {Barrow.} Ms. White, how would you address that subject?

Ms. {White.} I would say that we all basically want the same thing. We want to make sure that chemicals are proved by a trusted regulator and that the chemical industry is vibrant. I think there is a lot of opportunity here for us

to come up with sunset provisions, for example, for Confidential Business Information, also to make sure there is resubstantiation within a certain amount of time. I think that there is an important carve-out for medical personnel and emergency responders, and there is a real opportunity for us to work together.

Mr. {Barrow.} Thanks. Mr. Sauers, it would be a poor dog who won't wag his own tail, and since you won't do it, I will do it for you. I have enjoyed my visit to P&G's facility in Augusta back in 2010 and look forward to my next visit coming up in the fall. Can you share with us anything about--you talk about the importance of not creating disincentives for innovation in this area. I know there are conflicting views about whether or not total dissemination of everything is going to actually promote innovation or not. What are the disincentives you would want to avoid in a kind of revamp of TSCA?

Mr. {Sauers.} I would say that anything that would lead to a loss of competitiveness, and I think this is where the CBI comes in. I think that there is a balance that can be brought between ensuring that everyone has the health and safety information that they need to be able to make a conclusion on a material, and the ability to protect competitiveness for companies like Procter and Gamble. I

think the process today where the EPA is given full disclosure of all information, even that which is confidential, enables them to make an assessment, and then the public release of the health and safety information with the generic descriptive form of the chemical enables individuals to get an understanding and draw parallels to other materials that are in the marketplace to ensure health and safety. So I think there can be a balance that can be brought there.

Mr. {Barrow.} I hope you all understand with votes pending on the Floor, no time left on the Floor, I am going to yield the rest of my time. Thank you so much. Thank you, Mr. Chairman.

Mr. {Johnson.} I thank the gentleman for yielding back. We will go now to Dr. Cassidy from Louisiana.

Dr. {Cassidy.} Let me stress there is no time left to increase my anxiety level. I apologize. I stepped out so if you all addressed some of this, I have a question that is kind of for across the board.

Dr. Lohmann mentioned that REACH in Europe is requiring a lot of things that frankly I gather make some of your proprietary information held by a government agency regarding some of the testing, and I tried to Google it, and REACH is a long, long PDF. I think your point, Dr. Lohmann, was that,

heck, this is already being required. It is just being required by the Europeans and not by us. That is kind of an interesting argument. What would you all say to that? Why don't we just do what the Europeans are doing, because frankly, if they are doing it, then your chain is only as strong as the weakest link and the Europeans are kind of the weak link, perhaps, in some of this, so to speak. Or maybe they are the strong link. But how would you all respond to that?

Mr. {Morrison.} I mean, we operate under both REACH and the EPA current guidelines, and we find REACH to be excessively bureaucratic and we don't find it necessarily adds incremental benefit. We think that the databases that the EPA has, the analogous materials they work with, we can innovate faster under the EPA system than we can as required under REACH.

Dr. {Cassidy.} Then let me ask, because each of you all is so big. I kind of knew that you would be in the European market as here, and that market is so large you can't ignore it. But do you have a different product line, whether it is a U.S. market versus a European market?

Mr. {Morrison.} In many cases, our products are modified on a global basis by region, whether it is consumer or others, for a wide variety of reasons, so sometimes there

are very significant differences.

Dr. {Cassidy.} Okay, now they just told me I got to hustle, or else there will be an attack out on me on my next campaign.

So Dr. Lohmann, next question for you. I looked up some of your references. Now for example, eight weak estrogenic chemicals combined at concentration below--produce significant mixture effects. You mentioned this was in rats. What would be required to produce--put it this way. It is hard to show a negative. Now if we are going to establish safety and we had rat data in which eight chemicals were combined to have an effect, we don't know whether that would translate into humans, and indeed, some of those effects might not be seen for decades. So I guess my question would be the--at what point--these guys could be tied up forever proving safety of something, but you can't ever prove quite that something bad is not going to happen. You see where I am going with this. What would be the standard by which you could accept that something was truly safe?

Mr. {Lohmann.} That is a very good question. I am not sure we know the full answer right now, but I think being cautious is helpful. Mix toxicity is the biggest unknown that everybody is working on, because we know we are exposed to hundreds or thousands of chemicals at the same time at

trace levels, of course.

Dr. {Cassidy.} And we don't know if those trace levels are physiologically important, or pathophysiologically important. It may be, but we don't know that.

Mr. {Lohmann.} That is correct, but we also know that toxicity has become much, much more concerned about trace levels over the time.

Dr. {Cassidy.} I absolutely can agree with that. Of course, intuitively you know since EPA has been operating our environment has become cleaner, and so if you will, there should have been a higher toxicity exposure in times past than now, and not for everything, but for many things.

Mr. {Lohmann.} That is correct. We certainly are cleaner with respect to PCPs, but we certainly have increased in perfluorinated compounds. We have more flame retardants, so it is a give and take.

Dr. {Cassidy.} Yes.

Mr. {Lohmann.} I am not sure if we are much healthier that way.

Dr. {Cassidy.} Much less mercury and much less lead. So I guess--so I am not sure, it would always be a moving target. I am sure we have now decreased lead, we are still seeing something trace. How do we ever prove safety? If we are going to establish safety beyond a doubt, will we ever

have anything established?

Mr. {Lohmann.} Well, one way to do this is to just wait and see if the Europeans become healthier because of REACH and the U.S. does not.

Dr. {Cassidy.} See, the problem is--and I read an article that kind of critiqued this--was that there are so many secular effects, and if you look at the effect of obesity, for example, and the effects of it on breast cancer, it so much outweighs the things that we know have an effect, alcohol, cigarettes, family history, obesity are so powerful that even if there is an effect of a trace element, then that effect might be drowned out by the secular.

It is 33 seconds left. I am about to miss a vote. I have to leave it there. Thank you very much.

Dr. {Gingrey.} Thank the gentleman, and we are going to actually take a little break. We are waiting for Congressman Green from Texas to return from that vote. He should be here momentarily. I want to ask that all members have 5 days--ask for unanimous consent, of course, that all members have 5 days to submit opening statements for the record, that letters to this subcommittee from 3M, the Cleaning Institute, the Consumer Specialty Products Association be included in the record of this hearing, and that members have 10 days to submit questions to the chair that will be forwarded to our

witnesses for their responses to be included in the record. Hearing no objection, so ordered.

[The information follows:]

********** COMMITTEE INSERT **********

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Dr. {Gingrey.} I now yield to the gentleman from Texas for 5 minutes of questioning, Mr. Green.

Mr. {Green.} Again, thank you, and I know this panel knows we have one vote on the House Floor and you will be seeing us come in and out, although hopefully that vote won't take an hour, only the typical 15 minutes. I appreciate the panel here. I want to thank the majority for calling a number of hearings on TSCA reform. I come from an area where TSCA reform is really important. I have--in fact, I think Procter and Gamble is probably the only company that doesn't have a plant in our district that relates to chemicals. But we know we need to reform and it needs to be done in a reasonable way, so that is what we are hopefully the Bitter-Lautenberg bill or the draft is something we can use on our side, on the House side, as a guide.

Mr. Morrison, I am hoping you would share with our subcommittee some of the end products that are a result of chemicals manufactured by your company.

Mr. {Morrison.} Some of the end products would be wind energy blades, solar panels--is that--you are talking about end use markets?

Mr. {Green.} Yeah.

Mr. {Morrison.} Medical applications in terms of

devices we go down into, we have more than 50 applications in automotive, all wood products that you have touched probably use our chemicals. We are in aircraft. We are extremely broad. We are in electronics, so your cell phones, your iPads, we have components and chemicals that go into all of that.

Mr. {Green.} One of the things we may need to look at as a committee, that certain chemicals--you know, we may have a higher standard for baby bottles, for example, or for bottles of Diet Coke or water or anything else, than we would for windmill blades, or even automotive parts that we are not going to have contact in. So you know, that is one of the things we need to factor in on some of the issues.

Do you believe that chemicals developed by Momentive could have developed under the regulatory regime of the European Union?

Mr. {Morrison.} In some cases, yes, but in other cases, we believe that the speed is not there, that it is a much more bureaucratic system. It now requires a minimum data set. It doesn't react as quickly, and so in some cases, we would not be able to innovate at the same rate, and that is why the U.S. innovates at approximately three times the rate of the European Union on new chemicals.

Mr. {Green.} Well as a side, since we are talking about

North Atlantic Free Trade Agreement, you know, having common standards as something we may need to deal with on a separate venue and hopefully our committee will be able to deal with it instead of just adopting whatever the European community does. You have already given the answer about the regulatory regime provided by the advantages of our competitive system. In your testimony, you state that EPA and chemical manufacturers developed a dialog over the years that benefits both the EPA and the industry. Is that correct?

Mr. {Morrison.} Yes.

Mr. {Green.} Can you share how this dialog would help industry develop new chemicals, particularly as it relates to protecting human health and the environment?

Mr. {Morrison.} Yes. A lot of times, I mean, when the EPA puts out guidelines, et cetera, dialogs back and forth, we self-regulate in many cases as was described earlier where we will start down a path developing something. If we find it has certain characteristics that may not pass EPA muster or our own muster, we will actually pull that product before it ever goes. Having an ability to communicate back and forth with the EPA allows us to proactively do that. It saves us the time from developing something that won't hit the market, and it also saves the EPA time. Conversely, I think because the process is quite effective and it does lend

towards innovation, it also allows us to expedite things that will be successful and bring new innovation quicker to the market than places like Europe.

Mr. {Green.} You noted in your testimony that EPA does not require CBI claims to be justified. Is that correct?

Mr. {Morrison.} Yes.

Mr. {Green.} Do you think you could--we could still have the innovation technology if EPA had the authority to say--you know, of course, we also are very proprietary interest, but do you think if EPA had that authority you could still have the success you are having?

Mr. {Morrison.} We like to believe that as far as justification of CBI and the new Bitter-Lautenberg bill it actually does change how CBI information is handled. That is one of the modifications that might be an improvement to the process today, and is something we could work with.

Mr. {Green.} Mr. Sauers, can you share two or three reasons why you are opposed to requiring the industry provide a minimum safety data on all new chemicals?

Mr. {Sauers.} It can be a waste of resources. As we approach a new chemical, we understand the exposure, we understand the safety testing or the safety evaluation that is needed. We can tailor the program specifically to the needs of that chemical. That is the approach that the EPA

uses today as we go forward with them in the PMN process. So this ability to tailor the safety program to the specific needs of the chemical is very important. You don't have that with a minimal set database. Also, the decrease in animal testing that one gets with the current EPA approach is very important. If you look at the minimum data set, it is usually requiring tests like acute oral toxicity tests. I am not sure who runs those tests anymore. They are really not necessary to use animals to conduct such a toxicity evaluation today. There are many other ways of evaluating acute toxicity using structure activity relationships. So a lot of testing will be generated that is just not necessary as part of those minimum data sets.

Mr. {Green.} And I know the EU chemical regimen in your testimony was lacking science-based chemical prioritization process. It seems today because of CBI and with the advances in reverse engineering is it is almost likely that there is no real secrets that we can deal with, and would you agree that having such a capacity that is readily available for chemicals that should make it ineligible for CBI protection for the industry?

Mr. {Sauers.} I would disagree with that. CBI is very, very important for companies like Procter and Gamble to maintain competitiveness. Now with that said, that does not

mean that information is held confidential to the point that it prevents an agency from evaluating the safety of a material. You know, there is no CBI for the EPA, for example. They get all the information and then there is a generic-type form of the chemical nomenclature that is released publicly with the health and safety information so the public can make their own evaluations.

Mr. {Green.} Mr. Chairman, I know you have been great with the time. I have some other questions I will submit, but one of them to Ms. White. I represent a very urban district. We have a lot of chemical facilities, refineries in a very urban area. A lot of ours--and we probably have the most monitored air-monitored district in the country, with lots of different levels from the State, our county, our city, and of course EPA has some monitoring there, too. I have some questions I would like to ask on how we can even do better. We want the jobs and the industry, but we also want it to be done as safely as we can.

Ms. {White.} Absolutely. Thank you, sir.

Mr. {Green.} Mr. Chairman, thank you for your courtesy.

Dr. {Gingrey.} Absolutely. I thank the gentleman from Texas.

The minority has asked unanimous consent to include a letter from the Department of Toxic Substances Control from

the State of California to be included in the record, and without objection, so ordered.

[The information follows:]

********** COMMITTEE INSERT **********

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Dr. {Gingrey.} I want to thank all of our five witnesses. I think this has been an excellent hearing. I think all would agree. We apologize for the interruptions, but believe me, if you have been to other hearings you know that this is mild compared to some of the interruptions that we have. And we got through with everything we needed to cover, and I thank all of our witnesses and without objection, the subcommittee is now adjourned.

[Whereupon, at 11:28 a.m., the subcommittee was adjourned.]