



October 31, 2024

Via www.regulations.gov

Ms. Sarah K. Soliman
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460-0001

Re: Pre-Prioritization and Consideration of Hydrogen Fluoride for Future Prioritization Under the Toxic Substances Control Act (TSCA) (EPA-HQ-OPPT-2023-0606)

The Complex Products Manufacturers Coalition (CPMC or Coalition) appreciates this opportunity to provide input following the U.S. Environmental Protection Agency's (EPA's) public engagement webinar on Pre-Prioritization and Consideration of 27 Existing Chemical Substances for Future Prioritization Under the Toxic Substances Control Act (TSCA). The CPMC respectfully submits these comments regarding hydrogen fluoride (hydrofluoric acid; HF; CASRN 7664-39-3).

The CPMC is a multi-stakeholder group comprised of companies who manufacture complex durable goods.¹ Coalition members manufacture multifaceted equipment and products by assembling tens to hundreds or thousands of parts, components, and raw materials to provide, in many cases, critical services to society. These include industrial, commercial, and consumer products such as appliances, vehicles, vessels, motors, lighting, heating, ventilation, air conditioning, refrigeration, and water heating equipment (HVACR-WH), electronics, and their replacement parts. Coalition members serve and support nearly every major sector of the economy, providing critical products and services for government agencies, the military, law enforcement, first responders, and public safety, food and agriculture (including commercial fishing and sea farming), energy, transportation and logistics (including for commuting and for island residents), public works and infrastructure support services, critical manufacturing, the

¹ For more information, please visit www.cpmcoalition.com.

defense industrial base, conservation, and life-saving climate control and ventilation in homes, hospitals, schools, and eldercare facilities, and food preservation and processing and for critical health and life sciences. These products and services constitute a vital part of the economy, at all levels, including for public safety.

The CPMC's mission is to ensure that the voice of these important industries is heard, and our goals are considered by legislators and regulators, as follows:

- Prioritization - Laws and regulations should prioritize chemicals using a risk-based approach that considers both hazard and exposure;
- Adequate Time and Notice - Laws and regulations should provide reasonable timelines and abundant notice to account for complex global supply chains;
- Sound Science - Risk evaluation and risk management should be based on the best available sound science;
- Focused Reporting - Reporting requirements should take a practical approach and focus on the source: chemical producers; and
- Product Bans as a Last Resort - Product bans should be considered only after other management tools are used; reasonable and appropriate exemptions should be provided.

As such, the CPMC appreciates this opportunity for public engagement provided by EPA to submit information and input on HF, which is a basic chemical building block for ingredients that are essential for many of the products listed above.

1. HF is a Building Block for Ingredients in Complex Products that are Essential for the Health and Functioning of Society and Achieving Carbon Neutrality Goals.

HF is considered a key industrial raw material for the manufacturing of various fluorine-containing compounds which in turn are used in equipment and products essential to the well-being of society. For example, HF is used in the manufacturing of refrigerants and is essential in this manufacturing process. The HVAC industry is going through a transition to new refrigerants with lower global warming potentials (GWPs) to help reduce greenhouse gas emissions and improve air quality. Demand for HF used in refrigerants increased in recent years as industry developed non-chlorinated alternatives to ozone-depleting chlorofluorocarbons. The American Innovation and Manufacturing Act of 2020 requires the use of new refrigerants in air conditioners and heat pumps, starting in 2025. The Department of Energy (DOE) is supporting the Administration's efforts to phase down the use and emissions of highly potent greenhouse gases

and development of low-to zero-GWP technologies for HVAC, water heating, and refrigeration. HF is an essential building block for these climate friendly refrigerants and for the accomplishment of these ambitious carbon neutrality goals. Industry cannot continue its research to improve its products under the uncertainty that HF may not be available for this industry due to TSCA risk management measures taken by EPA in the upcoming years.

And of course, this is just one example of where HF is essential to a critical manufacturing sector in the nation. HF is an important building block for fluorinated compounds used in many other industries as well, including other complex products manufacturers that are CPMC members as described above. For example, HF is used in the production of fluoropolymers and fluoroelastomers, which are essential to critical industries such as aerospace, military, automotive, chemicals, semiconductors, power generation, and telecommunications.

2. Although a Hazardous Substance, there is Minimal to No Risk of Exposure due to Detailed Regulation by Under Several Statutes and Regulations

One of the CPMC's main goals is to advocate for laws and regulations that prioritize chemicals using a risk-based approach that considers both hazard and exposure. The hazards associated with HF are well known and adequately characterized.² For this reason, there is already a robust, existing framework of laws and regulations to minimize, and where possible eliminate, the risks of exposure to HF. EPA has acknowledged the existing regulatory framework in its November 2019 response to the Public Employees for Environmental Responsibility's (PEER's) TSCA Section 21 petition to prohibit the use of hydrofluoric acid in manufacturing processes at oil refineries under TSCA section 6(a).³ There, EPA noted that due to its hazardous properties, HF is regulated by rules concerning the preparation and emergency response to accidental and other nonroutine releases.⁴ Specifically, it is regulated under the Chemical Accident Prevention Provisions (commonly referred to as the Risk Management Plan (RMP) rule) of Section 112(r) of the CAA (42 U.S.C. 7412(r)).⁵ EPA's response summarizes other laws and regulations pertaining

² See for example, the National Institutes of Health's (NIH's) [PubChem database entry on hydrogen fluoride](#) (last visited October 29, 2024). See also, U.S. Department of Health and Human Services, Agency for Toxic Substances and Disease Registry, *Toxicological Profile for Hydrogen Fluoride, and Fluorine* (Sept. 2003), or European Chemicals Bureau, [European Union Final Risk Assessment Report for Hydrogen Fluoride](#) (October 2001).

³ TSCA Section 21 Petition To Prohibit the Use of Hydrofluoric Acid at Oil Refineries; Reasons for Agency Response, [84 Fed. Reg. 60986](#) (Nov. 12, 2019).

⁴ *Id.*

⁵ 40 C.F.R. Part 68. The RMP rule requires facilities that have certain extremely hazardous substances, such as HF, above a threshold quantity, to develop a risk management program that identifies the potential effects of a

to HF intended to ensure a comprehensive framework for the safe and effective use of this key raw material across industries. Other authorities listed by EPA include the Superfund Amendments and Reauthorization Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Emergency Planning and Community Right-to-Know Act, and the Resource Conservation and Recovery Act.

Additionally, HF is regulated under the Hazardous Materials Transportation Act under the authority of the Department of Transportation (DOT). There are also applicable Occupational Safety and Health Administration (OSHA) health and safety standards that employers must follow that apply to HF, including implementing a process safety management program (PSM) under 29 C.F.R. § 1910.119; determining the appropriate level of employee respiratory protection under 29 C.F.R. § 1910.134; implementing a hazard communication program under 29 C.F.R. § 1910.120, implementing a program of engineering controls, work practices and personal protective equipment to control exposure under 29 C.F.R. § 1910.132 and § 1910.1000); and developing and implementing an emergency response plan, including emergency procedures and training of personnel under 29 CFR 1910.120 and 1910.38.

The Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA), through the Chemical Facility Anti-Terrorism Standards (CFATS) program, requires facilities that use chemicals of interest (COI) such as HF to report to CISA when a threshold of the COI is reached. Based on the assessed risk, CISA determines whether the facility is a high-risk facility and is then ranked into Tiers 1, 2, 3, and 4, with Tier 1 being the highest risk. If a facility is tiered, it must submit a Security Vulnerability Assessment (SVA) and a Site Security Plan (SSP)—or an Alternative Security Program (ASP)—that meets the risk-based performance standards (RBPS). Among other things the RBPS address are security issues such as perimeter security, access control, personnel security, and cybersecurity.

All these statutes and rules serve to demonstrate that the hazards stemming from HF are well-known and regulated. The existing framework of laws and rules should reduce the priority level for assessing HF under TSCA Section 6.

chemical accident, and steps the facility is taking to prevent an accident and spells out emergency response procedures should an accident occur. The RMP rule also requires facilities to report to EPA a summary of the actions described in an RMP. The General Duty Clause under CAA Section 112(r)(1) requires facilities to identify hazards present from accidental releases of extremely hazardous substances such as HF, design and maintain a safe facility, and minimize the consequences of accidental releases.

3. HF Does Not Meet EPA's Criteria for TSCA Section 6 Prioritization

The Coalition respectfully submits that there is no compelling reason to prioritize this substance for risk evaluation in 2024. Under TSCA Section 6(b)(1)(A), EPA considers several criteria when determining whether a chemical substance is high or low priority for conducting a risk evaluation. HF falls short of most of these criteria, either due to the substance's own characteristics (it is not persistent and bioaccumulative), or because the substance is already sufficiently regulated to reduce hazards and exposure. For example, HF is not listed on EPA's 2014 Workplan for Chemical Assessments (2014 Workplan).⁶ EPA appears to have concluded at the time that HF did not yet warrant priority status for chemical assessment among the existing chemicals on the TSCA Inventory.

Certainly, EPA is not obligated to consider for assessment only chemicals from the 2014 Work Plan and the Work Plan is already 10 years old. EPA can consider other chemicals as well if a potential risk has been identified, and if warranted by available information. However, EPA has concluded recently that there is an insufficient basis for taking regulatory action under TSCA on HF.

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Thank you for your consideration. The contact for the Coalition is: Martha Marrapese, Partner, Wiley Rein LLP, 2050 M Street, N.W. Washington, D.C. 20036, (202) 719-7156, mmarrapese@wiley.law.

⁶ EPA, [TSCA Work Plan for Chemical Assessments: 2014 Update](#) (Oct. 2014).