

consumer category their product use best fits. By aggregating similar product categories, EPA will more effectively characterize the risk associated with the totality of the use of each chemical substance. Requiring the submitter to identify the appropriate product categories from the provided list will minimize the errors that could occur if the Agency, rather than the submitter, attempted to aggregate uses other than those identified in the prescribed list of product categories.

b. *Non-TSCA end uses.* Three commenters requested that EPA not only continue to exempt chemicals that are manufactured only for non-TSCA purposes (such as pesticides, drugs, cosmetics, etc.) from all IURA reporting, but also exempt manufacturers of IURA-reportable TSCA chemicals from the requirement that non-TSCA downstream uses be reported (such as use of a TSCA chemical by a downstream processor in making a pesticide, etc.). These commenters assert that EPA does not have authority under TSCA to implement requirements of this sort.

EPA agrees that substances that are manufactured only for non-TSCA purposes, as described in TSCA section 3(2)(B), are exempt from all TSCA requirements and are not subject to reporting under IURA. Therefore, substances that are intended at the time of manufacture to be used for non-TSCA purposes (e.g., as a pesticide, as a drug) do not have to be reported.

The Agency also agrees that submitters under IURA will not be required to report on the non-TSCA downstream uses of the TSCA chemicals that they manufacture. It is important to note that EPA was able to reach this conclusion without reaching the issue of whether it has the authority to require such reporting. Descriptions of IFCs (see § 710.52(c)(4)(i)(C) of the regulatory text) have been clarified to reflect the fact that they only include TSCA uses. For example, one of the IFCs is called "Agricultural chemicals (non-pesticidal)." The consumer and commercial product categories (see § 710.52(c)(4)(ii)(A) of the regulatory text) are also restricted to TSCA uses. An example of one of these categories is "Lawn and garden products (non-pesticidal)." This category includes chemicals such as compressed gasses in delivery systems for many pesticides used indoors and outdoors, and other intermediates, but does not include pesticides. Additionally, many lawn amendments such as fertilizers contain chemicals that may be regulated under TSCA, (e.g., surfactants).

c. *Exempt reporting of use information for chemicals in articles.* Two commenters believed that to the extent a submitter's reportable chemical is used in an article, the submitter should be exempt from the reporting of consumer and commercial end-use information (i.e., § 710.32(c)(5) of the proposed regulatory text). The commenters stated that there is no reason to believe that consumer exposure will result from chemicals in articles.

EPA does not agree that manufacturers of chemicals that are later incorporated into articles should be exempt from the reporting of consumer and commercial end-use information. Certain exposures do result from chemicals incorporated in articles. For example, potential dermal and inhalation exposures occur from chemicals incorporated into products in the category "fabrics, textiles and apparel." Specific cases, such as formaldehyde from pressed wood products used in mobile homes or chlorinated flame retardants used on children's sleep wear, also demonstrate that potentially harmful exposures can occur from chemicals incorporated into articles.

d. *Usefulness of percent production data and maximum concentration data.* A commenter felt that in the case of consumer products in particular, it is unclear whether the percent production data and maximum concentration data required under § 710.32(c)(5)(i)(B) and (c)(5)(i)(C) of the proposed regulatory text would add any material information to the production volume information already required under the existing IUR. The commenter stated that the volumes of chemicals they will report as having been manufactured, and for which they will report maximum concentration information, are in the products the commenter sells. Therefore, the Agency will already have the needed production volume and concentration information and does not need to collect these particular data elements for consumer products.

Production volume and concentration information reported at the manufacturing site is typically different information than percent production volume and concentration in consumer and commercial categories. Often manufacturers will sell a chemical for multiple uses, in a variety of products, or the chemical will be used multiple times before reaching the consumer/commercial product. For instance, a manufacturer may report that a chemical is used in three different commercial and consumer product categories—20% of the manufactured

production volume is used in category A, 35% in category B, and 45% in category C. Additionally, while the manufacturer sells the product at a certain concentration (say 90%), a final product may have a different concentration. For instance, the final product may contain only 5% of the chemical. The resulting potential exposure scenario associated with such a product would be very different from a scenario where the concentration in the final product is 90%. The Agency, therefore, is retaining the commercial and consumer percent production volume and maximum concentration data elements.

4. *General data elements comments—*
a. *Workers who are "reasonably likely to be exposed" to a reportable chemical.* EPA requested comment on alternative definitions of "potentially exposed worker" and "reasonably likely to be exposed." Specifically, EPA requested comment on whether OSHA definition of "employee" in its hazard communication standard (29 CFR 1910.1200(c)) is more appropriate for use in IURA. The hazard communication standard defines "employee" as a worker who may be exposed to hazardous chemicals under normal operating conditions or in foreseeable emergencies. Workers such as office workers or bank tellers who encounter hazardous chemicals only in non-routine, isolated instances are not covered. OSHA's hazard communication standard also defines "exposure" or "exposed" as the exposure of an employee to a hazardous chemical in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption, etc.) and includes potential (e.g., accidental or possible) exposure.

One commenter stated that OSHA's definition of an employee is appropriate to identify persons reasonably likely to be exposed to chemical substances. This commenter stated that the Agency should broaden the definition of exposure in IURA to include potential (accidental or possible) exposures to chemical substances which workers may experience in the course of their employment. This commenter also stated that this is what worker exposure entails in the real world and to exclude some portion of those worker exposures, as EPA proposed, is inappropriate. A second commenter felt that persons who could be exposed to a chemical substance in foreseeable emergencies should be included in EPA's new definition for persons who are reasonably likely to be exposed to a reportable substance.