

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**STYRENE INFORMATION AND  
RESEARCH CENTER, INC., *et al.*,** )

**Plaintiffs,** )

v. )

**KATHLEEN SEBELIUS, *et al.*,** )

**Defendants.** )

Civil Action No. 1:11-cv-01079-RBW

**PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Plaintiffs Styrene Information and Research Center, Inc., and Dart Container Corporation, through undersigned counsel, submit the following First Request for Production of Documents to Defendants Kathleen Sebelius and the United States Department of Health and Human Services to be responded to within 30 days of service in accord with Rule 34 of the Federal Rules of Civil Procedure.

**DEFINITIONS**

1. "Plaintiffs" means and refers to the plaintiffs in this lawsuit, Styrene Information and Research Center, Inc., and Dart Container Corporation, including, but not limited to, subsidiaries or affiliated entities, officers, directors, employees, agents, representatives, predecessors, successors, assigns, attorneys, or any of them.

2. "Defendants" means and refers to the defendants in this lawsuit, Kathleen Sebelius and the United State Department of Health and Human Services ("HHS"), individually and collectively, as contextually appropriate, including any persons associated with them or authorized to act on their behalf, including any employees or officials of HHS and any agencies therein, including, without limitation, the National Toxicology Program ("NTP"), the Agency for

Toxic Substances and Disease Registry (“ATSDR”), and the Centers for Disease Control and Prevention (“CDC”).

3. “NTP Expert Panel” means the group of scientists convened by NTP to peer review the draft Background Document for styrene and to make a listing recommendation for the Report on Carcinogens. *See* Memorandum in Opposition to Plaintiffs’ Motion for a Preliminary Injunction (“Opposition”) at 8.

4. “Dr. Matanoski” means NTP Expert Panelist Dr. Genevieve Matanoski, M.D., Dr.P.H., of the Johns Hopkins Bloomberg School of Public Health, Department of Epidemiology.

5. “ATSDR Styrene Report” means the November 2010 Toxicological Profile for Styrene, published by ATSDR.

6. “ATSDR Cancer Policy Chart” means Appendix A to ATSDR’s Cancer Policy Framework, available at <http://www.atsdr.cdc.gov/cancer.html>. *See also* Memorandum of Points and Authorities in Support of Plaintiffs’ Motion for a Preliminary Injunction at 9 n.3.

7. “Portier Letter” means the May 6, 2011, letter from Christopher J. Portier, Director of the National Center for Environmental Health and Agency for Toxic Substances Disease Registry, to Kathleen Sebelius, Secretary of the United States Department of Health and Human Services. *See* Opposition, Exhibit 9.

8. “ISRG” means the Interagency Scientific Review Group, which was convened by NTP to review styrene and recommend a listing status on the Report on Carcinogens. *See* Opposition at 9-10.

9. "NSRG" means the NIEHS/NTP Scientific Review Group, which was convened by NTP to review styrene and recommend a listing status on the Report on Carcinogens. *See* Opposition at 11-12.

10. "BSC" means the Board of Scientific Counselors, which was convened by NTP to peer review the draft Substance Profiled for styrene. *See* Opposition at 12-15.

11. "NCI Study" means the study by the National Cancer Institute titled "Bioassay of Styrene for Possible Carcinogenicity" (Technical Report Series No. 185, 1979). *See* Opposition at 38-41.

12. "Delzell Study" means Dr. Elizabeth Delzell, *et al.*, *An Updated Study of Mortality Among North American Synthetic Rubber Industry Workers* (Health Effects Institute Aug. 2006). *See* Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for a Preliminary Injunction, Exhibit E.

13. "You" and "your" means and refers to Defendants and any persons associated with it, including, but not limited to, subsidiaries or affiliated entities, officers, directors, employees, agents, representatives, predecessors, successors, assigns, attorneys, and/or any of them.

14. The words "relate," "relating," "pertain," "pertaining," "reference," "referencing," "refer," "referring," and/or derivatives thereof, whether followed by a preposition or not, have the broadest meaning that may be accorded to them and include, but are not limited to, the following: directly or indirectly mentioning, describing, referring to, pertaining to, being connected with, setting forth, discussing, commenting upon, analyzing, supporting,

contradicting, proving, disproving, referring to, constituting, concerning, and/or connected, or reflecting in any way upon the stated subject matter of a given request.

15. "Person" and "persons" mean any individual, corporation, firm, company, partnership, joint venture, association, unincorporated association, governmental or public agency, and/or all other legal entities.

16. "Document," "documents and things," and "electronically stored information" ("ESI") have the fullest meaning and applicable scope as possible under Rule 34 of the Federal Rules of Civil Procedure, Rule 1001 of the Federal Rules of Evidence and as construed by the case law in this Circuit. Those terms include, without limitation, each document, thing, and electronic or computerized records, files, and data in your possession, custody, or control, whether a copy, draft, or original, wherever located physically, electronically, or otherwise, with all exhibits, attachments, appendices, and schedules related thereto

17. "Communication" includes any form of intended, attempted, or actual oral, written, graphic, electronic, or other representation or articulation from one or more persons to one more persons.

18. "Identify" means:

- A. in the case of a natural person, documents that state his or her name, business address, title or position, and/or last known business and home telephone number; and
- B. in the case of a non-natural person, documents that state the full name, the address of the principal place of business, the telephone number, and/or the name of its chief executive officer and/or president.

19. The terms “each” and “every” include the term “each and every.” “Any” shall include the term “any and all.”

20. The singular of words includes the plural and the plural includes the singular. Masculine, feminine, or neuter pronouns include the other gender(s).

21. The words “and” and “or” have either a disjunctive or conjunctive meaning so as to bring within the scope of these document requests all information that might otherwise be construed to be outside their scope by use of a more restrictive meaning.

### **INSTRUCTIONS**

1. As used herein, the terms “Document” or “Documents” shall include “things” as well as “ESI.” All documents, things and ESI responsive to a request should be produced, including, without limitation, each copy of an original that differs in any way from the original, whether such difference is caused by deletions, markings on the front or back, format, or any other cause.

2. Identical copies or exact photographic reproductions may be furnished in lieu of original documents, provided that it is understood that, by doing so, the submission includes a waiver of any objection as to the authenticity of said copies as true and original copies of the originals, should such copies be offered into evidence. Submission of such copies or reproductions shall constitute such a waiver and the submitting party is thereafter precluded from tendering an objection. Absent such waiver, only original documents should be submitted. Any ESI should be produced in single-page TIFF format with a corresponding load file compatible for Concordance. If a document has been converted from native format to TIFF format, then the load file should include the metadata and the document text from the original native file. To the

extent that any of the following metadata fields are available, they should be produced:

Production Begbates; Production Endbates; DocType; Custodian,; Page Count; Attachment Count; Doc Date (MM/DD/YYYY); Author; Recipient; CC; BCC; Subject; Body; Date Sent; Date Created; Date Modified; Date Received; and Date Delivered. If a document original was in hard copy format, and has been converted to TIFF, then the load file should include any bibliographical coding and any OCR text available at the time of production. Excel spreadsheets should also be produced in native format. Sara Lee reserves the right to request native versions of any files on a good faith showing of need.

3. Documents and things produced in response to these requests shall be produced together with copies of file labels, dividers, and other identifying markers with which they were associated in the ordinary course of business.

4. Documents, things and ESI produced in response to these requests shall be produced in their entirety, without abbreviation or expurgation, and without redacting any portion therefrom.

5. Documents, things and ESI produced in response to these requests shall be specifically identified as responding to the appropriate request(s) contained herein and shall be produced in a form that renders the material intelligible, legible, and/or capable of reproduction.

6. If any request herein cannot be complied with in full, it shall be complied with to the extent possible, and you should explain why full compliance is not possible.

7. If there are responsive documents, things or ESI within your possession, custody, or control that are privileged or otherwise cannot be produced, please so state. For each such document, thing or ESI, please prepare and submit to Sara Lee a log identifying all information

that you contend supports your claim that such information must be withheld, including, without limitation, the following: (a) the privilege(s) or reason(s) for withholding production; (b) the nature of the document or thing (letter, memorandum, handwritten notes, software, audio recording, etc.); (c) date; (d) author(s) and recipient(s); (e) each person to whom such information was available; (f) a general description of the subject matter; and (g) "Bates" or production control numbers. Provide said log at the time of production.

8. Documents, things and ESI produced in response to these requests may be responsive to more than one request. The presence of such duplication shall not be interpreted to narrow or limit the scope of each request. Where a document, thing or ESI is responsive to more than one request, only one copy may be produced. However, you must identify each request to which the duplicate document or thing is responsive.

9. Unless otherwise stated, these requests call for the production of all documents and things created, for any reason, anywhere in the world on or after January 1, 2006.

10. If any requested document, thing or ESI is no longer in your possession, custody, or control, state in detail all of the reason(s) why and identify each such responsive document or thing by author, date, subject matter, addressee, audience, and/or recipient, the number of pages and, where applicable, any other indicator of volume or size.

11. These document requests are continuing so as to require supplemental production as required by the Federal Rules of Civil Procedure.

## REQUESTS FOR PRODUCTION

1. All documents relating to the NTP Expert Panel, including, without limitation, internal NTP Expert Panel documents, members' notes, correspondence among members, correspondence with the NTP Expert Panel, and correspondence with any member of the NTP Expert Panel.
2. All correspondence with Dr. Matanoski relating to her participation on the NTP Expert Panel.
3. All documents relating to the selection of Dr. Matanoski to serve on the NTP Expert Panel.
4. All documents relating or referring to the Portier Letter, including, without limitation, drafts of the letter, requests to Dr. Portier for a letter, and documents relating to consideration of the letter by Secretary Sebelius.
5. All documents relating to the creation of the ATSDR Cancer Policy Chart.
6. All documents relating to any consideration of changing the ATSDR Cancer Policy Chart.
7. All documents relating to any consideration, discussion, recommendation, or request to remove the ATSDR Cancer Policy Chart from the ATSDR website.
8. All documents provided to anyone associated with the ATSDR Styrene Report that relates to, mentions, discusses or contains information about the NTP's consideration of styrene for inclusion in the 12th Report on Carcinogens.

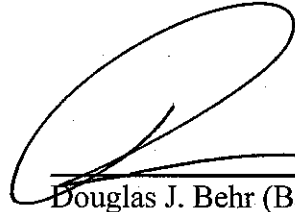


9. All documents relating to the epidemiology group of the NTP Expert Panel, including, without limitation, members' notes, correspondence among members, and correspondence between you and any member.
10. All documents relating to the ISRG, including, without limitation, internal ISRG documents, members' notes, correspondence among members, correspondence between you and the ISRG, and correspondence between you and any member of the ISRG.
11. All documents relating to the NSRG, including, without limitation, internal NSRG documents, members' notes, correspondence among members, correspondence between you and the NSRG, and correspondence between you and any member of the NSRG.
12. All documents relating to the BSC, including, without limitation, internal BSC documents, members' notes, correspondence among members, correspondence between you and the BSC, and correspondence between you and any member of the BSC.
13. All correspondence with Christopher J. Portier, Director of the National Center for Environmental Health and Agency for Toxic Substances Disease Registry, relating to the 12th Report on Carcinogens.
14. All correspondence between NTP and ATSDR relating to styrene.
15. All documents relating to the analysis of the NCI Study in the Draft and Final Background Documents including, without limitation, documents relating to the consideration given to it by the NTP Expert Panel or any other reviewing body.
16. All documents relating to the consideration, interpretation, and analysis of the Delzell Study in the Draft and Final Background Documents including, without limitation,

documents relating to the consideration given to it by the NTP Expert Panel or any other reviewing body.

Dated: August 9, 2011

Respectfully submitted,



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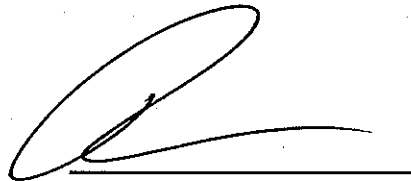
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**CERTIFICATE OF SERVICE**

I hereby certify that on August 9, 2011, a copy of the foregoing was served by hand on the following counsel of record for Defendants:

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U.S. Department of Justice  
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A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a horizontal line extending to the right.

Robert A. Sheffield