



December 1, 2009

The Honorable Barbara Boxer
Chairman, Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

The Honorable James Inhofe
Ranking Member, Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Chairman Boxer and Ranking Member Inhofe:

The Senate Committee on Environment and Public Works is scheduled to hear testimony from several U.S. government witnesses on December 2, 2009, concerning the Toxic Substances Control Act (TSCA). The American Chemistry Council (ACC), a national trade association representing 140 member companies and 800,000 workers, would like to share some thoughts in advance of the Committee's hearing.

As I testified before a House of Representatives Subcommittee in February 2009, ACC and its members welcome Congress' review of TSCA and the measures that might be taken to improve the statute. In our view, Congress should have several objectives in modernizing TSCA:

- Ensuring the protection of public health is a top priority.
- Enhancing confidence in the federal chemical regulatory system and ensuring the safe, beneficial use of chemicals.
- Reflecting the scientific and technological advances that have been made since TSCA was enacted.
- Assuring continued innovation from the U.S. chemical industry so that we can keep and grow the jobs that make the products that save lives, make our economy more energy efficient, and reduce greenhouse gas emissions.

In August 2009, ACC released a set of ten principles (attached) that should be reflected in efforts to modernize TSCA. We were gratified to see that the Environmental Protection Agency's (EPA) six principles for TSCA modifications released in September 2009 reflect substantial agreement with industry's principles and those released by other stakeholders. I strongly believe that the national interest in a robust federal chemical management system would be well-served if those areas of agreement become the focal points for dialogue among all stakeholders. ACC's principles go to the heart of the federal government's efforts to assess and address potential risks to human health and the environment from chemical exposures. In ACC's view, TSCA should include an effective system to screen and prioritize chemicals for assessment by



The Honorable Barbara Boxer
The Honorable James Inhofe
December 1, 2009
Page 2

the Agency. Without a prioritization system, the capacity of both EPA and the private sector to identify and address those substances requiring additional risk management considerations will be compromised. The prioritization decisions should identify those chemicals and exposures that should be subject to a subsequent safety review by the Agency. EPA should be provided appropriate human and financial resources to ensure the robust implementation of a modified TSCA.

ACC believes that the prioritization screening and safety review elements should use the best possible data and information, including data developed through new and emerging scientifically sound and validated techniques. While new technologies are constantly being developed, such as EPA's high throughput screening program (ToxCast), EPA should have the resources to validate the methodologies and interpret their results to make informed decisions. In addition, EPA should have the ability to leverage the significant amounts of relevant information likely to be produced under revamped chemicals management programs in Canada and Europe in the coming years.

ACC also believes that a modernized TSCA should be built upon a strong, integrated testing and assessment framework. That framework should rely on existing data and information in the first instance, and where appropriate should avoid further animal testing if other scientifically sound and validated test methods are available.

ACC and its members look forward to working with you and the entire Committee as discussions around modifications to TSCA continue. If we can provide any additional information on ACC's position on TSCA modernization, please contact me.

Sincerely,



Cal Dooley
President and CEO

cc: Committee on Environment and Public Works

Enclosure





10 Principles for Modernizing TSCA

The American Chemistry Council and its members support Congress' effort to modernize our nation's chemical management system. Such a system should place protecting the public health as its highest priority, and should include strict government oversight. It should also preserve America's role as the world's leading innovator and employer in the creation of safe and environmentally sound technologies and products of the business of chemistry.

The current chemical management law, the Toxic Substances Control Act (TSCA), is more than 30 years old. It should be modernized to keep pace with advances in science and technology. Moreover, the law must provide the Environmental Protection Agency with the resources and the authority to do its job effectively.

We have previously offered general concepts on which to base a modern chemical management system. This document expands upon those concepts and begins to provide more detail, which we hope will be useful to policy makers. We will continue to refine the details of our principles for modernizing TSCA and are committed to working with all stakeholders toward enactment of effective legislation.

1. Chemicals should be safe for their intended use.
 - Ensuring chemical safety is a shared responsibility of industry and EPA.
 - Industry should have the responsibility for providing sufficient information for EPA to make timely decisions about safety.
 - EPA should have the responsibility for making safe use determinations for high priority chemicals, focusing on their most significant uses and exposures.
 - Safe use determinations should integrate hazard, use, and exposure information, and incorporate appropriate safety factors.
 - Consideration of the benefits of chemicals being evaluated, the cost of methods to control their risks, and the benefits and costs of alternatives should be part of EPA's risk management decision-making, but should not be part of its safe use determinations.
 - Other agencies, such as FDA and CPSC, should continue to make safety decisions for products within their own jurisdictions.



2. EPA should systematically prioritize chemicals for purposes of safe use determinations.
 - Government and industry resources should be focused on chemicals of highest concern.
 - The priorities should reflect considerations such as the volume of a chemical in commerce; its uses, including whether it is formulated in products for children; its detection in biomonitoring programs; its persistent or bioaccumulative properties; and the adequacy of available information.
3. EPA should act expeditiously and efficiently in making safe use determinations.
 - Since a chemical may have a variety of uses, resulting in different exposure potentials, EPA should consider the various uses and focus on those resulting in the most significant exposures.
 - EPA should complete safe use determinations within set timeframes.
4. Companies that manufacture, import, process, distribute, or use chemicals should be required to provide EPA with relevant information to the extent necessary for EPA to make safe use determinations.
 - Companies throughout the chain of commerce should be responsible for providing necessary hazard, use, and exposure information.
 - EPA should be authorized to require companies, as appropriate, to generate relevant new data and information to the extent reasonably necessary to make safe use determinations without having to prove risk as a prerequisite or engaging in protracted rulemaking.
 - Testing of chemicals should progress to more complex and expensive tests through a tiered approach as needed to identify hazards and exposures of specific concern.
 - To minimize animal testing, existing data should be considered prior to new testing, and validated alternatives to animal testing should be used wherever feasible.
 - Existing data and information should be leveraged in EPA's safe use determinations, including data and information from other mandatory and voluntary programs such as REACH and the U.S. High Production Volume challenge.
5. Potential risks faced by children should be an important factor in safe use determinations.
 - Safe use determinations should consider the effects of a chemical on children and their exposure to the chemical.
 - Safe use determinations should consider whether an extra margin of safety is needed to protect children.



6. EPA should be empowered to impose a range of controls to ensure that chemicals are safe for their intended use.
 - The controls could range from actions such as labeling, handling instructions, exposure limits and engineering controls to use restrictions and product bans.
 - The controls should be appropriate for managing the risk, taking into account alternatives, benefits, costs, and uncertainty.
7. Companies and EPA should work together to enhance public access to chemical health and safety information.
 - EPA should make chemical hazard, use, and exposure information available to the public in electronic databases.
 - Other governments should have access to confidential information submitted under TSCA, subject to appropriate and reliable protections.
 - Companies claiming confidentiality in information submittals should have to justify those claims on a periodic basis.
 - Reasonable protections for confidential as well as proprietary information should be provided.
8. EPA should rely on scientifically valid data and information, regardless of its source, including data and information reflecting modern advances in science and technology.
 - EPA should establish transparent and scientifically sound criteria for evaluating all of the information on which it makes decisions to ensure that it is valid, using a framework that addresses the strengths and limitations of the study design, the reliability of the test methods, and the quality of the data.
 - EPA should encourage use of good laboratory practices, peer review, standardized protocols, and other methods to ensure scientific quality.
9. EPA should have the staff, resources, and regulatory tools it needs to ensure the safety of chemicals.
 - EPA's budget for TSCA activities should be commensurate with its chemical management responsibilities.
10. A modernized TSCA should encourage technological innovation and a globally competitive industry in the United States.
 - A new chemical management system should preserve and enhance the jobs and innovative products and technologies contributed by the business of American chemistry.
 - Implementation of TSCA should encourage product and technology innovation by providing industry certainty about the use of chemicals.

