



Testimony of
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Before the
Subcommittee on Superfund, Toxics and Environmental Health of the
Senate Committee on Environment and Public Works

"Assessing the Effectiveness of U.S. Chemical Safety Laws"

February 3, 2011



It's Time to Modernize TSCA

The American Chemistry Council and our member companies support modernization of the Toxic Substances Control Act. It is time to update and refresh our 35 year-old chemical management system.

Last week in the State of the Union, President Obama laid out an agenda to ensure that America can “win the future,” in his words. We couldn’t agree more that we need strong, sound, efficient policies that will not get in the way of the ability of American companies to innovate and create jobs.

This is particularly important for an industry like ours. Chemistry is the source of many of the new technologies that will help create jobs in the future, drive economic growth and achieve the goals articulated by the President including clean energy; improved infrastructure; efficient transportation options; medical advancements that bring down the cost of health care; and even a strong defense.

And we employ nearly 850,000 people directly in high-paying, high-skill jobs. These are the kind of jobs that not only put food on the table, but boost consumer spending, send kids to college, allow families to own homes, and save for retirement.

The business of chemistry is vital not only to achieving national goals, but also to meeting the needs of a growing and changing world. The earth’s population is expected to reach approximately 9 billion people in the coming decades. The greatest growth will occur in the developing world, and with it will come the continued explosion of a middle class in those nations. All these people will require food, clean water, energy supplies, and medicines. As standards of living improve, there will be greater demand for automobiles, electronics, appliances and other modern conveniences that Americans now take for granted. It is only through the innovation and products of chemistry that the world will be able to meet those needs in a sustainable way.

The question is not whether the business of chemistry will identify and develop solutions to meet these challenges – have no doubt that we will. The real question is where these innovations will occur – here or in places like China, where patent applications in recent years have surpassed those of the United States.

That is why the issue of TSCA modernization is so critical and the stakes are so high. The continued competitiveness of America’s chemical manufacturers will rely in part on our ability to craft a modern regulatory program that

- enables innovation;
- creates greater certainty so businesses have the confidence to expand and hire;
- provides scientifically-sound answers about chemical safety and how to manage risks;
- operates efficiently so new products can be brought to market in a timeframe global commerce demands; and



- inspires confidence among the public that their children, their homes and their environment are being protected.

TSCA Modernization Done Right is Good for Everyone

Simply stated, TSCA modernization done right is good for consumers, good for jobs and good for American businesses.

Before going further, it's important to say that safety is the top priority for ACC and its member companies. If we didn't believe our products were already safe for their intended uses, we wouldn't be making them.

In spite of that fact, there is a fundamental lack of confidence in our nation's chemicals management system. It has led to the frequent spread of misinformation, unnecessary product de-selection by consumers and retailers, litigation, and ill-conceived state and local laws to regulate or ban chemicals. Taken together these factors have created an uncertain business environment for the American chemistry industry and our value chain partners.

In practice, multiple state and local laws regarding chemicals create confusion among manufacturers, retailers and consumers, hamper the development of new products, close off markets, and ultimately prevent business growth and new hiring, all without significantly improving public safety.

America's chemical manufacturers are truly national and global in nature. The engineered materials we produce can change hands numerous times and travel from state to state, or country to country, as they are incorporated into other materials and end products. There is little question that the chemistry industry engages in the kind of interstate commerce that our founders gave Congress, rather than the states, the authority to regulate.

The business of chemistry is also highly complex. It is a 21st century industry founded on science, engineering and continuous innovation; it's what brings us our medicines, cell phones, computers, hybrid automobiles, and all the other essential products of today's world. This is not a job for state or local governments that understandably lack the scientific expertise or resources to make well-informed regulatory decisions.

Only by creating a scientifically-disciplined, efficient and focused federal chemicals management system can we ensure a uniform national market, provide American businesses the certainty they need to justify new investment and hiring here rather than nations like China and India, and give state governments and consumers confidence.

ACC has been joined by a broad coalition of our value chain partners including manufacturers and retailers to call for good TSCA modernization. The breadth of the coalition reflects the fact that sound national chemicals management policy is essential to innovation and growth in nearly every sector in our economy. And conversely, a misguided policy would threaten far more than just chemical manufacturers.



What a Modernized TSCA Should Look Like

Around eighteen months ago, ACC released ten principles for modernization which I have submitted for the record.

These principles provide the right foundation upon which Congress can define a modern chemicals management program that leverages what we already know, focuses time and resources on the highest priority chemicals and deploys a cost-effective program that will reach conclusions, manage risks, and get information to the public and industry in a timely way.

A modern TSCA must be based on today's technology and should be crafted to evolve as new technologies and developments in science emerge. It should incorporate scientific objectivity. It must prioritize so we identify data and information needs, meet them and assess risks based on what a chemical is actually used for. It must operate efficiently so that new chemical products can be reviewed and brought to the market in a time frame that our global customers demand. It must protect intellectual property so we don't enable piracy, but provide for greater transparency so consumers, policymakers and industry can make sound decisions.

We must also learn from what's working and not working in Canada and the EU, which have both implemented new chemicals management regimes in recent years. The U.S. always has been and must remain the global leader by updating TSCA to be the first-in-class system that other countries will want to emulate. As part of this, we must acknowledge there are important elements of the current TSCA program that have stood the test of time and work well such as the process to evaluate and approve new chemicals.

We believe implementing these kinds of enhancements that balance regulation with job creation and innovation is exactly the kind of regulatory reform that is being pursued by the President and this Congress.

Conclusion

Congress has the opportunity to define a modernized TSCA program that if done right, will enable a future where consumers can feel confident; where our chemicals management program is more efficient and focused; where the government spends less over time, but gets more value; where American businesses know what's ahead and can plan, invest and hire; and where states and cities are no longer motivated to act on their own leading to a disjointed and inefficient regulatory patchwork that disrupts national commerce and hampers our ability to compete in the global marketplace.

We hope to work together with stakeholders and Congress to update TSCA to be balanced, protect jobs, foster innovation and reassert our nation's leadership not only in developing ideas, but also in producing the goods that come from them.

Thank you again for having me here today, and I look forward to taking your questions.





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.