



Reforming the Toxic Substances Control Act (TSCA)

The members of the American Chemistry Council support TSCA reform. With 96 percent of all manufactured goods touched by chemistry, this is a complex issue and it is essential that reform be done right. We must ensure that chemical-safety legislation passes the essential test of true reform and modernization without creating serious unintended consequences.

TSCA reform must:

- Protect consumers, families and our workers by ensuring chemicals are safe for their intended uses;
- Encourage American innovation to maintain our nation's position as a technological leader by fostering the development of new products, while preserving good manufacturing jobs;
- Ensure a workable regulatory program that will garner public confidence in the safety of products and establish certainty and a level playing field for industry.

We appreciate the opportunity to work with Sen. Lautenberg (S.3209) and Reps. Waxman and Rush (House discussion draft) on their reform proposals. With regard to the current proposals, however, we believe that neither meets the test of creating a workable regulatory program that protects and promotes American safety, innovation and jobs.

We have many concerns with these proposals, the following being an overview of some of those concerns:

- **The safety standard is not achievable.**
 - It requires a never-before-adopted and unworkable risk assessment methodology for every chemical. Chemicals used in industrial articles, such as solar cells and integrated circuits, would face regulatory barriers not even placed on the drugs doctors prescribe.
 - The “no harm” standard essentially requires proof of zero-risk, an impossible goal that will prevent lower-risk, beneficial products from coming to market.
- **The proposed regulatory structure will impede American innovation and job growth.**
 - New chemicals and new uses of existing chemicals will have no reliable way to enter the market, creating a distinct competitive advantage for foreign manufacturers and a disincentive to produce new chemistry solutions – including safer and greener alternatives – in the U.S.
 - Don't expect competing nations to take this approach, and as a result, American innovation and job growth will be damaged, as the United States moves even further from manufacturing to strictly importing finished goods. The proposals are far more burdensome than even Europe's chemical program, known as “REACH”.
 - Greater transparency is important, but legitimate Confidential Business Information (CBI) will not be protected. Intellectual property about chemicals, including the molecular structure, is often critical for competitive reasons, but under this legislation, it could not be claimed as CBI, even when the claim can be justified. Further, CBI protection is removed after five years — even if the need for longer protection can be

- justified. American CBI could also be shared with foreign nations that have a history of weak intellectual property protection.
- **The bills create a massive, unworkable regulatory framework.**
 - Due to a lack of an effective prioritization mechanism, as well as the imposition of an unrealistic schedule of reviews and approvals, the proposals would not focus government or industry resources on high-priority chemicals. In practice, EPA would be incapable of meeting the deadlines and expectations created by the proposals, effectively barring new products from the market, further eroding public confidence, and creating a barrier to American innovation and job growth.
 - Under the House version of the bill, EPA would be directed to take action – which could include restrictions or bans – on more than 500 chemicals critical to commerce within 12 months of enactment, allowing for little consideration of exposure, risk, or alternatives.
 - Both proposals greatly expand the scope of TSCA and the jurisdiction of EPA by requiring safety assessments of virtually every chemical mixture in commerce, including all 70,000 polymers/plastics and millions of chemical mixtures. They also allow EPA to regulate chemical uses that are currently under the jurisdiction of other federal agencies.

While we have many concerns with the proposals, we are only at the beginning of the legislative process. A significant amount of effort is required to shape these proposals into a **workable** regulatory framework that protects and preserves **public safety**, **innovation** and **jobs**. Congress must take the time to get TSCA reform right. The members of the American Chemistry Council stand ready to work with the House and Senate in this effort.