



Testimony
of
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On behalf of the

Synthetic Organic Chemical Manufacturers Association

Before the

U.S. House of Representatives
Energy and Commerce Committee
Subcommittee on Commerce, Trade, and Consumer Protection

On

Revisiting the Toxic Substances Control Act of 1976

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Good morning Chairman Rush, Ranking Member Radanovich, and Distinguished Members of the Subcommittee. My name is Jim DeLisi, and I am President of Fanwood Chemical, Inc., located in Fanwood, New Jersey. I have been employed by Fanwood Chemical for over 30 years, and during those years we have specialized in marketing organic chemical intermediates in North America as well as Europe and South America. Fanwood Chemical, Inc. is a member of the Synthetic Organic Chemical Manufacturers Association, or SOCMA, the leading trade association representing the batch and custom chemical industry. Our industry makes a \$60 billion annual contribution to the U.S. economy and contributes to the chemical industry's position as the nation's leading exporter. SOCMA has over 300 member companies, which are typically small to medium businesses with fewer than 100 employees and less than \$100 million in annual sales.

SOCMA supports EPA's – and Congress's – fundamental goal of protecting human health and the environment from harmful exposures to chemicals. SOCMA members are prepared to do our part in that effort. We are pleased to have this opportunity to share with you our unique perspective on revisiting the Toxic Substances Control Act (TSCA). As I will explain today, SOCMA agrees with many that TSCA needs to be revisited, and that certain aspects of EPA's TSCA program could be improved. But a sweeping overhaul like implementing Europe's REACH is unnecessary and would be unwise. It would not produce major changes in our ability to protect human health and the environment. But it probably would result in many unintended consequences, such as delaying the development of new products and hastening the move to offshore manufacturing, with disproportional impacts on small businesses, such as SOCMA members. Since its enactment, TSCA and its "unreasonable risk" standard have generally stood the test of time as a flexible law that has protected human health and the environment without crippling innovation.

First, I would like to start by saying that any evaluation of TSCA should consider the contributions the chemical industry has made in providing the United States with one of the highest standards of living in the world, even as overall indices of public health and environmental quality have improved. Secondly, any evaluation should also take into account the vast amounts of data that have been submitted by the industry to EPA and to other agencies, like the FDA, OSHA and the CPSC, under other statutes that regulate the chemical industry. Lastly, it should look at how this balance between protecting human health and the environment and preserving innovation has been achieved and how it can be maintained.

SOCMA believes this balance has been and will continue to be achieved by a chemicals policy that is fundamentally guided by science and a careful assessment of risk. That is, when assessing a chemical, EPA scientists historically have analyzed both the chemical's intrinsic hazard properties and the potential routes of exposure in order to make sound regulatory decisions on whether the chemical poses a risk. Data requirements have been driven by the intended and foreseeable use and disposal of a chemical. This fundamental approach should be maintained when considering a revised approach to chemical risk management.

One area of TSCA that has faced substantial criticism is the reporting requirements applicable to industry. In particular, many believe that the EPA does not have sufficient authority under TSCA to request data. SOCMA disagrees with this claim, but we do believe that data gathering is an area worthy of improvement, and that we should reconsider what is the best approach to gather data and information on chemicals.

In order to do this, Congress should look at how EPA currently implements TSCA and consider how the program could be enhanced. For example, under TSCA Section 4, EPA has broad authority to issue rules requiring testing of existing chemicals. SOCMA believes that EPA's use of this authority needs to be examined. We question whether it has been implemented to its full potential. EPA also may be able to collect more data on new chemicals – for example, on exposures to children – through the Section 5 Premanufacture (PMN) program as it has with existing chemicals under the amended Inventory Update Rule (IUR).

Before amending TSCA to create new obligations for EPA, Congress should also explore where EPA can better leverage activities going on outside of the TSCA program, whether occurring under other federal agencies like FDA, or abroad. For example, companies are embarking a massive project to generate standardized test data for the European REACH program. Through collaborative data sharing efforts, EPA should be able to take advantage of the work done for that program, just as other countries can leverage the work conducted here. Why would the United States want to duplicate testing that is already being conducted? **A collaborative approach should be promoted by Congress.**

This leads me to the Chemical Assessment and Management Program (ChAMP), the voluntary program to which the United States committed in 2007, along with Canada and Mexico, under the Security and Prosperity Partnership (SPP). Through this program, EPA is prioritizing chemicals by hazard and risk in order to systematically decide what further action may or may not be required. EPA is already well down the path of implementing this program. SOCMA believes that ChAMP is an especially worthy approach to collecting data and should be allowed to continue.

ChAMP is also addressing the TSCA Inventory. EPA has initiated action to reset the TSCA inventory to more accurately identify chemicals currently in commerce. Many people do not realize that, at any given time, significantly fewer than the roughly 80,000 chemicals currently on the inventory are likely to actually be in commerce in the United States. For example, the last Inventory Update Rule (IUR) reported 6,200 chemicals in commerce during 2005. We note that this excludes exemptions such as polymers, R & D chemicals and chemicals manufactured under 25,000 lbs/year. Nevertheless, this important fact is conveniently ignored by those who try to show that TSCA is inadequate, who claim that the inventory reflects the number of chemicals in commerce, and then compare that number to the number of existing chemicals that have been studied by EPA under Section 4, Section 8(d) or otherwise.

In closing, SOCMA has pointed out several main areas of TSCA that are being enhanced, and we would urge you to focus your current inquiry on how to better implement existing authorities and activities. SOCMA believes that TSCA will not require a complete overhaul, but could be enhanced to meet new challenges. A rigid approach like Europe's REACH is unnecessary and unwise. In order to tackle the chemical assessment challenges we face in an even more challenging economy, we should maintain a science based framework, fully implement existing authorities, and maximize programmatic and collaborative efforts like ChAMP. Lastly, the TSCA program will need to be adequately funded and provided with resources to accomplish its mission of protecting human health and the environment. Thank you, and I would be happy to answer any questions you have.