



Testimony
of
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On behalf of the

Society of Chemical Manufacturers & Affiliates

Before the

U.S. House of Representatives

Energy and Commerce Committee
Subcommittee on Commerce, Trade, and Consumer Protection

On

“Prioritizing Chemicals for Safety Determination”

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Society of Chemical Manufacturers & Affiliates

Good morning, Chairman Rush, Ranking Member Radanovich, and members of the Subcommittee. My name is Beth Bosley, and I am the Managing Director for my company, Boron Specialties in Pittsburgh, Pennsylvania. I am pleased to testify before you today on behalf of the Society of Chemical Manufacturers and Affiliates (SOCMA) regarding the Toxic Substances Control Act (TSCA).

Since 1921 SOCMA has served as the leading trade association representing the batch and custom chemical industry. SOCMA has over 300 member companies, which are typically small to medium-sized businesses, each with up to \$100 million in annual sales. Our members make a \$60 billion annual impact on the U.S. economy and contribute to the chemical industry's position as one of the nation's largest exporters.

As we testified before this Subcommittee last February, SOCMA supports EPA's – and Congress's – fundamental goal of protecting human health and the environment from harmful chemical exposure. SOCMA members are prepared to continue doing our part in that effort. We are pleased to have this opportunity to share with you our perspective on revisiting the Toxic Substances Control Act. SOCMA agrees that TSCA can be modernized, and that policy goals can be accomplished in a way that doesn't devastate a strategic American industry that is already fighting recession and foreign competition. As I will discuss, two principles are essential to a sustainable chemical management law that won't eliminate jobs, economic growth, or products. First, TSCA priorities should be established based on risk. Second, proven regulatory mechanisms should be the basis for modernization.

Prioritization of risk must remain a fundamental principle of TSCA. This means basing priorities and regulatory criteria on the scientific evaluation of toxicological response and exposure factors. For instance, if a chemical is highly toxic, but used only in strictly controlled industrial environments, or in small quantities, then the risk to public health is fairly small.

The second important principle for TSCA reform is leveraging regulatory mechanisms that work. We agree with EPA that the existing regulatory framework is better suited to American health, environmental, and economic interests than Europe's monolithic regime known as REACH. Applying an approach like REACH in the United States could devastate small and medium sized companies, including SOCMA members, and do so unnecessarily since a more practical alternative is available.

This is not to say that industry opposes the potential for new regulation. We acknowledge the success of current environmental laws and programs. Moreover, these mechanisms show promise in being able to achieve new policy objectives without sacrificing hundreds of businesses and thousands of jobs. For example, the Canadian approach to chemicals management has systematically prioritized that nation's inventory and is, therefore, much further ahead of the EU with respect to evaluation of chemicals in commerce.

Another mechanism supported by SOCMA was the "inventory reset", which was part of EPA's recently discontinued Chemical Assessment and Management Program (ChAMP). This would have provided an accurate measure of the chemicals now in commerce, which we believe is the only realistic starting point. Of the over 80,000 chemicals now listed on the inventory, data suggest that only about 1/3 of these are presently in commerce. The program also identified categories of well-characterized chemicals, prioritized them, and systematically targeted them for further review. Even TSCA critics did not challenge the groupings identified by EPA and supported the notion of prioritization. The program then went into an evaluation of the risks associated with the exposures to these chemicals. We need to prioritize and categorize the universe of chemicals. ChAMP should not have been abandoned, because it will just have to be reinstated under another name.

We should also embrace TSCA mechanisms that have worked well, like the New Chemicals Program, where EPA has successfully reviewed some 35,000 new chemicals since 1979 without impeding the innovation that is crucial to American competitiveness. Through this EPA program, known as the PMN process, over 1,000 chemicals undergo a review every year. This successful model could also be applied to existing chemicals. We should recognize the massive amount of data that was generated by EPA's High Production Volume Program and leverage that data in making initial determinations of risk. With reasonable amendments, TSCA could provide an easier mechanism to poll manufacturers and users for data on:

- volumes manufactured, processed, or used,
- health effects (all data should be collected, not simply adverse data), and,
- exposure characteristics, both environmental and human.

Section 71 of Canada's Environmental Protection Act effectively enables this sort of data collection.

SOCMA members have a deep commitment to the safe use of chemicals, and we are proud of our collective track record in protecting our workers and communities. SOCMA favors a formulation whereby EPA would make a “safety” determination regarding chemicals. But let me make several observations about what this “safety” standard should involve:

- First, it should not overlook the basic principle of **risk**; that is evaluation of hazard and exposure.
- Second, because of the vast number of chemicals and applications, we do not think that EPA should be burdened with a determination that each chemical is safe for its intended use. This approach would almost certainly overwhelm EPA and disadvantage US industry. Specific chemicals and specific uses may be approached this way when dealing with a short list of chemicals with narrow uses, as pesticides are managed, for example, under FIFRA – or as drugs are managed under the Federal Food, Drug & Cosmetic Act. But, EPA probably could not implement such an approach across the universe of all chemicals without creating a bureaucratic nightmare. A requirement that all new uses of any chemical be specifically approved would seize up the engine of innovation that America depends on to revive our economy and transition to a lower-carbon future. Instead, under an improved TSCA, EPA should provide goals, prioritization, and oversight; implementation should be based on proven and practical regulatory mechanisms.
- Finally, and regardless of what approach Congress adopts, EPA will need to be adequately funded. The biggest shortcoming of the TSCA program today is lack of resources, not lack of authority.

I thank you for this opportunity to describe a pragmatic approach to TSCA reauthorization, and I would be happy to answer your questions.