



February 1, 2016

The Honorable James M. Inhofe
Chairman
Senate Committee on Environment and
Public Works

The Honorable Frederick S. Upton
Chairman
House Committee on Energy and
Commerce

The Honorable Barbara Boxer
Ranking Member

The Honorable Frank Pallone, Jr.
Ranking Member

The Honorable Mike Rounds
Chairman
Subcommittee on Superfund, Waste
Management, and Regulatory Oversight

The Honorable John Shimkus
Chairman
Subcommittee on Environment and the
Economy

The Honorable Edward Markey
Ranking Member

The Honorable Paul Tonko
Ranking Member

Dear Chairman Inhofe and Ranking Member Boxer, Chairman Rounds and Ranking Member Markey, and Chairman Upton and Ranking Member Pallone, Chairman Shimkus and Ranking Member Tonko:

Our broad coalition of public health, environmental, labor, business, faith and civil rights organizations has worked for years toward meaningful reform of the Toxic Substances Control Act. If done correctly, TSCA reform could steadily reduce the portion of chronic disease, learning disabilities and environmental degradation in the United States that is caused in whole or in part by toxic chemicals.

The concerns that prevented our endorsement of the House and Senate bills are in the legislative and public record. More importantly, however, ***Congress can reconcile the two bills in a way that allays those concerns, provides clear progress for public health and the environment, and enjoys broad public support.***

In general, we would support a final reform that is focused on the key problems with TSCA and avoids any unnecessary process or rollbacks to federal or state authority. Specifically, we urge you to craft final legislation that includes the following elements, pulled from both bills:

1. A clear requirement to protect the public, including exposed or susceptible populations that may be at greater risk, and the environment from chemicals that are unsafe.

Both bills would ensure that EPA evaluates a chemical based solely on its health and environmental risks and that costs are considered only in the rulemaking phase. The Senate's language regarding the role of costs in risk management is strongly preferred. If the House provision were used instead, additional language must be added to ensure that EPA only has to review a finite number of alternatives and that the remedy must be sufficient to eliminate the risk from the chemical. This would be consistent with the intent expressed in the House committee report to avoid a "least burdensome" type of analysis.

2. A mandatory schedule of at least 10 EPA-initiated assessments per year, with a limit on industry-initiated assessments.

EPA functions best when it has clear mandates. Requiring 10 EPA-initiated assessments per year is a reasonable minimum. Industry-initiated assessments should not be allowed to overwhelm the program and should therefore be capped. The final bill should otherwise avoid a complicated prioritization scheme and should not include a "low priority" category.

3. Expedited action on PBTs and asbestos

The widespread contamination and human suffering caused by DuPont through the manufacture of PFOA – recently chronicled in numerous press reports – was due largely to PFOA's combination of persistence, bioaccumulation, and toxicity (PBT). Both bills contain language to address PBT chemicals. The upfront screening, listing, and fast-track provisions in the House bill would result in more PBTs being identified and restricted sooner. The House approach is therefore preferred. It should be strengthened by removing the "off-ramp" in 6(i)4 and by including asbestos.

4. Empower EPA to order chemical toxicity testing.

Both bills empower EPA to require chemical toxicity testing through the simpler process of an administrative order in addition to the current cumbersome process of a formal rulemaking. The Senate bill, however, also narrows the circumstances under which a chemical can be subject to possible testing requirements and imposes new procedural hurdles. The House language is therefore preferred.

5. Public Right to Know and Act

Both bills rein in abuses of provisions for Confidential Business Information (CBI) that currently hide critical information from the public. The reforms include

requiring up-front substantiation for most confidentiality claims and requiring EPA to share CBI with state and local governments and health practitioners. The Senate bill also importantly requires the re-substantiation of existing claims. The House bill reduces transparency in one important area by expanding confidentiality to include components of chemical mixtures even when identified in a health and safety study. The Senate CBI language is therefore strongly preferred. However, a provision added to the Senate bill prior to floor passage would weaken the ability of the public to challenge an EPA denial of a citizen petition. That provision should not be included in a final bill.

6. Preservation of State Authority

The preservation of state authority in a reformed TSCA is vital to ensure that the public is protected and that both the federal government and regulated industry are held accountable. Though our organizations strongly prefer no expansion of preemption under TSCA, we concur with the detailed recommendations made by the group of state Attorneys General on January 19 for how to reconcile the two bills in the area of state authority, including in the timing and scope of preemption, the grandfathering of certain state laws, and preserving the existing waiver.

7. No Rollbacks or Excessive Process

The final bill should not place new hurdles in the way of EPA in exchange for the ones it takes away, and it should focus the agency's limited resources on the activities that most directly address the backlog of unregulated chemicals. The Senate bill's new limitations on EPA's Significant New Use Rule authority should be left out of a final bill, as should the exemptions both bills create for "replacement parts" and the Senate provision on nomenclature. Requirements for new policies and guidance should be minimized and a costly and time-intensive inventory update should also be left out of the final bill.

8. Resources

The new bill should provide the EPA with additional resources, through industry fees, to cover the costs of EPA-initiated risk evaluations and rulemakings. The Senate fee provision is preferred because it assures that fees will be at least \$25 million annually and can be used to fund the critical elements of the reformed law. At a minimum, the House fee provision should be amended to allow any increase in fees to be used for risk evaluations and rulemaking under section 6.

In summary, in a Washington frequently paralyzed by gridlock and litigation, a bill focused on TSCA's biggest shortcomings has the best chance of succeeding in implementation. Congress has the opportunity to enact reform that will enjoy broad public support and make steady progress in addressing the critical public health and environmental problems caused by toxic chemicals.

We look forward to working with members of both parties and both houses to seize this opportunity.

Sincerely,

Alliance of Nurses for Healthy Environments
American Nurses Association
American Sustainable Business Council
Asbestos Disease Awareness Organization
Beautycounter
BlueGreen Alliance
Breast Cancer Fund
Build A Better Planet
Center for Effective Government
Center for Environmental Health
Clean Production Action
Clean Water Action
Construction Specialties, Inc.
Dignity Health
Earthjustice
Endometriosis Association
Health Care Without Harm
Institute for Agriculture and Trade Policy
League of Conservation Voters
Learning Disabilities Association of America
National Association of Pediatric Nurse Practitioners

National Association of School Nurses
National Hispanic Medical Association
National Medical Association
Naturepedic
Natural Resources Defense Council
Physicians for Social Responsibility
Public Citizen
Reproductive Health Technologies Project
Science and Environmental Health Network
Seventh Generation
Sierra Club
Stupid Cancer
The Arc
The Honest Company
Toxics Action Center
U.S. PIRG
Union of Concerned Scientists - Center for Science and Democracy
United Steelworkers (USW)
Women for a Healthy Environment
Women's Voices for the Earth

Alaska Community Action on Toxics (AK)
CALPIRG (CA)
Golden State Medical Association (CA)
Citizens Campaign for the Environment (CT)
Clean Water Action Connecticut (CT)
Coalition for a Safe and Healthy CT (CT)
ConnectiCOSH (CT)
ConnFACT (Connecticut Families Against Chemical Trespass) (CT)
Connecticut Citizens Action Group (CT)
Connecticut Coalition for Environmental and Economic Justice (CT)
Connecticut Nursing Association (CT)
Eastern Connecticut Green Action (CT)
ECHO (CT)
Greening our Children (CT)
Imhotep Connecticut State Medical Association (CT)
The Watershed Partnership, Inc. (CT)

Florida State Medical Association (FL)
Illinois PIRG (IL)
Alliance for a Healthy Tomorrow (MA)
Berkshire Environmental Action Team (BEAT) (MA)
Clean Water Action Massachusetts (MA)
Green CAPE (MA)
Green Futures (MA)
Green Newton (MA)
Hands Across the River Coalition, Inc. (MA)
HealthLink (MA)
Healthy Mothers, Healthy Babies Coalition of Massachusetts (MA)
Healthy-Kids.Info (MA)
Massachusetts Association for the Chemically Injured, Inc. (MA)
Massachusetts Breast Cancer Coalition (MA)
Massachusetts Coalition for Occupational Safety and Health (MA)

Massachusetts Teachers Association (MA)
MASSPIRG (MA)
Medfield Green (MA)
Resilient Sisterhood Project (MA)
SAVE (Saugus Action Volunteers for the Environment) (MA)
Second Look (MA)
W.E.S.T, Inc. (Watchdogs for an Environmentally Safe Town) (MA)
Maryland PIRG (MD)
Environmental Health Strategy Center (ME)
Learning Disabilities Association of Maine (ME)
Maine Conservation Alliance (ME)
Maine Labor Group on Health (ME)
Maine Organic Farmers and Gardeners' Association (ME)
Citizens for Alternatives to Chemical Contamination (MI)
Ecology Center (MI)
Learning Disabilities Association of Michigan (MI)
Michigan Breast Cancer Coalition (MI)
Michigan Network for Children's Environmental Health (MI)
Southeast Michigan Association of Neonatal Nurses (MI)
Arc Greater Twin Cities (MN)
Autism Society of Minnesota (MN)
Clean Water Action Minnesota (MN)
Conservation Minnesota (MN)
Eureka Recycling (MN)
Healthy Legacy Coalition (MN)
Kids for Saving Earth (MN)
Learning Disabilities Association of Minnesota (MN)
Minnesota Black Nurses Association (MN)
Minnesota Center for Environmental Advocacy (MN)
Minnesota Council of Churches (MN)

Minnesota Public Interest Research Group (MN)
Mississippi Medical and Surgical Association (MS)
Mound City Medical Forum (MO)
Montana Conservation Voters Education Fund (MT)
North Carolina Conservation Network (NC)
Clean Water Action New Jersey (NJ)
Environment New Jersey (NJ)
New Jersey Work Environment Council (NJ)
NJ PIRG (NJ)
New Jersey Medical Association (NJ)
Clean and Healthy New York (NY)
Great Neck Breast Cancer Coalition (NY)
Healthy Schools Network, Inc. (NY)
Huntington Breast Cancer Action Coalition (NY)
Learning Disabilities Association of Western New York (NY)
Manhattan Central Medical Society (NY)
Moms for a Nontoxic New York (NY)
New York League of Conservation Voters (NY)
New York State Sustainable Business Council (NY)
NYPIRG (NY)
Voices for Earth Justice (NY)
Ohio Environmental Council (OH)
Oregon Environmental Council (OR)
Oregon State Public Interest Research Group (OSPIRG) (OR)
Informed Green Solutions (VT)
Vermont Conservation Voters (VT)
Vermont PIRG (VT)
Vermont State Nurses Association (VT)
Voices for Vermont's Children (VT)
Washington Toxics Coalition (WA)
WASHPIRG (WA)

* list is in formation