SCR6 / SR5

ENCOURAGING THE UNITED STATES CONGRESS TO ENACT FEDERAL LEGISLATION TO MODERNIZE THE TOXIC SUBSTANCES CONTROL ACT OF 1976 TO STRENGTHEN CHEMICALS MANAGEMENT THROUGH POLICY REFORMS.

American Chemistry Council

March 18, 2013

To: The Honorable Mike Gabbard, Chair
Members, Senate Committee on Energy and Environment

The Honorable Will Espero, Chair
Members, Senate Committee on Public Safety, Intergovernmental and Military Affairs

From: Tim Shestek
Senior Director, State Affairs

RE: **SR 5 and SCR 6 – OPPOSE, AS DRAFTED**

The American Chemistry Council (ACC) – the national trade association representing the leading chemical manufacturing companies – must respectfully oppose both SR 5 and SCR 6 as drafted. First and foremost, the safety of chemical products and manufacturing processes—and the safety of chemical plant communities—is a top priority of the chemical industry. Every day we make decisions to minimize risks and take appropriate measures to manage those risks.

As drafted, these resolutions paint a broad and unsubstantiated view that consumer products and their chemical ingredients are inherently dangerous. SR 5 and SCR 6 also make sweeping generalizations and conclusions about chemical exposures and diseases that are not grounded in good science; that current workplace safety standards are inadequate; and that federal chemical policy is a failure. We do not believe that consumers should be frightened into believing the products they purchase are assumed to be unsafe.

Contrary to some reports, the Toxic Substances Control Act (TSCA) has in fact required safety testing on hundreds of chemicals and has imposed appropriate controls on thousands of others. USEPA has the authority to require manufacturers to develop specific test data and can block a chemical's use or release into the marketplace until it is satisfied with the information received. More importantly, EPA exercises that authority.

While ACC believes that the products we manufacture are safe for their intended uses (otherwise we wouldn't be making them), we recognize that there is a fundamental lack of confidence in our nation's chemicals management system. This lack of confidence has led to the frequent spread of misinformation and rhetoric, 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.

It is for this reason, ACC members support a modernization of TSCA so that consumers can have confidence that the federal regulatory system can protect against significant risks to health and the environment. I have taken the liberty of attaching our policy principles that we believe are essential for any effort to amend federal chemical policy. ACC believes these principles must be incorporated into any Congressional effort to amend TSCA so that federal law is grounded in fact-based, scientifically credible information, establishes a robust prioritization system, and fosters innovation and job creation.

While we appreciate the intent of these proposals, we respectfully urge you to oppose this language as drafted. TSCA does not just impact the chemical industry. It also impacts those industries and businesses that develop other industrial, commercial and consumer products and processes throughout the US economy. Some 96% of manufactured goods are touched in some way by the business of chemistry.

Therefore, it is important to ensure that any statement by the State of Hawaii to encourage changes in federal chemical policy be done so based on credible scientific information, with input from those industries and stakeholders that would be directly affected by such changes. Unfortunately, both SR 5 and SCR 6 fall short on both of these fronts.

Thank you in advance for considering our views. If you have any questions or comments, please do not hesitate to contact me or ACC's Hawai'i based representatives Red Morris and/or John Radcliffe at 808-531-4551.

American Chemistry Council

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.

4. EPA should complete safe use determinations within set timeframes. 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.

SCR6
Submitted on: 3/17/2013
Testimony for ENE/PSM on Mar 19, 2013 14:15PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Cleon Bailey	Individual	Support	No

Comments: