

**Testimony of Steve Owens  
Assistant Administrator  
Office of Prevention, Pesticides and Toxic Substances  
U.S. Environmental Protection Agency  
before the  
Subcommittee on Commerce, Trade and Consumer Protection  
Committee on Energy & Commerce  
U.S. House of Representatives**

**November 17, 2009**

Good morning, Chairman Rush, Vice Chair Schakowsky, Ranking Member Radanovich, and Members of the Subcommittee. Thank you for the opportunity to address the Subcommittee today on the reform of chemicals management in the United States. Ensuring chemical safety in a rapidly changing world, restoring public confidence that EPA is protecting the American people, and promoting our global leadership in chemicals management are top priorities for Administrator Jackson and the EPA. I am pleased to be here today with my colleague, Dr. Eric Sampson, at CDC. We are actively working with CDC on a range of issues, including biomonitoring efforts on priority chemicals.

Chemicals are increasingly found in everything in our country – from this table, to this microphone, to the lights around us. And the truth is, there are still significant scientific gaps in our knowledge regarding many chemicals. That’s why, increasingly, the public is demanding that the government provide an assurance about the long term safety of these chemicals.

Mr. Chairman, EPA has jurisdiction over the safety of chemicals produced and used in the United States and this authority was given to the Agency through the 1976 Toxic Substances Control Act (TSCA). TSCA is the only major environmental statute that has not been reauthorized. The TSCA Inventory currently contains over 80,000 existing chemicals, few of which have been studied for their risks to children. Unlike the laws applicable to drugs and pesticides, TSCA does not have a mandatory program where EPA must conduct a review to

determine the safety of existing chemicals. In addition, TSCA places legal and procedural requirements on EPA before the Agency can request the generation and submission of health and environmental effects data on existing chemicals.

TSCA was an important step forward at the time. But over the years, not only has TSCA fallen behind the industry it is supposed to regulate, it has also proven an inadequate tool for providing the protection against chemical risks that the public rightfully expects.

When TSCA was enacted, it grandfathered in, without any evaluation, all chemicals that existed in 1976. Further compounding this problem, the statute never provided adequate authority for EPA to reevaluate existing chemicals as new concerns arose or science was updated, and failed to grant EPA full and complete authority to compel companies to provide toxicity data. As a result, in the 33 years since TSCA was passed, EPA has only been able to require testing on around 200 of the 80,000 chemicals produced and used in the United States.

It has also proven difficult in some cases to take action to limit or ban chemicals found to cause unreasonable risks to human health or the environment. Even If EPA has substantial data, and wants to protect the public against known risks, the law creates obstacles to quick and effective regulatory action. For example, in 1989, after years of study and nearly unanimous scientific opinion about the risk, EPA issued a rule phasing out most uses of asbestos in products. Yet, a federal court overturned most of this action because the rule had failed to comply with the requirements of TSCA.

These requirements have limited EPA's ability to issue regulations to control existing chemicals that have been determined to present an unreasonable risk. To date, only five of these existing chemicals have been regulated under TSCA's ban authority.

Today, advances in toxicology and analytical chemistry are revealing new pathways of exposure. There are subtle and troubling effects of many chemicals on hormone systems, human reproduction, intellectual development and cognition, particularly in young children. Mr. Chairman, it is clear that in order to properly do our job of protecting public health and the environment, TSCA must be updated and strengthened. EPA needs the tools to do the job the public expects.

Administrator Jackson recently announced a set of clear Administration principles to help inform drafting of a new chemical risk management law that will fix the weaknesses in TSCA. Let me highlight the Obama Administration's principles:

First, chemicals should be reviewed against safety standards that are based on sound science and reflect risk-based criteria protective of human health and the environment. EPA should have the clear authority to establish safety standards based on risk assessments, while recognizing the need to assess and manage risk in the face of uncertainty.

Second, the responsibility for providing adequate health and safety information should rest on industry. Manufacturers must develop and submit the hazard, use, and exposure data demonstrating that new and existing chemicals are safe. If industry doesn't provide the information, EPA should have the necessary tools to quickly and efficiently require testing, or obtain other information from manufacturers that are relevant to determining the safety of chemicals, without the delays and obstacles currently in place, such as the amount of time it takes to industry to provide requested information, or excessive claims of confidential business information.

Third, EPA should have clear authority to take risk management actions when chemicals do not meet the safety standard, with flexibility to take into account a range of considerations, including children's health, economic costs, social benefits, and equity concerns. Both EPA and industry must include special consideration for exposures and effects on groups with higher

vulnerabilities – particularly children. For example, children ingest chemicals at a higher ratio to their body weight than adults, and are more susceptible to long-term damage and developmental problems. Our new principles offer them much stronger protections.}

Fourth, EPA should have clear authority to set priorities for conducting safety reviews. In all cases, EPA and chemical producers must act on priority chemicals in a timely manner, with firm deadlines to maintain accountability. This will not only assure prompt protection of health and the environment, but provide business with the certainty that it needs for planning and investment.

Fifth, we must encourage innovation in green chemistry, and support research, education, recognition, and other strategies that will lead us down the road to safer and more sustainable chemicals and processes. All of this must happen with the utmost transparency and concern for the public's right to know.

Finally, implementation of the law should be adequately and consistently funded, in order to meet the goal of assuring the safety of chemicals, and to maintain public confidence that EPA is meeting that goal. To that end, manufacturers of chemicals should support the costs of Agency implementation, including the review of information provided by manufacturers.

We know that legislative reform may take time. Consequently, Administrator Jackson has directed my office in the interim to utilize our current authority under TSCA to the fullest extent possible, including Section 6 authority to label, restrict, or ban a chemical, to ensure that we do everything we can to protect the American people from dangerous chemicals.

We will be taking a number of steps over the coming months to put in place a multi-pronged approach to strengthen EPA's efforts to manage industrial chemicals.

Upon her arrival at EPA, Administrator Jackson made strengthening the Agency's chemicals management effort a top priority. She asked my office to review ongoing programs such as ChAMP – the Chemical Assessment and Management Program – a multi-year program, which utilized data gathered under the HPV Challenge program and the Inventory Update Rule. ChAMP was designed to develop screening-level assessments and risk prioritizations for thousands of chemicals produced or imported in quantities of 25,000 pounds or greater a year. After careful review and consideration, EPA concluded that the program was too focused on categorizing thousands of chemicals, which would take years. This review also highlighted that the categorizations were often based on limited and incomplete test and exposure data. EPA's new approach seeks to more quickly identify chemicals that pose the greatest risk and initiate action now – including new regulations or other approaches – to address those risks. As part of EPA's enhanced chemical management program, the Agency will also require that companies submit information to fill the remaining gaps in basic health and safety data on HPV chemicals. EPA also intends to make the reporting of chemical use information more transparent, more current, more useful, and more useable by the public. EPA believes this new targeted approach will prove more protective of human health and the environment.

EPA is currently evaluating an initial set of chemicals, based on available hazard, exposure, and use information, for potential action. Factors used to determine this initial set include use in consumer products; presence in human blood; persistent, bioaccumulative and toxic characteristics; toxicity; and production volume. We will complete and make public "action plans" for the chemicals which will outline the risks that the use of these chemicals may present and what steps we may take to address those concerns. Following this, we will engage with stakeholders on prioritizing additional chemicals for evaluation, and we aim to complete and make publicly available a group of chemical action plans every four months. EPA intends to engage stakeholders and dialogue with other federal partners, as well as the public, in the discussion about prioritizing chemicals for future risk management action over the coming months through public notices and public meetings.

The time has come to bring TSCA into the 21<sup>st</sup> Century. Administrator Jackson and I look forward working with Congress and this Subcommittee on this very important issue.