

**Testimony of Steve Owens  
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before the  
Subcommittee on Commerce, Trade, and Consumer Protection  
Committee on Energy and Commerce  
U.S. House of Representatives**

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Good morning Chairman Rush, Ranking Member Whitfield, and Members of the Subcommittee. Thank you for the opportunity to address the Committee today on the reform of chemicals management in the United States and the newly introduced Toxic Chemicals Safety Act of 2010. 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 EPA and our Administrator, Lisa Jackson.

Chairman Rush, I want to thank you, Chairman Waxman, as well as members of this Subcommittee for your leadership on this very important issue and your efforts to bring about comprehensive reform of the Toxic Substances Control Act (TSCA). The time has come to bring TSCA into the 21<sup>st</sup> Century and give the American people the protection from harmful chemicals they expect.

Although chemicals are found in virtually everything in our country, there are still significant scientific gaps in our knowledge regarding many chemicals. That's why, increasingly, the public are demanding that the government provide an assurance about the long term safety of these chemicals.

The Toxic Substances Control Act (TSCA), which was enacted in 1976, gives EPA jurisdiction over chemicals produced and used in the United States. TSCA is the only major

environmental statute that has not been reauthorized. The TSCA Inventory currently contains over 84,000 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 intended to regulate, it has also proven an inadequate tool for providing the protection against chemical risks that the public rightfully expects.

Mr. Chairman, the bill recently introduced by you and Chairman Waxman represents an important step toward providing greater protection for the health and safety of the American people, particularly our children.

When TSCA was enacted, it grandfathered in, without any evaluation, all chemicals in commerce 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 34 years since TSCA was passed, EPA has only been able to require testing on around 200 of the 84,000 chemicals listed on the TSCA Inventory. To date, only five of these chemicals have been regulated under TSCA's ban authority.

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.

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. It is clear that in order to properly protect public health and the environment, TSCA must be updated and strengthened, including providing the appropriate tools to protect the American people from exposure to harmful chemicals.

The principles that Administrator announced last September presented Administration goals for updating TSCA that would enable EPA to expeditiously target chemicals of concern and promptly assess and regulate new and existing chemicals.

Let me highlight those 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, 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 relative to their body weight than adults, and are more susceptible to long-term damage and developmental problems.

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.

Mr. Chairman, the bill recently introduced by you and Chairman Waxman takes a step towards the vision embodied in these principles. This legislation would require that all chemicals be reviewed against a safety standard that appears to be based on sound science and reflects risk-based criteria protective of human health and the environment. It would

squarely place the burden on industry to provide data to demonstrate that chemicals are safe. It would give EPA significantly greater authority to require any data necessary to assess the safety of chemicals and to quickly take action on chemicals which cause harm. The substantial increase in information available on toxic chemicals would vastly improve the understanding of chemical risks and greatly enable government and the public to make better informed decisions about the chemicals that are in the products we use daily. These key elements represent a significant change in the approach the U.S. has historically taken in regulating chemicals, and if enacted, would substantially update and modernize TSCA.

Further, this legislation addresses a number of other areas the Administration believes are important in modernizing this nation's chemicals management efforts, such as encouraging the development and use of green chemistry and adoption of safer alternatives. It would set reasonable limits on confidentiality claims while allowing the sharing of critical data – with appropriate safeguards -- with state governments also regulating chemicals. And clear authority is given to assess fees to support the operation of an improved chemicals management program.

Mr. Chairman, your efforts to engage stakeholders have allowed a wide range of parties to raise issues and identify areas where there is agreement as well as matters for further debate. We look forward to working with you and this Committee as you move forward with this important legislation.

The time has come to bring TSCA into the 21<sup>st</sup> Century. I would be happy to answer any questions you may have.