Safe Chemicals Act of 2010

The Toxic Substances Control Act of 1976 (TSCA) governs industrial chemicals. That antiquated laws' provisions have not been amended since their adoption more than three decades ago – despite huge changes in chemical production and use and our state of knowledge about how chemicals can harm health or the environment.

TSCA also placed severe burdens on EPA's ability to require safety testing or regulate a chemical – burdens so onerous that over the past 30 years EPA has been able to require testing for only about 200 chemicals out of more than 80,000 on the EPA's inventory. And TSCA has allowed EPA to regulate only limited uses of five chemicals. In 1989, EPA issued a regulation, ten years and tens of millions of dollars in the making, to ban most uses of the highly carcinogenic substance asbestos. The regulation was promptly challenged and ultimately tossed out by the courts, which ruled that EPA had not met its burden of proof under TSCA that asbestos poses an "unreasonable risk." Since then, EPA has not tried again to regulate a chemical's production or use.

The Government Accountability Office has issued several reports strongly criticizing the law, and, in January of 2009, placed TSCA on its list of "high risk" areas of the law.

The Safe Chemicals Act, introduced by Senator Lautenberg, would address each of the core failings of TSCA. In short, it would:

- <u>Ensuring EPA will have information on chemical hazards, uses and exposures sufficient to judge a chemical's safety.</u> The bill requires manufacturers to develop and submit a minimum data set for each chemical they produce. It provides EPA with full authority to require any data beyond the minimum data set needed to determine safety of a chemical. While it ensures EPA can obtain data necessary to make a safety determination, the bill also contains numerous provisions to ensure that no duplicative or unnecessary testing occurs, and that data is submitted to EPA only at the time it is needed.

- <u>Requiring EPA to use this information to categorize and prioritize chemicals, based on their hazard and exposure characteristics.</u> EPA will identify and prioritize chemicals by their likely risk, based on anticipated use, production volume, toxicity, persistence, bioaccumulation, and other properties that indicate risk. Prioritizing chemicals based on risk focuses EPA's resources on the chemicals most likely to cause harm, and allows the Agency to move quickly to manage risk for those chemicals.

- <u>Ensuring that expedited action is taken to reduce the use of or exposures to chemicals of highest concern.</u> In addition to setting up a system to evaluate the safety of all chemicals, the bill calls for EPA to act quickly on chemicals that clearly demonstrate high risk.

- Requiring all chemicals to be shown to be safe in order to remain in or enter commerce. The burden of proving safety rests on chemical manufacturers and users, not on government to show harm before it can act. All uses of a chemical must be identified, and the resulting aggregate exposure measured against a health-based safety standard set to protect both the general population and vulnerable subpopulations that may be more susceptible or more exposed to the chemical, such as children. If the safety standard is not met, the chemical cannot be marketed.

- Ensuring broad public, market and worker access to reliable chemical information. It establishes a public database that will house both chemical information submitted to EPA and decisions made by EPA about chemicals. It narrows the conditions under which data submitted by industry can be claimed to be confidential business information (CBI), while still ensuring appropriate protections for legitimate CBI. It provides access to CBI by workers and local, state, Tribal and (in some cases) foreign governments as long as they protect its confidentiality. Finally, EPA is to impose requirements to ensure that information developed and submitted by industry, and advice received from advisory committees convened by EPA, are reliable.

- Promoting innovation and the development and use of green chemistry and safer alternatives to chemicals of concern. The bill requires EPA to establish a program to develop market and other incentives for safer alternatives, and a research grant program targeted at priority hazardous chemicals for which alternatives do not presently exist. A network of research centers would be established to conduct green chemistry research and alternatives analyses, and to provide training, educational materials, and technical assistance to educational institutions, small businesses, government and non-governmental organizations. The bill also allows some new chemicals onto the market using an expedited process for reviewing safety.

The Safe Chemicals Act of 2010 is a long-overdue modernization of the Toxic Substances Control Act. It address the problems with TSCA that have been identified by the Government Accountability Office and other experts and industry leaders that have testified in Senator Lautenberg's Subcommittee on Superfund, Toxics, and Environmental Health over the past year. The bill comports with principles for TSCA reform issued by the Obama Administration, the American Chemistry Council, and the Safer Chemicals, Healthy Families Coalition.