



## **Chemical Safety Improvement Act TSCA Finally Repaired**

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The Toxic Substances Control Act (TSCA) is long overdue for repair or replacement. I appear before you today as a representative of the State of West Virginia to urge support for and passage of the Chemical Safety Improvement Act (CSIA). I think that CSIA is the best, and perhaps the last, chance to make needed repairs to TSCA. I am aware of objections to the bill brought forth by other states and organizations; however, I do not think any of these objections are insurmountable--especially given that even the severest critics praise the current bipartisan effort to address the problems of TSCA.

I do not need to go into the many flaws in TSCA. Opponents and supporters alike all agree that it is past time for TSCA to be fixed, and even the Environmental Protection Agency's own Inspector General acknowledges that is broken. There are those of us who have held this position for decades. I will, therefore, focus on the reasons that I think that CSIA should become law.

The bill states in its "Findings" section that "...scientific understanding of chemicals has evolved greatly since 1976, requiring that Congress update the law to ensure that chemical regulation in the United States reflects modern science, technology and knowledge." Sometimes it is easy to forget just how far science has progressed since 1976; but, chemical analysis, epidemiology, environmental modeling, and other disciplines are so far advanced since then that they are barely recognizable as the same fields. The "best available science" of today is far, far better than it was 37 years ago. While this is not to imply that TSCA scientists haven't kept up

with scientific trends and equipment, much of what was accomplished under this law was done long ago. The public, the regulated community, and those in state and local government need and deserve the most accurate and scientifically defensible information on chemicals that we can possibly have. I think that is possible with this bill.

Notwithstanding the programs in California, Washington, and a few other locations, most of the country--West Virginia included--lacks the resources and/or personnel to develop and implement chemical testing programs of their own. Because of this, we look to the federal government to perform that important work for us. I understand the reason that the more fortunate areas have forged ahead on their own, and I understand their concern that their efforts not be undermined; but, I strongly believe that protective language is in place, or that stronger language can be forged that will protect existing programs and allow the program to move forward for the rest of us. In fact, West Virginians have good reason to be concerned that we are able to maintain a level of independence in the evaluation process. As development of the Devonian Shale (most recognizably known as the Marcellus Shale) gas reserves progresses, we may have a need to evaluate and regulate chemicals used in the development and production of those reserves.

In recent years, many states have inserted language into their laws to the effect that state law can be no more stringent than federal law. The impact that an ineffective TSCA has in that arena is obvious. In order for a state to take any regulatory stance on a chemical not regulated by another program, the federal program must have taken some action other than just adding the chemical to a list. I think that CSIA, when implemented, will provide a framework that states can use to support their own actions, if necessary.

Consistency is important in any program, and it is especially important in programs that cross state lines and EPA regional lines. TSCA, for all of its shortcomings, has been fairly consistently applied across state and regional borders. I understand that it is important to protect the independence of programs that already exist (and I believe that can be done with this bill). I believe just as strongly that a clear and consistent federal program that actually does what TSCA was supposed to do can only benefit the citizens of this country.

I also envision CSIA as having a positive influence on both innovation and competition in the chemical industry. Green chemicals are desirable to the industry on two levels. First, the consumer has become far more concerned about the potential health and environmental effects of what he or she is buying. They are more likely to buy products that have been shown to be safe by an agency they trust. Second, the short and long-term environmental effects of a chemical are of great concern to the industry due to accidental releases. The easier to remediate a release, the less expensive it is. Chemical companies know and appreciate the costs of long remediation projects.

While it is difficult for me to say, as someone who has spent much of his professional life in the environmental protection business, but TSCA has provided a false sense of security to untold numbers of people in this country who have bought into the proposition that it was providing a safety net--that it was testing and evaluating new chemicals before they could come on the market. We know that is not true and we know that it will be a difficult assignment if and when CSIA comes to pass. But I think that we can all agree that it needs to be done. We owe it to our constituents.

Finally, I appear before you today as a graybeard. I have been around long enough to see some state and federal laws, rules, and regulations come to life and become implemented, and others slowly die and become forgotten. I have also seen laws with good intentions fail. TSCA is one of those failed laws. It was passed for good reasons and still has an important role to play in our country. Perhaps, its role is more important today than it ever has been. Some of what it accomplished has been very good--such as the regulation of PCBs, the elimination of lead-based paint, and the regulation of asbestos; but in the area that citizens most need protection, it has failed. It has failed to adequately test and evaluate chemicals as they enter into our lives. CSIA is the most viable chance to fix TSCA that has come along in my career. There are problems, of course. There are always problems with any legislation. This legislation deserves the chance to have the problems ironed out and to become law. If passed, it will still require a great deal of effort and care for it to avoid falling to the same fate as TSCA. It must be managed, evaluated, and adapted, as needed, to correct flaws that are not apparent to us today. But it is worth doing.

Thank you for the opportunity to appear here today.