STATEMENT OF

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BEFORE
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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS AND
SUBCOMMITTEE ON SUPERFUND, TOXICS AND ENVIRONMENTAL HEALTH

AT A LEGISLATIVE HEARING ON
S. 847, THE SAFE CHEMICALS ACT OF 2011

17 NOVEMBER 2011

I am testifying today on behalf of both the Environmental Defense Fund (EDF) and Safer Chemicals, Healthy Families, a coalition of over 300 organizations that speak for more than 11 million Americans. The coalition includes groups representing health professionals and health-affected populations and communities, environmental justice organizations, leading businesses, and state and national environmental groups – all of whom came together to urge Congress to fundamentally reform the Toxic Substances Control Act of 1976. A list of members of the coalition is attached to my written testimony.

THE PROBLEM

Over the past decade, a litany of serious concerns has emerged that calls into question the safety of the thousands of chemicals we use and encounter in our everyday lives:

- Lead has shown up in a host of children's products, imported and domestic, finally prompting Congress to impose a ban – only to see another toxic heavy metal, cadmium, immediately take its place, in a most deadly version of the kids' game "whack-a-mole."
- The science of biomonitoring has revealed that virtually all Americans, including newborns, carry in our bodies hundreds of toxic synthetic chemicals, many derived from everyday products – yet no one can tell us how they got there or what effects such a mixture of chemicals is having on our and our children's health, because they have not been adequately tested or assessed for safety.
- Persistent, bioaccumulative and toxic (PBT) chemicals that we were told we would never be exposed to – such as those used as flame retardants in furniture and TV casings, in stain-resistant coatings on textiles and food packaging, and as plastics additives – are now routinely detected in the dust in our homes, in our environment, in marine mammals, and even in people living in the remotest parts of the globe.
- Our scientific understanding of how chemicals affect our biology has grown dramatically over the last decade. We now know that the timing of exposures, especially during early development, is critical; that even very low doses of certain chemicals can have adverse effects; and that it is the cumulative effects of long- as well as short-term, real-world exposures to multiple chemicals that matter most.
- A large and growing body of scientific evidence[1] is linking chemical exposures to several serious chronic diseases and disorders that are becoming more prevalent, including:
    - leukemia, brain and other childhood cancers, which have increased more than 20% since 1975;
    - breast cancer, which went up by 40% from 1973 to 1998;
    - asthma, which almost doubled in prevalence from 1980 to 1995;
    - autism, diagnoses of which have increased 10-fold in the last 15 years; and
    - difficulty in conceiving and maintaining a pregnancy, which affected 40% more women in 2002 than in 1982.
- EPA is forced to perform Google searches to try to identify all uses of chemicals like the hormone-disrupting bisphenol A. That is because it lacks authority to ensure accurate

[1] Summarized in *The Health Case for Reforming the Toxic Substances Control Act*, 2010, available at http://healthreport.saferchemicals.org/.

reporting of chemical uses. And even though people are exposed to such chemicals from many different sources, EPA lacks a mandate to assess the aggregate risks.

- EPA cannot provide even a rough approximation of the actual number of chemicals in commerce today or how and where they are used. That is because EPA is severely constrained in collecting even the most basic information from companies that make and use chemicals. Many companies are not even required to notify EPA when they begin to produce a chemical or use it in a new way.
- 80% of all new chemical notices submitted to EPA include no health or environmental data. That is because the U.S. is virtually alone among all developed countries in not requiring a minimum data set to be submitted for new chemicals. While EPA can in theory require subsequent testing, the burdens are so high that it has done so for only a few percent of new chemicals.
- Residents in low-income communities of color like Mossville, Louisiana (which is surrounded by 14 chemical plants) are routinely exposed to deadly chemicals like dioxin, benzene and vinyl chloride in amounts that far exceed general population exposures. Yet such disproportionate impacts need not be accounted for when the government conducts risk assessments on such chemicals, and actions to reduce the exposures are few and far between.
- The public, state governments and even workers who may be directly exposed to chemicals are denied access to the great majority of chemical information that companies submit to EPA. That is because the companies have been given wide latitude to claim it as confidential, and EPA lacks resources to review the claims to determine if they are legitimate.

All of the problems I just described can be attributed, in whole or in part, to the failures of our country's main chemical safety law, the Toxic Substances Control Act (TSCA).

THE SOLUTION

All of these problems would be largely or entirely ameliorated by adoption of legislation introduced this year, S. 847, the Safe Chemicals Act of 2011. It provides the framework for a comprehensive, systematic solution to a set of problems that until now have only been addressed – if at all – through reactive, piecemeal actions.

EDF and the Safer Chemicals, Healthy Families coalition support S. 847 because it strikes the right balance: It fully protects human health and the environment (including the most vulnerable among us), while also encouraging and rewarding innovation toward safer chemicals and products; and it informs the chemicals marketplace as well as consumers and the public, while protecting legitimate confidential business information.

The Safe Chemicals Act would:

- promptly reduce exposure to the "worst of the worst" toxic chemicals, those that persist and build up in the food chain;
- ensure basic health and safety information is available for all chemicals as a condition for entering or remaining on the market;

- reduce the high burden of toxic chemical exposures on people of color and low-income and indigenous communities;
- upgrade methods used to test and evaluate chemical risks to reflect the best available science, based on recommendations of the National Academy of Sciences; and
- provide the tools and resources needed to identify and address those chemicals posing significant health and environmental concerns.

Attached to my written testimony is a more detailed description of the many ways in which the Safe Chemicals Act would make vitally important reforms to TSCA.

Since first introduced in 2010, the Act has incorporated many significant changes that reflect input from a broad range of stakeholders. Another attachment to my written testimony lists the many improvements made in the 2011 bill. Here are a few highlights of changes that both boost health protections and ease implementation and workability:

- An orderly process is set forth that categorizes chemicals into high-, some- and low-concern classes and directs those chemicals toward specific actions or to be set aside.
- Action is to be taken to immediately reduce exposure to chemicals of high concern – those that are persistent, bioaccumulative and toxic (PBT) to which people are exposed.
- Chemicals would be prioritized and for those requiring safety determinations, the pace of that activity would be matched to EPA's capacity and resources.
- Minimum information requirements would be tailored to different types or classes of chemicals, while still ensuring that basic safety information is provided in a timely manner for all chemicals.

THE OPPORTUNITY

At this moment, there is a truly remarkable consensus among the full range of stakeholders that Congress needs to reform the Toxic Substances Control Act. TSCA is not only failing to provide the health protections that Americans need and expect, it is also not providing industry with a stable environment in which to do business, nor its customers at home and abroad with confidence in the safety of its products.

We recognize a reformed TSCA must meet the needs of a diverse set of stakeholders, including the regulated community. That is why our coalition is directly engaging with a broad range of companies that produce, use, buy and sell chemicals and chemical products, to understand their perspectives and identify the best ways to deliver better information and critical health protections effectively and efficiently.

We have ongoing dialogues with the American Chemistry Council (ACC) and the Consumer Specialty Products Association (CSPA) and more than a dozen of their member companies; these have involved many days of substantive meetings on key issues in TSCA reform over the past six months. Eight members of our coalition traveled to the Headquarters of both The Dow Chemical Company and Procter & Gamble, meeting for two full days with each company to learn about their businesses and approaches to chemical safety, and to share perspectives on

TSCA reform. And we have met with dozens of other companies from all levels in the chemicals supply chain to understand their needs for information about chemicals in the products they make, buy and sell.

We have also been extremely encouraged by the leadership of Chairman Lautenberg and Ranking Member Inhofe in convening a series of meetings of key stakeholders to explore ways in which TSCA reform could be advanced in a bipartisan manner. Our coalition enthusiastically participated in all of those meetings.

All of these exchanges have convinced us that we have a huge opportunity to forge a legislative path forward that is truly bipartisan and meets the needs of both industry and the health and environmental communities. In our dialogues with industry, enormous progress has been made due to efforts made by both sides to gain a better understanding of each other's needs and perspectives, to narrow differences, and to find creative solutions that are both practical and effective.

While confidentiality agreements preclude me from discussing details, let me say that in our dialogue with CSPA we are on the cusp of agreement on recommendations to consider in the legislation that would address two key needs in TSCA reform: balancing public access to chemical information with the need to protect legitimate confidential business information; and designing a system to provide EPA with more robust information on how chemicals are used for purposes of both prioritizing and assessing the safety of chemicals.

I have come away from my deep involvement in these dialogues with the belief that there is not a single major issue in TSCA reform for which, working together, we cannot find a solution. EDF and the Safer Chemicals, Healthy Families coalition would welcome the opportunity to share these bridging concepts, along with companies with whom we have been engaged. We urge the members of the Committee to act on this major opportunity to forge and advance a legislative vehicle that is bipartisan.

Public opinion research consistently shows that Americans do not see this issue in partisan terms, and that, whatever their political persuasions, they want a system that gives them confidence that the products and materials they buy and use every day are safe for their families and their environment and good for business and the economy.

I strongly urge the Committee to advance TSCA reform legislation in this Congress. It represents a once-in-a-generation opportunity to create a chemicals management system that sustains our health, our environment, and our economy.

Thank you for the opportunity to testify today at this important legislative hearing.

MEMBERS OF THE SAFER CHEMICALS, HEALTHY FAMILIES COALITION

Public Health Organizations

Agent Orange Legacy - Children of Vietnam Veterans
American Public Health Association - Public Health Nursing Section
Asbestos Disease Awareness Organization
Association of State and Territorial Directors of Nursing
Bladder Cancer Advocacy Network
Breast Cancer Action
Breast Cancer Fund
Citizens for Health
Consumers Union
The Endometriosis Association
First Focus
Institute for Agriculture and Trade Policy
Lung Cancer Alliance
Massachusetts Breast Cancer Coalition
National Center for Environmental Health Strategies
National Disease Clusters Alliance
National Healthy Nail Salon Alliance
National Pediculosis Association
Partners in Healthy Communities
Oregon Public Health Association
Rachel's Friends Breast Cancer Coalition
Women's Cancer Action
Women's Community Cancer Project
Women's Health & Environmental Network
Women's Voices for the Earth

Health Care Providers/Research Institutions

Alliance of Nurses for Healthy Environments
American Nurses Association
Birth Defect Research for Children
The CRS Institute
Delaware Nurses Association
DrGreene.com
Health Care Without Harm
Marine Environmental Research Institute
Mount Sinai Children's Environmental Health Center
National Medical Association
Nurses for Global Health
North Carolina Chapter of the American Academy of Pediatrics
Ohio Nurses Association
Physicians for Social Responsibility
Physicians for Social Responsibility - Austin
Physicians for Social Responsibility - Chicago
Physicians for Social Responsibility - Colorado
Physicians for Social Responsibility - Greater Boston
Physicians for Social Responsibility - Los Angeles
Physicians for Social Responsibility - Maine
Physicians for Social Responsibility - Oregon
Physicians for Social Responsibility - Sacramento
Physicians for Social Responsibility - San Francisco Bay Area
Physicians for Social Responsibility - Tampa Bay
Science & Environmental Health Network
Washington Physicians for Social Responsibility
Washington State Association of Occupational Health Nurses
Washington State Nurses Association
Yale School of Medicine, Environmental Health Group

Learning/Developmental Disabilities Organizations

American Association on Intellectual and Developmental Disabilities
American Network of Community Options and Resources
Association for Children's Mental Health
The Arc of Massachusetts
The Arc of the U.S.
The Autism Society
CHADD - Children and Adults with Attention Deficit/Hyperactivity Disorder
Developmental Disabilities Nurses Association
Institute of Neurotoxicology & Neurological Disorders
Learning Disabilities Association of America
Learning Disabilities Association of Maine
Learning Disabilities Association of Michigan
Learning Disabilities Association of Minnesota
Learning Disabilities Association of New York State
Minnesota Association for Children's Mental Health
SafeMinds

National Environmental Organizations
American Bird Conservancy
Center for Health, Environment & Justice
Center for International Environmental Law
Clean Water Action
Commonweal
Earthjustice
Emerald Coastkeeper, Inc.
Environmental Defense Fund
Environmental Health Fund
Environmental Law & Policy Center
Grassroots Environmental Education
Green America
Greenguard Environmental Institute
Greenpeace
Jean-Michel Cousteau Ocean Futures Society
League of Conservation Voters
Natural Resources Defense Council
North American Hazardous Materials Management Association
Pesticide Action Network of North America
Rachel's Network
Sierra Club National Toxics Committee
Teens Turning Green
Union of Concerned Scientists
US Public Interest Research Group

Environmental Justice Organizations
Advocates for Environmental Human Rights
Air Alliance Houston (TX)
Alaska Community Action on Toxics (AK)
Black Women for Wellness
BURNT (TN)
Connecticut Coalition for Environmental Justice (CT)
Don't Waste Arizona (AZ)
The Earth Cause Organization (AR)
Environmental Community Action Inc. (ECO-Action) (GA)
Environmental Justice Action Group (AZ)
Environmental Justice Advocates of Minnesota (MN)
For a Better Bronx (NY)
Galveston Baykeeper (TX)
Indigenous Environmental Network (MN)
Just Transition Alliance (CA)
The JustGreen Partnership (NY)
Kalpulli Izkalli
Kentucky Resources Council, Inc. (KY)
REACT - Rubbertown Emergency ACTion (KY)
Rural Coalition (DC)
Safer Pest Control Project (IL)
Southwest Worker's Union (TX)
T.E.J.A.S. (Texas Environmental Justice Advocacy Services)
UPROSE (United Puerto Rican Organization of Sunset Park) (NY)
Voices for Earth Justice (MI)
WE ACT for Environmental Justice (NY)

Mom Bloggers for Safer Chemicals
Alexandra Zissu at Alexandrazissu.com
Anna Hackman at Green Talk
Deanna Duke at Crunchy Chicken
Diane MacEachern at Big Green Purse
Donielle Baker at Natural Living Moms
Jeanne Blaisdell at The Green Samaritan
Kathy Scoleri at The Safe Mama
Katy Farber at Non-Toxic Kids
Linda Anderson at Citizen Green
Lori Alper at Groovy Green Livin
Sommer Poquette at Green & Clean Mom
Tracy Himes at Verde Mom

Parent Organizations
EcoMom Alliance
Growing Green Child Development Center
Healthy Child Healthy World
healthy-kids.info
Holistic Moms Network
Moms Rising
Making Our Milk Safe
National Green School Coalition
Parents for Nontoxic Alternatives
Styrofoam Out of School/Fund for City of New York

Reproductive Health Organizations
The American Fertility Association
Asian Communities for Reproductive Justice
Association of Reproductive Health Professionals
National Asian Pacific American Women's Forum
Physicians for Reproductive Health and Choice
Planned Parenthood Federation of America
Reproductive Health Technologies Project

State Advocacy and Community Organizations

Action for Children North Carolina (NC)
Alaska Community Action on Toxics (AK)
Allergy Kids Foundation (CO)
Alliance for a Clean and Healthy Maine (ME)
Alliance for a Clean and Healthy Vermont (VT)
Alliance for Sustainability (MN)
Anti Uranium Coalition (CO)
Arkansas Community Organizations (AR)
Basel Action Network (WA)
Bay Area Healthy 880 Communities (CA)
Berkshire Environmental Action Team (BEAT) (MA)
Buckeye Environmental Network
Butte Environmental Council (CA)
California Healthy Nail Salon Collaborative (CA)
Californians for Pesticide Reform (CA)
Cancer Prevention Coalition Los Angeles
Center for Environmental Health (CA)
Chehalis River Council (WA)
Citizens' Environmental Coalition (NY)
Citizens for the Chuckwalla Valley (CA)
Clean New York (NY)
Coalition for a Safe & Healthy Connecticut (CT)
Delawareans for Social and Economic Justice (DE)
Duwamish River Cleanup Coalition (WA)
Earth Ministry (WA)
Earthology Institute (WI)
Earthrose Institute (FL)
East Michigan Environmental Action Council (MI)
Ecology Center (MI)
Environment California (CA)
Environment Illinois (IL)
Environment North Carolina (NC)
Environmental Health Strategy Center (ME)
Families Against Cancer & Toxics (AZ)
Florida Public Interest Research Group (FL)
Glynn Environmental Coalition (GA)
Great Lakes United (NY)
GreenCAPE (MA)
Green Cleaning Network (IN)
Healthy Legacy (MN)
Hilltown Anti-Herbicide Coalition (MA)
Huntington Breast Cancer Action Coalition, Inc. (NY)
Indiana Toxics Action Project (IN)
Kentucky Environmental Foundation (KY)
Kids for Saving Earth (MN)
LocalMotionGreen (MI)
Lutheran Public Policy Office of Washington State (WA)
Maine Association of Certified Professional Midwives (ME)
Maine Children's Alliance (ME)
Maine League of Conservation Voters (ME)
Maine League of Young Voters (ME)
Maine Organic Farmers and Gardeners Association (ME)
Maine Parent Teacher Association (ME)
Maine People's Alliance (ME)
Maine Women's Lobby (ME)
Mainely Girls (ME)
Maryland Public Interest Research Group (MD)
Massachusetts Breast Cancer Coalition
Massachusetts Parent Teacher Association (PTA) (MA)
Mercury Awareness Team of Washington (WA)
Michigan Environmental Council (MI)
Minnesota Center for Environmental Advocacy (MN)
Minnesota Pesticide Awareness (MN)
Minnesota Public Interest Research Group (MN)
Natural Resources Council of Maine (ME)
Neighbors for Clean Air (OR)
New Jersey Environmental Federation
New Jersey Environmental Justice Alliance
New York City Environmental Justice Alliance (NY)
New York Lawyers for the Public Interest (NY)
North Carolina Conservation Network (NC)
Northwest Coalition for Alternatives to Pesticides (OR)
Ohio Conference on Fair Trade (OH)
Ohio Environmental Council (OH)
Ohioans for Health, Environment, and Justice (OH)
Olympic Environmental Council (WA)
Omaha Healthy Kids Alliance (NE)
Oregon Center for Environmental Health (OR)
Oregon Environmental Council (OR)
Oregon Toxics Alliance (OR)
PAWS (WA)
Pesticide Watch Education Fund (CA)
Preventing Harm Minnesota (MN)
Project SafeYard (NC)
Projects for Environmental Health, Knowledge, & Action, Inc. (NJ)

Rainier Audubon Society (WA)
Restaurant Opportunities Center of New York (NY)
Restaurant Opportunities Centers United
River Network (OR)
Roman Catholic Diocese of Portland Maine (ME)
Safer States
San Francisco Asthma Task Force
Seattle Tilth (WA)
Spokane Riverkeeper (WA)
Stephen Foster Neighborhood Protection Group (FL)
Sustainable Sudbury (MA)
Take Back the Air (MN)
Texas Campaign for the Environment (TX)
Texas Impact (TX)
Toxic Free North Carolina (NC)
Toxics Action Center (ME)
Washington Public Interest Research Group (WA)
Washington Toxics Coalition (WA)
Women for a Healthy Environment (PA)
Women's Environmental Institute (MN)
Women's Lobby of Colorado (CO)
World Team Now (CA)

Businesses/Analysts

American Sustainable Business Council
Babies 411 LLC
Buttercup Naturals LLC
Catholic Healthcare West
Chez Sven Bed & Breakfast
Citizenpip
Clean Production Action
CleanWell Company
Creative Health Connections
Dapple Baby
Debra Lynn Dadd
DNP Green Technology
Dream2Clean, Ltd.
DriftAwaySoap
Duck Duck Green
Ely Organics
Fezal Naturally, LLC
Fire Belly Lawn Care
Grace Naturals
green age
Green Depot
Green Health Project TX
Green Maid, Inc.
The Green Stork
Greener Country
Healthy Building Network
Healthy Family, Healthy World
Healthy Planet Fundraising
Herban Lifestyle, LLC
IceStone LLC
Informed Green Solutions, Inc.
InTandem Integrative Therapies
Jocelyn Anker
Laro Baby
Maid Naturally
Main Street Martial Arts
Melaleuca - The Wellness Company
myEARTH360.com
My Online Trainer
Naturepedic
Navan Foods: The Allergy Free Food Shop
New Harmony
Organic Valley
PioMu Kids & Toys
Priscilla Woolworth
Q Collection
Quality of Life
Seventh Generation
Simply Toddler LLC
Smart Green Media, LLC
Squishy Press
The Soft Landing, LLC
Sound Earth
Stonyfield Farm
Subra
SUST
Sustainable Party
Sustain LA
Sustainability Associates
Texas Green Clean
Toxic Baby
Toxic Justice
Wise Solutions, Inc.
Zoe Organics

How the Safe Chemicals Act of 2011 (S. 847) would fix the major flaws of the Toxic Substances Control Act (TSCA)

Prepared by Richard A. Denison, Ph.D., Senior Scientist, Environmental Defense Fund

Currently under TSCA	***Under the Safe Chemicals Act of 2011 (S. 847)***
SAFETY DATA	
Few data call-ins are issued, even fewer chemicals are required to be tested and no minimum data set is required even for new chemicals.	Up-front data call-ins for all chemicals would be required. Minimum data sets (MDSs) on all new and existing chemicals sufficient to determine safety would be required to be developed and made public.
BURDEN OF PROOF	
EPA is required to prove harm before it can regulate a chemical.	Industry would bear the legal burden of proving their chemicals are safe.
ASSESSMENT OF SAFETY	
No mandate exists to assess the safety of existing chemicals. New chemicals undergo a severely time-limited and highly data-constrained review.	Both new and existing chemicals would generally be subject to safety determinations as a condition of entering or remaining on the market, using the best available science that relies on the advice of the National Academy of Sciences. Chemicals designated by EPA to be intrinsically safe would not require assessment or further action unless new information altered their designation.
SCOPE OF ASSESSMENT	
Where the rare chemical assessment is undertaken, there is no requirement to assess exposure to all sources of exposure to a chemical, or to assess risk to vulnerable populations. No guidance is provided on how to determine whether a chemical presents an "unreasonable risk."	The safety standard would require EPA to account for aggregate exposures to all uses and sources of a chemical, and to ensure protection of vulnerable populations that may be especially susceptible to chemical effects (e.g., children, the developing fetus) or subject to disproportionately high exposure (e.g., low-income communities living near contaminated sites or chemical production facilities).
CHEMICALS AND EXPOSURES OF HIGH CONCERN	
No criteria are provided for EPA to use to identify and prioritize chemicals or exposures of greatest concern, leaving such decisions to case-by-case judgments.	EPA would be required to develop and apply criteria to identify toxic chemicals to which people are exposed that persist and build up in the environment and people (PBTs). "Hot spots" where people are subject to disproportionately high exposures would be specifically identified and addressed.

Currently under TSCA	***Under the Safe Chemicals Act of 2011 (S. 847)***
REGULATORY ACTION	
Even chemicals of highest concern, such as asbestos, have not been able to be regulated under TSCA's "unreasonable risk" cost-benefit standard. Instead, assessments often drag on indefinitely without conclusion or decision.	PBTs to which people are exposed would be moved directly to mandatory exposure reduction. The remaining chemicals would be prioritized for assessment against a health-based standard, and deadlines for decisions would be specified. EPA would have authority to restrict production and use or place conditions on any stage of the lifecycle of a chemical needed to ensure safety.
INFORMATION ACCESS	
Companies are free to claim, often without providing any justification, most information they submit to EPA to be confidential business information (CBI), denying access to the public and even to state and local governments. EPA is not required to review such claims, and the claims never expire.	All CBI claims would have to be justified up front. EPA would be required to review them, and only approved claims would stand. Approved claims would expire after no more than five years, except for types of claims for which EPA determines the five-year term would not apply. Other levels of government would have access to CBI.
RULEMAKING REQUIREMENTS	
To require testing or take other actions, EPA must promulgate regulations that take many years and resources to develop. EPA must show potential for a chemical to cause harm in order to require testing, a *Catch-22*.	In addition to the MDS requirement, EPA would have authority to issue an order rather than a regulation to require reporting of existing data or additional testing, and need not first show evidence of harm.

Summary of Changes in the Safe Chemicals Act of 2011 vs. 2010

Prepared by Richard A. Denison, Ph.D., Senior Scientist, Environmental Defense Fund

2010 bill	***2011 bill (S. 847)***
Sec. 3: Definitions	
Defines "adverse effect."	Defers definition of this term to EPA.
Defines "aggregate exposure" to include certain non-TSCA uses of chemicals.	Clarifies that exposures arising from TSCA as well as non-TSCA uses are to be considered in assessing "aggregate exposures."
Defines "bioaccumulative" based on EPA's limited PBT criteria developed in 1999 for the New Chemicals Program.	Defines "bioaccumulative" to provide for consideration of monitoring and other types of data indicating actual or potential accumulation of a chemical in people or other organisms.
Defines "cumulative exposure" to include chemicals associated with "<u>an adverse effect</u>."	Clarifies that cumulative exposures are from multiple chemicals that relate to "<u>the same or similar</u> adverse effect."
Defines "persistent" based on EPA's limited PBT criteria developed in 1999 for the New Chemicals Program.	Defines "persistent" to provide for consideration of monitoring and other types of data indicating actual or potential persistence of a chemical in various environmental media.
Defines "reasonable certainty of no harm" to require assessment of both aggregate and cumulative exposures.	Establishes (in Sec. 6) that the safety standard is to be based "solely on considerations of human health and the environment, including the health of vulnerable human populations." Clarifies that cumulative exposures are to be considered only "to the extent practicable" and where information is available that allows such consideration.
Sec. 4: Minimum data sets and testing of chemical substances	
"The rule may provide for varied or tiered testing for different chemical substances, mixtures or categories of chemical substances and mixtures."	"May" is changed to "shall" and minimum data *sets* (plural) are to be developed, to clarify that the minimum information required may differ among different types or classes of chemicals. MDSs must provide sufficient "information necessary for the Administrator to conduct a screening-level risk-assessment." MDS development is to "encourage and facilitate the use of alternative testing methods and testing strategies to generate information quickly, at low cost, and without the use of animal-based testing, including toxicity pathway-based risk assessment, in vitro studies, systems biology, computational toxicology, bioinformatics, and high-throughput screening."

2010 bill	*2011 bill (S. 847)*
Minimum data sets [MDSs] are due within 18 months after prioritization for existing chemicals, and at the time of filing notification for new chemicals.	MDSs are due within the earlier of 18 months of assignment to a priority class (see Sec. 6 below) or 5 years of enactment, for existing chemicals; and at the time of filing notifications, for new chemicals.
Sec. 6: Prioritization, safety standard determination, and risk management	
Chemicals are to be prioritized for safety determinations, based on production volume, use, hazard and exposure. [Categorization is provided for in Sec. 8 but is not tied to other actions.]	Chemicals are to be categorized as: • Priority Class 1: Chemicals requiring immediate risk management (PBTs with potential for widespread exposure; list to include 20-30 such PBTs); • Priority Class 2: Chemicals requiring safety determinations (chemicals for which there is "more than a theoretical concern" as to whether the chemical would meet the safety standard); or • Priority Class 3: Chemicals requiring no immediate action (chemicals with inherent properties indicating no risk based on robust data).
A priority list of not less than 300 chemicals is to be established as the basis for the order in which safety determinations are to be conducted. [Sec. 29, Expedited action on chemicals of highest concern, is limited to a single sentence: "The Administrator shall act quickly to manage risks from chemical substances that clearly pose the highest risks to human health or the environment."]	• Priority Class 1 chemicals would be subject to conditions EPA deems needed "to achieve the greatest practicable reductions in human or environmental exposure." A safety determination for remaining sources of exposure would subsequently be conducted. • Priority Class 2 chemicals would be prioritized for safety determinations. The number of substances assigned to this class at a given time would be based on EPA's capacity to expeditiously conduct safety determinations. • Priority Class 3 chemicals could be subject to a safety determination if new information is developed that calls into question or changes their categorization.
Burden of proof (BOP) is not separately delineated from duties of companies and EPA.	A clear statement that industry bears the legal BOP, and a separate clear statement of industry's duty to provide information sufficient to determine safety, and EPA's duty to make safety determinations, are provided.
In making safety determinations, EPA is to "consider" recommendations of the National Academy of Sciences (NAS).	EPA is to base determinations on the best science, which in turn is to be based on "the recommendations of the National Academy of Sciences in the report

2010 bill	*2011 bill (S. 847)*
	entitled 'Science and Decisions'." EPA's methodology for determinations is to be reviewed no less than every 5 years and revised "to reflect new scientific developments or understandings."
Sec. 14: Disclosure of data	
Sharing of confidential business information (CBI) with state governments would be subject to any applicable agreements to maintain confidentiality.	Clarifies that CBI may only be shared where an agreement is in place to ensure the information is kept confidential.
All CBI claims would be subject to a five-year expiration.	EPA would be required to designate types of information for which the five-year term would not apply.
	A new provision is added clarifying that nothing in this section limits EPA's authority to determine that particular information, previously considered entitled to CBI protection, is no longer so entitled.
Sec. 18: Preemption	
Actions taken under TSCA would not pre-empt State laws that are <u>more stringent than</u> TSCA.	Actions taken under TSCA do not affect the right of a State to adopt requirements or standards that are <u>different from or in addition to</u> those under TSCA, unless compliance with both the TSCA and the State requirement or standard is impossible.
Generally applicable provisions	
EPA may prohibit production/use of a chemical in case of a violation of a requirement under the Act. *(appears in several sections)*	EPA may impose any condition listed under section 6(c) in case of a violation under the Act. *(replacement made in those same sections)*
Retains references throughout current TSCA to EPA's authority to require testing, reporting or regulation of mixtures.	Consolidates references to mixtures (in Sec. 26) and clarifies that "any action authorized or required to be taken by the Administrator or any other person under any provision of this Act with respect to a chemical substance is likewise also authorized or required with respect to a mixture, if the Administrator determines that such extension is reasonable and efficient."