Testimony of
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I. Introduction

Good morning Madam Chair and members of the Committee, thank you for the invitation to speak with you today. It is my privilege to represent the U.S. Environmental Protection Agency during this oversight discussion on the Toxic Substances Control Act, or TSCA, as it is often called.

My office takes very seriously the responsibility to implement TSCA to protect both the American public and the environment from the adverse effects of chemicals. My testimony will focus on the tremendous progress that has been made in ensuring the safe manufacture and use of chemicals since the passage of TSCA more than three decades ago and highlight our efforts to strengthen chemicals management under the new Chemicals Assessment and Management Program (ChAMP).

II. Key Accomplishments

TSCA provides EPA with the authority needed to review and manage risks from new chemicals prior to introduction into commerce and to collect health and safety data as well as production, use, and exposure information on industrial chemicals in commerce. It gives EPA the authority to require testing on new or existing TSCA Inventory chemicals, to ban or take other risk mitigation actions on new or existing chemicals of concern, and to manage “legacy” chemicals such as PCBs, asbestos, and mercury. TSCA also provides EPA with the authority to oversee the import and export of chemicals and to enforce compliance with these rules and requirements.

With TSCA as the foundation, and recognizing the relationship of TSCA to, and the role of, other statutes which contribute to chemical safety, EPA is successfully utilizing a wide array of regulatory and voluntary approaches and tools to assist us in our mission to protect both human health and the environment.

For example, we use sophisticated modeling programs to assist both the Agency and industry in developing, reviewing, and manufacturing safer chemicals. We have incorporated broad pollution prevention approaches into our regulatory work and numerous voluntary programs, which have been highly successful and have considerably increased the speed at which we have been able to achieve environmental results. In order to make informed and transparent chemical management decisions, we have worked cooperatively with the regulated community, environmental stakeholders, our counterparts in other Federal Agencies, States, and tribes, and the public on a broad range of programs and activities. The Agency also works closely with the international community on chemical management issues to promote rigorous scientific standards and coordinate regulatory approaches to strengthen public health and environment protection for all.

Employing these various approaches and tools, EPA has successfully used TSCA over the years to review more than 47,000 new chemical submissions. We have taken regulatory actions – such as requirements for additional testing or restrictions -- on over 2,000 of these chemicals and an additional 1,746 new chemical submissions were withdrawn often in the face of Agency action. Since the passage of TSCA, more than 21,000 new chemicals have gone into production and have been added to the TSCA Inventory, for a total of 83,000 chemicals currently on the Inventory. In addition to the new chemicals, we have controlled or otherwise regulated 178 existing chemicals.

With TSCA as the regulatory backstop, we have collected health and safety data on 2,200 High Production Volume (HPV) chemicals, which cover more than 93% of organic chemical production volume EPA tracks on the TSCA Inventory.

Using Section 8 of TSCA, we have collected more than 50,000 health and environmental studies on existing chemicals. We have also received and assessed over 17,200 substantial risk submissions from the chemical industry since 1977. We have regularly collected updated production information on thousands of higher volume existing chemicals under the Inventory Update Rule, or IUR. In 2006, EPA expanded the information collected under the IUR to include inorganic chemicals, at greater than 25,000 lbs. per site, and exposure and use information on higher volume organic chemicals, above 300,000 lbs per site.

EPA has also successfully used TSCA to bring about the phase out of chemicals of concern such as penta- and octa-brominated diphenyl ethers, or BDEs, polybrominated biphenyls, and benzidene dyes, which are subject to Significant New Use Rule (SNUR) requirements for review by EPA prior to reintroduction into the marketplace to ensure that they could be safely used. EPA, during the Bush Administration, also took prompt regulatory action under TSCA by issuing SNURs on 271 perfluorooctyl sulfonates, or PFOS, derivatives EPA also successfully obtained commitments from national and international chemical manufacturers to reduce releases and work toward eliminating virtually all sources of exposure to perfluorooctanoic acid, or PFOA, PFOA precursors, and higher homologues. An indication of the EPA's success on PFOS and PFOA can be found in an August 2007 U.S. Centers for Disease Control report that showed significant reductions in human blood levels of PFOS and PFOA in 2003/2004 data when compared to 1999/2000 data. These data showed a reduction in blood concentrations of more than 25% over this period for PFOA and a 32% reduction for PFOS in human blood. The report concludes that these reductions most likely are related to the changes brought about by EPA efforts on these chemicals and other related efforts by government and industry.

EPA also used TSCA as the foundation for addressing nanoscale materials under its jurisdiction. This past January, EPA announced the Nanoscale Materials Stewardship Program. This program will allow us to quickly assemble information EPA needs to scientifically assess – and where appropriate – take risk

management actions on nanoscale materials consistent with the "Principles for Nanotechnology Environmental, Health and Safety Oversight", released on November 8, 2007, we are encouraging active industry participation in this program to strengthen our scientific understanding in this exciting new arena. While implementing the program, EPA will continue to consider, as appropriate, the timing and use of all of its authority under TSCA for nanoscale materials.

Overall, I believe that TSCA provides broad authority for the Agency to adequately control new and existing chemicals and to address emerging chemical issues as they arise. The Agency's successful efforts to address PFOS, PFOA, and BDEs, and the introduction of nanoscale materials, provide clear examples demonstrating this point.

III. Chemical Assessment and Management Program

This past August, the countries of North America came together to announce a strategic approach under the Security and Prosperity Partnership, or SPP. At the SPP Leaders' Summit in Quebec, President Bush, Canadian Prime Minister Stephen Harper, and Mexican President Felipe Calderon committed our three countries to work together to accelerate and strengthen the management of chemicals in North America while preserving national sovereignty.

As part of this effort, the United States committed, by 2012, to complete initial assessments and take needed actions on 6,750 chemicals produced above 25,000 pounds-per-year in the U.S. This commitment, which we refer to as the Chemical Assessment and Management Program, or ChAMP, includes both high-production volume chemicals, those produced at or above one million pounds per year, and moderate volume chemicals, produced between 25,000 and a million pounds per year. The ability to make this commitment represents the culmination of the work that EPA did under the HPV Challenge Program to obtain screening level hazard and environmental fate information and under the Inventory Update Rule to obtain exposure and use information, which will now inform risk prioritization decisions on HPV chemicals. For the moderate volume chemicals, we will rely on available data, Canada's work on

chemical categorization, and EPA's expertise in Structure Activity Relationship analysis to prepare initial assessments. The U.S. and Canada have also agreed to share scientific information, technical understanding, research strategies and best practices, and to collaborate when possible on risk assessment and management efforts.

I believe that this collaborative effort to collect and share information on thousands of high and moderate production volume chemicals will foster efficiencies that through our shared efforts will enable us to act more quickly, effectively, and cost-efficiently on a greater number of chemicals. Our efforts under ChAMP will result in greater public health and environmental protection in the U.S. and will also help ensure a more consistent, efficient, and better integrated approach to chemicals assessment and management throughout North America. The 2012 commitment for completing the North American assessment work will also allow the U.S. and the EU to share information on our chemicals work given the timing of the European Union's Registration, Evaluation, Authorization and Restriction of Chemical substances, or REACH, registration schedule, which extends from 2010 to 2018.

In order to meet our SPP commitments under ChAMP, EPA is developing risk-based prioritizations for HPV chemicals, based on hazard, exposure and risk-screening characterizations, and considering other relevant information such as biomonitoring. We have posted hazard characterizations on 238 chemicals and, in March, posted an initial set of risk-based prioritizations on 19 chemicals. These characterizations provide important scientific information and analysis on hazards, exposure, and risks, thereby positioning the Agency to take any needed follow-up actions.

Recognizing that many chemicals are in commerce internationally and that countries and regions beyond North America have on-going chemical assessment and management efforts, we have on-going consultations with European Commission officials dealing with REACH, and with OECD countries, including France, the UK, New Zealand, Australia, Japan, and Korea. I believe that it is vitally important to invest in this coordination, to the greatest extent possible, so that our efforts and the international efforts to assess

and manage chemicals are utilized to leverage work, avoid duplication, and improve the protection of public health and the environment, both at home and abroad.

The members of this Committee may also be aware that last month, EPA Administrator Stephen Johnson asked me and my Office to engage all our stakeholders on two possible enhancements to our ChAMP work on existing chemicals under TSCA. The first involves possibly developing a program similar to the HPV Challenge for "inorganic" HPV chemicals, an effort that would provide the Agency, industry, and the public with a more complete picture of the hazards and risks of all HPV chemicals presently in U.S. commerce. The second possible enhancement concerns how best to reset the TSCA Inventory to better reflect the chemicals actually made and used in the U.S. As I highlighted earlier, the TSCA Inventory now lists more than 83,000 chemicals – a significant number of which are likely no longer being produced or imported. We believe it is time to consider options for making the Inventory a more useful list for all of us – EPA, industry, and the public – and one that reflects the chemicals actually in commerce.

As we begin these efforts to realize an enhanced ChAMP program, we have begun an extensive effort to invite input from a wide range of stakeholders, including meetings and "webinars" with companies, trade associations, the NGO community, States and Tribes, others in the Federal Government, and the public, including a "town hall" type meeting on May 2nd here in Washington. We appreciate the opportunity to hear from Congress on these enhancements as well.

We recognize that there are a range of issues that we will need to work through, which is why we are seeking input from others, but it is our hope to conclude discussions on these enhancements by mid-June, report back to the Administrator this summer, and begin implementing the new efforts for both inorganic HPV chemicals and the TSCA Inventory reset by the end of the summer.

IV. Conclusion

As I conclude my remarks, I would like to reiterate a point I made in 2006 when I testified on this subject. While we remain appreciative of the on-going interest of this Committee in TSCA and our new

efforts under ChAMP, I would also like to reiterate my statement at the beginning of my testimony; I believe that TSCA provides EPA with the statutory tools necessary to protect public health and environment. We are committed to using sound science to make risk-based decisions and take needed regulatory actions that are complemented, where appropriate, with effective collaborative environmental stewardship programs. We are also committed to working with governments around the world on chemical assessment and management programs.

The Agency looks forward to continuing to work closely with members of this Committee and your staffs. There are many dedicated engineers, chemists, biologists, toxicologists, economists, statisticians, attorneys and other civil servants who work directly on TSCA issues at EPA. I have been most impressed with their scientific and technical capabilities during my time as the Assistant Administrator for OPPTS. They have worked extremely hard over the years to effectively implement the many TSCA accomplishments I highlighted today and I am sure you share with me an appreciation for their efforts.

Again, I thank you for the opportunity to be here today and to provide you with this information. I am happy to answer any questions you may have today or any written questions in the future.