



April 27, 2015

The Honorable James Inhofe, Chair
The Honorable Barbara Boxer, Ranking Member
Senate Environment and Public Works Committee
406 Dirksen Senate Office Building

Chairman Inhofe and Senator Boxer:

The proposed substitute of S. 697 addresses several concerns raised by the Safer Chemicals, Healthy Families coalition. Due to several provisions that remain, however, and some of the new changes, we cannot support the overall bill at this time. We support further improvement and look forward to working with both Houses of Congress for the strongest possible reform of TSCA.

The clear improvements in the substitute include:

- The broad rollback to EPA authority over imports has been removed.
- Low priority listings are now subjected to judicial review.
- PBTs will be prioritized for review.
- The requirement for EPA to find “significant exposure” before it can regulate a chemical substance in an article (product) has been removed.
- State actions in place up to August 1 of this year are grandfathered from preemption.

Some of the other intended improvements relating to co-enforcement, PBTs and state environmental programs may not yet be fully realized due to drafting issues.

We are concerned about several other provisions:

- The substitute addresses concerns about the timing of preemption for high priority chemicals with several changes, including lifting the preemption at the end of the deadline for the safety determination and adding a waiver provision.

Though improved over the base bill, these changes are still unwieldy in terms of the process they create for states and they represent an unprecedented level of preemption.

We urge the committee to instead adhere to the principle in current TSCA that no states are preempted unless and until the EPA has acted.

- We are also concerned about a new provision in the substitute, which would make it harder for the EPA to implement Significant New Use Rules (SNURs) for chemicals in products. We urge the committee to remove the provision.
- The “substantial evidence” standard of judicial review in TSCA played a role in the *Corrosion Proof Fittings* case that prevented the EPA from regulating asbestos. TSCA reform should replace the standard to ensure all the barriers to effective regulation are removed.

In conclusion, S. 697, as substituted, needs further improvement - including those identified here - to garner support from the many public health, environmental, labor and business organizations within our coalition. The House Discussion draft has raised the possibility, not yet realized, of a narrower approach to reform that could gather broader support. We will continue working with Congress to achieve TSCA reform that makes progress for public health and the environment protection while limiting the downside risk of limitations on state authority or from any holes in the federal program.

Sincerely,

Andy Igrejas, Director
Safer Chemicals, Healthy Families

Cc: Environment and Public Works Committee Members