TESTIMONY OF

STEVE OWENS
ASSISTANT ADMINISTRATOR
OFFICE OF CHEMICAL SAFETY AND POLLUTION PREVENTION
U.S. ENVIRONMENTAL PROTECTION AGENCY

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Good morning Chairman Lautenberg, Ranking Member Inhofe, and other members of the Subcommittee. Thank you for the opportunity to be with you today to discuss the reform of chemicals management in the United States. I am pleased to be able to testify about EPA's strong interest in reforming and updating the Toxic Substances Control Act (TSCA). Ensuring chemical safety in a rapidly changing world, restoring public confidence that EPA is protecting the American people, and promoting our global leadership in chemicals management are top priorities for EPA Administrator Lisa Jackson and the Agency.

On behalf of Administrator Jackson, I want to thank you, Chairman Lautenberg, as well as members of your Subcommittee, for your leadership on this very important issue and for your efforts to bring about comprehensive reform of TSCA. As you know, the time has come to bring TSCA into the 21st Century and give the American people the protection from harmful chemicals they expect and deserve.

While chemicals have improved our lives in many ways, there are still significant scientific gaps in our understanding of the health risks of many chemicals. That's why, increasingly, the public is demanding that the government provide an assurance about the long term safety of these chemicals.

TSCA, which was enacted in 1976, gives EPA jurisdiction over chemicals produced and used in the United States. TSCA is the only major environmental statute that has not been reauthorized. The TSCA Inventory currently contains over 84,000 chemicals, few of which have been studied for their risks to children. Unlike the laws applicable to drugs and pesticides, TSCA does not have a mandatory program where EPA must conduct a review to determine the safety of existing chemicals. In addition, TSCA places legal and procedural requirements on EPA before the Agency can request the generation and submission of health and environmental effects data on existing chemicals.

TSCA was an important step forward at the time. But over the years, not only has TSCA fallen behind the industry it is intended to regulate, it has also proven an inadequate tool for providing the protection against chemical risks that the public rightfully expects.

When TSCA was enacted, it grandfathered in, without any evaluation, all chemicals in commerce that existed in 1976. Further compounding this problem, the statute never provided adequate authority for EPA to reevaluate existing chemicals as new concerns arose or science was updated, and failed to grant EPA full and complete authority to compel companies to provide toxicity data. As a result, in the nearly 35years since TSCA was passed, EPA has only been able to require testing on just a little more than 200 of the 84,000 chemicals listed on the TSCA Inventory, and has regulated or banned five of these chemicals under Section 6 of TSCA.

It has also proven difficult in some cases to take action to limit or ban chemicals found to cause unreasonable risks to human health or the environment. Even if EPA has substantial data and wants to protect the public against known risks, the law creates obstacles to quick and effective regulatory action. For example, in 1989, after years of study and nearly unanimous scientific opinion about the risk, EPA issued a rule phasing out most uses of asbestos in products. Yet, a federal court overturned most of this action because it found the rule had failed to comply with the requirements of TSCA.

Today, advances in toxicology and analytical chemistry are revealing new pathways of exposure. There are subtle and troubling effects of many chemicals on hormone systems, human reproduction, intellectual development and cognition, particularly in young children. It is clear that in order to properly protect public health and the environment, TSCA must be updated and strengthened, including providing the appropriate tools to protect the American people from exposure to harmful chemicals.

In September 2009, EPA Administrator Lisa Jackson announced a set of principles that articulate the Administration's goals for updating TSCA that would enable EPA to expeditiously target chemicals of concern and promptly assess and regulate new and existing chemicals.[1] She also announced that while the legislative reform process is underway, EPA intends to take steps to enhance its current chemical management program.[2] As part of this effort, EPA has developed a number of action plans that communicate the Agency's initial review of readily available use, exposure, and hazard information on a select number of chemicals, outline the Agency's concerns with the chemicals, and identify the steps EPA is considering to address those concerns. We are also taking steps to increase the public's access to chemical information that is provided to the Agency. This has included greater web access to a wider range of chemical information and implementing a series of steps to reduce claims of confidentiality, while recognizing that there can be legitimate business needs to protect information on chemicals.

As previously mentioned, the Administration has released a set of principles for TSCA reform that I would like to again briefly highlight:

First, chemicals should be reviewed against safety standards that are based on sound science and reflect risk-based criteria protective of human health and the environment. EPA should have the clear authority to establish safety standards based on risk assessments, while

[1] http://www.epa.gov/opptintr/existingchemicals/pubs/principles.pdf and attached as an appendix.
[2] http://www.epa.gov/oppt/existingchemicals/pubs/Existing.Chem.Fact.sheet.pdf

recognizing the need to assess and manage risk in the face of uncertainty.

Second, the responsibility for providing adequate health and safety information should rest on industry. Manufacturers must develop and submit the hazard, use, and exposure data demonstrating that new and existing chemicals are safe. If industry doesn't provide the information, EPA should have the necessary tools to quickly and efficiently require testing, or obtain other information from manufacturers that is relevant to determining the safety of chemicals, without the delays and obstacles currently in place, or excessive claims of confidential business information.

Third, EPA should have clear authority to take risk management actions when chemicals do not meet the safety standard, with flexibility to take into account a range of considerations, including children's health, economic costs, social benefits, and equity concerns. Both EPA and industry must include special consideration for exposures and effects on groups with higher vulnerabilities – particularly children. For example, children ingest chemicals at a higher ratio relative to their body weight than adults, and are more susceptible to long-term damage and developmental problems.

Fourth, EPA should have clear authority to set priorities for conducting safety reviews. on existing chemicals based on relevant risk and exposure considerations. In all cases, EPA and chemical producers must act on priority chemicals in a timely manner, with firm deadlines to maintain accountability. This will not only assure prompt protection of health and the environment, but provide business with the certainty that it needs for planning and investment.

Fifth, we must encourage innovation in green chemistry, and support research, education, recognition, and other strategies that will lead us down the road to safer and more sustainable chemicals and processes. All of this must happen with the utmost transparency and concern for the public's right to know.

Finally, implementation of the law should be adequately and consistently funded, in order

to meet the goal of assuring the safety of chemicals, and to maintain public confidence that EPA is meeting that goal. To that end, manufacturers of chemicals should support the costs of Agency implementation, including the review of information provided by manufacturers.

Mr. Chairman, TSCA needs to move toward the vision embodied in these principles. We should require that all chemicals be reviewed against a safety standard based on sound science and that reflects risk based criteria protective of human health and the environment, including the health of children and other vulnerable populations. We should squarely place the burden on industry to provide data to demonstrate that chemicals are safe. Legislative reform should give EPA significantly greater authority to require any data necessary to assess the safety of chemicals and to quickly take action on chemicals which cause harm. The substantial increase in information available on toxic chemicals would vastly improve the understanding of chemical risks and greatly enable government and the public to make better informed decisions about the chemicals that are in the products we use daily. These key elements represent a significant change in the approach the U.S. has historically taken in regulating chemicals and would substantially update and modernize TSCA.

Further, legislative reform of TSCA should address a number of other areas the Administration believers are important in modernizing this nation's chemicals management efforts, such as encouraging the development and use of green chemistry and adoption of safer alternatives. It should impose stricter requirements for assertion of confidentiality claims while allowing the sharing of critical data – with appropriate safeguards – with state governments also regulating chemicals.

Mr. Chairman, we greatly appreciate your efforts to help us bring TSCA into the 21st Century, and we look forward to continuing to work with you and your Committee as you move forward. I will be happy to answer any questions you may have.

APPENDIX: Essential Principles for Reform of Chemicals Management Legislation

The U.S. Environmental Protection Agency (EPA) is committed to working with the Congress, members of the public, the environmental community, and the chemical industry to reauthorize the Toxic Substances Control Act (TSCA). The Administration believes it is important to work together to quickly modernize and strengthen the tools available in TSCA to increase confidence that chemicals used in commerce, which are vital to our Nation's economy, are safe and do not endanger the public health and welfare of consumers, workers, and especially sensitive sub-populations such as children, or the environment.

The following Essential Principles for Reform of Chemicals Management Legislation (Principles) are provided to help inform efforts underway in this Congress to reauthorize and significantly strengthen the effectiveness of TSCA. These Principles present Administration goals for updated legislation that will give EPA the mechanisms and authorities to expeditiously target chemicals of concern and promptly assess and regulate new and existing chemicals.

Principle No. 1: Chemicals Should Be Reviewed Against Safety Standards That Are Based on Sound Science and Reflect Risk-based Criteria Protective of Human Health and the Environment.

EPA should have clear authority to establish safety standards that are based on scientific risk assessments. Sound science should be the basis for the assessment of chemical risks, while recognizing the need to assess and manage risk in the face of uncertainty.

Principle No. 2: Manufacturers Should Provide EPA With the Necessary Information to Conclude That New and Existing Chemicals Are Safe and Do Not Endanger Public Health or the Environment.

Manufacturers should be required to provide sufficient hazard, exposure, and use data for a chemical to support a determination by the Agency that the chemical meets the safety

standard. Exposure and hazard assessments from manufacturers should be required to include a thorough review of the chemical's risks to sensitive subpopulations.

Where manufacturers do not submit sufficient information, EPA should have the necessary authority and tools, such as data call in, to quickly and efficiently require testing or obtain other information from manufacturers that is relevant to determining the safety of chemicals. EPA should also be provided the necessary authority to efficiently follow up on chemicals which have been previously assessed (e.g., requiring additional data or testing, or taking action to reduce risk) if there is a change which may affect safety, such as increased production volume, new uses or new information on potential hazards or exposures. EPA's authority to require submission of use and exposure information should extend to downstream processors and users of chemicals.

Principle No. 3: Risk Management Decisions Should Take into Account Sensitive Subpopulations, Cost, Availability of Substitutes and Other Relevant Considerations

EPA should have clear authority to take risk management actions when chemicals do not meet the safety standard, with flexibility to take into account a range of considerations, including children's health, economic costs, social benefits, and equity concerns.

Principle No. 4: Manufacturers and EPA Should Assess and Act on Priority Chemicals, Both Existing and New, in a Timely Manner

EPA should have authority to set priorities for conducting safety reviews on existing chemicals based on relevant risk and exposure considerations. Clear, enforceable and practicable deadlines applicable to the Agency and industry should be set for completion of chemical reviews, in particular those that might impact sensitive sub-populations

Principle No. 5: Green Chemistry Should Be Encouraged and Provisions Assuring Transparency and Public Access to Information Should Be Strengthened

The design of safer and more sustainable chemicals, processes, and products should be encouraged and supported through research, education, recognition, and other means. The goal of these efforts should be to increase the design, manufacture, and use of lower risk, more energy efficient and sustainable chemical products and processes.

TSCA reform should include stricter requirements for a manufacturer's claim of Confidential Business Information (CBI). Manufacturers should be required to substantiate their claims of confidentiality. Data relevant to health and safety should not be claimed or otherwise treated as CBI. EPA should be able to negotiate with other governments (local, state, and foreign) on appropriate sharing of CBI with the necessary protections, when necessary to protect public health and safety.

Principle No. 6: EPA Should Be Given a Sustained Source of Funding for Implementation

Implementation of the law should be adequately and consistently funded, in order to meet the goal of assuring the safety of chemicals, and to maintain public confidence that EPA is meeting that goal. To that end, manufacturers of chemicals should support the costs of Agency implementation, including the review of information provided by manufacturers.