



Resolution Number 10-8
Approved August 30, 2010
Whitefield, New Hampshire

Revised September 17, 2013
Arlington, Virginia

As certified by
R. Steven Brown
Executive Director

REFORMING THE TOXIC SUBSTANCES CONTROL ACT

WHEREAS, U.S. daily production and importation in 2005 of chemicals increased by 80% from 42 billion to 74 billion pounds from 2002 levels; and

WHEREAS, there are significant impacts to public health and the environment as a result of chemical pollution and states incur significant responsibilities and costs addressing those impacts; and

WHEREAS, the Toxic Substances Control Act (TSCA) enacted in 1976, authorizes U.S. EPA to control chemicals that pose an unreasonable risk to public health or the environment, and remains U.S. EPA's primary authority to control the safety of chemicals in commerce; and

WHEREAS, legal and procedural hurdles under TSCA prevent the U.S. EPA from taking quick and effective regulatory action to protect the public against well-known risks, even in those cases where the U.S. EPA has adequate data on a chemical; and

WHEREAS, in January 2009, the U.S. General Accounting Office (GAO) added U.S. EPA's regulatory program for assessing and controlling toxic chemicals to its list of "high risk" programs, finding that:

- U.S. EPA has been unable to keep its existing assessments current or to complete assessments of important chemicals of concern; and
- U.S. EPA requires additional authority to obtain health and safety information from the chemical industry and to shift more of the burden to chemical companies to demonstrate the safety of their products; and
- TSCA does not provide sufficient chemical safety data for public use by consumers, businesses and workers; and fails to create incentives to develop safer alternatives. (More than 16,000 of the roughly 84,000 chemicals included on the TSCA inventory are classified as confidential); and

WHEREAS, U.S. EPA, the National Conference of State Legislatures, and a coalition of 13 states have each separately announced guiding principles for TSCA reform to strengthen TSCA's effectiveness; and

WHEREAS, on May 22, 2013, Senate Bill 1009, the “Chemical Safety Improvement Act of 2013 (CSIA),” was introduced in the U.S. Senate to modernize the Toxic Substances Control Act; and

WHEREAS, although CSIA contains a number of improvements compared to TSCA, the Attorneys General and environmental agency leaders from a number of states have strongly objected to the state preemption provisions of CSIA noting that the proposed language would unnecessarily restrict the states’ ability to take actions necessary to protect public health and the environment; and

WHEREAS, states have an important stake in shaping TSCA reform.

NOW, THEREFORE, BE IT RESOLVED THAT:

ECOS commends the bipartisan effort in the U.S. Senate led by Senator Vitter and the late Senator Lautenberg to propose changes to TSCA.

ECOS commends U.S. EPA, the National Conference of State Legislatures, the Product Stewardship Institute, the National Pollution Prevention Roundtable, individual states and others for their leadership in support of TSCA reform that will strengthen chemicals management.

ECOS supports congressional action on TSCA reform that:

- ensures the burden is effectively placed on manufacturers to prove that existing and new chemicals are safe;
- provides U.S. EPA with adequate authority to ensure that existing and new chemicals are safe and to take action when they are not;
- establishes a streamlined process for U.S. EPA to share data with states, including confidential business information provided to U.S. EPA;
- ensures the preservation of state authority to protect citizens and the environment from toxic exposures and to manage chemicals of concern, and only restricts that authority if compliance with both state and federal law would be impossible;
- enhances timely state/federal consultation and coordination in areas of particular concern to the states, including the development and implementation of hot spot action plans, prioritization of the most severely impacted communities and providing a source of funding to state and local governments to conduct chemicals management technical assistance;
- expands the scope of risk-based safety standards to include hazard assessment;
- authorizes U.S. EPA to require a safer alternatives assessment for any chemical U.S. EPA identifies as a Priority Chemical, such as Persistent, Bioaccumulative and Toxic (PBT) or “very Persistent and very Bioaccumulative chemicals;”
- expands U.S. EPA’s authority to oversee the risk and environmental health impacts of engineered nanomaterials and other emerging technologies;

- authorizes U.S. EPA to take expedited action when a chemical presents a very serious or immediate risk to public health or the environment;
- provides U.S. EPA with authority to impose interim conditions and to take expedited action until a safety determination is made, when data or information suggests significant concern about a chemical; and
- enhances the safer alternatives assessment to encourage a process of continuous improvement and establishment of a set of criteria for performing assessments that, at a minimum, relies on consideration of the impacts through the life cycle of the chemical.