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Responses to Questions for the Hearing Record
Jennifer Thomas, Director of Federal Government Affairs
Alliance of Automobile Manufacturers
Hearing entitled: "Regulation of Existing Chemicals and the Role of Preemption under Sections 6 and 18 of the Toxics Substances Control Act"
House Committee on Energy & Commerce
Subcommittee on Environment & the Economy
September 18, 2013

Submitted by the Honorable John Shimkus

Q: Some proposed state laws introduce concerns by how they define "consumer products." Can you give some examples?

Autos are regulated by the federal government separately from other consumer products, because of the complexity and longevity of vehicles and the acknowledgement that as such, they need to be considered differently from other consumer products such as beauty and cleaning products. But there has been a noticeable trend in state legislation and regulation moving towards a more broad definition of "consumer product" that would capture automobiles. An approach which may be feasible for simpler products can be totally infeasible for a complex product such as an automobile, which has thousands of components designed to last many years. Product development and testing times are substantially longer and more extensive for complex products. They should not be treated in the same way.

For example, under California's Safer Consumer Products regulations, the Department of Toxic Substances Control can subject up to 10 components in a vehicle for review in a three year period. Component is defined in such a broad way to even include an assembly, such as a transmission, which is itself a complex durable good consisting of multiple subcomponents, substances, and materials. Having to conduct an Alternatives Assessment for a chemical of concern in an electric motor, for which the likelihood for exposure is minimal to nonexistent, would likely take years and potentially millions of dollars to complete. Now imagine conducting alternative assessments for essentially 10 unique complex durable good assemblies in a three year period (and multiply that by fifty states). It is infeasible and unnecessary.

A federal approach focusing on specific applications related to actual consumer exposure to chemicals of concern would be much more effective.

Alliance of Automobile Manufacturers

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Q: Why are effective replacements important to you?

The average automobile has 30,000 unique components and each component is made up of multiple chemicals and mixtures. These complex parts must meet an array of stringent environmental, safety, performance, and reliability standards and be compatible with each other. Potential substitutes or alternatives must go through rigorous testing to ensure the integrity, performance, safety, and durability of the vehicle is not jeopardized. Once a suitable alternative is identified, implementation of alternative materials can take years, as a typical product development cycle in the auto industry is five years.

Additionally our customers require service and replacement parts for the life of a vehicle –10+ years. With the typical car comprising 30,000 parts, and multiple generations of particular models on the road at a time, redesigning service parts is impractical. Regulations need to be forward-looking allowing the focus of chemical replacements on upcoming product.

Q: What have state-specific carve-outs from preemption – like those for California in the Clean Air Act – meant for your members? Please give examples.

State specific carve-outs defeat the goal of a single, national program. The goal should be to create an effective national policy so states do not feel the need to go out and regulate on their own. A patchwork of laws or regulations increase compliance costs and is less effective than a national program protecting all of our citizens.