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ONE HUNDRED THIRTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
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February 28, 2014

Ms. Wendy Wagner  
Joe A. Worsham Centennial Professor  
The University of Texas School of Law  
727 E. Dean Keeton Street  
Austin, TX 78705

Dear Ms. Wagner:

Thank you for appearing before the Subcommittee on Environment and the Economy on Wednesday, November 13, 2013, to testify at the hearing entitled "S. 1009, The Chemical Safety Improvement Act."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions by the close of business on Friday, March 14, 2014. Your responses should be e-mailed to the Legislative Clerk in Word format at [Nick.Abraham@mail.house.gov](mailto:Nick.Abraham@mail.house.gov) and mailed to Nick Abraham, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



John Shimkus  
Chairman

Subcommittee on Environment and the Economy

cc: The Honorable Paul Tonko, Ranking Member,  
Subcommittee on Environment and the Economy

Attachment

**The Honorable Henry A. Waxman**

Your testimony identified numerous overlapping procedural requirements in S. 1009, as well as numerous attachment points for litigation, potentially creating significant delays and costs.

1. Given the requirement you have identified, do you expect EPA to take action to assess or regulate any chemicals in the near future? Can you estimate how long you think the delay could be before regulatory action would be taken under this bill?
2. Does the bill provide resources to EPA to meet the procedural requirements you identify?

Under this bill, several important questions relating to scientific evidence could be subject to judicial review. One example would be EPA's determination, pursuant to section 4 of TSCA as revised by S. 1009, that additional data is needed to carry out a safety assessment or safety determination. That determination of need would have to be expressed in a formal statement and would be judicially reviewable.

3. Would companies required to test chemicals under TSCA have a financial incentive to challenge a testing requirement?
4. Is this type of scientific determination well suited to court review?
5. What other scientific determinations would the bill make judicially reviewable, and do you have concerns about the ability of courts to effectively review those decisions?

The determination of need for additional information under this bill would be complicated by the fact that EPA would be required to make safety assessments and determinations on the basis of the best available science, suggesting that data beyond what is available would never be needed. This could result in a new catch-22 similar to the one EPA currently faces under section 4.

6. Given the instruction to use the best available science, do you think it will be difficult for EPA to effectively demonstrate that additional data is needed?