



March 7, 2014

The Honorable Fred Upton
Chair, Committee on Energy and
Commerce
2125 Rayburn HOB
Washington, DC 20515

The Honorable Henry Waxman
Ranking Member, Committee on Energy and
Commerce
2125 Rayburn HOB
Washington, DC 20515

The Honorable John Shimkus
Chair, Subcommittee on Environment
and the Economy
2125 Rayburn HOB
Washington, DC 20515

The Honorable Paul Tonko
Ranking Member, Subcommittee on Environment
and the Economy
2125 Rayburn HOB
Washington, DC 20515

Dear Chairs and Ranking Members:

The Center for Science and Democracy at the Union of Concerned Scientists strongly opposes the Chemicals in Commerce Act, which Rep. John Shimkus introduced on Feb. 27.

We recognize that this proposal is a discussion draft, open to change. But the entire bill is so fundamentally flawed, it will need substantial revisions to make it acceptable.

Throughout the draft, the bill gives greater weight to reducing burdens on industry than to protecting the public and the environment. When chemical interests may face additional requirements, the bill gives them so many ways to evade or challenge them, that it reduces the Environmental Protection Agency's already insufficient authority to regulate toxic chemicals.

Equally concerning, the bill's authors would micromanage the EPA's use of science to inform its work on chemical safety, making it far more difficult for the agency to fulfill its mission and protect the public and the environment from current and new chemicals. It requires that congressional mandates and definitions take precedence over comprehensive recommendations on chemical safety and risk assessment from the National Academy of Science and the American Academy of Pediatrics and other independent science advisory bodies.

The bill acknowledges that some populations – infants, pregnant women, the elderly, those living near chemical plants – may be more vulnerable to chemical exposure, but does not require the EPA to do anything to protect them.

The bill also permits a court to determine whether its rule restricting or banning a dangerous chemical is “supported by substantial evidence in the rulemaking record.” In practice this is a

broad invitation to businesses to use every legal trick in the book to second-guess EPA scientists, and to impede the agency's work.

Under this legislation, the public could be kept in the dark about dangerous chemicals, if a company pleaded that disclosure of information could put it at a competitive disadvantage. The disclosure rules may be waived so that a doctor treating a patient seriously harmed by a toxic chemical may get needed information. But the waiver language is so tightly written, it still may impede the timely disclosure of crucial information to all the first responders and health care staff who need it. In an emergency, the information must be readily available to protect health and safety, not bogged down in procedural hurdles.

If this weren't enough, this bill not only reduces EPA's authority to regulate toxic chemicals, it would make it nearly impossible for state regulators to fill the vacuum. This bill would pre-empt protective laws in Maine, Washington, California and Minnesota and other states, depriving the public of crucial information on toxic chemicals.

This bill clearly reflects the priorities of the chemical industry, and dismisses both the role of science in informing regulation and the EPA's fundamental mission of protecting public health and the environment.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Rosenberg". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Andrew A. Rosenberg, Ph.D.
Director, Center for Science and Democracy
Union of Concerned Scientists