Testimony
of
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On behalf of the

Society of Chemical Manufacturers & Affiliates

Before the

U.S. House of Representatives

Energy and Commerce Committee
Subcommittee on Environment and the Economy

On the

"Chemicals in Commerce Act"

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Good morning, Chairman Shimkus, Ranking Member Tonko, and members of the Subcommittee. My name is Beth Bosley, and I am the President of Boron Specialties in Pittsburgh, Pennsylvania. Boron Specialties is a specialty chemical manufacturer and a woman-owned small business.

I am pleased be back in Washington to share my perspective, on behalf of the Society of Chemical Manufacturers and Affiliates, regarding the April 18 discussion draft of the Chemicals in Commerce Act. You – and your staff – have been doing great work on advancing TSCA reform, and SOCMA very much appreciates it. You have really exceeded the expectations that many had for TSCA reauthorization in the House.

I would particularly like to thank you for recognizing that TSCA is as much about products as it is about health and the environment. This is an important interrelationship. We need to protect against unreasonable risks. But we also need to be able to keep making the products that enable every other aspect of our society. As we work towards bolstering EPA's authority to regulate industrial chemicals, we must be careful that it does not come at the expense of innovation. We should reform TSCA in a way that incentivizes entrepreneurs and start-ups, and helps small businesses stay competitive and expand. That's how we create and sustain jobs. It's also how we can develop greener chemistries and give the public the confidence it deserves.

I will now provide some comments on the new draft. In a nutshell, you have retained the positive approach of the February 27 draft on the issues that matter most to SOCMA. You have also made some additional improvements in several other areas. There are, however, some aspects of the current draft that concern us, and need some additional work or at least clarification.

New chemicals and CBI. Timely approval of new chemicals and reliable protection of trade secrets are SOCMA's two top priorities, because they are critical to facilitating innovation. The new draft makes some changes to the new chemicals and confidential business information provisions of the bill, but these two sections continue to be very workable and we remain very pleased with them.

As you continue to deliberate over these sections, be mindful that new chemicals tend to be greener. Note also that if a manufacturer does not have test data, EPA will continue to use precautionary approaches involving potential exposures, modeling tools, and data on analog chemicals and chemical categories before a chemical ever reaches commerce. If the agency feels it needs measured data it will request it. Finally, companies regularly continue testing chemicals even after EPA approves them.

Existing chemicals. The new draft contains an additional requirement for EPA to review available information on a chemical, including any screening-level information, before requiring testing. We support this change. It only makes sense to have EPA leverage all available information before pursuing potentially burdensome testing regimens.

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Prioritization. Relatedly, the prioritization process in the bill now allows EPA to require development of additional data to determine whether a substance falls into a low or high priority bucket in cases where existing information is insufficient. This should address the concern some have had that chemicals with limited data will be tagged high priority by default. It is unclear to us, however, why EPA should be able to initiate a risk evaluation of a low priority chemical. If the EPA remains free to evaluate low priority chemicals at its discretion, what is the purpose of a rigorous prioritization process?

Enhanced processor reporting. In the same way that EPA can seek additional tox data to prioritize a chemical, we would like to see language specifically authorizing EPA to require processors to report use and exposure data for particular product categories, especially where commercial or consumer uses can be significant. We understand this is a challenging issue, but it can be crucial to making well-informed risk evaluations. It also would address a fundamental problem with current TSCA implementation that SOCMA has long flagged. If that is the purpose for the bracketed placeholder on p. 48, we are encouraged, and we urge you to continue to try and reach agreement on this issue.

As I have mentioned in prior testimony, the bill should also expand TSCA Section 8(e), as the Senate bill does, to authorize submission of non-adverse data and to require EPA to take it into account in prioritizing and evaluating chemicals. Presently, Section 8(e) is biased towards adverse data. Such an enhancement would greatly increase the amount of data submitted under this authority, which can only improve EPA's understanding of chemical hazards.

Deadlines. SOCMA has repeatedly called for a mandate for EPA to review a minimum number of chemicals, or some percentage over time, in order to assure that it will act more expeditiously on existing chemicals than it has thus far. While the bill does not yet do that, it does include deadlines for the review of existing chemicals. However, we think these deadlines are too generous in the aggregate. They would allow EPA up to 10 years from release of a high-priority determination to issuance of a final rule imposing risk management requirements or restrictions. We think allowing four years for a risk evaluation is particularly problematic. Four years languishing in the high-priority bucket could spell the end for a product. We recommend that the committee consider a much shorter period, like 18-24 months.

"Significant risk." We note that the bill uses this phrase in Sections 6 and 9. We look forward to understanding your intent here; we don't know enough now to be supportive or concerned.

Risk management. The bill now clearly separates the risk evaluation and risk management steps, and makes even more clear that the former is purely a health-based standard. We think this is good, and still leaves the bill with fewer steps than the Senate bill. As for the risk management process, we support the bill's requirement that restrictions on uses of chemicals be cost-effective. However, we are concerned that the bill would allow EPA to ban a chemical even when it concludes that there are no technically and economically feasible safer alternatives. We are still vetting this change, but it seems to us that EPA should not be allowed to increase overall risk to public health by banning or substantially limiting a chemical.

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Good science. The draft drops the definition of "best available science," and the concepts contained there do not appear elsewhere in the bill. We are disappointed by this, because the credibility of EPA risk evaluations will depend on the strength of the science supporting them. We are pleased to see the bill retain language on good science; most important, a requirement that EPA evaluate chemicals by the weight of evidence. I would think both sides of the aisle would agree that it will only defeat our common goal of enhancing public confidence if EPA could be accused of cherry picking data or methods.

In conclusion, while more remains to be done, this bill represents an improvement over the status quo and shows continued promise for a bipartisan solution. We appreciate your intense focus on TSCA reauthorization and remain committed to helping in any way we can.

Thank you again for this opportunity to share SOCMA's perspective. I look forward to your questions.

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