

Chairman Boxer, Ranking Member Vitter, members of the Committee, thank you for the opportunity to testify on this important issue.

The Toxic Substances Control Act (TSCA) is the one foundational environmental law from the 1970s that is almost universally considered to be broken. For years, it has been a virtual dead letter in dealing with chemicals that were already on the market when the statute was enacted, and the law makes it difficult for the Environmental Protection Agency (EPA) to obtain the information it needs to adequately assess newer chemicals. The result is that public exposure to potentially harmful substances has grown even as science has learned more about the manifold ways chemicals can affect human development, contribute to disease and harm the environment.

Virtually every witness invited to testify before the Committee on the issue of TSCA over the past several years has agreed that the law needs to be substantially reformed.

The most recent proposal before the Committee to reform TSCA is the Chemical Safety Improvement Act (S.1009).

Ever since the bill was introduced, NRDC has made two major points about this bill, and they need to be understood together. First, the bill as currently drafted has fundamental weaknesses that would prevent it from enhancing chemical safety. Second, we are willing to work to improve the bill. The CSIA has opened the door to developing an effective bill that could garner broad support. NRDC does not want to walk by that door or slam it shut.

I discuss a number of the bill's failings at length in my written testimony, but let me mention some of the key ones here.

First, the CSIA does not set any deadlines or minimum requirements for prioritizing, assessing or making decisions on whether to regulate chemicals. Enforceable deadlines, which should include minimum requirements, are the key to statutory effectiveness, as experience has long shown. In a world of competing priorities and political pressures, nothing happens without a deadline.

Second, the CSIA requires EPA to develop multiple overlapping frameworks, procedures and criteria. The result would be to tie EPA in knots for several years before it could even begin to prioritize which chemicals to assess. It's not clear how much of this is by design. What is clear is that the bill as currently drafted will require EPA to spend a lot of time and resources reinventing the wheel, not once, but multiple times, instead of reviewing or regulating chemicals.

Third, the CSIA would vastly broaden the current state preemption provisions of TSCA. Among other problems, states could be prohibited from imposing new restrictions on "high priority" chemicals years before EPA takes any action. Think about that. Under the bill, EPA recognizing a "high priority" threat is actually a signal for states to *stop* taking action, even though EPA may be years away from even proposing any protection. How does that help the public?

Fourth, the CSIA does not require that EPA's safety standard or determinations be protective of vulnerable populations -- including women, children, and workers. This is in the context of retaining the problematic safety standard of "unreasonable risk" that is currently in TSCA.

And the CSIA contains no mechanism for expediting action on chemicals known to be unsafe, including asbestos and PBTs.

As I've said, these problems do not mean that work on this bill should stop. The CSIA takes some steps in the right direction in terms of requiring EPA approval of new chemicals, making it easier for EPA to get information from chemical companies and removing cost as a factor in risk assessments. But the bill is written in a way that raises questions about whether those provisions would work as advertised, and then negates their overall impact because of the problems I've just enumerated.

The reaction to this should not be to throw up our hands, but to roll up our sleeves. This Committee should make TSCA reform a top priority. CSIA signals both that many members believe it's worth trying to make progress and that there's still a lot of work to be done. NRDC looks forward to working with any and all Senators who are interested in pursuing real reform – reform that will truly enhance protection of the public while giving the chemical industry the certainty it seeks from an efficient and effective process for prioritizing, assessing and regulating chemicals.

Thank you.