

## ORAL Statement

Chairman Upton, Ranking Member Waxman, Chairman Shimkus and Ranking Member Tonko,

Thank you for the opportunity to testify today; it's good to see the Committee re-engaging on this issue.

To be blunt, TSCA is widely recognized as a failure. It has not enabled EPA to protect the public or even to assess the risks the public may face from many commonly used chemicals. It has not provided the confidence that chemical manufacturers desire from their consumers and retailers. It's no wonder that EPA, the GAO, scientists, health advocates, doctors and business leaders are all calling for reform.

TSCA is riddled with fundamental, structural flaws. Other environmental laws, though controversial, have been far more effective.

Perhaps the greatest "original sin" under TSCA was to grandfather the 62,000 chemicals on the market in 1976. There was no requirement for EPA to review those chemicals or to hold them to any safety standard.

In nearly 35 years, EPA has managed to require testing of only about 200 of those substances and has partially regulated only five. That's a problem because it means that chemicals that are known to cause harms – including cancer, learning disabilities, and reproductive problems, in animals or humans – remain in widespread use. And many chemicals are in use for which we don't have sufficient information to know whether or not they are safe.

This is a public health concern, particularly considering the rising rates of cancer, mental illness and other chronic diseases in our country:

1 in 2 men develop an invasive cancer and 1 in 4 die from cancer. 1 in 3 women develop invasive cancers and 1 in 5 die. Roughly 1.5 million people in the U.S. are diagnosed with cancer each year.

The CDC just released a study of mental illness in children and found 13-20% -- 7 to 12 million have mental health disorder including ADHD, mood and anxiety disorders and autism spectrum disorders.

EPA's ability to fully assess and regulate chemicals is not much better for the approximately 22,000 chemicals that have been brought to market since TSCA was enacted. The law gives EPA only a brief period – three to six months – to review new chemicals and makes it hard for EPA to get the needed data. Most premanufacturing notices are submitted to the agency without any data on health or environmental effects. EPA has taken steps to fill the gaping holes in its authority, and clear the high hurdles set by the statute, but that is not an adequate substitute for a protective system for reviewing new chemicals.

But even beyond timing and data requirements, TSCA stacks the deck against EPA and public safety. The statute places the burden on EPA to prove that a chemical poses a risk and then sets a high threshold for making such a finding.

This is markedly different from other – effective – health and safety laws. Makers of pharmaceuticals and pesticides have to show affirmatively that their products are safe. And the food quality law – passed by a Republican Congress – has a more protective risk standard.

The experience with TSCA teaches the unsurprising but essential lesson that laws without enforceable deadlines and strong safety standards don't result in action and don't protect the public.

The impotence of TSCA has left a vacuum that has been filled by states and retailers. Nineteen states are regulating chemicals with policies ranging from bans on specific uses to disclosure requirements. This does not include mercury product bans and other policies adopted in 34 states to limit exposure to mercury. In addition, large retailers have stopped stocking some products or excluded chemicals from their supply chains. While these important actions have increased public protection in a piecemeal fashion, they are a supplement but no substitute for a working federal system.

States and retailers have had to act, though, because of mounting scientific evidence and increasing public concern. Scientists know more about the impacts of chemicals than in 1976. There are greater concerns now about the effect chemicals can have on our endocrine system and about the potential impacts of even small doses of certain chemicals. We also have more information about ongoing exposure to hundreds of substances due to the development of biomonitoring.

The public understands this. NRDC has commissioned a number of polls to survey public opinion on the question of chemical reform. In both our polls and those of others, we see strong public support for real TSCA reform.

Among the findings of our national poll:

Over two-thirds of voters (68%) support (quote) “stricter regulation of chemicals produced and used in everyday products.” This support cuts across every political sub-group, including majorities of GOP voters (57 percent), Independents (66 percent) and Democrats (79 percent).

The support was even stronger for specific legislation to reform TSCA. A description of legislation that would require all chemical manufacturers to show that their chemicals are safe in order to sell them, and that EPA would be able to limit some or all uses of a chemical that may harm public health or the environment yielded 77% support, with 50% strongly supporting. Support again cut across all political, ethnic, gender and regional lines. This is an issue where Washington is way behind the people it represents.

I think TSCA's one clear success has been the phase out of PCBs that was mandated in the original law in 1976. Rep. Dingell led the fight to include the PCB provision in the law, and – while PCBs are still very much with us – and in us – it at least did what the title of the law promises: controlled a toxic substance.

Congress should learn from that vision, and take steps to really repair TSCA and protect the public. For example, requiring the phase out of other persistent, bioaccumulative and toxic (PBT) chemicals.

There are many ways – in addition to phasing out PBTs – to reform TSCA in a way that protects the public and also allows the chemical industry to thrive and innovate. We would welcome the chance to work with the Committee and all interested parties to develop such reform.

Thank you.