

April 14, 2015

Chairman John Shimkus  
House Committee on Energy and Commerce  
Subcommittee on the Environment and the Economy  
2217 Rayburn House Office Building  
U.S. House of Representatives  
Washington, D.C. 20515

Ranking Member Paul Tonko  
House Committee on Energy and Commerce  
Subcommittee on the Environment and the Economy  
2463 Rayburn House Office Building  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Shimkus and Ranking Member Tonko:

Although we strongly support efforts to modernize the federal Toxic Substances Control Act of 1976, EWG opposes the discussion draft of the “TSCA Modernization Act.”

Simply put, the discussion draft would fail to ensure that chemicals are safe, fail to ensure that the Environmental Protection Agency quickly evaluates and regulates dangerous chemicals like asbestos, fail to set deadlines for chemical restrictions or bans, and fail to provide the EPA with needed resources. In addition, the discussion draft would fail to preserve important steps already taken by states to protect the public from dangerous chemicals.

In particular, the discussion draft would fail to ensure that chemicals regulated under TSCA are as safe as the chemicals used in and on food -- that is, that chemicals pose a “reasonable certainty of no harm.” Instead, the discussion draft would continue the present policy of allowing chemicals to be used so long as they pose “no *unreasonable* risk of injury” to people and the environment. Rather than requiring that safety determinations exclude considerations of cost, the discussion draft explicitly requires the EPA to consider the economic consequences of proposed actions and to impose only those restrictions that would be cost-effective.

In addition, the discussion draft would fail to require quick action to protect Americans from dangerous chemicals, including toxic chemicals that persist in the environment and build up in people’s bodies. The EPA has identified approximately 1,000 chemicals that require urgent assessment and regulation, but the discussion draft would not direct the agency to make the most dangerous chemicals a priority for evaluation, would not provide the resources needed to conduct such a review, and would not require deadlines for agency action to review, regulate or ban chemicals.

Instead, the discussion draft proposes a fee system that would give priority consideration and expedited action to chemicals deemed a priority by the chemical industry. Under this system, reviews of the most dangerous chemicals would be subject to the mercy of Congressional appropriators.

The discussion draft fails to require quick action on asbestos and fails to remove all of the serious legal obstacles that prevented the EPA from banning asbestos more than two decades ago. Although the draft would no longer demand adoption of the “least burdensome” alternative, it would retain the “no unreasonable risk” safety standard and then would subject EPA decisions to the heightened “substantial evidence” standard of judicial review.

Finally, the discussion draft fails to preserve important actions taken by states to protect the public from dangerous chemicals. In the absence of federal leadership, more than 30 states have enacted more than 150 laws to regulate or restrict dangerous chemicals. Any efforts to reform TSCA should preserve a role for the states.

The discussion draft proposes some important improvements, including expanded EPA authority to order chemical testing. But the draft falls far short of what is needed to ensure that chemicals are safe and that the most dangerous chemicals are quickly reviewed and regulated.

We appreciate the opportunity to share our comments and welcome the opportunity to work with you to modernize TSCA.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Faber', written in a cursive style.

Scott Faber  
Vice President of Government Affairs  
EWG