

From: Ellis, Rebecca
Sent: Wednesday, March 23, 2016 4:28 PM
To: Pero, Haley (Sanders); Tom Berry (Tom_Berry@leahy.senate.gov); Twigg, George
Cc: Schuren, Alyssa; Martin, Trey; Metcalf, Lynn
Subject: Comments on TSCA Reform

Categories: PFOA

Hi Haley, Tom and George,

At our meeting on March 3, 2016, you asked VT-DEC to provide feedback on the TSCA reform bills that are in Congress. Vermont DEC is working on a high-level, multi-state letter, and the following comments are from that draft letter. Please let us know if you need any bill-specific comments in addition to what is provided below.

The recent discovery of PFOA contamination in North Bennington, Vermont, has underscored the need to understand the risks presented by the chemicals in our environment and to manage those risks. The revelation of significant contamination lingering from factories closed long ago reminds us that the risks associated with over 80,000 chemicals on the TSCA inventory have not been evaluated, and that risks associated with chemicals that have been evaluated persist unabated. Accordingly, we ask Congress to:

- **Strengthen and clarify the current TSCA safety standard**, which is intended to prevent “unreasonable risk” to human health and the environment. That standard is not defined in the Act, but it has generally been interpreted to allow consideration of costs and the availability of alternatives, rather than requiring an empirical, risk-based approach to protecting human health and the environment.
- **Adopt a more protective safety standard**, one that requires EPA to make an affirmative finding for new chemicals that there is “reasonable certainty of no harm,” without consideration of cost or other non-risk factors.
- **Protect potentially-exposed and vulnerable populations** including workers, children, pregnant women and those with compromised immune systems. TSCA reform must (1) define vulnerable populations, (2) require that vulnerable population data be provided to and reviewed by EPA in its safety assessment, and (3) require that that information be taken into account in the safety determinations.
- **Strike TSCA’s “least burdensome” requirement.** When EPA has found that a chemical presents an unreasonable risk, the evaluation of risk management options should not be hampered by extensive alternatives assessments that delay protective restrictions. To that end, it is promising that both the House and Senate bills strike the “least burdensome” requirement. Revisions should also limit the number of alternatives EPA is required to evaluate and limit consideration of cost to one of a number of factors, not the overriding factor.
- **Provide clear and feasible timelines in TSCA** for starting and completing safety assessments on those chemicals that are already in use in interstate commerce and for acting on chemicals when they have been found unsafe. Deadlines for completion of safety assessments must be coupled with mandates to start a reasonable number of reviews each year on existing chemicals of highest concern such as those already on EPA’s TSCA Work Plan. Further, new chemicals should be excluded from interstate commerce until EPA has determined that they meet the safety standard, and timelines for submission of information and EPA decision making should be clarified and condensed.
- **Require industry to include test data for new chemicals when they submit their pre-manufacture notices** so that EPA can quickly make a determination of whether or not the chemicals meet the safety standard. For chemicals already on the TSCA inventory, EPA should be able to require testing for safety assessments of existing chemicals with orders rather than by rulemaking.

- **Limit preemption of state regulation.** States should not be preempted from taking action on specific chemicals unless and until EPA takes final action to regulate those chemicals, and the scope of preemption should not be broader than the scope of EPA's action. Further, we urge that any preemption of state and local regulation be carefully cabined to ensure that the system of cooperative federalism and the complementary roles played by states and EPA is retained.
- **Provide funding to EPA to implement TSCA.** EPA must be given the necessary resources to complete work under TSCA including both appropriations and the authority to collect fees from manufacturers for the costs of all phases of the TSCA review process for both new and existing chemicals. If manufacturers are given the ability to request a limited number of safety assessments, those assessments must be fully funded by the manufacturers.

Thank you for consideration of these requests.

Commissioner Alyssa Schuren
Vermont Department of Environmental Conservation

From: Pero, Haley (Sanders) [mailto:Haley_Pero@sanders.senate.gov]
Sent: Tuesday, March 22, 2016 3:18 PM
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Subject: TSCA

Hi Rebecca,

At our last ANR quarterly meeting, there had been some discussion about how the North Bennington water issue could inform TSCA reform. I think you had mentioned drafting a list of areas of TSCA that could help address issues like we have seen with PFOA. Could you please send me any suggestions if there are indeed areas that could be strengthened?

Thanks,
Haley

Haley Pero

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