Safe Chemicals Act of 2011

Testing by the Centers for Disease Control and Prevention has found more than 212 industrial chemicals in the bodies of most Americans, including at least six known carcinogens and dozens that have been linked to cancer, birth defects, and other adverse health effects. But the Toxic Substances Control Act of 1976 (TSCA), which governs these chemicals, has not been amended since its adoption more than three decades ago – despite huge changes in chemical production and use and our state of knowledge about how chemicals can harm health and the environment.

TSCA placed severe burdens on EPA's ability to require safety testing or regulate a chemical – burdens so onerous that over the past 30 years EPA has been able to require testing for only about 200 chemicals out of more than 80,000 on the EPA's inventory. Moreover, TSCA has allowed EPA to regulate only limited uses of five chemicals. In 1989, EPA issued a regulation, ten years and tens of millions of dollars in the making, to ban most uses of the highly carcinogenic substance asbestos. The regulation was promptly challenged and ultimately tossed out by the courts, which ruled that EPA had not met its burden of proof under TSCA that asbestos poses an "unreasonable risk." Since then, EPA has not tried again to regulate a chemical's production or use.

The Government Accountability Office has issued several reports strongly criticizing the law, and, in January of 2009, placed TSCA on its list of "high risk" areas of the law.

The **Safe Chemicals Act of 2011** would address each of the core failings of TSCA. It is a risk-based bill that modernizes the Toxic Substances Control Act (TSCA) to require chemical companies to demonstrate the safety of industrial chemicals and the Environmental Protection Agency (EPA) to evaluate safety based on the best available science.

In short, it would:

- Ensure EPA has information on the health risks of all chemicals. The bill requires chemical companies to develop and submit a minimum data set for each chemical they produce. EPA would have full authority to require any data beyond the minimum data set needed to determine safety of a chemical. While EPA can access information more easily, the bill also contains numerous provisions to ensure that no duplicative or unnecessary testing occurs, and that EPA accepts and encourages the use of rapid, low-cost, non-animal tests that provide high quality data.

- Require EPA to prioritize chemicals based on risk. The Administrator must conduct an initial evaluation of the safety of all chemicals and place those that meet certain criteria into one of three classes: immediate risk management, safety standard determination, and no immediate action. Not all chemicals will meet the criteria to be placed in a class. Prioritizing chemicals based on risk focuses EPA's resources on the chemicals most likely to cause harm, while ensuring that all chemicals are reviewed for safety.

- Expedite action to reduce risk from chemicals of highest concern. Persistent, bioaccumulative, and toxic chemicals for which there is the potential for widespread exposure will be placed into the category of chemicals requiring immediate risk management. EPA must then impose conditions that will immediately reduce exposure.

- Further evaluate chemicals that could pose unacceptable risk. Chemicals that present uncertainty about their ability to meet the safety standard will be placed into the category of chemicals requiring a safety standard determination. EPA would then require additional testing and risk assessment. If the chemical cannot meet the safety standard, it cannot remain on the market. The Administrator, or industry on its own accord, may impose conditions on uses of a chemical that will reduce risk and allow the chemical to meet the safety standard.

- Provide broad public, market and worker access to reliable chemical information. EPA must establish a public database that will house both chemical information submitted to EPA and decisions made by EPA about chemicals. The bill narrows the conditions under which data submitted by industry can be claimed to be confidential business information (CBI), while still ensuring appropriate protections for legitimate CBI. It provides access to CBI by workers and local and state governments so long as they protect the information's confidentiality. EPA must impose requirements to ensure that information developed and submitted, and advice received from advisory committees convened by EPA, is reliable.

- Promotes innovation, green chemistry, and safer alternatives to chemicals of concern. The bill requires EPA to establish a program to develop market and other incentives for safer alternatives, and a research grant program targeted at priority hazardous chemicals for which alternatives do not presently exist. A network of research centers would be established to conduct green chemistry research and alternatives analyses, and to provide training, educational materials, and technical assistance to educational institutions, small businesses, government and non-governmental organizations. The bill also allows some new chemicals onto the market using an expedited process for reviewing safety.

The Safe Chemicals Act of 2011 is a long-overdue modernization of the Toxic Substances Control Act. It address the problems with TSCA that have been identified by the EPA, Government Accountability Office, and industry leaders that have testified in Senator Lautenberg's Subcommittee on Superfund, Toxics, and Environmental Health over the past two years. The bill also comports with principles for TSCA reform issued by the Obama Administration, the American Chemistry Council, and the Safer Chemicals, Healthy Families Coalition.