



AMERICAN SUSTAINABLE
BUSINESS COUNCIL
ACTIONFUND

March 17, 2015

The Honorable James Inhofe
Chairman, U.S. Senate Committee on
Environment
& Public Works
205 Russell Senate Office Building
Washington, DC 20510

The Honorable Barbara Boxer
Ranking Member, U.S. Senate
Committee on Environment
& Public Works
112 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Inhofe and Ranking Member Boxer:

On behalf of the businesses and business organizations of Companies for Safer Chemicals and the American Sustainable Business Council we are pleased to submit this letter to the committee regarding reform of the Toxic Substances Control Act (TSCA). Meaningful reform will drive innovation and investment, create new industries for safer alternatives and job creation. The bill introduced by Senators Vitter and Udall (S.697) is insufficient to achieve these aims.

The coalition Companies for Safer Chemicals was formed in 2013 to push Congress to modernize the nation's out-of-date and ineffective chemical safety laws. The coalition favors strong reforms that support the industry's innovation of safer and cleaner products. It includes such companies as Seventh Generation Patagonia, Stonyfield Farm, Aubrey Organics, Method, Naturepedic, Badger, Annie's, EILEEN FISHER, Zarbee's Naturals, Earth Friendly Products, and [many more](#) companies and business organizations, which together represent thousands of companies.

The coalition endorses reform that reflects three broad principles:

- **TRUE TRANSPARENCY:** We believe that the public and businesses should have access to information regarding the safety of the chemicals in the products they use.
- **TRUE SAFETY:** Federal law should set a minimum acceptable safety requirement, and encourage States to create innovative laws and regulations that further protect human health and the environment.
- **TRUE INNOVATION:** Chemical management should foster solutions that lead to safer and sustainable products and technologies, not codify the status quo.

Based on these principles, the concern with S.697 is primarily in the following areas:

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Preemption: The preemption provision for high-priority chemicals comes far too early in the regulatory process. This is a rollback from existing law that creates a regulatory gap for some of the most dangerous chemicals for up to seven years. Current law should remain; preemption should happen once EPA has made a final determination to exonerate or manage a chemical.

Transparency/CBI: While some progress has been made that loosens the overly protective practice of claiming any information as confidential business information (CBI), the provisions grant increased access to EPA but nothing more to businesses in the supply chain. Increased transparency throughout the supply chain will drive the market towards safer alternatives. Downstream businesses will make more informed choices about the products they make or sell to meet the increasing consumer demand for safer alternatives.

Schedule: The pace at which S.697 requires EPA to review chemicals is too slow and it is made worse by the one off/one on provision. This pipeline for review will not make a serious dent in the thousands of chemicals that need assessment. Listing chemicals as high-priority is a market signal to innovators and investors that there is an increased likelihood that there will be a market for a safer alternative for a chemical, or for a specific use of a chemical. With a more robust review schedule, more innovators will be working to find safer alternatives, and more investors will be supporting that work.

Fees: In order for EPA to review an adequate number of chemicals it must have the resources to do the work. Capping the fees will only restrain EPA's activities. A fee system that fully funds the TSCA program is needed.

Chemicals in Products: The legislation adds additional hurdles to restrict products that contain a chemical that EPA has determined are a hazard and should be restricted. EPA will have to make an additional legal finding to restrict a water bottle or couch containing that restricted chemical. This additional hurdle will likely face delay through litigation and the unsafe product will remain in commerce.

In an ideal scenario, manufacturers would have to prove their chemicals were safe before they could enter commerce, with their safety information transparently shared throughout the supply chain and regulators would only have to police a relative few unsafe chemicals.

Short of that, a vigorous system with adequate resources and no roadblocks that protect incumbent industries needs to be in place. The Vitter-Udall legislation is insufficient at meeting this standard.

Sincerely,

A handwritten signature in black ink that reads "David Levine". The signature is written in a cursive, slightly slanted style.

David Levine, CEO
American Sustainable Business Council

cc:

The Honorable David Vitter
The Honorable John Barrasso
The Honorable Shelley Moore Capito
The Honorable Mike Crapo
The Honorable John Boozman
The Honorable Jeff Sessions
The Honorable Roger F. Wicker
The Honorable Deb Fischer
The Honorable Mike Rounds
The Honorable Dan Sullivan

The Honorable Thomas R. Carper
The Honorable Benjamin L. Cardin
The Honorable Bernard Sanders
The Honorable Sheldon Whitehouse
The Honorable Jeff Merkley
The Honorable Kirsten Gillibrand
The Honorable Cory A. Booker
The Honorable Edward Markey