

February 29, 2016

The Honorable James Inhofe
Chairman
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

The Honorable Barbara Boxer
Ranking Member
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

The Honorable Frederick Upton
Chairman
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

The Honorable Frank Pallone
Ranking Member
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

The Honorable John Shimkus
Chairman
Subcommittee on Environment and the
Economy
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

The Honorable Paul Tonko
Ranking Member
Subcommittee on Environment and the
Economy
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

Dear Chairman Inhofe, Ranking Member Boxer, Chairman Upton, Ranking Member Pallone, Chairman Shimkus, and Ranking Member Tonko:

We are writing on behalf of the American Alliance for Innovation (AAI) to urge timely and comprehensive negotiations on a conference product to reform the Toxic Substances Control Act (TSCA). AAI is an alliance of trade associations representing a broad spectrum of the economy, businesses large and small. AAI represents many major industry sectors, all along the chemistry value chain, including aerospace, agriculture, apparel, automotive, building and construction materials, chemical and raw material production, consumer and industrial goods, distribution, electronics, energy, equipment manufacturers, food and grocery, footwear, healthcare products and medical technology, information technology, mining and metals, paper products, plastics, retail, storage, and travel goods. Updating TSCA so the law ensures the safe use of chemicals, encourages the development of new products, and protects American jobs continues to be a top priority for our associations.

As you know, thanks to strong bipartisan support, both the Senate and House passed TSCA reform legislation last year. Both bills, the Frank R. Lautenberg Chemical Safety for the 21st Century Act, and the TSCA Modernization Act of 2015, have strengths and have been publicly supported by AAI. The attached document, agreed to by the undersigned AAI members, identifies preferred outcome priorities. It is important to note that this document is not exhaustive of all potential issues of interest to the undersigned groups.

Some preferred outcomes identified in the document are in the House bill, some are in the Senate bill. However, TSCA is an extremely complicated statute, and care should be taken as you combine the two bills. In many cases, sections of each bill have been drafted to work in sync

with other sections of the bill. Simply cutting and pasting sections of one bill into another without considering effects on the remaining pieces of the final product could be confusing and problematic. We therefore ask that you consider the attached document as a whole.

The members of AAI are committed to doing our part to help finalize a federal approach that will benefit all consumers and industry, and we strongly urge all of you and your bipartisan, bicameral colleagues to make TSCA reform a reality in the 114th Congress by finalizing an effective conference product as soon as possible.

Sincerely,

Adhesive and Sealant Council
Agricultural Retailers Association
Air-Conditioning, Heating, and Refrigeration Institute
Alkylphenols & Ethoxylates Research Council
Alliance of Automobile Manufacturers
Aluminum Association
American Apparel & Footwear Association
American Architectural Manufacturers Association
American Bakers Association
American Beverage Association
American Chemistry Council
American Cleaning Institute
American Coatings Association
American Composites Manufacturers Association
American Farm Bureau Federation
American Feed Industry Association
American Fiber Manufacturers Association
American Foundry Society
American Frozen Food Institute
American Fuel & Petrochemical Manufacturers
American Gas Association
American Institute for Packaging and the Environment
American Petroleum Institute
American Road & Transportation Builders Association
American Trucking Associations
APA – The Engineered Wood Association
Asphalt Roofing Manufacturers Association
Association of Global Automakers
Association of Home Appliance Manufacturers
Auto Care Association
Can Manufacturers Institute
Center for Environmental Innovation in Roofing
Chemical Fabrics and Film Association
Color Pigments Manufacturers Association
Composite Lumber Manufacturers Association
Composite Panel Association

Consumer Healthcare Products Association
Consumer Specialty Products Association
Consumer Technology Association
Copper & Brass Fabricators Council, Inc.
Corn Refiners Association
Council of Great Lakes Industries
Council of Producers & Distributors of Agrotechnology
Craft & Hobby Association
CropLife America
Edison Electric Institute
EPS Industry Alliance
Extruded Polystyrene Foam Association
Fashion Accessories Shippers Association
Fashion Jewelry and Accessories Trade Association
Flexible Packaging Association
Food Marketing Institute
Gemini Shippers Association
Global Cold Chain Alliance
Grocery Manufacturers Association
Halloween Industry Association
Hardwood Plywood & Veneer Association
Hearth, Patio & Barbecue Association
INDA, Association of the Nonwoven Fabrics Industry
Industrial Environmental Association
Industrial Minerals Association - North America
Institute of Makers of Explosives
Institute of Scrap Recycling Industries, Inc.
Institute of Shortening and Edible Oils
International Association of Refrigerated Warehouses
International Fragrance Association North America
International Housewares Association
International Institute of Ammonia Refrigeration
International Institute of Synthetic Rubber Producers
International Sleep Products Association
International Warehouse Logistics Association
Interstate Natural Gas Association of America
IPC - Association Connecting Electronics Industries
Juvenile Products Manufacturers Association
Kitchen Cabinet Manufacturers Association
Methanol Institute
Motor & Equipment Manufacturers Association
National Association for Surface Finishing
National Association of Chemical Distributors
National Association of Landscape Professionals
National Association of Manufacturers
National Association of Printing Ink Manufacturers
National Black Chamber of Commerce

National Cotton Council
National Council of Textile Organizations
National Electrical Manufacturers Association
National Fisheries Institute
National Grain and Feed Association
National Grocers Association
National Industrial Sand Association
National Lime Association
National Lumber and Building Material Dealers Association
National Marine Manufacturers Association
National Mining Association
National Oilseed Processors Association
National Pest Management Association
National Ready Mixed Concrete Association
National Retail Federation
National Rural Electric Cooperative Association
National Stone, Sand and Gravel Association
National Tank Truck Carriers, Inc.
National Tooling and Machining Association
North American Die Casting Association
North American Meat Institute
Oregon Women in Timber
Outdoor Power Equipment Institute
Personal Care Products Council
Personal Watercraft Industry Association
Petroleum Marketers Association of America
Pine Chemicals Association
Plastic Pipe and Fittings Association
Plastics Pipe Institute
Polyisocyanurate Insulation Manufacturers Association
Polyurethane Manufacturers Association
Portland Cement Association
Precision Machined Products Association
Precision Metalforming Association
PVC Pipe Association
Recreation Vehicle Industry Association
Resilient Floor Covering Institute
Retail Industry Leaders Association
Reusable Packaging Association
Roof Coatings Manufacturers Association
Rubber Manufacturers Association
Snack Food Association
Specialty Graphic Imaging Association
SPI: The Plastics Industry Trade Association
Sports & Fitness Industry Association
Spray Polyurethane Foam Alliance
SPRI, Inc. (representing the Single Ply Roofing Industry)

Structural Insulated Panel Association
Styrene Information & Research Center
Textile Rental Services Association
The Carpet and Rug Institute
The Chlorine Institute
The Silver Institute
The Vinyl Institute
Thermoset Resin Formulators Association
Toy Industry Association
Travel Goods Association
Treated Wood Council
United Egg Producers
U.S. Chamber of Commerce
U.S. Council for International Business
USA Rice Federation
Utility Solid Waste Activities Group
Vinyl Building Council
Vinyl Siding Institute, Inc.
Wallcoverings Association
Waterways Council, Inc.
Window and Door Manufacturers Association

cc: The Honorable David Vitter
The Honorable Tom Udall

**AMERICAN ALLIANCE FOR INNOVATION (AAI)
PRIORITIES TO ADDRESS IN HOUSE-SENATE CONFERENCE DISCUSSIONS
ON TSCA REFORM**

The House of Representatives and the Senate are expected to reconcile their versions of legislation to modernize the Toxic Substances Control Act (TSCA) upon passage of the Senate bill. As the conference process unfolds, the following technical objectives and outcomes should be priorities for consideration.

| Objective | Preferred Outcome(s) |
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| Maintain strong preemption provisions | <ul style="list-style-type: none"> • Retain high priority “pause” on State actions taken after the federal risk assessment process begins. • Retain conflict limitation on grandfathered State laws. • Strengthen the preemption waiver provisions in current law, and ensure they are implemented consistent with a nationally uniform chemical regulatory system. EPA should retain the discretion to grant or deny waivers. • Retain exemption for state actions related to clean air and clean water laws. • Retain exemption for state actions related to monitoring and information collection. |
| Ensure a robust, risk-based prioritization system to focus government and industry resources on high priority substances | <ul style="list-style-type: none"> • Ensure the prioritization process considers both hazard and exposure. • Include requirements to ensure the prioritization process creates certainty and predictability in timing, selection of chemicals, and outcomes, including a focus only on those uses that present the greatest risk potential. • Require prioritization screening only at a pace consistent with EPA ability to conduct risk assessments (e.g., avoid creating a long list of high priority substances that EPA cannot address in a timely manner). • Preserve requirement that EPA designate low priority substances. Provide clear guidance to EPA on chemicals to be considered as low priorities (e.g., substances exempt from CDR reporting). • Ensure a focus on chemicals that are actually in commerce (including chemicals on the EPA Work Plan Chemicals list). • Clarify Congressional direction and intent with respect to specific prioritization criteria (e.g., better define “high hazard”, “widespread exposure” and |

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| | <p>“proximity to water sources” as prioritization criteria).</p> <ul style="list-style-type: none"> • Retain process for manufacturers and processors to make a voluntary request that a safety assessment be conducted. • Retain requirement for EPA to request information from interested persons, to inform the prioritization process. • Retain requirement that EPA base prioritization decisions on all available information. |
| <p>Adopt a risk-based approach to assessment of all high-priority substances, including PBTs, and for manufacturer-requested assessments</p> | <ul style="list-style-type: none"> • Retain requirement for full transparency in the risk assessment process, including publication of the scope of assessments, and the hazards, exposures, conditions of use and potentially exposed subpopulations considered. • Ensure integration of hazard and exposure information in assessments, and that the process fosters certainty and predictability in scope, timing/deadlines, and decision-making. • Ensure that PBT characteristics are simply one criterion in the prioritization process, and that full risk assessment processes apply to such substances. • Eliminate a list-based approach to PBTs that requires risk management actions on all listed substances regardless of risk. • Maintain the requirement that risk management actions for PBTs reduce exposures “to the extent practicable.” • Metals and metal compounds should not be identified as persistent, bioaccumulative, and toxic substances, as specified in EPA’s 2007 Framework for Metals Risk Assessment. • Mandate EPA consideration of existing federal regulation in determining the scope of a risk assessment. • Permit industry requests for safety assessments, and industry submission of draft safety assessments. • Retain requirement for EPA to develop guidance for submission of industry draft safety assessments. |
| <p>Ensure that confidentiality provisions protect essential proprietary information</p> | <ul style="list-style-type: none"> • Retain approach that distinguishes information that must be asserted and that which must be substantiated in order to obtain CBI protection. • Clarify that while health and safety studies are not subject to protection from disclosure, confidential chemical identity in the context of health and safety studies is protected, including molecular structure and |

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| | <p>formula information.</p> <ul style="list-style-type: none"> • Retain provision protecting CBI when contained in material that has both confidential and nonconfidential information within it. • Ensure that disclosure requirements to third parties include appropriate use of confidentiality agreements. • Require EPA to provide a written statement of reasons for the denial or modification of a CBI claim. • Retain requirements for EPA to provide notice to a CBI claimant upon expiration of a claim, and notice and the right to seek judicial appeal of an EPA decision to disclose CBI. |
| <p>Ensure an efficient, tiered testing process</p> | <ul style="list-style-type: none"> • Ensure that exposure or exposure potential is a factor in EPA testing decisions. • Require EPA to employ a tiered screening and testing process. • Make clear that EPA cannot impose an express or constructive minimum data set, or require testing for the purposes of prioritization. • Maintain reimbursement provisions in existing law. |
| <p>Adopt workable amendments and clarifications to TSCA reporting and recordkeeping provisions</p> | <ul style="list-style-type: none"> • Ensure a focus on chemicals actually in commerce by “resetting” the TSCA Inventory. Require EPA to retain the current scope of the Inventory. • Adopt a timeframe and deadlines for an Inventory reset that are reasonable and attainable. • Mandate that EPA reset the Inventory as efficiently as possible (e.g., avoid duplicative or unnecessary reporting; maintaining existing exemptions from reporting). • Ensure that the mechanism for inventory reporting is efficient and effective and not overly burdensome for those manufacturers/processors dealing with a high number of low volume materials. • Ensure that no substance is removed from the Inventory in the active/inactive reset process. • Preserve Class 2 nomenclature system and practices for UVCBs. Require EPA to develop guidance for nomenclature equivalents. • Clarify ability to seek Inventory corrections, and establish an efficient process to make corrections. • Ensure that in setting reporting requirements, EPA looks to the entities most likely to have relevant information. • Retain requirement for EPA to periodically consult with SBA and update definition of small |

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| | <p>manufacturers/processors for the purposes of reporting.</p> <ul style="list-style-type: none"> • Ensure EPA resources are appropriately focused by requiring EPA to review only a representative set of prior claims for protection for confidential chemical identity. |
| Provide authority to ensure efficient and effective consideration and implementation of risk management measures | <ul style="list-style-type: none"> • Require EPA to consider cost and benefit in deciding which regulatory option to apply in rulemaking. • Retain EPA authority to adopt critical use and other appropriate exemptions from risk management measures. • Ensure that critical use exemptions for substances that are banned or phased out are not subject to time limits, or are renewable. • Ensure appropriate exemptions for replacement parts. • Apply risk management measures to articles only to the extent necessary to address risks from exposure to the chemical substance from the article or category of articles. |
| Ensure Congressional direction to manage EPA imposition and collection of fees | <ul style="list-style-type: none"> • Provide EPA sufficient direction and authority to assess fees in appropriate circumstances, including a requirement to develop the fee system (including fee attachment points) in consultation with industry. • Restrain EPA authority to impose fees arbitrarily on any TSCA-related activity. • Ensure that fees for manufacturer-led risk assessments are used only for that purpose. • Clarify that fees cannot be assessed for submitting exemption notices (e.g., low volume or polymers). |
| Retain appropriate definitions in a revised TSCA | <ul style="list-style-type: none"> • Preserve a definition of “susceptible subpopulation” that EPA has a mandate to identify specific subpopulations that are affected/to be addressed in a given risk assessment. • Ensure that the scope of EPA authority under TSCA is not expanded into areas that are under the jurisdiction of other federal agencies. |
| To promote innovation, ensure an efficient and effective new chemicals review program | <ul style="list-style-type: none"> • Modify the Section 5 new chemicals program only insofar as necessary to ensure— <ul style="list-style-type: none"> ○ appropriate review of new chemical notifications within current deadlines. ○ sufficient EPA resources to make timely and efficient PMN decisions. ○ EPA does not interpret its authority to expressly or constructively impose blanket Significant New Use Rules in PMN decisions. |

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| | <ul style="list-style-type: none"> ○ Regulation of articles only if the reasonable potential for exposure to the chemical substance from an article or category of articles warrants notification. ● Clarify Congressional intent regarding the decision-making standard for new chemicals, if it is changed from current law. ● Preserve all existing Section 5 exemptions |
| <p>Require consideration of existing Federal and State regulatory authorities and controls during prioritization, assessment, and risk management</p> | <ul style="list-style-type: none"> ● Require EPA to consult with OSHA before adopting prohibitions or restrictions to address workplace exposures. ● Maintain required EPA comparison of risks, costs, and efficiencies of regulating under TSCA versus another EPA law. |
| <p>Reliable science and weight-of-evidence as the foundation of EPA decisions</p> | <ul style="list-style-type: none"> ● Require EPA to apply high-quality, reliable science in decision-making, and develop appropriate policy and guidance to ensure certainty in the application of that requirement. ● Require EPA to make decisions based on the weight of the scientific evidence. ● Provide Congressional direction to EPA on use of sentinel exposures in risk assessments. |

AMERICAN ALLIANCE FOR ENVIRONMENTAL DEFENSE