

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 114<sup>th</sup> 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.

<b>Objective</b>	<b>Preferred Outcome(s)</b>
Maintain strong preemption provisions	<ul style="list-style-type: none"> <li>• Retain high priority “pause” on State actions taken after the federal risk assessment process begins.</li> <li>• Retain conflict limitation on grandfathered State laws.</li> <li>• 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.</li> <li>• Retain exemption for state actions related to clean air and clean water laws.</li> <li>• Retain exemption for state actions related to monitoring and information collection.</li> </ul>
Ensure a robust, risk-based prioritization system to focus government and industry resources on high priority substances	<ul style="list-style-type: none"> <li>• Ensure the prioritization process considers both hazard and exposure.</li> <li>• 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.</li> <li>• 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).</li> <li>• 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).</li> <li>• Ensure a focus on chemicals that are actually in commerce (including chemicals on the EPA Work Plan Chemicals list).</li> <li>• Clarify Congressional direction and intent with respect to specific prioritization criteria (e.g., better define “high hazard”, “widespread exposure” and</li> </ul>

	<p>“proximity to water sources” as prioritization criteria).</p> <ul style="list-style-type: none"> <li>• Retain process for manufacturers and processors to make a voluntary request that a safety assessment be conducted.</li> <li>• Retain requirement for EPA to request information from interested persons, to inform the prioritization process.</li> <li>• Retain requirement that EPA base prioritization decisions on all available information.</li> </ul>
<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"> <li>• 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.</li> <li>• Ensure integration of hazard and exposure information in assessments, and that the process fosters certainty and predictability in scope, timing/deadlines, and decision-making.</li> <li>• Ensure that PBT characteristics are simply one criterion in the prioritization process, and that full risk assessment processes apply to such substances.</li> <li>• Eliminate a list-based approach to PBTs that requires risk management actions on all listed substances regardless of risk.</li> <li>• Maintain the requirement that risk management actions for PBTs reduce exposures “to the extent practicable.”</li> <li>• 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.</li> <li>• Mandate EPA consideration of existing federal regulation in determining the scope of a risk assessment.</li> <li>• Permit industry requests for safety assessments, and industry submission of draft safety assessments.</li> <li>• Retain requirement for EPA to develop guidance for submission of industry draft safety assessments.</li> </ul>
<p>Ensure that confidentiality provisions protect essential proprietary information</p>	<ul style="list-style-type: none"> <li>• Retain approach that distinguishes information that must be asserted and that which must be substantiated in order to obtain CBI protection.</li> <li>• 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</li> </ul>

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



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

	<ul style="list-style-type: none"> <li>○ Regulation of articles only if the reasonable potential for exposure to the chemical substance from an article or category of articles warrants notification.</li> <li>● Clarify Congressional intent regarding the decision-making standard for new chemicals, if it is changed from current law.</li> <li>● Preserve all existing Section 5 exemptions</li> </ul>
<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"> <li>● Require EPA to consult with OSHA before adopting prohibitions or restrictions to address workplace exposures.</li> <li>● Maintain required EPA comparison of risks, costs, and efficiencies of regulating under TSCA versus another EPA law.</li> </ul>
<p>Reliable science and weight-of-evidence as the foundation of EPA decisions</p>	<ul style="list-style-type: none"> <li>● 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.</li> <li>● Require EPA to make decisions based on the weight of the scientific evidence.</li> <li>● Provide Congressional direction to EPA on use of sentinel exposures in risk assessments.</li> </ul>

AMERICAN ALLIANCE FOR CHEMICAL SAFETY