

**Submission for the record  
by  
United Steelworkers  
before the  
House Subcommittee on Environment and the Economy  
on  
Title I of the Toxic Substance Control Act: Understanding its History and Reviewing its Impact  
June 13, 2013**

Thank you for holding today's hearing on the Toxic Substances Control Act of 1976 (TSCA). We submit this testimony on behalf of the 850,000 members of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW).

The USW is the largest industrial union in North America and represents the majority of unionized chemical workers in the United States who make plastics, fertilizers, pesticides, synthetic rubber, pharmaceuticals, paints, pigments, solvents and thousands of organic and inorganic chemicals. We therefore have a very significant stake in the economic health of the chemical industry and all industries that use chemicals where workers suffer higher exposures than other segments of the population.

Our members, and indeed all workers, have a huge stake in chemical safety. We are the first to be exposed and suffer the highest exposures as the producers of new and old chemicals. For many years workers have been recognized as canaries in the coal mine in respect to toxic chemicals. Miners used to bring canaries underground in the mines before the invention of modern testing equipment. If the bird died, workers knew something was in the air and they exited the mine. Today, we often understand the hazards of a chemical through epidemiologic studies that count the death or disease attributed to exposure. Most of these studies are done on workers. Our laws should prevent workers from becoming sick and dying due to their workplace chemical exposures.

TSCA is the only major environmental law that has not been updated since it was originally passed in 1976. The law is woefully out of date and ineffective. The Environmental Protection Agency (EPA) was required to grandfather in the use of 60,000 chemicals with no requirement that they be tested or shown to be safe. Over the last 37 years EPA has only used TSCA to require testing on 200 of the over 84,000 chemicals that are produced and used in the United States. In total, the EPA has only restricted five chemicals using its TSCA authority since 1976.

One often-cited example of the ineffectiveness of the law is EPA's attempted ban of asbestos. Asbestos is a known human carcinogen that has caused debilitating illness and eventual death for hundreds of thousands of workers who were exposed on the job. EPA banned most uses of asbestos in 1989 after spending ten years studying the issue and developing a plan. The ban was overturned by a federal court in 1991 because EPA had failed to establish that asbestos

posed an “unreasonable risk,” and that it had chosen the “least burdensome” method for restricting use of the substance, as required by TSCA. As a result, asbestos is still in commercial use in the United States. EPA has not tried to ban a substance since the ruling on asbestos 22 years ago.

As has been stated, TSCA is ineffective. Some of the shortcomings that adversely impact workers include:

- TSCA does not require EPA to screen or prioritize chemicals for action.
- The safety standard under TSCA is not solely health-based. It includes a cost-benefit component that has prevented EPA from making clear statements about a chemical’s safety and prevented needed regulations, as illustrated by the asbestos case.
- Under current law TSCA does not explicitly require protection for those who are more vulnerable based upon their aggregate or cumulative exposure or their biology, including workers, pregnant women, children, and other, disproportionately affected communities.
- TSCA does not require new chemicals to be tested for safety. EPA must demonstrate that a chemical poses a risk before it can be tested for safety. This is an impossible Catch-22 with regard to a new chemical.
- EPA is limited in its ability to require testing on existing chemicals. Under TSCA, EPA must initiate formal rulemaking to require testing which is an arduous process.
- Health and safety information is protected under TSCA’s provisions for confidential business information (CBI). Public disclosure of this information is crucial to preventing worker and consumer exposure to harmful chemicals.

TSCA’s ineffectiveness caused by these and other shortcomings can be seen in workplaces across the country. In the United States, it is estimated that chemicals are the cause of more than 190,000 illnesses and 50,000 deaths suffered annually by workers. Estimates suggest that this costs between \$128 billion and \$155 billion a year. These estimates only address those illnesses that are documented. It is unclear how many others remain undiagnosed or untreated. The rising incidence of disease in the United States over the last fifty years is startling and can be attributed to chemical and environmental exposures, as genetics take generations to change.

This issue of chemical industry competitiveness in the United States is an important consideration when considering reform. Members of our union rely on the jobs in the chemical industry and in the industries that use chemicals, and we support reform because we know that it will make American manufacturing more globally competitive.

Many governments around the world have enacted chemical laws that are more protective than TSCA. Europe has adopted the REACH Act (Registration, Evaluation and Authorization of Chemicals), which is designed to assure that chemicals and products made with chemicals are safe for workers to manufacture and for the public to use. Other countries that have implemented stronger laws include Japan, South Korea, and China. In fact, China made the plywood containing high levels of formaldehyde, a carcinogen, used in the FEMA trailers supplied to Hurricane Katrina survivors. China makes low formaldehyde plywood for domestic use and for export to Europe and Japan but exports plywood with high formaldehyde levels to the United States because formaldehyde is unregulated under TSCA. Unless the United States passes more protective chemical safety laws, manufacturers may be unable to export to parts of the world with more protective laws, and consumers could ultimately come to trust products from other parts of the world more than those made in the United States.

In addition to global competitiveness, we know that TSCA reform could help grow good middle-class jobs in the United States. One study concluded that a shift towards a safer, greener industry would promote necessary innovation, ensure access to global markets, meet a growing customer demand for safer products, prevent the risk of some environmental disasters, and create jobs manufacturing these new, safer chemicals.

Our union has been advocating for chemical policy reform in this country for many years. We have developed and accepted principles for such reform in collaboration with our partner organizations within the BlueGreen Alliance, which is a national coalition of labor unions and environmental organizations dedicated to expanding the number and quality of jobs in the green economy. These principles include:

1. **Take Immediate Action on the Worst Chemicals:** TSCA should ensure that EPA can take immediate action to test and regulate the chemicals that pose the greatest threat to workers and the public.
2. **Prove Safety and Provide that Information to the Public:** Chemical manufacturers should be required to demonstrate the safety of their products and provide information about health and environmental hazards to workers and the public. Claims of confidential business information should not include information about the health and environmental effects of a chemical.
3. **Give EPA the Power to Protect:** TSCA reform should provide EPA with the clear authority to establish health and safety standards and obtain information to make those decisions using the most up-to-date science available. Implementation of the law should be adequately funded.
4. **Protect Those at Greatest Risk, Including Workers:** TSCA should explicitly protect those who are most vulnerable due to biology or aggregate or cumulative exposure including

workers, children, pregnant women, people of color, low-income communities, and other groups.

5. Promote Problem Solving Rather than Problem Shifting: TSCA reform should prioritize the use of green chemistry and engineering that create inherently safer products and processes.
6. Involve Workers, Communities and the Public: TSCA reform must ensure that these groups have the right to know, whistleblower protections, the right to court action, and that companies disclose ingredients.
7. Improve Coordination Between and Innovation Inside Government Agencies: The EPA should have the authority to work with agencies that have the responsibility to protect against chemical exposures including the Occupational Safety and Health Administration, the Food and Drug Administration, and the Consumer Product Safety Commission. Additionally, the states' ability to regulate chemicals above and beyond federal law should be maintained.
8. Invest in a Green Jobs Future and Support the Transition to That Future: Investment should be made to help workers and companies grow and innovate in an economy made up of safer chemicals that are more environmentally and economically sustainable.

The bipartisan Chemical Safety Improvement Act (S. 1009) was recently introduced in the Senate. We are encouraged to see that Senators on both sides of the aisle and stakeholders agree that TSCA reform should be a priority. However, the USW has some key concerns with the current text of the legislation that does not explicitly protect vulnerable populations, including workers, using a purely health-based safety standard; does not preserve state authority to act on chemicals; does not create a timeline for EPA action; and does not require that EPA designate a substance as low priority only when adequate data exists to show that a chemical is safe. We look forward to working with the Senate to address these concerns and move towards passing legislation.

Thank you again for holding today's hearing. We are encouraged that the House Energy and Commerce Committee is investigating the history and impact of TSCA in its current form; and we look forward to working with members of the House of Representatives in passing TSCA reform that will protect workers and the public from the harmful effects of toxic chemicals.