

July 28, 2010

The Honorable Bobby Rush
United States House of Representatives
2416 Rayburn House Office Building
Washington, DC 20515

The Honorable Ed Whitfield
United States House of Representatives
2411 Rayburn House Office Building
Washington, DC 20515

Dear Chairman and Ranking Member:

The organizations listed below, which represent companies throughout the business of chemistry and metals value chain, including producers, processors, wholesalers, retailers, end-line manufacturers, and users, remain committed to modernizing the Toxic Substances Control Act of 1976 (TSCA). We believe that a strong legislative framework is critical to creating a successful chemicals management regulatory program and requires deliberate and careful consideration due to the complexities of the issues and their broad impact on all parts of the American economy.

Some of the organizations below participated in the stakeholder discussions for the Toxic Chemicals Safety Act of 2010 (H.R. 5820), the bill introduced by Chairman Rush last Thursday, and we appreciate that opportunity. Unfortunately, H.R. 5820 does not adequately account for the complexities of chemical and metals uses in commerce. We are concerned that the bill as drafted is not workable and would significantly and negatively impact American jobs and innovation.

- The safety standard established in H.R. 5820 is not achievable. It requires an unworkable risk assessment methodology for every chemical substance and for all EPA-prioritized mixtures. Chemicals used in industrial articles, such as solar panel cells and integrated circuits, would face significant regulatory barriers. The “no-harm” standard essentially requires proof of zero-risk, an impossible goal that will hamper lower-risk, beneficial products from coming to market. Further, the standard’s requirement for companies to assess aggregate exposures from all uses of a chemical—and not just their own uses—is also unachievable because companies won’t have information about these other uses and their exposure scenarios.
- The proposed regulatory structure in H.R. 5820 will create a new barrier to American innovation and job growth. New chemicals and new uses of existing chemicals will be subject to a year-long review by EPA, creating a distinct competitive advantage for foreign manufacturers and a disincentive to produce new chemistry solutions, including safer and greener alternatives, in the United States. American innovation and job growth will be damaged by this complex and burdensome process.
- H.R. 5820 places substantial burdens on importers of chemicals, mixtures, and articles. Importers will be subject to all the declaration, data generation, assessment, and reporting provisions of TSCA, just as if they are chemical manufacturers or processors. Additionally, this provision appears to be vulnerable to challenge under the World Trade Organization agreements.

These are but a few of our collective concerns with H.R. 5820. We believe that the bill requires substantial changes to ensure a robust statutory and regulatory program that will garner public confidence in the safety of chemicals used in the United States, while protecting and promoting American innovation and jobs. We look forward to working with you as the Subcommittee addresses these important issues.

Sincerely,

Alliance of Automobile Manufacturers
American Chemistry Council
American Cleaning Institute
American Coatings Association
American Composites Manufacturers Association
American Forest & Paper Association
American Petroleum Institute
Automotive Aftermarket Industry Association
Ball Clay Producers Association
Consumer Specialty Products Association
Flexible Packaging Association
Fragrance Materials Association
Grocery Manufacturers Association
Industrial Minerals Association – North America
International Diatomite Producers Association
National Association of Chemical Distributors
National Association of Manufacturers
National Electrical Manufacturers Association
National Industrial Sand Association
National Mining Association
National Oilseed Processors Association
National Petrochemical and Refiners Association
National Retail Federation
Natural Gas Supply Association
North American Metals Council
Personal Care Products Council
Pine Chemicals Association
Silicones Environmental, Health and Safety Council of North America
Society of Chemical Manufacturers and Affiliates
Specialty Graphic Imaging Association
SPI: The Plastics Industry Trade Association
The Adhesive and Sealant Council
Treated Wood Council

cc: Chairman Waxman, Ranking Member Barton, House Energy & Commerce Committee
Energy & Commerce Committee, Subcommittee on Commerce, Trade, and Consumer
Protection Members