

# Toxic Chemicals Safety Act: The Wrong Approach for Meaningful Reform

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The NAM supports a U.S. chemical regulatory and management system that is risk-based and uses the best science to ensure that chemicals are safe for their intended uses. Federal regulation should protect human health and the environment, promote innovation, restore public confidence, and avoid unnecessarily adverse economic impacts on both small and large businesses. To meet these objectives, changes to the Toxic Substances Control Act (TSCA) must be practical and achievable.

Manufacturers oppose the approach in the Waxman/Rush Toxic Chemicals Safety Act ("Discussion Draft"). The House Discussion Draft would have a detrimental effect on innovation, dramatically expand the scope of the Environmental Protection Agency's (EPA) authority over nearly every sector of the nation's economy, force chemicals and products to meet an unrealistic safety standard, discourage innovation, and move jobs out of the United States. As the manufacturing sector rebounds from the economic downturn, America needs regulatory policies that provide certainty, encourage job creation and support competitiveness.

The NAM believes the Discussion Draft takes the wrong approach for the following reasons:

- **Overly Broad Scope** — The Discussion Draft is overly broad and creates an unworkable bureaucratic framework. It gives the EPA unprecedented control over products by extending its current authority to mixtures and articles and by intruding into the established responsibilities of numerous other federal agencies.
- **Unnecessary Burdens on Manufacturers and EPA** — Under the Discussion Draft, if a manufacturer decides to make even small changes in the composition of a product or slightly increase production volumes, the company would be required to submit data to the EPA and wait for Agency approval before bringing the product to market. The proposal would also eliminate certain existing exemptions in TSCA for substances that do not present unreasonable risks, which only adds to EPA's burden without increasing safety. Such expansions of the current TSCA statute would grind production of domestic manufactured goods to a halt, severely impacting all sectors of the U.S. economy.
- **Unworkable Safety Standard** — The Discussion Draft would require the EPA to apply a safety standard that ensures chemicals are reasonably certain to cause no harm to the public, taking into account aggregate and cumulative exposure to the substance. The NAM believes this decision standard essentially equates to a "zero-risk" standard that would be impossible to meet.
- **Insufficient Protection for Confidential Business Information ("CBI")** — To compete in today's global economy, NAM members need to protect information regarding their

products. The Discussion Draft provides only five years of CBI protection—less time than it takes to develop many products. To ensure this disclosure of information does not discourage manufacturers from making product investments, data confidentiality provisions need to protect proprietary information to encourage innovation and protect businesses from loss to competitors globally.

- **Lack of Preemption** — Lack of confidence in the EPA's ability to implement TSCA has led states to create individual chemical management regimes. The Discussion Draft would require chemical manufacturers, processors and business users to comply with both federal and state regulations, unless compliance with federal laws is made "impossible" because of conflicting state requirements. The NAM believes this approach encourages the development of inconsistent statutory requirements and would cause a complex patchwork of federal and state regulatory programs.
- **Unrealistic Timeframe for Compliance** — The Discussion Draft places unrealistic timelines on the EPA for making initial safety determinations about hundreds of chemicals. In addition, it requires manufacturers to make declarations for all uses of chemicals in the millions of products they make and every mixture they blend.
- **EPA Approval Requirement for All New Uses of Existing Mixtures** — Under the Discussion Draft, manufacturers may be required to notify and seek approval from the EPA if they make a change to the composition of a "mixture" (e.g. a finished product). This would result in a permitting nightmare for the agency and would prevent manufacturers from developing new products, including those that would be more sustainable and protective of the environment and public health.

While NAM members had hoped the House Discussion Draft would provide a starting point for discussions surrounding TSCA modernization, the current draft does little to promote public health and environmental protection. Instead, the Discussion Draft would hurt competitiveness and innovation and would impose untenable burdens on both the EPA and the regulated community. The NAM is committed, however, to working with Congress to achieve meaningful reform.

