



Association of State Drinking  
Water Administrators

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November 22, 2010

Henry A. Waxman, Chairman  
Joe Barton, Ranking Member  
House Energy and Commerce Committee  
United States House of Representatives  
Washington, D.C. 20515

Barbara Boxer, Chairwoman  
James Inhofe, Ranking Member  
Senate Environment and Public Works Committee  
United States Senate  
Washington, D.C. 20515

*Re: Support for ECOS Resolution on TSCA Reform*

Dear Chairman Waxman, Ranking Member Barton, Chairwoman Boxer, and Ranking Member Inhofe:

I am writing on behalf of the Association of State Drinking Water Administrators (ASDWA) to express our support for the attached resolution from the Environmental Council of the States (ECOS) regarding reform of the Toxic Substances Control Act (TSCA). ASDWA represents the collective interests of the drinking water programs in the fifty states, five territories, and the Navajo Nation.

Our members are responsible for helping ensure that citizens of the United States consume safe water from Public Water Systems. That task is an increasingly challenging one in our complex society in which a host of existing and emerging contaminants threaten the safety of drinking water supplies. Our overall strategy for providing safe water for our citizens is to use a "multiple barrier" approach, comprised not only of rigorous water treatment and distribution system requirements, but also of protection of the "upstream" sources of drinking water. That last part of the strategy is where the subject TSCA resolution comes into play.

TSCA authorizes the U.S. Environmental Protection Agency (EPA) to control chemicals that pose an unreasonable risk to public health or the environment, and remains EPA's primary authority to control the safety of chemicals in commerce. As such, we believe the statute should be modified in the ways the ECOS resolution indicates to better accomplish those objectives. We believe the overarching principles set forth in the

resolution, including, coordination and data-sharing with states, should guide legislators as they consider revising this important piece of legislation.

Thank you for your consideration of these comments. Please don't hesitate to contact me if you have questions or need more information.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Taft". The signature is written in a cursive style with a large, prominent initial "J".

James D. Taft  
Executive Director



Resolution Number 10-8  
Approved August 30, 2010  
Whitefield, New Hampshire

As certified by  
R. Steven Brown  
Executive Director

## **REFORMING THE TOXIC SUBSTANCES CONTROL ACT**

WHEREAS, U.S. daily production and importation in 2005 of chemicals increased by 80% from 42 billion to 74 billion pounds from 2002 levels; and

WHEREAS, there are significant impacts to public health and the environment as a result of chemical pollution and states incur significant responsibilities and costs addressing those impacts; and

WHEREAS, the Toxic Substances Control Act (TSCA) enacted in 1976, authorizes U.S. EPA to control chemicals that pose an unreasonable risk to public health or the environment, and remains EPA's primary authority to control the safety of chemicals in commerce; and

WHEREAS, legal and procedural hurdles under TSCA prevent the U.S. EPA from taking quick and effective regulatory action to protect the public against well-known risks, even in those cases where the U.S. EPA has adequate data on a chemical; and

WHEREAS, in January 2009, the U.S. General Accounting Office (GAO) added U.S. EPA's regulatory program for assessing and controlling toxic chemicals to its list of "high risk" programs, finding that:

- U.S. EPA has been unable to keep its existing assessments current or to complete assessments of important chemicals of concern;
- U.S. EPA requires additional authority to obtain health and safety information from the chemical industry and to shift more of the burden to chemical companies to demonstrate the safety of their products; and
- TSCA does not provide sufficient chemical safety data for public use by consumers, businesses and workers; and fails to create incentives to develop safer alternatives. (More than 16,000 of the roughly 84,000 chemicals included on the TSCA inventory are classified as confidential); and

WHEREAS, U.S. EPA, the National Conference of State Legislatures, and a coalition of 13 states have each separately announced guiding principles for TSCA reform to strengthen TSCA's effectiveness; and

WHEREAS, on April 15, 2010, Senate Bill 3209, the "Safe Chemicals Act of 2010," was introduced in the U.S. Senate to reform and reauthorize the Toxic Substances Control Act and the U.S. House of Representatives released a Discussion Draft TSCA reform bill which contains key

elements that would improve the effectiveness of TSCA and directly benefit state chemical management and waste programs; and

WHEREAS, on July 22, 2010, H.R. 5820, the “Toxic Chemicals Safety Act of 2010,” was introduced in the U.S. House of Representatives; and

WHEREAS, on March 24, 2010, the Environmental Council of States (ECOS) adopted the revised Resolution Number 01-6, “State Access to Confidential Business Information Under the Toxic Substances Control Act”; and

WHEREAS, states have an important stake in shaping TSCA reform.

NOW, THEREFORE, BE IT RESOLVED THAT:

ECOS commends U.S. EPA, the National Conference of State Legislatures, the Product Stewardship Institute, the National Pollution Prevention Roundtable, individual states and others for their leadership in support of TSCA reform that will strengthen chemicals management.

ECOS supports congressional action on TSCA reform that:

- ensures the burden is effectively placed on manufacturers to prove that existing and new chemicals are safe;
- provides U.S. EPA with adequate authority to ensure that existing and new chemicals are safe and to take action when they are not;
- establishes a streamlined process for U.S. EPA to share data with states, including confidential business information provided to U.S. EPA;
- ensures the preservation of state authority to protect citizens and the environment from toxic exposures and to manage chemicals of concern; and only restricts that authority if compliance with both state and federal law would be impossible;
- enhances timely state/federal consultation and coordination in areas of particular concern to the states, including the development and implementation of hot spot action plans, prioritization of the most severely impacted communities and providing a source of funding to state and local governments to conduct chemicals management technical assistance;
- expands the scope of risk-based safety standards to include hazard assessment;
- authorizes U.S. EPA to require a safer alternatives assessment for any chemical U.S. EPA identifies as a Priority Chemical, such as Persistent, Bioaccumulative and Toxic (PBT) or “very Persistent and very Bioaccumulative chemicals;”
- expands U.S. EPA’s authority to oversee the risk and environmental health impacts of engineered nanomaterials and other emerging technologies;
- authorizes U.S. EPA to take expedited action when a chemical presents an “imminent or substantial endangerment;”

- provides U.S. EPA with authority to impose interim conditions and to take expedited action until a safety determination is made, when data or information suggests significant concern about a chemical;
- enhances the safer alternatives assessment to encourage a process of continuous improvement and establishment of a set of criteria for performing assessments that, at a minimum, relies on consideration of the impacts through the life cycle of the chemical;
- facilitates the development of a trained workforce to strengthen and enhance green chemistry research, development and adoption while stimulating innovation, business and job creation; and
- mandates improved coordination within U.S. EPA on the implementation of TSCA and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and between U.S. EPA and other federal agencies with responsibilities for management and oversight of chemicals, including the Food and Drug Administration (FDA), the Occupational Safety and Health Administration (OSHA) and the Consumer Product Safety Commission (CPSC).