



HEALTHIER WORKPLACES | A HEALTHIER WORLD

November 29, 2023

Senator Thomas R. Carper
Chair
Committee on Environment and Public
Works
U.S. Senate

Senator Shelley Moore Capito
Ranking Member
Committee on Environment and Public
Works
U.S. Senate

Senator Jeff Merkley
Chair, Subcommittee on Chemical
Safety, Waste Management,
Environmental Justice, and Regulatory
Oversight
Committee on Environment and Public
Works
U.S. Senate

Senator Markwayne Mullin
Ranking Member, Subcommittee on
Chemical Safety, Waste Management,
Environmental Justice, and Regulatory
Oversight
Committee on Environment and Public
Works
U.S. Senate

Requesting a Public Hearing to Examine the Scientific Basis of the U.S. Environmental Protection Agency's Toxic Substances Control Act Implementation

Dear Senators Carper, Capito, Merkley, and Mullin:

AIHA, the association for scientists and professionals committed to preserving and ensuring occupational and environmental health and safety (OEHS), recently created a Toxic Substances Control Act (TSCA) Task Force¹ to bring together OEHS professionals, including government, academia, industry, and advocates with the goal of improving understanding regarding the U.S. Environmental Protection Agency's (EPA) implementation of TSCA. Membership on the Task Force is free and open to both AIHA members and non-members, with no limit on the size of the Task Force. Together, AIHA and the TSCA Task Force respectfully request that your

¹ For additional information on AIHA's TSCA Task Force, please visit <https://www.aiha.org/aiha-seeks-volunteers-to-serve-on-new-aiha-tsca-task-force>

committee hold a public hearing as soon as possible to examine EPA's implementation of TSCA. In addition to critically reviewing EPA's implementation of TSCA, we hope that such a hearing will highlight the tremendous improvements that EPA has made in the implementation of TSCA since January 20, 2021.

Background and Context

Since 2016, when President Barack Obama signed the Frank R. Lautenberg Chemical Safety for the 21st Century Act into law, which updated TSCA, TSCA has become one of the most influential, controversial, and at times confusing statutes. AIHA has commented on several TSCA rulemakings, recently including EPA's proposed rules on perchloroethylene (PCE), methylene chloride, and carbon tetrachloride (CTC). While there are elements of each proposed rule that we agree with, we also have significant concerns. Some of these observations reflect our concerns that EPA may in some respects be exaggerating worker risk, but we are at least equally concerned about EPA practices that underestimate worker risk and thereby fail to propose inexpensive and needed protections. For example, in our PCE comments, we state that,

“AIHA believes that EPA's underlying risk assessment fails to comply with TSCA Section 6(b) risk evaluation requirements, including accounting for exposures with real world industrial hygiene (IH) practices under the conditions of use, describing the weight of scientific evidence for the identified hazard and exposure, using scientific information employed in a manner consistent with reproducible data using the best available science, and considering the extent of independent verification and peer reviewed information. Under TSCA, EPA in general should build on available published data to construct a more realistic risk evaluation.

“AIHA also suggests that EPA consider a more global approach and include review and consideration of the European Union (EU) rules for the Registration, Evaluation, Authorization and Restriction (REACH) from the European Chemicals Agency, and coordination with REACH with a global perspective with global harmony.”²

Despite these concerns, along with PCE, EPA currently has approximately 12 TSCA-related regulatory actions underway, some of which are far-reaching, which is why holding a hearing in December of this year is urgently needed.

² AIHA. “AIHA's Recommendations on EPA's Proposed Rule on Perchloroethylene (PCE)”. <https://www.aiha.org/public-resources/consumer-resources/public-policy>

Conclusion and Next Steps

We believe that TSCA regulations should respect the hierarchy of controls and in order to better understand how EPA is implementing TSCA and protect more Americans by relying on the best available science and methods, we respectfully request that your committee hold a public hearing in which senior EPA officials responsible for TSCA implementation are called to testify. If desired, AIHA is able to provide a witness from our TSCA Task Force to present your committee with our unique perspectives on TSCA.

If you have any questions about AIHA's support for this hearing, please contact me at mames@aiha.org or (703) 846-0730. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Ames', with a stylized flourish underneath.

Mark Ames
Director, Government Relations
AIHA

About AIHA

AIHA is the association for scientists and professionals committed to preserving and ensuring occupational and environmental health and safety in the workplace and community. Founded in 1939, we support our members with our expertise, networks, comprehensive education programs, and other products and services that help them maintain the highest professional and competency standards. More than half of AIHA's nearly 8,500 members are Certified Industrial Hygienists, and many hold other professional designations. AIHA serves as a resource for those employed across the public and private sectors as well as to the communities in which they work. For more information, please visit www.aiha.org.