



To: House Committee on Fish Wildlife and Water Resources

From: Falko Schilling, Esq., Consumer and Environmental Advocate, VPIRG

Date: 4/7/16

Re: J.R.H.26 Joint resolution relating to the amendment of the federal Toxic Substances Control Act and its preemption provisions

For the record, my name is Falko Schilling and I am the Consumer and Environmental Advocate at Vermont Public Interest Research Group (VPIRG). VPIRG is the state's largest nonprofit consumer and environmental advocacy organization with more than 40,000 members and supporters across Vermont.

One of VPIRG's core missions is to protect Vermonters and our environment from the threats posed by toxic chemicals. Thousands of toxic or untested chemicals are used in products we use every day in our homes, schools, and workplaces. These toxins are building up in our bodies and are contributing to alarming trends in public health, including increased rates of birth defects, developmental disabilities, reproductive disorders, cancers, and more. VPIRG supports federal and state legislation that will get known toxins out of consumer products, and require health and safety testing before chemicals make it into products on our store shelves.

We are also a member of the Alliance for a Clean and Healthy Vermont. The Alliance is a health based coalition of citizens, children's advocates, health professionals, housing groups, environmentalists and others committed to protecting human health from toxic chemical exposure. The goal of the Alliance is to phase out the use of persistent toxic chemicals and to advance a precautionary approach towards the use and regulation of chemicals. We work with business and government leaders to promote policies that protect public health and support the safest alternatives.

Both VPIRG and the Alliance have been talking for years about the need for comprehensive chemical reform on the federal level. The Toxic Substances Control Act (TSCA) was created in 1976 and has not been updated since. As discussed in the proposed language of the Resolution, 84,000 chemicals are currently in use in the United States, with approximately 1,000 new chemicals coming on the market each year. TSCA grandfathered 62,000 chemicals from regulation, and approximately 200 chemicals have been tested since passage and just five chemicals have been restricted or banned.

We support the joint resolution put forward by the committee today, and make the following suggestions.

Whereas, more than 84,000 chemicals are available for use in the United States, and each year approximately 1,000 chemicals are added to the list, and

We suggest adding the words available for in order to clarify that not all 84,000 chemicals are actually in use at one time, but available for use. We also suggest substituting approximately for the words "more than" in order to reflect that the figure of 1000 chemicals added to the list each year is an approximation.

Whereas, on Congress's passage in 1976 of the Toxic Substances Control Act, Pub.L. 94-469 (TSCA), the law grandfathered 62,000 chemicals from regulation, only approximately 200 chemicals have been

fully tested since passage, just five chemicals have been banned or restricted, and no chemicals have been banned in 20 years, and

We suggest substituting approximately in place of the word “some” in order to reflect that roughly 200 chemicals have been fully tested, but not exactly 200.

Whereas, biomonitoring studies show that a wide range of industrial chemicals are bioaccumulating in the bodies of Vermonters, and

Whereas, scientific studies demonstrate clear links between certain chemicals and a wide range of adverse health effects, and

We suggest changing this language to reflect the fact that biomonitoring studies identify the presence of chemicals in humans and not necessarily the adverse health effects caused by those chemicals.

Whereas, Vermonters and most other Americans continue to be exposed to PFOA and other perfluorinated chemicals from other sources, including though exposure from products containing the chemicals imported into the United States; and

We suggest adding this language in order to highlight the many means by which Vermonters and Americans are exposed to perfluorinated chemicals. This language also highlights the importance of maintaining our authority to regulate chemicals imported in to the United States.

Resolved: That EPA's current authority to require notice of potential new uses of perfluorinated chemicals and other chemicals of concern in imported products should not be altered or weakened in any way, and be it further

We would suggest including language asking Congress not to adopt any language that would limit the EPA's authority to require notice of potential new uses of a chemical before a company can start to manufacture or import that chemical either in bulk, or as part of a product. These notice requirements are called Significant New Use Rules or “SNURs” and they give the EPA an opportunity to learn about a potential new use of a substance *before it occurs* and consider whether some restriction is warranted to protect the public.ⁱ

The proposed Senate language would weaken the EPA's authority to require notice, requiring the EPA to show that the chemical would likely lead to exposure that causes concern before the EPA knows about potential uses of that chemical.

Thank you for your time, and I would be happy to answer any questions.

ⁱ <https://www.nrdc.org/experts/daniel-rosenberg/reality-check-how-senate-tsca-bill-would-make-it-harder-epa-stop-products>