



## The Need for Chemical Ingredient Disclosure Across the Supply Chain

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The Toxic Chemicals Safety Act of 2010 (House Discussion Draft) aims to ensure the safety of all chemicals in commerce, using the best available science to protect public health and the environment and promote business innovation in greener chemistry. The proposed legislation would modernize the Toxic Substances Control of 1976 (TSCA), which is universally recognized as ineffectual and obsolete. All stakeholders agree that TSCA reform is a necessary priority.

However, without requirements to clearly communicate which chemicals make up the materials that manufacturers use to create new products, manufacturers of articles remain severely limited in their ability to choose safer, less toxic ingredients.

### Closing the Data Gap - A Need for Chemical Ingredient Data

The draft House legislation will increase the quantity and quality of toxicity information available on chemicals in commerce, which is essential to identifying safer alternatives to chemicals of high concern to human health and the environment. Despite its strengths, the draft House legislation fails to address a critical need: it does not require disclosure of the chemicals used in a product across the supply chain -- from chemical manufacturer to processor or formulator to raw material and component manufacturers and to the manufacturer of finished articles such as consumer products. This omission creates problems that may render the legislation unworkable as drafted:

1. **Downstream companies are left in the dark about which chemicals are in their supply chain.** Companies that make everything from furniture and building materials to consumer electronics to automobiles, or that provide essential services such as health care, routinely operate without knowing the chemicals present in the materials and components they purchase to make their products or provide their service. As a result, the downstream users are hamstrung in their efforts to ensure the safety of their goods and services, or to make wise decisions about which chemicals to use or avoid. This creates business risk and reinforces the growing public unease around chemicals in products.
2. **Chemical manufacturers and the US Environmental Protection Agency (EPA) can not determine the safety of a chemical without knowing all of its uses.** The legislation rightly places the burden of proof on chemical manufacturers to show that their chemical meets the safety standard, considering aggregate exposure from all sources of that chemical across its life cycle of manufacture, processing, use, distribution in commerce and disposal. The EPA is tasked with determining whether the manufacturer has demonstrated that the chemical meets the safety standard. However, neither the

chemical manufacturers nor EPA currently know all the uses of each chemical and such information is vital in assessing possible risks. And the downstream companies don't know all the chemicals that they end up using.

3. **Consumers do not know if the products they purchase contain chemicals known to be of high concern to human health and the environment.** Without providing specific chemical use information down the supply chain, no one will be able to restore public confidence by ensuring the safety of chemicals in everyday products – not the product manufacturer, not the chemical producer and not the federal government. At a minimum, consumers should know if the products they purchase contain chemicals that are of high concern to human health or the environment.

### **Fixing the Problem – Toward a Balanced Solution**

Comprehensive federal chemicals policy reform must include requirements for business-to-business chemical ingredient disclosure across the supply chain and disclosure of chemicals of high concern to the consumer. In combination with increased information on the toxicity of chemicals in commerce, requiring chemical ingredient disclosure for all products as a component of chemicals policy reform would enable manufacturers at each step in the supply chain to make informed choices about the toxicity of the materials they purchase. Without such a requirement, manufacturers will continue to operate with limited information, unable to make strategic decisions to improve the safety of their products.

The draft legislation needs to be amended to establish a system to require chemical disclosure down the supply chain and across to the US EPA. This should be done carefully to balance the needs and concerns of all stakeholders. We propose the following elements be integrated into safer chemicals policy reform:

1. **Provide the Supply Chain with Chemical Ingredient Information.** Discussed in further detail below, the intention here is to require businesses to share chemical ingredient information along the supply chain -- from chemical manufacturer to final product manufacturer. Consistent with the treatment of confidential business information (CBI) and public information elsewhere in the legislation, access to information should be carefully prescribed to protect legitimate CBI while ensuring access to public information.
2. **Enable the US EPA to Collect Chemical Use Information as Needed for Safety Determinations.** The EPA needs access to information about how chemicals are used in commerce in order to make safety standard determinations and identify which chemicals are of greatest concern to human and environmental health. The EPA should have the authority to collect chemical use data for making safety determinations.

- 3. Provide Consumers with Access to Information on the Presence of Chemicals of High Concern\* in Products.** At a minimum consumers should have access to information on the presence of chemicals of high concern in products. Requiring the creation of something like a consumer data sheet would be a means for communicating to consumers and institutional purchasers the presence of chemicals of high concern in products. For example, to comply with REACH companies must provide Consumer Data Sheets for products that contain substances of very high concern.

There is precedent for addressing such concerns. In Europe, under the REACH legislation, a comprehensive system is being implemented that requires disclosure in two directions. Chemical manufacturers are required to disclose chemical information down the supply chain and downstream companies are required to disclose chemical use information up the supply chain. In addition, REACH requires that consumers have the right to ask product manufacturers whether their products contain substances of very high concern. Such a system should inform U.S. policy making, acknowledging the differences in overall chemical management strategies and the possibility to improve on the European model.

### **Provide the Supply Chain with Chemical Ingredient Information**

The intent of this reporting requirement is to create a means for communicating data on the chemical composition of a product, including formulations, mixtures and articles across the supply chain. It is especially important for companies that are downstream of chemical manufacturers and formulators to know the chemical ingredients in the components they buy and use in their products. The movement of chemical ingredient information down the supply chain could be facilitated by a requirement that each supplier include with its product a chemical ingredient profile. The chemical ingredient profile would include:

- Product and company identification
- Chemical ingredient profile of the product

The chemical ingredient profile would begin with chemical manufacturers and end with the final product manufacturer. It would not extend to distributors, retail establishments or institutional purchasers (for example, governments and health care organizations).

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\* BizNGO Guiding Principles for Chemicals Policy defines “chemicals of high concern” as: “Chemicals of high concern” include substances that have the following properties: 1) persistent, bioaccumulative and toxic (PBT); 2) very persistent and very bioaccumulative (vPvB); 3) very persistent and toxic (vPT); 4) very bioaccumulative and toxic (vBT); 5) carcinogenic; 6) mutagenic; 7) reproductive or developmental toxicant; 8) endocrine disruptor; or 9) neurotoxicant. “Toxic” (T) includes both human toxicity and ecotoxicity.

The chemical ingredient profile requirement would need to include provisions to protect legitimate CBI claims, while revealing the core chemicals in the product. Table 1 provides an example of the type of data that would be included in the chemical ingredient profile. The majority of the chemical constituents would be revealed by CAS number, while in some cases under CBI some ingredients would be listed by their chemical class and labeled proprietary. Further details need to be developed on defining legitimate CBI claims and avoiding chemical ingredient profiles that are 100% proprietary ingredients. The chemical ingredient profile would cover all chemicals intentionally added or included in the product for articles, formulations and mixtures.

**Table 1. Chemical Ingredient Profile - Example**

<b>Component / Substance</b>	<b>CAS Number</b>	<b>% by Weight</b>
Citric acid	77-92-9	> 70
Sodium carbonate	497-19-8	< 20
Calcium chloride	10043-52-4	< 10
Alkyl diol	Proprietary	< 2.5
Hexahydro-1,3,5-tris(2-hydroxyethyl)-s-triazine	4719-04-4	< 2.5

**Business-NGO Working Group (BizNGO) Note on Policy Positions**

*Participants in BizNGO are all working towards the use of safer chemicals in commerce. Reflecting the diversity of participants in BizNGO, we have a diversity of perspectives on government, NGO and industry initiatives. While BizNGO strives for consensus on all of its policy positions and all participants agree on the need for effective solutions, we may not achieve consensus on the specifics of every BizNGO policy statement.*

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