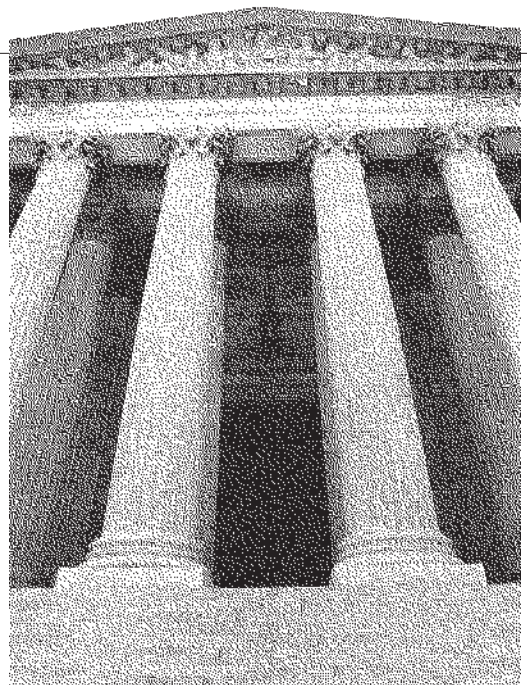

THE FORUM

TSCA Redux: Rejuvenating a Timeworn Statute

Are you in favor of TSCA reform? Who isn't? Shortly after the Toxic Substances Control Act's passage 38 years ago, it was being criticized for grandfathering existing substances, and some say it has been effectively neutered by the Fifth Circuit's 1991 decision in *Corrosion Proof Fittings v. EPA* that sets a high bar for the agency to be able to ban substances that put public health and the environment at "unreasonable risk." Meanwhile, other countries, notably the EU with its REACH system, have passed much more expansive regimes, and states such as California have their own laws.

This debate marks the one-year anniversary of the introduction of S. 1009, which has a dozen sponsors from each party in the Senate, and there is also a new bill in the House Energy and Commerce Committee that is beginning to catch interest. S. 1009 represents a compromise between Environment Committee ranking member David Vitter and the late Frank Lautenberg for a bill intended to fix the law's many flaws. But whether it will win passage to the floor, gain a majority of the Senate, then mesh with a bill that can pass the House remains to be seen.

Debate has been heating up, as Senate Environment Committee chair Barbara Boxer of California has sought concessions intended to limit the bill's preemption language and a lack of firm deadlines for EPA action. And the need to fund the new legislation's expansive testing mandates at a time of constrained budgets has led to debate over possibly including unpopular user fees.

What measures that would pass both houses of Congress are necessary and sufficient for making the Toxic Substances Control Act live up to its name, as a modern statute with a sensible regulatory program that will protect the public and the environment while allowing chemical manufacturers the freedom to benefit society by developing new chemicals for new purposes? How can both new chemicals and the huge inventory of existing chemicals be prioritized for testing? What measures are necessary to allow the states to continue their role in environmental protection?

Incidentally, officials in EPA's toxics office declined the opportunity to participate in this debate.

"Whatever window of opportunity to reform the Toxic Substances Control Act exists, it is closing."

Lynn L. Bergeson
Managing Partner
Bergeson & Campbell, P.C.

"Compromise is the only way reform of the Toxic Substances Control Act will happen."

Richard A. Denison
Lead Senior Scientist
Environmental Defense Fund

"States have stepped in to fill the regulatory void left by a federal law that nearly all stakeholders agree has failed to achieve its intended purpose."

Kathy Kinsey
Deputy Secretary for Regulatory Programs and Operations
Maryland Department of the Environment

"Reform must balance protecting human health and the environment with the need to keep the innovation pipeline flowing."

Ann R. Klee
Vice President, Environment, Health & Safety
General Electric

"States should continue to play a role in chemical regulation by contributing expertise to EPA's development of national standards."

John Shimkus
Chair
House Environment & the Economy Subcommittee

"We must ensure that EPA will have the tools it needs to protect citizens from dangerous chemicals and require it to review the chemicals in commerce today."

Tom Udall
Chair
Senate Subcommittee on Superfund, Toxics, and Environmental Health

Do It Now, Or It May Never Be Done

Lynn L. Bergeson

Whatever window of opportunity exists to reform the Toxic Substances Control Act is closing. This is not only because the mid-term elections are fast approaching, or that there are too few legislative days left this session, or even that Congress is polarized and achieving passage of complicated chemical legislation seems intuitively beyond reach.

It is also because the emergence of chemical management frameworks like the EU's Registration, Evaluation, Authorization and Restriction of Chemicals, Korea REACH, and Canada's Chemicals Management Plan; state programs like California's Safer Consumer Products Regulations; private regulatory, stewardship, and retailer initiatives; and the inevitable chemical deselection that is underway as an outgrowth of these developments have diffused the urgency and perhaps even the need for TSCA reform.

As these other trends continue to grow, TSCA, reformed or otherwise, becomes increasingly irrelevant. Absent TSCA reform now — in this Congress — emerging global chemical frameworks will continue to evolve, at considerable cost to U.S. credibility as a global leader and, of course, to the chemical community's commitment to protect environmental and human health.

Neither S. 1009 nor the House discussion draft as written would pass, and rightly so given their failure to address fully TSCA's fundamental flaws. To salvage the momentum that has developed, focusing narrowly and fixing only on the most important of TSCA's many flawed provisions, may be the best hope for success.

First, reform legislation must provide EPA with clear requirements and authority to prioritize, assess, and impose restrictions on existing chemicals posing risks and do so according to a deadline-driven scheme. Neither measure does this. S. 1009 is bloated with multiple, confusing "assessment frameworks." Neither S. 1009 nor the House draft provides clear and direct authority to require testing needed to support prioritization.

While both address to some extent the problems in using TSCA Section 6 to control existing chemicals, it is difficult to see how either as presently drafted would succeed. The absence of deadlines in these measures is counter-productive if not irrational. Both Canada and the EU have managed to prioritize, assess, and control existing chemicals, and so should we since without deadlines, even a more refined assessment framework will languish.

Second, a determination of chemical safety should be based solely on hazard data, Structural Activity Relationship modeling or other predictive methodology, or both, and exposure information. Any regulatory response to such a determination under the House measure must be "proportional" to the avoided risk, be "cost-effective," and impose restrictions only when "technically and economically feasible alternatives" are available.

This is an impossibly high standard and appears equivalent to reimposing the stifling "least burdensome" requirement now applied under TSCA and could well make the situation worse. A more balanced approach would have EPA consider such factors in taking a control action and otherwise authorize the agency to grant time-limited exemptions or other waivers based on a determination of critical need or the absence of viable alternatives, as the EU has done under REACH and as suggested by provisions in S. 1009.

Third, as important as any other area is the urgent need to ensure that EPA has adequate funds to implement the program. Even the most perfect prioritization process will fail if EPA lacks resources to do its job. It is time to consider adopting a fee program similar to the approach taken under the Pesticide Registration Improvement Act. EPA assesses fees under PRIA on pesticide registration applications to pay for some fraction of the cost of EPA's services. While a fee for service program would appear impossible, our collective indifference to the fiscal realities presented by the chronic underfunding of the TSCA program — and the silence on this critical topic in the Senate and House TSCA reform drafts considered since the late Senator Frank Lautenberg (D-NJ) first introduced TSCA reform legislation years ago — is reckless.

Reform measures are far from aligned. Whatever momentum that exists will dissipate in a potentially dramatically new Congress after the mid-term elections. Given the uncertainties that change invites, we may well be on a path to just say no permanently to TSCA reform. We would, in so doing, endure the national indignity of having our commitment to chemical safety be dictated not by our unwavering pledge to protect human health and the environment, but by the chemical governance frameworks, policies, and practices of others.

Lynn L. Bergeson is managing partner of Bergeson & Campbell, P.C., a Washington, D.C., law firm. She is also president of The Acta Group, with offices in Washington, D.C., Manchester, UK, and Beijing, China, and president of B&C Consortia Management, L.L.C., with offices in Washington, D.C.

Chemical Safety Reform: Will the Center Hold?

RICHARD A. DENISON

Compromise is tough. It can be thankless and unsatisfying, and, by definition, you don't get everything you want. But it's the only way reform of the Toxic Substances Control Act will happen.

Nearly everyone, from environmentalists to industry honchos, agrees TSCA is badly broken. But start talking about how to fix the problems and you'll find there are legitimate core principles held by different stakeholders that are difficult to reconcile. Here are just three examples:

New chemicals. The common-sense notion that new chemicals should be shown safe before entering the market, versus the desire not to hinder innovation or U.S. companies' ability to compete globally by getting chemicals to market quickly;

Preemption. The appeal of a single federal oversight system that does not impede interstate commerce, versus the view that states have the right to act to protect their residents; and

Confidential business information. The right of citizens, consumers, and the market to information on potential risks of chemicals they may use or be exposed to, versus assurance that legitimate trade secrets submitted to regulators will not generally be disclosed.

As an active participant in the past decade's debate, I've seen firsthand how such conflicting principles complicate — politically and substantively — prospects for achieving reform. I've also learned that progress comes only when both sides accept they have to give something to get something. Conversely, progress stalls when stakeholders get greedy. The past year has seen both tendencies.

The late Senator Frank Lautenberg (D-NJ) assessed the landscape last year and saw the need for compromise. He took the political risk of working on legislation with Senator David Vitter (R-LA), who had been about to introduce his own legislation. The result was the first-ever bipartisan legislation to reform TSCA, the Chemical Safety Improvement Act.

Sadly, Senator Lautenberg died shortly after CSIA was introduced. But the legislation remains very much alive, and although it was (and is) far from perfect, there has been major progress thanks to the continuing work of Senator Vitter and Senator Tom Udall (D-NM) to address major concerns raised about the bill and strengthen its health protections.

Additional progress is endangered, however, as some players have fallen back to their core principles and hardened their positions. And after holding a promising series of constructive, balanced hearings on TSCA, the House majority floated reform legislation — albeit a discussion draft rather than a bill — that tilts heavily in industry's favor.

These challenges have led some stakeholders to consider forgoing the present opportunity and either opt to retreat to the status quo or try to forestall action and wait for more political advantage in the future. In my view, this notion of an easier path any time in the foreseeable future is illusory. The conflicting needs of stakeholders are so fundamental, and the political climate so polarized, that counting on them to change appreciably is wishful at best.

The only recourse is to do the hard work of negotiating to forge a legitimate and fair compromise that delivers an efficient and effective chemicals management system. Let me use my earlier three examples to illustrate what common ground looks like:

New chemicals. EPA should make an affirmative determination of safety before market entry, but using a standard that allows prompt review based on the limited information available for a new chemical. Where that information is insufficient, EPA should be able to require more — or impose conditions sufficient to address potential risks even in its absence;

Preemption. States should be able to act to address a chemical's risks wherever EPA has not, or when they can make the case for going further. Preemption should apply prospectively, and when, but only when, the agency has all the information it needs to make a definitive safety decision and takes final action on a chemical. Requirements that do not directly restrict a chemical's manufacture or use — such as for reporting, warnings, monitoring or assessment, which do not unduly impede interstate commerce — should remain available to states; and

Confidential business information. Legitimate trade secrets should be protected, but not information on health and environmental effects or general information on a chemical's use. Identities of chemicals should generally be available once they enter commerce. Up-front substantiation and EPA approval of claims should be required. Claims should generally be time-limited but renewable upon resubstantiation. State and local governments, medical personnel, first responders, and health and environmental officials should have access to confidential business information.

The opportunity before us is apparent: Our best chance to fix an outdated law that serves nobody's interests. The alternative — sticking with a piecemeal system that undermines consumer confidence and puts our health at risk — is no alternative at all. All it takes to seize this opportunity is to agree that compromise doesn't have to be a dirty word.

Richard A. Denison, Ph.D., is a lead senior scientist with Environmental Defense Fund.

Neither of These Bills Address the Law's Failings

KATHY KINSEY

Many states are closely following the progress of federal TSCA reform legislation. Over the course of the nearly 40 years since the Toxic Substances Control Act was passed, states have stepped in to fill the regulatory void left by a federal law that nearly all stakeholders agree has failed to achieve its intended purpose.

Today, 34 states have enacted one or more chemical management laws that range in scope from bans on individual toxic chemicals, such as brominated flame retardants, to more comprehensive chemical management regimes, such as California's Safer Consumer Products law. Successful state regulatory initiatives have led to bans on Bisphenol-A, the distribution and sale of children's products containing lead and cadmium, and unnecessary uses of mercury in products, to name just a few.

The Chemical Safety Improvement Act, introduced in May 2013 by the now late Senator Frank Lautenberg (D-NJ) and Senator David Vitter (R-LA), and the Chemicals in Commerce Act, a House discussion draft recently released by Representative John Shimkus (R-IL), would substantially revise TSCA. Unfortunately, neither of these bills adequately address the law's failings. Worse, as written, they both include onerous preemption provisions that will eviscerate successful state programs and cripple the states' ability to take needed actions going forward.

So, what should effective TSCA reform legislation look like? There are many important details in any major piece of legislation, but from a state perspective, the most important components of a modernized TSCA are:

A health-based safety standard that is based solely on exposure and hazard assessments, without regard to economic or other factors, and that is protective of our most vulnerable populations;

A chemical prioritization process based on adequate data that provides EPA with unfettered authority to require testing and new information necessary to properly assess chemical toxicity;

An emphasis on the development of *safer alternatives* to dangerous chemicals;

Reasonable timelines for EPA to make prioritization decisions, and complete safety assessments and determinations;

Funding for EPA, perhaps through fees paid by chemical manufacturers, that is adequate to implement the law and complete safety assessments in a reasonable time frame on the tens of thousands of existing chemicals in commerce that have not been subject to assessment;

*Greater public and state acces*s to chemical identity and other information to which access is frequently denied based on confidential business information claims;

A limit on the duration of all existing and future confidential business information claims;

Judicial review of decisions to categorize chemicals as low priority; and

Preservation of state chemicals management authority.

Considerable discussion has been focused on state preemption and the appropriate role of states in a reformed chemicals management regime — a subject of particular importance to state regulators.

Today, Section 18 of TSCA generally preserves state power to regulate a chemical substance, a chemical mixture, or a chemical-containing article unless EPA prescribes a rule or order for the chemical or article under Sections 5 or 6. Even then, states can enforce an identical rule or order, regulate under the authority of another federal law, or ban a substance or mixture. In addition, states may request a waiver of preemption, provided that the state law or regulation doesn't prevent compliance with the federal law, provides a significantly higher level of protection, and doesn't unduly burden interstate commerce. Because EPA has taken so few actions under TSCA, preemption of state chemical management laws has rarely been triggered.

Both the Senate and House bills would expand state preemption beyond the provisions of the current law, and would actually weaken, rather than strengthen, chemicals management in this country. Logically, the need for any state preemption is suspect. If TSCA reform is successful in providing EPA with the tools necessary to effectively manage toxic chemicals in commerce, state efforts will no longer be necessary. As no state can afford unnecessary programs, preemption would be a moot issue. On the other hand, if TSCA reform proves ineffective, common sense demands that the states be granted broad authority to take actions needed to protect their citizens.

There exists a long and successful history of state-federal co-regulation in the area of environmental protection. Concerns about a "patchwork" of conflicting or duplicative regulations are unfounded. States have a strong interest in a robust federal chemicals law and stand ready to work with Congress to advance TSCA reform, which if effective would free up scarce state resources to pursue other important regulatory mandates.

Effective implementation of any comprehensive regulatory regime is dependent on political will and the dedication of adequate resources. Because it is impossible to know how well a reformed TSCA ultimately will be implemented, preservation of state authority serves as an important regulatory backstop, critical to protecting public health and our environment.

Kathy Kinsey is the deputy secretary for regulatory programs and operations at the Maryland Department of the Environment.

Keep Innovation Flowing While Protecting Public

ANN R. KLEE

Every day, millions of people fly on airplanes powered by GE engines; eat foods that were cooked and kept fresh with GE appliances; use smart phones and tablets powered with electricity generated by GE gas turbines; read by the light of a GE LED lamp; or undergo diagnostic tests using GE MRI machines. All of these products use, and are made of, chemicals.

If GE and other innovators are going to continue to develop, commercialize, and improve products that meet societal demands and enhance the quality of life, TSCA reform must strike the right balance between protecting human health and the environment with the need to keep the innovation pipeline flowing. We can do both.

As we consider TSCA reform, we need a common understanding of the fundamental facts.

First, no one really knows how many chemicals are in commerce in the United States today. The current TSCA Inventory of approximately 84,000 unique chemical substances is considered to include many that are no longer manufactured in, or imported into, the United States. Data from the most recent TSCA Chemical Data Reporting Rule reports indicate that fewer than 8,000 chemicals were manufactured or imported in volumes of 25,000 pounds or more at a total of 4,700 sites during 2011. Of these chemicals, only about 2,000 were reported to have consumer uses.

Significantly, responsible manufacturers have been working for years to reduce the production and use of "toxic" chemicals to prevent worker exposure issues, address global labeling requirements and customer expectations, and limit potential future liability.

Second, EPA's New Chemicals Program has succeeded in preventing numerous "toxic" chemicals from reaching the market without appropriate risk management measures. Between the establishment of the TSCA Inventory and the end of FY 2010, EPA reviewed more than 36,000 Pre-Manufacture Notices and more than 13,000 PMN exemption notices. Those reviews led to more than 4,000 regulatory actions, withdrawals of PMNs, and voluntary testing actions.

Third, while there are those who cite the European Union's Registration, Evaluation, Authorization, and Restriction of Chemicals program as a model for managing the risks of chemicals, it is hard to find quantifiable benefits, notwithstanding REACH's complexity and costs. Of the roughly 47,000 dossiers covering approximately 12,000 chemicals submitted to the European Chemicals Agency as of March 19, only about 1,200 have been reviewed and the reviews were largely limited to determining whether the dossiers contain all of the required information.

Through 2013, fewer than one hundred chemicals had been selected for "evaluation" by ECHA to determine whether they present a human health or environmental risk, and far fewer have been subjected to "restriction" or "authorization." In the meantime, manufacturers are thinking twice about producing new products in the EU because they do not know for certain whether a particular use of a chemical will be permitted.

With these facts in mind, a modernized TSCA is most likely to provide greater protection to human health and the environment while allowing companies to manufacture the products that our dynamic society needs if reform follows the following principles:

Build on existing law and practices, with appropriate adjustments to EPA's ability to obtain information needed to prioritize chemicals for risk assessment and to establish sensible risk management measures;

Reset the TSCA Inventory, with the starting point being the most recent TSCA Chemical Data Reporting Rule, information that EPA has;

Avoid duplication of effort and reduce EPA's costs by taking advantage of Canada's experience in identifying, screening, prioritizing, and, where appropriate, further regulating chemicals, provided that U.S.-based stakeholders have a reasonable opportunity to challenge Canada's approach and conclusions for any given chemical;

Focus on chemicals that, by virtue of their hazard characteristics and exposure potential, present real, as opposed to speculative, risks;

Recognize that many risks associated with the intended use of a chemical are managed by programs administered by the Consumer Product Safety Commission, Food and Drug Administration, Occupational Safety and Health Administration, and EPA itself under the Federal Insecticide, Fungicide, and Rodenticide Act;

Conserve EPA's resources by authorizing regulation of chemicals in articles only where it is reasonable to expect, given the nature and intended use of the article, that there will be non-occupational exposures to the chemical that warrant further controls;

Recognize that there will not always be a clear answer to the question of whether a "safer" alternative is available (see, for example, EPA's recent Alternatives Assessment for the flame retardant decabromodiphenyl ether); and

Provide a national system for the management of chemical risks that promotes the free flow of goods across state lines, and reduces the perceived need for states to adopt their own chemical management regulations.

A modernized TSCA that reflects the principles listed above will enable EPA to carry out its mission to protect human health and the environment without unduly impeding the innovation pipeline.

Ann R. Klee is vice president, environment, health & safety, of General Electric.

A Bipartisan Consensus Seems Within Reach

JOHN SHIMKUS

Over the past year, my Environment and the Economy Subcommittee has held six hearings on TSCA reform. In those sessions, we heard from multiple expert witnesses as we studied the almost four-decade-old chemical safety law section by section, thinking about how we could make it work better. The resulting legislation, the Chemicals in Commerce Act, was a released on February 27 as a discussion draft.

To those unfamiliar with the legislative process, I can't stress enough that our CICA discussion draft remains a work in progress. Making laws, good laws at least, is a very dynamic process. And I'm committed to making TSCA reform a bipartisan and collaborative process as well. Based on input from a wide variety of stakeholders — including chemical makers, distributors, labor unions, environmental groups, health and environmental safety professionals, as well as ongoing discussions with my Energy and Commerce Committee colleagues — changes to the CICA draft are already under consideration.

Without undermining those positive and ongoing discussions with my colleagues, I welcome this opportunity to update the environmental law community on our progress. Below, I'll highlight some of the common ground I think we've found already and explain why I think our efforts can yield a law that benefits both consumers and workers alike.

So far, I think we agree that consumers would benefit from some closer EPA scrutiny of many chemicals already in commerce. We also agree that the agency needs more efficient and effective tools to get the information it needs to determine the safety of those chemicals. And we agree that EPA should have the authority to impose requirements and restrictions on those chemicals that pose unreasonable risks.

That's great for consumers, but what does it have to do with workers?

Improving public confidence in the safety of American chemicals facilitates both interstate and international commerce. Put yourself in the shoes of an investor contemplating where to build a new chemical manufacturing plant. You'd examine potential sites based largely on three criteria: the availability and price of feedstocks, particularly oil and gas; the availability of good, reliable workers; and access to the market.

America is already producing more oil and gas than ever before, and our workers are undeniably among the best, brightest and most productive in the world. This makes market access the determining factor for many would-be capital investments in the chemical industry. Market access has two dimensions: marketability of the product and trade restrictions.

In its draft form, CICA would expand market access in two ways. First and foremost, it would give buyers confidence in chemical products, because "Made in America" would mean the product meets a new international gold standard for chemical safety. Secondly, by establishing national standards to replace the growing patchwork of state regulations, CICA would ease the trade restrictions erected in the absence of federal action.

The issue of preempting state law has been a source of great consternation throughout the TSCA reform debate and understandably so. As a conservative Republican, I hold states' rights and the virtues of our federal system of government in high regard. I fully understand why states have sought their own solutions to issues of public health and safety, while EPA action on certain chemicals has been hindered by the limitations of existing law. But the growing complexity of this regulatory approach is unsustainable, as it will inevitably become confusing to consumers and costly to industry.

America has resolved a similar problem of state versus national standards before. Before rail transportation, there was little need to standardize time across the country. It didn't matter that noon in Chicago was 11:50 AM in St. Louis and 12:07 PM in Indianapolis. But the demands of interstate commerce and public safety changed all of that, leading to the establishment of four national time zones in 1918.

The same concept of national standards with regional variations can be applied to chemicals in commerce today just as it was to trains on railroads last century. States can and should continue to play a role in chemical regulation, but by contributing their expertise to EPA's development of a national standard for those chemicals that have been found to pose a risk to human health or environmental safety, not establishing their own regulatory regimes.

Can we pass TSCA reform legislation, be it my Chemicals in Commerce Act or a compromise bill with the Senate that protects consumers and the environment while facilitating innovation and economic growth? The process to date has shown me that not only are most of my colleagues on both sides of the aisle willing to try, many are doing their best to get to an answer of yes.

Representative **John Shimkus** (R-IL) chairs the House Environment & the Economy Subcommittee, with jurisdiction over toxic waste policy.

Reforming TSCA So That It Achieves Its Promise

TOM UDALL

We come into contact with a wide variety of chemicals in consumer and household products every day. Most Americans assume the government has studied these chemicals and determined they are safe for the public, including children. Yet, because of serious and well-recognized weaknesses in the Toxic Substances Control Act of 1976, we actually have very little information, and the Environmental Protection Agency has extremely limited authority to regulate chemicals in interstate commerce. Americans should have confidence that their government is reviewing and regulating chemicals in products they use. That is why I am working to improve TSCA.

In 2012, I cosponsored and voted for sweeping legislation to provide strong authority enabling EPA to get information and take action to restrict chemicals. Unfortunately, this legislation was widely opposed by Senate Republicans. Then, in 2013, there was a rare legislative breakthrough. A new bill, with good but less sweeping authority called the Chemical Safety Improvement Act was introduced by the late Democratic Senator Frank Lautenberg of New Jersey and the Ranking Republican on the Senate Environment and Public Works Committee, David Vitter of Louisiana. The bill was the last major act by Senator Lautenberg in a fight for environmental safety that spanned several decades. His wife, Bonnie, has told me that Frank believed this effort could save more lives than his work to ban smoking on airlines. I joined onto this bill with an impressive list of bipartisan Senate cosponsors.

After the bill was introduced, however, many health and environmental advocates highlighted concerns with some of the bipartisan compromise provisions. Vetting legislation is an important part of the process for which I have deep respect. As a result, I have been working with Senator Vitter and the Environment and Public Works Committee Chairwoman Barbara Boxer to strengthen and improve the bill.

We have not yet reached a final agreement, but I am optimistic. We have an important and realistic opportunity to create a toxic chemical law that works — reaching across party lines to greatly improve one of our major environmental and public health laws — and such chances don't come along very often. For that reason alone, we owe it to the American people to perfect and pass this legislation and see it signed into law.

We are working on several aspects, but here are three primary issues that have been raised about the current Senate bill to ensure that TSCA reform achieves its promise of protecting public health and the environment while supporting innovation.

First, we must ensure that the EPA will have the tools it needs to protect citizens from dangerous chemicals and require it to review the tens of thousands of chemicals in commerce today. This means getting the prioritization and deadlines right, along with specific protections for vulnerable populations.

Second, we must protect private rights of action to hold companies responsible and ensure those companies don't cut corners. Legal experts have raised concerns with the CSIA and its impact on private rights of action. As a subcommittee chairman and an advocate for victims, it is not my intent to preempt private claims. Senator Vitter and I agree and have stated this publicly. Changes are absolutely necessary to make this intent clear throughout the bill.

Finally, we must address state preemption issues. The current bill is not acceptable to some states, including California and Washington, which have taken the lead in the absence of an effective federal statute. As in previous environmental and consumer protection legislation, a workable state-federal partnership arrangement must be developed.

All of these concerns are important, but they are all workable. And in order to make them work, we must be able to reach a bipartisan agreement.

There are many differences between CSIA and earlier, more sweeping chemical reform bills, but we should not lose sight of the goal — to actually pass a bill that will improve a broken statute responsible for protecting our public health and the environment. TSCA has been failing to protect American families for nearly 40 years. We must roll up our sleeves and do the hard work to resolve the differences and achieve an effective compromise. The alternative is continuing the status quo indefinitely with more and more chemicals endangering future generations.

Many say the current Congress is incapable of such bipartisan compromise. I believe we can, and the late environmental champion, Senator Lautenberg, believed we could as well. The current system has failed to protect our citizens, it has failed to provide confidence in our regulatory system, and it has failed to provide confidence in our consumer products. It is in everyone's interest to have a stronger system to identify dangerous chemicals and protect the American public.

We aren't there yet, but current drafts represent tremendous progress. We must resist calls to give up or start over when we hit roadblocks, and we must work through those challenges because they will be the same challenges tomorrow. If we do that, I am confident that we can achieve bipartisan legislation that finally gives Americans the protection they deserve.

Senator **Tom Udall** (D-NM) chairs the Senate Environment and Public Works Subcommittee on Superfund, Toxics, and Environmental Health.