TSCA's Overhaul to Only Benefit EPA Bureaucrats

By Gil Ross — December 21, 2015

The good old Toxic Substances Control Act was working fine. But wending its way toward seemingly-inevitable final passage, a darling of the chemophobic left, TSCA Reform, will do no good for Americans, further empower the hyper-regulatory EPA and be hugely expensive.

After years and years of debate spurred by the enviro-left, the TSCA of 1976 is on the verge of what they call modernization but in fact is a vast expansion. Named after one of its most dogged supporters, the late Sen. Frank Lautenberg, this change has been on the list of anti-chemical crusaders since ... well, a long time.

Sen. Lautenberg first tried to revise TSCA in 2005. It came within a hair's breadth of passage in May of 2013 less than one month before Lautenberg's passing at age 89 but California Sen. Barbara Boxer's hold denied him that final accomplishment. His role as Democratic proponent was taken over by Sen. Udall of New Mexico, and the current revision is named after Lautenberg, the New Jersey democrat.

The new bill (after a House-Senate conference tweaks it to eliminate significant differences) requires chemicals said to be "high priority" to be re-evaluated by the EPA for safety.

The EPA is given more authority to require that a chemical be labeled, restricted or even removed from the marketplace, and the agency can require more information from the manufacturer for almost any reason; new chemicals must be screened for safety; special risks to vulnerable populations (children, pregnant women) must be evaluated separately. Under the current 1976 law, the EPA can demand safety testing only after evidence surfaces that a chemical may pose significant risks to health.
Those who demand revision point out that of the 84,000+ chemicals on the market, "only" 200 have been required to be put through EPA testing and "only" five have been banned. To those who believe strongly that chemicals in our environment are dangerously toxic, this is a res ipsa loquitur that the law is inadequately protective. Of course, the fact that chemicals in low, or trace levels of exposure, do not in fact pose a threat to health or the environment (except for those five that were banned) did not cross the minds of the TSCA-reform, anti-chemical crusaders.

To illustrate this point, in 2011 the fringe-left, ultra-rich activist group Natural Resources Defense Council testified before the Senate that they were aware of 43 toxic chemical disease clusters. We investigated [1] these so-called toxic sites, and found some semblance of validity in exactly two of them. Nevertheless, NRDC and Sen. Boxer believe the provisions in the more stringent regulatory schema are still not sufficiently protective (for the children, of course) and demand ever more stringent hoops for chemical makers to jump through.

So why are some industry members supporting this ill-advised measure? The American Chemistry Council apparently feels it's a worthwhile trade-off to eliminate the current patchwork of individual state's chemical regulation, especially California's notorious Prop. 65 and their upcoming Green Chemistry [2] program.

I believe it's a devil's bargain: prioritizing "chemicals of concern" is merely importing the precautionary principle from Europe; the risks to health currently are so remote, or hypothetical, no measurable benefit can possibly occur (e.g., so-called carcinogenic chemicals are already covered under multiple other laws, and now endocrine disruptors whatever that means may be required to be re-evaluated by the EPA, at great expense, to no one's benefit, and with vast potential for harm).

As CEI's Angela Logomasini put it recently [3], "More mandated government 'safety reviews' is a bureaucrat's job security program. Consumers and business get more expensive bureaucracy and posturing about chemical risks with no benefits."

Giving more power to the EPA, already threatening to ride roughshod over our economy, will be immensely disruptive to innovation, and be hugely expensive costs which will inevitably be passed on to the American consumer.

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