

Now is the Time to Reform the Toxic Substances Control Act

For decades, Americans have assumed that laws are in place to require testing of chemicals for safety and to keep unsafe chemicals out of the products we use every day. Unfortunately, the failure of the 1976 Toxic Substances Control Act (TSCA) to regulate the chemical industry and protect the public from exposure to unsafe chemicals, proves this assumption wrong. Congress must enact strong legislation to reform TSCA and ensure the safety of chemicals in the home, the workplace, and the marketplace.

KEY FLAWS IN TSCA

Tying the EPA's Hands

Under current law, the burden of proof rests in the wrong place. Rather than requiring industrial chemical manufacturers to prove the safety of their products before releasing them into the marketplace, TSCA requires the Environmental Protection Agency (EPA) to prove that a chemical is unsafe before its use can be restricted. The law is full of constraints that make it very difficult for the EPA to fully assess new chemicals, or require testing of chemicals already in use. And the hurdles for the EPA to actually restrict use of an existing chemical are even higher. It is almost impossible for the agency to take regulatory action against dangerous chemicals, even those—like asbestos—that are known to cause cancer or other serious health effects.

The “Approve Now, Apologize Later” Approach to Regulating Chemicals

When TSCA was enacted in 1976, 62,000 chemicals were initially “grandfathered,” allowing their continued use without testing for their effects on health or the environment. In 34 years, the EPA has only required testing of about 200 of them, and regulated only five. For the 22,000 chemicals introduced into commerce since 1976, chemical manufacturers have provided little or no information to the EPA regarding their potential health or environmental impacts.

Important Health Information Hidden from Public View

As a result of TSCA's inherent limitations, little or no information is disclosed to consumers regarding the safety of tens of thousands of chemicals that are now used in all kinds of products, ranging from building materials, paints, furniture, cars, toys, electronics, household cleaners, carpets, shower curtains, and other products. All of us are exposed to these chemicals in numerous ways, including breathing them in the air, consuming food, drinking water, or making direct skin contact. Each year, roughly 700 new chemicals are introduced into commerce, and information about where these chemicals are used, and how people may be exposed, is largely hidden from public view.

Advancing Science Reveals Previously Unknown Dangers

In the time since TSCA was first enacted, scientists have discovered numerous health and environmental risks posed by toxic chemicals, including threats posed by exposure to even small amounts, particularly at early life stages. We now know more about the ability of some toxic chemicals to persist in the environment, sometimes for decades, and to build up in our bodies. We also have a greater understanding of the ability of chemicals to disturb our hormonal, reproductive, and immune systems, and for multiple chemicals to act in concert in ways that can harm our health.

Clearly, the current law is out of date and ineffective. That is why this country needs strong chemical policy reform.

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THE NEED FOR REFORM

Inaction Endangers Public Health

The incidence of a number of deadly and debilitating illnesses including breast cancer, prostate cancer, diabetes, autism, and asthma has continued to rise. Meanwhile, scientific evidence continues to emerge demonstrating the harmful effects of a host of chemicals ubiquitous in consumer products, the environment, and in our bodies. These include phthalates, bisphenol A (BPA), toxic flame retardants, TCE and formaldehyde.

TSCA Reform is Good Government

In 2009, partly due to the EPA's inability to obtain information and impose restrictions on chemicals determined to be unsafe, the Government Accountability Office (GAO) added chemical management to its list of federal programs that are at a "high risk" of failure and called upon Congress to reform the Toxic Substances Control Act.

Making Reform Meaningful

We need not just reform of TSCA, but strong and meaningful reform. The current law needs to be changed to shift the burden of proof from the EPA to industry to prove that their chemicals are safe. The EPA must be given the authority to obtain information from industry, require the testing of chemicals, and prevent human exposure to unsafe chemicals. There are now dozens of chemicals with widespread human exposure that scientists have determined to be unsafe. The EPA should be able to act quickly to phase-out or require significant reductions in human exposure to these chemicals. In addition, the public should be provided with adequate information about the chemicals used in products they purchase, consume, or are exposed to—including whether those chemicals are unsafe.

The EPA recently announced plans to use its existing authority under TSCA to protect the public from certain phthalates, flame retardants, and other chemicals. Although this is a step in the right direction, the agency cannot do all that needs to be done to protect the public from unsafe chemicals under the existing law. Congress must amend TSCA to give the EPA the authority it needs to protect public health and the environment.

RECOMMENDATIONS FOR EFFECTIVE REFORM

A meaningful and effective reform of TSCA would:

- **Require all new or existing chemicals to be tested for safety**, with the burden of proof on the chemical industry to demonstrate that a chemical is safe;
- **Establish safety standards for chemicals using the latest scientific knowledge** to protect children and other vulnerable or over-exposed sub-populations;
- **Expand the public's access to information on the health and safety of chemicals** as well as where they are used and how people are exposed;
- **Provide EPA with clear and streamlined authority to reduce or eliminate the use of**, or exposure to, unsafe chemicals, including expedited action for the worst chemicals; and
- **Promote innovation and transition to safer alternatives**, both less dangerous chemicals and non-chemical alternatives.