

The Time Has Come to Reform the Toxic Substances Control Act

The U.S. law to control toxic chemicals is a failure. Essentially unchanged since 1976, the Toxic Substances Control Act (TSCA) has made it almost impossible for the EPA to get information on the health or environmental risks of industrial chemicals, or to restrict the use of dangerous substances. Chemical companies are rarely required to test the toxicity of their products, are allowed to shield critical information from the public, and are able to sell even dangerous products under an “innocent until proven guilty” approach to regulation. As a result, the TSCA has been ineffective—regardless of the administration in power. However, recent developments have created tremendous opportunity for chemical policy reform.

New federal leadership

The change in political leadership in the White House and Congress unfreezes the legislative and administrative processes to allow meaningful hearings and oversight to consider and address problems with the current approach to chemical regulation.

International Action

The EU’s adoption of its comprehensive chemical policy statute, Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) has dramatically changed the global landscape of chemicals management. REACH has already forced all chemical companies who trade with the EU to confront a new chemicals management regime that requires greater information disclosure, a shift in burden of proof of safety from government to industry, and the prospect of actual restrictions on use of chemicals, including complete bans in some instances.

State Action

Dozens of states have passed legislation or strengthened standards on a variety of related issues including biomonitoring; controlling endocrine disruptors or persistent, bioaccumulative and toxic (PBT) chemicals; and advancing green chemistry. Some of these state laws, such as bans on lead and phthalates in toys, have been incorporated into federal legislation.

Public Interest

A series of recent scandals involving toxic substances has revealed to the public the ineffectiveness of the federal regulatory agencies, including the EPA, FDA, and CPSC. From the after-the-fact discovery of high levels of lead in children’s jewelry and toys, to the illness of thousands of dogs and cats from pet food contaminated with melamine and discovery of the same chemical in powdered milk and infant formula, to missteps in the government’s analysis of the health risks posed by bisphenol-A and phthalates, these lapses have galvanized public support for improved regulation and safety. These new developments combine to provide the best opportunity in decades to advance legislation to broadly reform the Toxic Substances Control Act (TSCA) and to advance efforts at the administrative level to improve toxic chemical policy in America. Now is the time to act to protect the public and the environment from unsafe chemicals.

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