The Toxic Substances Control Act (TSCA), first enacted in 1976, authorizes EPA to regulate the manufacture and commercial use of chemicals in the United States.

- For chemicals already in commerce that EPA finds present an “unreasonable risk of injury,” the Agency must develop regulations to remove or sufficiently manage those risks.
- For new chemicals that have yet to be introduced into commerce, TSCA requires EPA to conduct a pre-manufacture review of the entire lifecycle of the proposed chemical to determine whether it might present an “unreasonable risk of injury.” If an “unreasonable risk of injury” exists, the Agency must issue regulations before those new chemicals can be manufactured and proceed into commerce.

In both cases, the regulations can be anything from specifying labeling or protective measures to restrictions and all out bans.

Since TSCA directly affects a company’s ability to make, import, sell and use chemicals, it has implications for entire American supply chains and interstate commerce.

2016 amendments led to changes in risk assessment.

The 2016 TSCA amendments created opportunity for the Biden EPA to reinterpret how the Agency ought to evaluate risk. For them, it meant moving away from a risk-based approach toward a hazard-based approach. Here’s why that distinction matters:

- **Risk-based approach:** EPA considers both the hazards posed by a chemical *and* the likelihood of human exposure to that chemical under normal, reasonable conditions of manufacturing and use.
- **Hazard-based approach:** EPA focuses on just the inherent properties of a chemical and whether the chemical could cause harm under any conditions, including hypothetical scenarios that do not resemble real-world manufacturing and use conditions.

What’s the problem with a hazard-based approach under TSCA?

As TSCA is written today, EPA risk evaluations can pretend that petrochemical or refinery workers handle chemicals without any personal protective equipment (PPE) and without the benefit of the many OSHA, EPA and other safety regulations that already exist to prevent accidental releases and chemical exposure.

When EPA evaluates risk and regulates based on unlikely worst conceivable scenarios, it stymies American manufacturing and innovation and sends jobs and opportunities overseas. A hazard-based approach leads to heavily restricting and even removing certain chemicals from the economy, instead of focusing on how these chemicals can be safely manufactured and used in the United States.

Potential misuse of TSCA.

There have also been concerns that EPA could use TSCA to restrict plastic production, advanced recycling and gasoline production in the United States.

In recent years, EPA prioritized the review of petrochemical building blocks used in the production of plastics even though these chemicals are used in closed loop systems and have very little likelihood of exposure to humans or the environment at any point in the plastic manufacturing or production processes.

The previous EPA also pursued new regulations under TSCA that would functionally limit the expansion of advanced recycling technologies, which have a critical role to play in advancing a more circular economy for plastics. Advanced recycling products are chemically equivalent to others already listed on the TSCA Inventory and do not require additional regulation. Treating advanced recycling products differently, and subjecting chemicals that are molecularly indistinguishable from existing chemicals to TSCA new chemical reviews, is burdensome red tape and could be seen as an effort to stifle plastic recycling.

Similarly, there are some who would like to use a key provision in TSCA to bypass the entire risk evaluation process and just ban a key refining catalyst — hydrofluoric acid (HF) — that affects production of almost half of the most efficient, cleanest motor gasoline in the U.S. This is yet another example of an area that should be examined for reform.

Why we need to get TSCA right.

If TSCA continues down the current path, it could lead to the elimination of chemicals and plastics that are essential to many lifesaving and life-enhancing goods, including personal protective gear, medical equipment, emergency response and military equipment, among others. It could also mean changing the performance of your favorite products, or worse, having them disappear altogether (think Gore-Tex apparel and Teflon coated pots and pans). Critical fuels like gasoline could also be threatened if TSCA leads to banning or restricting chemicals needed to produce high octane components for liquid fuels.

It is clear that additional TSCA reforms from Congress are needed and should be prioritized in the year ahead, so the law is, once again, anchored to reality and science-based risk analysis.

For more information, visit our TSCA issue page and watch Geoff Moody’s 2025 testimony to the House Committee on Energy & Commerce.

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Toxic Substances Control Act (TSCA)

Fuel Products

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