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TSCA in 2026

Understanding and reforming the Toxic Substances Control Act

What is TSCA?

The Toxic Substances Control Act (TSCA) is the central law governing the import, manufacture, sale, use and disposal of chemicals. TSCA was enacted in 1976 and amended in 2016.

The Environmental Protection Agency (EPA) administers TSCA and has the job of determining whether new and existing chemicals, and products derived from those chemicals, present an “unreasonable risk of injury.” Then, EPA makes a call on whether regulation — including restrictions or bans of those chemicals and products — is needed to eliminate those risks.

Practically speaking, TSCA gives EPA more direct power over American business and manufacturing supply chains than any other agency or statute.

Congress should prioritize TSCA reform in 2026

Under the 2016 amendments, EPA was given leeway to ignore real-world conditions and the existence of other regulations when reviewing chemicals under TSCA. Additionally, EPA is now required to give explicit approval before any chemical is newly manufactured or used in commerce. EPA rarely meets the deadlines set by Congress for making these determinations. This has led to:

- **A massive backlog of TSCA pre-manufacture applications**
- **Sharp declines in American innovators seeking to bring new chemicals to market**
- **Record TSCA over-regulation and excessive restrictions on U.S. manufacturing**

TSCA must be retooled to support American manufacturers and their ability to innovate and compete.

Five reforms to improve TSCA

In 2026, Congress will be asked to reauthorize EPA’s ability to collect fees from companies subject to TSCA. Congress should take this opportunity to make these five essential reforms:

- 1. Require EPA to assess risk based on real-world exposure conditions.** Focus EPA reviews on how a chemical is likely to be used in a specific, real-world situation. Direct the agency to base any necessary regulations meant to manage risks on practical considerations, including unintended consequences of blocking a chemical’s use.
- 2. Enforce TSCA new chemical and new use review deadlines.** If EPA doesn’t make a decision or ask for more information within the review timeline set in the statute, new chemicals and uses should not be held hostage.
- 3. Streamline the universe of chemicals subject to TSCA review.** Exempt “impurities” and “byproducts,” which occur in low-to-negligible concentrations, from individual TSCA risk evaluations and risk management actions.
- 4. Waive TSCA reviews for chemicals equivalent to those already in commerce.** EPA shouldn’t require new reviews for chemicals molecularly indistinguishable from those already on the TSCA Inventory. They’re fundamentally the same chemical, even if manufactured differently.
- 5. Require EPA to acknowledge and defer to other regulating agencies and policies in TSCA reviews.** EPA should not ignore other federal authorities and policies (e.g., OSHA or the Risk Management Program) when assessing chemical risk and potential new regulation.

Learning from the 2016 amendments

While pursued with the best of intentions, the bipartisan TSCA amendments of 2016 had some bad side effects, which are detailed below.

85%
of chemicals
today are
deemed to pose
“unreasonable
risk.” In 2016,
that was true for
~20%.¹

0
the number of
TSCA reviews
completed within
EPA’s 90-day
deadline in
2022.² In 2016,
65% of reviews
were completed
on time, and
95% within 180
days.

14x
increase in TSCA
fees collected by
EPA since 2016.³

EPA can make risk determinations without considering real-world exposure conditions.

In the 2016 amendments, Congress directed EPA to no longer consider “cost or other non-risk factors” when determining whether a new chemical (or new chemical use) poses “unreasonable risks.”

EPA has used an approach to risk assessment that relies on hypothetical, worst-case scenarios that aren’t just unlikely, but are often completely detached from reality. EPA’s TSCA risk evaluations have pretended that all other government regulation does not exist (including its own Risk Management Program and OSHA). EPA can also ignore broadly adopted industry safety standards and speculate that refinery and petrochemical workers will handle TSCA chemicals without any personal protective equipment or safety mitigation technologies (not realistic). This results in EPA deciding that practically every chemical presents an “unreasonable risk of injury,” and that leads to layers of unnecessary, burdensome regulation.

EPA massively expanded the universe of chemicals and uses requiring TSCA review and approval.

With the leeway provided by the 2016 amendments, EPA massively expanded the universe of chemicals and uses requiring TSCA review and approval to now include chemicals that are: (1) nearly equivalent or identical to those already on the TSCA Inventory; and (2) “impurities” and “byproducts,” which occur in low-to-negligible concentrations and were previously exempted from individual TSCA risk evaluation and management actions.

New chemical and new chemical use approvals in the United States have ground to a halt, while EPA’s TSCA user fees have skyrocketed.

Before 2016, if a company wanted to introduce a new chemical or get a new use approved, they would submit an application, data and application fee to the EPA. Then, EPA would have 90 days to review the information and decide if the chemical or new use of a chemical posed an “unreasonable risk.” If EPA needed more time, the review could be extended to 180 days. If EPA didn’t ask for more information, find a significant risk or need for more regulation within those timeframes, those chemicals could be manufactured and new uses could commence.

In 2016, Congress changed the process. It required EPA to give explicit approval for every chemical and new chemical use before commercial manufacturing can begin. The 90-day and 180-day deadlines remain the same, but EPA misses them all the time. New, and often safer, chemicals and new chemical uses are hanging in limbo in the United States, while manufacturing in other countries moves forward.

In the United States, processes and products ranging from advanced recycling technologies to motor gasoline could all be threatened by EPA under TSCA if Congress doesn’t step in.

¹ Written testimony of Richard E. Engler, Ph.D. to Congress, January 2025

² EPA Chemical Reviews, U.S. Government Accountability Office, February 2023

³ TSCA fees table, U.S. EPA; and 15 USC 2625, pre-2016 amendments