Issue Brief

Federal Chemical Management Policy

ISSUE
American consumers deserve to have confidence that the products they buy, when used for their intended purposes, are safe. The law that regulates the American chemical industry was passed more than 30 years ago and, since that time, our ability to understand the impact chemicals have on the human body and the environment has advanced significantly. The law has not kept up with the science. The American Chemistry Council (ACC) is calling for modernization of the law that regulates the chemical industry.

This will enhance public safety thereby improving public confidence in the system. In addition, it will continue to encourage the innovation that underpins the US chemical industry’s competiveness.

BACKGROUND
The Toxic Substances Control Act (TSCA), the fundamental federal chemical management statute in the U.S., was signed into law in 1976. Since then, the science and technology of chemistry has advanced considerably – and those advancements need to be integrated into the federal chemical management system.

Momentum for modernization in the federal chemical regulatory system is growing in Congress. Meanwhile state legislatures are developing laws of their own, sometimes focused on single chemicals. While well intended, this patchwork of laws creates a climate of uncertainty without significantly improving public safety. Elsewhere, new regulatory approaches such as Europe’s registration, evaluation, authorization and restriction of chemical substances (REACH) have raised the prospect of significantly more costly and burdensome regulation without assurances that the political process will promote a sustainable solution for society or industry.

From ACC’s perspective, it is time for the United States government to modernize TSCA, in a manner that enhances safety, addresses the concerns of the state and protects the American jobs supported by the U.S. chemical industry.

AMERICAN CHEMISTRY COUNCIL PRINCIPLES
ACC actively seeks to enhance the current federal chemical management system in a way that provides for the evaluation and assessment of products that can find their way into the environment.

Specifically, we are a focusing on a few key elements:

- EPA should have the authority to determine the safety of priority chemicals for their intended uses by using hazard, use and exposure information to assure an understanding of the risks being considered. A safety assessment is a review of the likelihood of harm, based on an understanding of both hazard characteristic and exposure considerations. Chemical safety
assessments and decisions that are based only on hazard characteristic(s) overlook important information and are bad public policy.

- Safety is a shared responsibility of industry and the EPA. To accelerate and inform the chemical review process, industry should have the burden of providing EPA with sufficient information that the agency requires to make safety decisions. All chemical research and testing should be held to the highest standards, regardless of who conducts it. The federal chemical management system should help establish clear principles and protocols that help assess the quality of scientific data. Where appropriate, testing should be conducted by the EPA or independent, third-party organizations.

- EPA should have the resources consistent with a modernized chemical management system. Current staff and funding levels at EPA are not adequate to do this work. Further the federal chemical management system should promote coordination and cooperation among scientists in the federal government, industry and academia to help interpret the data emerging from new scientific techniques and understand the consequences, if any, for health and environmental protection.

- TSCA does not require EPA to prioritize its activities on the chemicals that warrant regulatory scrutiny. With a process and criteria clearly established by law, a prioritization system could provide a means to more efficiently address important policy concerns such as children’s health.

- The federal system should assure that manufacturers and users have appropriate hazard, use and exposure information necessary to make decisions about safe use. It does not mean that an identical set of information must be available on all chemicals. Rather, exposure considerations should drive information requirements. This approach would in general require more information about chemicals where there are exposures to humans or the environment, compared to those used solely to manufacture other chemicals or in enclosed processes.

- EPA should have the authority to share appropriate confidential business information with state, local and select foreign governments when it is relevant to a decision on chemical safety and when there are appropriate safeguards against inappropriate disclosure.

- There are important elements of TSCA that should be preserved, notably EPA’s broad information collection authority.

- Appropriate enhancements to the U.S. federal chemical management system should be cost and resource efficient, and should promote innovation. To be clear, ACC is NOT advocating the adoption of the European Union’s REACH system. We have an opportunity to establish a chemical management system that provides greater confidence for health and environmental protection, in a more effective way.

In short, the ACC and its members believe that modernization of the TSCA can help promote and achieve key health, environmental and commercial policy objectives.