

THE 9 IN 9 CHALLENGE

9 Actions in 9 Months for Congress & EPA to Deliver Sound Chemical Management Policy in 2023

Congress understood that protecting human health and the environment and promoting economic and societal advancement are not mutually exclusive when it amended the Toxic Substances Control Act (TSCA) in 2016. In fact, sound chemical management policies are critical not only to American innovation and competitiveness, but also to meeting supply chain, climate, sustainability, energy efficiency, and infrastructure needs. The American Chemistry Council (ACC) was a key supporter of TSCA reform. However, TSCA is not working as intended by Congress and the Environmental Protection Agency (EPA) is not meeting its statutory mandates.

Throughout 2022, ACC continuously called on EPA to identify and resolve the challenges contributing to EPA's poor performance in delivering a cost effective, transparent, and reliable TSCA program that meets its statutory obligations. In May 2022, ACC released its [State of TSCA Report: Fix Implementation Now Before It is Too Late](#) which identified 6 challenges and provided 6 solutions for EPA to get TSCA implementation back on track. Five months later, we issued our [State of TSCA Progress Report](#), informing stakeholders on EPA's progress in fixing TSCA. This progress report found that EPA is still failing to improve TSCA.

2023 presents an opportunity for Congress and EPA to review and renew efforts to improve the TSCA program. We present this opportunity as the '9 in 9 Challenge'. These are 9 actions for Congress and EPA to implement over the next 9 months to get TSCA back on the road to success.

Following are 9 recommendations for Congress and EPA to consider in 2023:

1. Meet Statutory Obligations for TSCA Implementation

Before Congress increases the program budget, EPA must identify the deficiencies in the TSCA program and develop a transparent and comprehensive path forward with quantitative metrics and goals to achieve TSCA's statutory requirements before Congress increases the program budget. If EPA cannot manage the TSCA program efficiently, Congress should exercise its oversight authority and call on EPA to justify why the TSCA program is failing to meet its mandates.

2. Demonstrate Fiscal Responsibility and Justify TSCA Fees Increases

EPA must provide clear substantiation of, and accountability for, any fee increases for the TSCA program and modernize the process for collecting fee payments including refunding or redirecting paid fees when EPA fails to meet TSCA statutory deadlines. As mandated by TSCA Section 26, EPA should submit a report on the fiscal accountability of the TSCA program to the Senate Committee on Environment and Public Works (EPW) and the House Energy and Commerce Committee by the end of Q3 2023.

3. Base TSCA Risk Evaluations on Real-World Data

EPA should use scientific data provided by industry and stakeholders to reflect reasonably foreseeable conditions of use (COUs). EPA should limit COUs to those that have been shown to actually occur, instead of including COUs based on misuse or speculation.

4. Incorporate Existing Workplace Practices and Industrial Hygiene Experts When Evaluating Risk from Workplace Exposures

EPA's assessments of workplace exposures should use appropriate and relevant knowledge regarding industrial hygiene and current workplace practices as a part of the COUs when making occupational risk determinations. EPA should provide clear documentation regarding how it has sought out and incorporated sufficient industrial hygiene expertise and best available occupational exposure approaches to support its assessment of workplace risk.

5. Make Safety Determinations for Each Condition of Use

The science of risk assessment is clear that risk is a function of hazard and exposure, which can change with the conditions of use. EPA should make its risk determinations by each condition of use and develop a clear, consistent framework for applying real world use and exposure data to TSCA risk determinations. In its risk evaluations, EPA should clearly document which conditions of use are, or are not, driving the safety determination.

6. EPA's Section 4 Test Orders Should Be Tiered and Provide Necessary Information to Support the Risk Evaluation

EPA should develop clear and concise guidelines on what data is needed, demonstrate that there is no currently available data that will meet the Agency's need, and transparently show how the TSCA Section 4 test orders directly fill a critical data need to reach a risk determination. Additionally, before EPA issues a Section 4 test order, the process should include an effective and productive pre-consultation with industry and request for data.

7. Strengthen Intra- and Inter-Agency Coordination

EPA should develop a document that outlines its coordination and engagement process with other EPA program offices, federal agencies, and experts to better inform TSCA prioritization, risk determination and regulatory processes.

8. Support Innovation by Accelerating the Pace and Timeliness of Reviews

EPA should correct deficiencies with the New Chemicals Program and present a comprehensive plan to achieve its statutory requirements and meet new chemical review deadlines. This should include improving its pre-notice and interim communications processes, providing TSCA submitters a clear understanding of timelines, submission requirements and data expectations.

9. Improve Transparency, Objectivity and Peer Review

TSCA requires that EPA use the best available science and a weight-of-the-evidence approach when conducting risk evaluations. EPA must ensure that all peer review panels are fully independent and do not have disqualifying conflicts of interests or inordinate bias. Peer review panels must be assembled in accordance with appropriate policies to ensure the range of technical expertise required is achieved, perspectives are balanced, and potential conflicts of interest are rigorously, transparently and fairly evaluated.