2016 Amendments to Toxic Substances Control Act (TSCA)

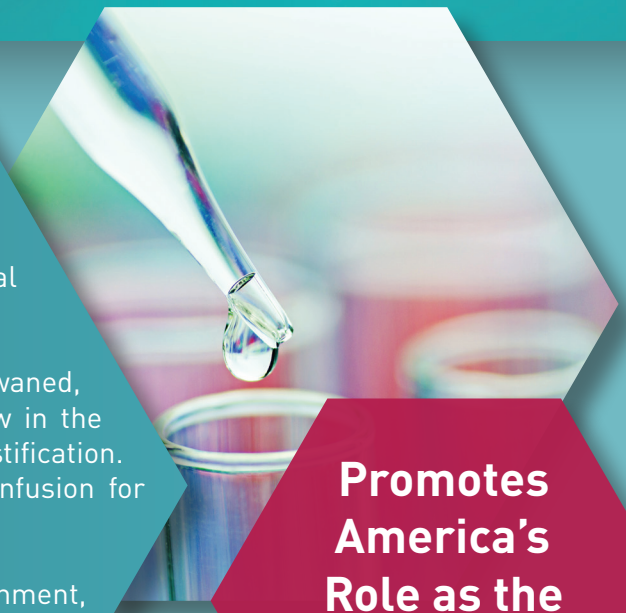
American® Chemistry Council

BACKGROUND

The Toxic Substances Control Act (TSCA) of 1976 gave the U.S. Environmental Protection Agency (EPA) the authority to regulate chemicals in commerce. Because more than 96 percent of all manufactured goods are touched by chemistry, TSCA has a wide-reaching and significant impact on the health of Americans, our environment, and our national economy.

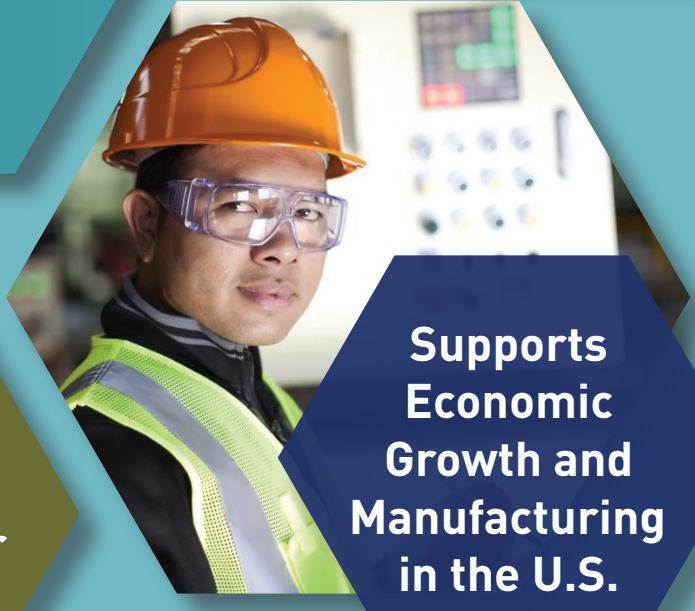
Over time public confidence in EPA's assessment of chemicals waned, some states passed their own chemical laws, and pressure grew in the marketplace to deselect certain products without sound scientific justification. This patchwork of different approaches to chemicals created confusion for consumers and for businesses alike.

After years of negotiation and with input from industry, environment, public health, animal rights, and labor groups, Congress overwhelmingly passed the bipartisan **Frank R. Lautenberg Chemical Safety for the 21st Century Act** to reform TSCA. These amendments to TSCA protect Americans' health and our environment, support economic growth and manufacturing in the U.S., and promote America's role as the world's leading innovator.



Promotes America's Role as the World's Leading Innovator

Protects Americans' Health and Our Environment



Supports Economic Growth and Manufacturing in the U.S.

PROTECTS AMERICANS' HEALTH AND OUR ENVIRONMENT

Subjects all chemicals to an EPA review for the first time

- EPA will conduct a risk-based review of all chemicals in commerce.
- New chemicals will be subject to EPA review before they can come to market.
- Risk evaluations must be based only on human health and environmental considerations.
- EPA must consider vulnerable groups like infants, pregnant women, and the elderly.

Requires EPA to focus on chemicals that are the highest priorities

- EPA will establish a transparent, risk-based process to identify high and low priority chemicals that considers a chemical's inherent hazards; uses; typical exposures to people, including vulnerable groups, and the environment; proximity to drinking water sources; and other relevant information.
- A thorough risk evaluation will be conducted on all chemicals designated as "high priority."

Makes it easier for EPA to require more safety testing of chemicals

- Empowers EPA to require manufacturers to perform additional safety testing on chemicals if the Agency believes more data is needed to make a safety determination. In the past EPA had to demonstrate that a chemical didn't meet the safety standard before it could require more tests.

Gives EPA a full range of options to manage risks posed by chemicals

- EPA will apply risk management measures to any chemical found to present an unreasonable risk that could include labeling requirements, use restrictions, phase-outs, or bans.
- Compliance with all rules must be as soon as practicable, but generally within five years.

SUPPORTS ECONOMIC GROWTH AND AMERICAN MANUFACTURING

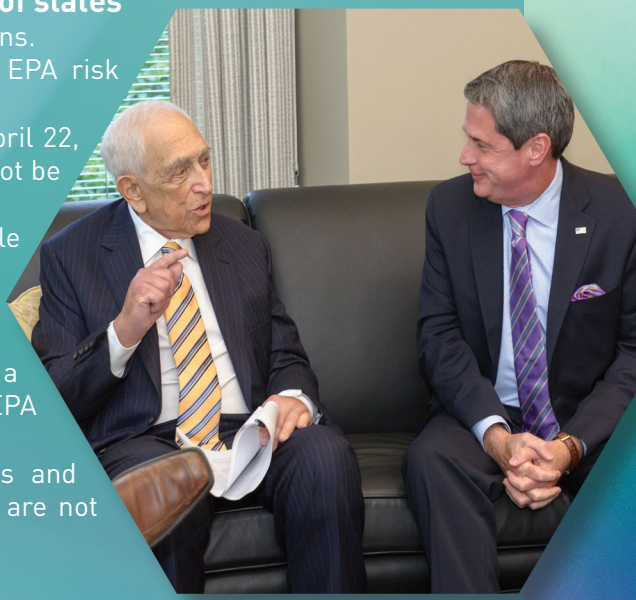
Creates a positive and predictable business environment

- It provides regulatory certainty to businesses throughout the value chain, from raw material producers to retailers, with a strong national chemical regulatory program.
- EPA decisions will be based on risk, meaning that *hazards*, *use*, and *exposure* will be considered when determining if a chemical can be used safely, ensuring decisions are consistent with real-world circumstances.

Strengthens transparency and quality of science so EPA decisions are more credible

- EPA must use the best-available science and the weight of the evidence to make decisions, meaning the greatest weight will be given to the highest-quality and most relevant studies.
- EPA's work must be available to the public, Congress, and the regulated community for comment.

Creates a strong national chemical regulatory system that facilitates interstate commerce and protects all American families, while acknowledging the role of states



- EPA's final decisions will preempt existing and future state regulations.
- Preemption of state restrictions will be limited to the scope of EPA risk evaluations.
- Any state prohibition or restriction of a chemical enacted before April 22, 2016, and any other state law enacted before August 31, 2003, will not be preempted.
- States must "pause" efforts to enact new chemical restrictions while EPA conducts a risk evaluation unless the state first obtains a waiver from EPA. This "pause" will not apply to Work Plan Chemicals or manufacturer requests.
- States may seek waivers from the preemptive effect of the "pause" if a state has made significant progress toward regulating a chemical EPA is evaluating and from final EPA decisions.
- State reporting, monitoring, and other information requirements and state actions under existing traditional air and water quality laws are not preempted.

Protects important manufacturer priorities

- Industry can request that EPA complete a risk evaluation on a limited number of specific chemicals if the manufacturer covers costs (100 or 50 percent depending on the chemical) in order to obtain a clear EPA decision about a chemical's safety and address any customer or consumer questions.
- EPA will consider costs and benefits when developing regulations or restrictions on chemicals, but EPA will not consider costs when determining if a chemical meets the safety standard.

PROMOTES AMERICA'S ROLE AS THE WORLD'S LEADING INNOVATOR

Establishes a gold standard for chemical regulation

- Creates an efficient, cost-effective risk-based chemical regulatory program that can serve as a model for other countries considering new chemical regulations.

Protects confidential business information of American companies

- It maintains strong protections for vital intellectual property so American companies can preserve their competitive advantage.
- CBI claims will expire after 10 years unless a company re-submits its claim.
- EPA will be required to enhance access to CBI for states, medical professionals, and first responders.

Promotes American innovation

- It ensures manufacturers can bring new chemicals to market in an efficient way so American businesses can compete in the fast-paced global marketplace.
- It maintains exemptions for certain chemicals that are required for a critical use, such as national defense.
- Small businesses are subject to reduced fees so they can more easily introduce new products.

FREQUENTLY ASKED QUESTIONS

How does the new TSCA create a stronger regulatory system that is different from the old TSCA?

It creates a 21st-century chemical regulatory program that is substantially stronger than TSCA:

- All chemicals in commerce will undergo a risk-based review by EPA for the first time.
- EPA is charged with prioritizing chemicals for review so the chemicals that need evaluation most will be reviewed first.
- It will be easier for EPA to demand additional health and safety information from manufacturers.
- When evaluating a chemical, EPA must consider whether vulnerable groups like infants, pregnant women, children, and the elderly may be exposed to it.
- EPA will no longer consider costs and benefits when determining if a chemical is safe, only health and environmental factors will be considered.
- There are strict deadlines to keep EPA's work on track and to ensure compliance by manufacturers and that the public, marketplace, and industry have clear answers.

Who supported the passage of the amendments to TSCA?

The amendments were a historic bipartisan achievement in a time when such accomplishments are rare. The American Chemistry Council was joined by over 150 diverse business groups from across the value chain in support of the amendments, along with environmental groups including the Environmental Defense Fund, public health groups like the March of Dimes, animal rights groups such as the Humane Society, and labor organizations like North America's Building Trades Unions. The legislation passed the House overwhelmingly by a vote of 403-12 and passed the Senate unanimously, thanks to the commitment and dedication of Senators Vitter (R-LA), Udall (D-NM), and Markey (D-MA) and Congressmen Shimkus (R-IL) and Pallone (D-NJ) and the desire of many others to ensure chemicals are being used safely and manufacturers can grow and compete.

What happens if EPA determines that a chemical is not safe for a particular use?

If EPA's risk evaluation determines that a chemical or specific uses of a chemical present an unreasonable risk, EPA can apply risk management measures including labeling requirements, use restrictions, phase-outs, or bans.

Why was federal preemption of certain state regulations important?

Since TSCA was passed in 1976, various states have implemented chemical laws and regulations. The growing patchwork of approaches to chemicals became an impediment to the free flow of interstate commerce and sent mixed messages to the marketplace and consumers. By establishing a stronger, singular federal chemical regulatory program, Congress has ensured that all Americans can have greater confidence that chemicals are being used safely; provided important regulatory certainty to the business community; and relieved state governments of the need to invest significant resources in the complex job of regulating chemicals.