



# NATIONAL CONFERENCE *of* STATE LEGISLATURES

*The Forum for America's Ideas*

## ***Federal Chemical Policy Reform Policy Directive***

### ***NCSL Natural Resources and Infrastructure Standing Committee***

The Toxic Substances Control Act (TSCA) of 1976 provides the US EPA with authority to require reporting, record-keeping and safety testing of chemical substances and/or mixtures. TSCA also gives EPA the power to restrict the use of chemicals. Certain substances are generally excluded from TSCA, including food, drugs, cosmetics and pesticides.

Since its enactment, increasing evidence linking toxic chemicals to adverse human health effects has eroded the public's confidence in the safety of consumer products containing toxic chemicals, prompting many state legislatures to act. In the absence of Federal action, states have passed legislation to regulate individual chemicals. States have also begun to develop comprehensive state chemical policies that aim to establish broad and permanent frameworks to systematically prioritize chemicals of concern, close data gaps on those chemicals and restrict their uses in those states. Appropriate modifications to federal law will help enhance public confidence and the efforts of the state governments.

Current federal chemical policy has not kept up with modern science. The science of testing chemicals and understanding their health or environmental effects has improved considerably since TSCA was enacted. NCSL believes TSCA should be updated to reflect the advances in science and technology to better evaluate and regulate chemicals.

TSCA's failures have caused the United States to fall behind our trading partners in the quality of our public health and environmental standards, and these failures now threaten the competitiveness of our manufactured products in a world market that increasingly demands safer chemicals and products.

Modernizing TSCA can help assure that we protect the nation's interest in a strong American business of chemistry – and assure that the United States produces products that save lives, protect our children, make our economy more energy efficient, and reduce greenhouse gas emissions.

### **Toxic Substances Control Act (TSCA) Reform**

NCSL encourages Congress to reform and modernize The Toxic Substances Control Act (TSCA) of 1976. At a minimum, NCSL believes proposed TSCA reform legislation should embody these policy elements:

#### **Act on the Harmful Chemicals First and Promote Safer Alternatives**

Persistent, bioaccumulative and toxic chemicals (PBTs) are uniquely dangerous and should be phased out of commerce except for critical uses that lack viable alternatives. Exposure to other toxic chemicals, like formaldehyde, that have already been extensively studied should be reduced to the maximum extent feasible. Research into chemicals and chemical processes designed to reduce or eliminate negative environmental impacts of chemicals should be expanded, and safer chemicals favored over those with known health hazards.

#### **Ensure Broad Access to Mandatory Safety Data on All Chemicals**

Chemical manufacturers should bear the burden of proof of safety of their products, and should be required to provide full information on the health hazards associated with their chemicals, how they are used, and the ways that the public or workers could be exposed. The public, workers, and businesses should have full access to such information.

#### **Protect All People, and Vulnerable Groups, Using the Best Science**

All chemicals should be assessed against a health standard that protects all people and the environment, especially the most vulnerable subpopulations, including children, low-income

people, racial and ethnic minorities, workers, and pregnant women. EPA should adopt the recommendations of the National Academy of Sciences for reforming risk assessment. Biomonitoring by the Centers for Disease Control and Prevention should be significantly expanded and used by EPA to assess the effects of pollution on people.

### **States Rights**

State governments play a critical role in environmental regulation. For nearly all federal environmental statutes, there are provisions to extend the reach of the federal government by delegation of program authority and/or provision of federal grants to support state implementation of environmental requirements in lieu of or in addition to the federal requirements. Any reform of TSCA should preserve state rights to manage chemicals, and resources should be provided for state level implementation.

### **Toxics Release Inventory Reform**

NCSL urges the EPA to continue to provide appropriate contextual materials to affected communities to accompany Toxics Release Inventory (TRI) reports to assure particularly that emergency response agencies will understand and be able to respond safely to chemical releases to protect the people who live in the vicinity of facilities required to file TRI reports.

The EPA and the reporting industries should continue working to ensure that the reported TRI data are communicated to the public in an understandable manner that includes a description of the risk of release specific chemicals posed to the public and emergency response teams, how these materials are managed to control release, and an assessment of the risk to public health and welfare in the event of regulated or accidental releases.