

Highlights of [GAO-09-428T](#), a testimony before the Subcommittee on Commerce, Trade, and Consumer Protection, Committee on Energy and Commerce, House of Representatives

Why GAO Did This Study

Congress passed the Toxic Substances Control Act (TSCA) in 1976, authorizing the Environmental Protection Agency (EPA) to obtain information on the risks of industrial chemicals and to control those that EPA determines pose an unreasonable risk.

However, EPA does not have sufficient chemical assessment information to determine whether it should establish controls to limit public exposure to many chemicals that may pose substantial health risks. In reports on TSCA, GAO has recommended statutory changes to, among other things, provide EPA with additional authorities to obtain health and safety information from the chemical industry and to shift more of the burden to chemical companies for demonstrating the safety of their chemicals. The most important recommendations aimed at providing EPA with the information needed to support its assessments of industrial chemicals have not been implemented—a key factor leading GAO in January 2009 to add transforming EPA's process for assessing and controlling toxic chemicals to its list of high-risk areas warranting attention by Congress and the executive branch.

This testimony, which is based on prior GAO work, addresses EPA's implementation of TSCA and options for (1) obtaining information on the risks posed by chemicals to human health and the environment, (2) controlling these risks, and (3) publicly disclosing information provided by chemical companies under TSCA.

To view the full product, including the scope and methodology, click on [GAO-09-428T](#). For more information, contact John B. Stephenson at (202) 512-3841 or stephensonj@gao.gov.

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CHEMICAL REGULATION

Options for Enhancing the Effectiveness of the Toxic Substances Control Act

What GAO Found

TSCA generally places the burden of obtaining data on existing chemicals on EPA, rather than on the companies that produce the chemicals. For example, the act requires EPA to demonstrate certain health or environmental risks before it can require companies to further test their chemicals. As a result, EPA does not routinely assess the risks of the roughly 80,000 industrial chemicals in use. Moreover, TSCA does not require chemical companies to test the approximately 700 new chemicals introduced into commerce annually for their toxicity, and companies generally do not voluntarily perform such testing. Further, the procedures EPA must follow in obtaining test data from companies can take years to complete. In contrast, the European Union's chemical control legislation generally places the burden on companies to provide health effects data on the chemicals they produce. Giving EPA more authority to obtain data from the companies producing chemicals, as GAO has in the past recommended that Congress consider, remains a viable option for improving the effectiveness of TSCA.

While TSCA authorizes EPA to issue regulations that may, among other things, ban existing toxic chemicals or place limits on their production or use, the statutory requirements EPA must meet present a legal threshold that has proven difficult for EPA and discourages the agency from using these authorities. For example, EPA must demonstrate "unreasonable risk," which EPA believes requires it to conduct extensive cost-benefit analyses to ban or limit chemical production. Since 1976, EPA has issued regulations to control only five existing chemicals determined to present an unreasonable risk. Further, its 1989 regulation phasing out most uses of asbestos was vacated by a federal appeals court in 1991 because it was not based on "substantial evidence." In contrast, the European Union and a number of other countries have largely banned asbestos, a known human carcinogen that can cause lung cancer and other diseases. GAO has previously recommended that Congress amend TSCA to reduce the evidentiary burden EPA must meet to control toxic substances and continues to believe such change warrants consideration.

EPA has a limited ability to provide the public with information on chemical production and risk because of TSCA's prohibitions on the disclosure of confidential business information. About 95 percent of the notices companies have provided to EPA on new chemicals contain some information claimed as confidential. Evaluating the appropriateness of confidentiality claims is time- and resource-intensive, and EPA does not challenge most claims. State environmental agencies and others have said that information claimed as confidential would help them in such activities as developing contingency plans to alert emergency response personnel to the presence of highly toxic substances at manufacturing facilities. The European Union's chemical control legislation generally provides greater public access to the chemical information it receives, and GAO has previously recommended that Congress consider providing EPA additional authorities to make more chemical information publicly available.