

US toxic-substances reform moves forward

Legislative action advances first major regulatory update in almost four decades.

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Toxic materials will receive more scrutiny under reforms that are moving through the US Congress.

The US Congress appears set to boost the power of the Environmental Protection Agency (EPA) to regulate thousands of chemicals used in everything from dishwashing soap to sofas. On 17 December, the Senate passed an update to the [Toxic Substances Control Act](#) (TSCA) — a 1976 law that gives the EPA authority to regulate chemicals used in consumer goods and industry.

It marks the Senate's [first substantial update](#) to a law that many say was never effective. But environmental and public-health advocates are split on whether to support the Senate revision or similar legislation passed by the House of Representatives in June. With the passage by the Senate, the two houses of Congress will now attempt to resolve their differences before voting on a single bill and sending it to the president.

The TSCA currently allows new chemicals to go into production without adequate scrutiny, says Richard Denison, the lead senior scientist at the Environmental Defense Fund in Washington DC. The Senate bill would not allow a new chemical to come to market unless the EPA found it likely to be safe. The existing law does not require the agency to make a decision on the safety of new chemicals. "The House bill doesn't touch this area of TSCA, which in our view is a huge problem," says Denison.

The Senate's revision also mandates that the EPA examines the safety of each chemical already in use, classifying it as a high or low priority for further study. Although the House bill provides the EPA the same authority to examine existing chemicals, it requires that Congress dedicates funding for the reviews first.

Industry pressure

Public-health advocates see some weaknesses in the Senate bill, says Andy Igrejas, director of the advocacy group Safer Chemicals, Healthy Families in Washington DC. One is a change that makes it harder for states to pass their own laws restricting a chemical while the EPA is reviewing its safety — a process that can take several years. That language is a nod to pressure from industry, says Igrejas, which wanted the feature so that a state ban could not affect demand for a chemical before the EPA ruled on its safety.

State laws have played a big part in bringing chemical companies into negotiations about the TSCA reforms, says Lynn Goldman, dean

of the George Washington University school of public health in Washington DC and a former EPA official who was in charge of implementing the TSCA. “This scattershot process with a few states involved affects the whole market,” she says. “It was disruptive for the industry to have that kind of thing happen.”

Igrejas says that neither of the bills passed this year is perfect, but a compromise that has the best elements of both could still be struck. “It’s not a pie-in-the-sky win for sure, but a modest victory,” he says.

Either bill would help to avoid a repeat of the TSCA’s biggest failure. The EPA spent the 1980s building a case under the law to ban asbestos, only to have an appeals court strike down the regulations in 1991. That was because the EPA had not demonstrated that asbestos was an “unreasonable risk” or that it was pursuing the “least burdensome” route to regulating it — both phrases found in the original legislation and removed by the House and Senate updates.

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