



May 10, 2022

The Honorable Tom Carper
Chairman
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

The Honorable Shelley Moore Capito
Ranking Member
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

The Honorable Frank Pallone
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Cathy McMorris Rodgers
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Carper and Pallone and Ranking Members Capito and McMorris Rodgers:

Congress modernized the Toxic Substances Control Act (TSCA) in 2016 with the stated goals of better science, more federal authority to protect against unreasonable risk of injury to health and the environment, and the exercise of that authority in such a way that does not impede unduly or create unnecessary economic barriers to technological innovation.¹ Six years into implementation of this law, the American Chemistry Council (ACC) is concerned that the TSCA program is failing to meet these goals. Continued failure could lead to major supply constraints on critical chemicals and applications, including but not limited to semiconductors, electric vehicles, pharmaceuticals, climate-friendly refrigerants, medical devices and water treatment. We respectfully request Congress reengage on TSCA before it is too late.

Reviews of new chemicals under TSCA have effectively stalled, preventing new innovations from being available for use and manufactured in the U.S. TSCA requires the Environmental Protection Agency (EPA) to review and approve new chemicals in 90 days; EPA routinely misses these deadlines and has had new chemical applications in the system for as many as four years. This has created a chilling effect on new investment, with many manufacturers choosing to manufacture their chemicals elsewhere.

EPA's approach to existing chemicals is best described as "guilty until proven innocent," an approach we expect will yield findings of unreasonable risk for all existing chemicals the Agency has evaluated by year's end. These chemicals have many conditions of use that do not pose an unreasonable risk, but EPA's decision to deem the whole chemical "unreasonable" will steer the market away from those uses, creating potential supply constraints.

¹ 15 U.S.C. § 2601(b).



EPA has stated a need for more resources to administer TSCA. We support this request. However, our support for additional funding for the TSCA program comes with the expectation that EPA will meet its statutory requirements. EPA must be transparent about how resources are being spent today and how future resources will be allocated within the Agency to achieve statutory requirements. This includes improving the throughput and timelines in the new chemical program, using real-world data and current industrial practices when assessing workplace risk, and demonstrating that it is consistently applying the scientific standards embedded in the statute when making safety determinations. A full list of ACC's proposed improvements to TSCA is enclosed and available [here](#).

As leaders of the congressional committees with jurisdiction over TSCA, we request you to reengage with EPA on the issues outlined above to ensure that the Agency's chemicals program functions better. Upcoming hearings examining the FY23 budget provide an excellent opportunity to examine the TSCA program and explore ways to improve it. ACC continues to be grateful for the bipartisan approach Congress took to modernizing TSCA, and we believe this same bipartisan spirit should underpin future action on the program. We believe TSCA can function better, and we are committed to working with Congress and EPA so that TSCA can be the model environmental program Congress intended it to be.

Sincerely,

A handwritten signature in blue ink, appearing to read "CJahn", with a long horizontal flourish extending to the right.

Chris Jahn
President and CEO

Enclosure