

GAO Highlights

Highlights of [GAO-13-696T](#), a testimony before the Subcommittee on Environment and the Economy, Committee on Energy and Commerce, House of Representatives

Why GAO Did This Study

In 1976, Congress passed TSCA to give EPA the authority to obtain more health and safety information on chemicals and to regulate chemicals it determines pose unreasonable risks of injury to human health or the environment. GAO has reported that EPA has found many of TSCA's provisions difficult to implement. In 2009, EPA announced TSCA reform principles to inform ongoing efforts in Congress to strengthen the act. At that time, EPA also initiated a new approach for managing toxic chemicals using its existing TSCA authorities.

This testimony summarizes GAO's past work describing: (1) challenges EPA has faced historically in regulating chemicals and (2) the extent to which EPA has made progress implementing its new approach, and challenges, if any, which persist. This statement is based on GAO reports issued between 1994 and 2013.

GAO is not making new recommendations in this testimony. In prior reports, GAO suggested that Congress consider statutory changes to TSCA to give EPA additional authorities to obtain information from the chemical industry and shift more of the burden to chemical companies for demonstrating the safety of their chemicals. In these reports, among other things, GAO recommended that EPA require companies to provide chemical data they submitted to foreign governments, require companies to reassert confidentiality claims, and develop strategies for addressing challenges that impeded EPA's ability to ensure chemical safety. EPA's responses to these recommendations have varied.

View [GAO-13-696T](#). For more information, contact Alfredo Gomez at (202) 512-3841 or gomezj@gao.gov.

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CHEMICAL REGULATION

Observations on the Toxic Substances Control Act and EPA Implementation

What GAO Found

GAO reported in June 2005 that EPA has historically faced the following challenges in implementing the provisions of the Toxic Substances Control Act (TSCA):

- *Obtaining adequate information on chemical toxicity and exposure.* EPA has found it difficult to obtain such information because TSCA does not require companies to provide it; instead, TSCA requires EPA to demonstrate that chemicals pose certain risks before it can ask for such information.
- *Banning or limiting chemicals.* EPA has had difficulty demonstrating that chemicals should be banned or have limits placed on their production or use under section 6—provisions for controlling chemicals. The agency issued regulations to ban or limit production or use of five existing chemicals, or chemical classes, out of tens of thousands of chemicals listed for commercial use. A court reversal of EPA's 1989 asbestos rule illustrates the difficulties EPA has had in issuing regulations to control existing chemicals.
- *Disclosing data and managing assertions of confidentiality.* EPA has not routinely challenged companies' assertions that data they provide are confidential business information and cannot be disclosed. As a result, the extent to which companies' confidentiality claims are warranted is unknown.

GAO reported in March 2013 that EPA has made progress implementing its new approach to managing toxic chemicals under its existing TSCA authority but, in most cases, results have yet to be realized. Examples are as follows:

- EPA has increased efforts to collect toxicity and exposure data through the rulemaking process, but because rules can take 3 to 5 years to finalize and 2 to 2 ½ years for companies to execute, these efforts may take several years to produce results. Specifically, since 2009, EPA has (1) required companies to test 34 chemicals and provide EPA with the resulting toxicity and other data, and (2) announced, but has not yet finalized, plans to require testing for 23 additional chemicals.
- EPA has increased efforts to assess chemical risks, but because EPA does not have the data necessary to conduct all risk assessments, it is too early to tell what, if any, risk management actions will be taken. In February 2012, EPA announced a plan that identified and prioritized 83 existing chemicals for risk assessment; the agency initiated assessments for 7 chemicals in 2012 and announced plans to start 18 additional assessments during 2013 and 2014. At its current pace, it would take EPA at least 10 years to complete risk assessments for the 83 chemicals.

In addition, it is unclear whether EPA's new approach to managing chemicals will position the agency to achieve its goal of ensuring the safety of chemicals. EPA's *Existing Chemicals Program Strategy*, which is intended to guide EPA's efforts to assess and control chemicals in the coming years, does not discuss how EPA will address identified challenges. Consequently, EPA could be investing valuable resources, time, and effort without being certain that its efforts will bring the agency closer to achieving its goal of ensuring the safety of chemicals.