

# The Business Case for Chemical Policy Reform

**Today's business leaders are concerned about the health and business impacts that can arise if the products they use or sell contain toxic chemicals.** They recognize that safer chemicals protect human and environmental health and cut the costs of regulation, hazardous waste management, worker protection, and future liabilities. Such steps also offer new business opportunities, by making U.S. businesses more competitive in a

**"We've taken a cautious approach to materials, meaning that where there is credible evidence that a material we're using may result in environmental or public health harm, we should strive to replace it with safer alternatives."**

*Kathy Gerwig, VP of Workplace Safety, and Environmental Stewardship Officer, Kaiser Permanente*

global marketplace and creating new jobs.

Every week, new scientific research links chemicals commonly found in products to the increasing incidence of serious chronic health problems, including asthma, childhood cancers, infertility and learning and developmental disabilities. **Uncertainty around chemical safety is eroding consumer confidence in a wide range of products.** Yet the federal law meant to protect Americans from toxic chemicals has not changed in 34 years. The Toxic Substances Control Act (TSCA) simply does not work.

**More and more businesses are supporting stronger chemical laws, which will not only make our families safer and healthier, but also help businesses restore faith in the American market.** For the first time in decades, there is a real opportunity to fix this problem at its source and to rebuild our economy based on safer chemicals.

## Leading American businesses are changing how they use chemicals

Many businesses are redesigning their products and working with their suppliers to reduce toxic chemicals use. Companies in the healthcare, building, retail, electronic and cleaning product sectors are at the forefront of this movement. Construction Specialties, Hewlett-Packard, Kaiser Permanente, Method, Perkins+Will, Seventh Generation, Staples, Steelcase and Whole Foods are among those that have endorsed and are implementing a set of principles on how to manage the use of chemicals in their own operations and supply chains.<sup>[1]</sup>

Yet, they are hampered by a failed national program for managing chemicals. In many cases, even large organizations find it difficult to get useful chemical hazard information, even when directly asking suppliers. Getting this information typically requires extensive vendor education and persistent demands for hazard and ingredient information. Even when it is provided, it is often of little value, due to the vendor's lack of knowledge, trade secret constraints or the general dearth of hazard data for most of the chemicals in commerce today. Policy reforms can support these business efforts, enabling market transitions to a healthy economy and a healthy environment.

### Business-NGO Working Group's Guiding Principles for Chemicals Policy

Leading businesses that use chemicals—"downstream users"—are endorsing a common set of guiding principles for moving away from toxic chemicals to safer alternatives:

1. Know and disclose product chemistry.
2. Assess and avoid hazards.
3. Commit to continuous improvement.
4. Support public policies and industry standards (to achieve the above three principles).

These principles reflect the vision for best business practices and the needs of downstream users for chemicals policy reform. Learn more: [www.bizngo.org/guidingPrinciples.php](http://www.bizngo.org/guidingPrinciples.php)

## The federal system for managing industrial chemicals — TSCA — is broken

TSCA has failed to protect human health and the environment from toxic chemicals. In 2009, the U.S. Government Accountability Office (GAO) added TSCA reform to its list of "High Risk" areas of government needing immediate reform. The EPA, concludes the GAO, "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."<sup>[2]</sup>

**TSCA fails to require generation of hazard data on chemicals in commerce:** The EPA has only required testing on about 200 of the more than 82,000 chemicals that have been on or entered the market since the law passed in 1976.<sup>[3]</sup>

**TSCA does not require the EPA to identify chemicals of greatest concern to human health and the environment:** The EPA has no obligation to assess chemicals in commerce to determine whether they are safe, and as a result has adequately scrutinized very few.<sup>[4]</sup>

**TSCA fails to restrict uses of the most toxic chemicals:** In the 34 years since TSCA was enacted, EPA has restricted only limited uses of five chemicals, because it must prove actual harm before it can regulate, and must show its proposed action is the least burdensome one. This has kept the EPA from restricting asbestos, a known human carcinogen.<sup>[5]</sup> The only full chemical ban enacted under TSCA, for PCBs, was mandated in the law.

### **TSCA does not promote safer alternatives to toxic chemicals:**

TSCA perpetuates a chemicals economy that simply doesn't work. Because producers are not required to develop even basic safety data for their chemicals, companies, institutions and individuals making or selecting chemicals or chemical products can't distinguish a safer one from a less safe one.

These failures of TSCA hurt product makers, who must:

- Research for themselves what chemicals are in products and what hazards they could pose.
- Identify and test the safety of alternatives.
- Face potential liability from the use of hazardous materials.
- Steer through unpredictable and changing regulations.

### **The business case for safer chemicals**

Using safer chemicals makes sense for our economy, health, and environment. Designing new chemicals to be safer from the start reduces the costs of regulation, costs of hazardous waste, costs of providing worker protections, and potential liabilities.

The benefits of comprehensive chemical policy reform include:

- Leveling the playing field, by requiring existing chemicals to meet the same testing requirements as new chemicals.
- Expanding markets for safer and greener products.
- Creating a more predictable regulatory system.
- Reducing the costs and risks, especially product liability, of managing toxic chemicals across supply chains.
- Lowering costs from chemically induced employee illness and enhancing productivity with healthier employees.
- Identifying chemicals of high concern in products.

### **What retailers and consumers need from chemical policy reform**

Using common sense principles and current science, downstream users should work with Congress to repair our broken chemical management system. Meanwhile, New York's retailers and consumers need any chemical policy reform to:

**1. Clearly identify chemicals of high, low and unknown concern to human and environmental health, based on robust information.** We need a credible, transparent information source that identifies chemicals of high as well as low and unknown concern and clearly communicates what we know and don't know about chemicals on the market. New policy can enhance product makers' ability to build and maintain the value of their brands by avoiding chemicals of high concern.

**2. Require greater disclosure of chemicals of high concern in products.** New York policy should require that companies using

- Continue to use high concern chemicals because they lack safer alternatives.
- Make product selection decisions in the absence of adequate hazard information.
- Constantly respond to emerging concerns from the public.

**"First and foremost, we support updating chemicals policy because it is vital for protecting the health of people and the planet. We also believe it will have important benefits for us as a downstream user of chemicals through greater information and innovation, and as a consumer products company through the restoration of consumer trust in our industry."**

Jeffrey Hollender, Co-Founder, Seventh Generation

- Increasing trust among consumers, employees, communities, and investors.
- Improving transparency and communication throughout the supply chain, leading to increased confidence for downstream users and reduced supply chain interruptions.
- Creating a more competitive, innovative, economically sustainable New York State. <sup>[6]</sup>

To rebuild and strengthen New York's economy, we need a new chemicals policy that limits use of toxic chemicals and prioritizes green chemicals and engineering. Pressure will continue to increase on businesses to develop and market safer and more sustainable chemicals and products. As global and domestic markets respond, the competitiveness of New York's companies will depend on their capacity to deliver less toxic products.

chemicals of concern in products disclose their presence to customers and the public as well as to government. Such a requirement will directly address a significant barrier to implementing green chemistry at the user level: the lack of information on the chemical constituents in products.

**3. Promote safer alternatives.** New York State needs to expand and intensify its efforts to promote safer alternatives. Green chemistry research should be prioritized and policy incentives developed to promote and facilitate the use of safer chemicals over those with known health hazards. All too often the movement away from chemicals of high concern is impeded by the lack of safer alternatives. By fostering the development of green chemicals, we invest in sustainable businesses, safer jobs and healthier products for New Yorkers.

#### **Citations:**

1. For a complete list of the businesses and other organizations that have endorsed the Business-NGO Guiding Principles for Chemicals Policy go to [www.BizNGO.org](http://www.BizNGO.org).
2. United States Government Accountability Office, 2009, High-Risk Series: An Update (GAO-09-271). [www.gao.gov/new.items/d09271.pdf](http://www.gao.gov/new.items/d09271.pdf). Accessed 10/15/2009.
3. United States Government Accountability Office, 2005, *Chemical Regulation: Options Exist to Improve EPA's Ability to Assess Health Risks and Manage its Chemical Review Program* (GAO-05-458). [www.gao.gov/new.items/d05458.pdf](http://www.gao.gov/new.items/d05458.pdf). Accessed 10/15/2009.
4. Richard Denison, 2007, *Not That Innocent: A Comparative Analysis of Canadian, European Union and United States Policies on Industrial Chemicals*. [www.edf.org/documents/6149\\_NotThatInnocent\\_Fullreport.pdf](http://www.edf.org/documents/6149_NotThatInnocent_Fullreport.pdf). Accessed 10/15/2009.
5. United States Government Accountability Office, 2005, "Chemical Regulation: Options Exist to Improve EPA's Ability to Assess Health Risks and Manage its Chemical Review Program" (GAO-05-458). [www.gao.gov/new.items/d05458.pdf](http://www.gao.gov/new.items/d05458.pdf). Accessed 10/15/2009.
6. On the benefits to downstream users of chemicals policy reform, see: ChemSec, 2005, *What we Need from REACH: Views on the Proposal for a New Chemical Legislation within the EU*. [www.chemsec.org](http://www.chemsec.org). Accessed 10/15/2009.