

Toxic Substances Control Act*

15 U.S.C. §§2601-2692

Testing requirements

The EPA Administrator shall by rule require manufacturers and processors to **test** certain substances to develop data relevant to whether they present an **unreasonable risk of injury** to health or the environment. [TSCA §4(a)] The Act sets out guidelines for such rules. [TSCA §4(b)]

A person may obtain an exemption from the testing requirements if the Administrator has received test data for that substance or such data is already being developed. Any person that obtains an exemption shall provide fair and equitable reimbursement, as determined by the Administrator under the Act's guidance, to those who submitted or who are preparing the test data. [TSCA §4(c)]

On receiving test data or other information indicating that there may be a reasonable basis to conclude that a substance presents significant risk of serious or widespread harm to human beings from cancer, gene mutations, or birth defects, the Administrator shall initiate appropriate action, which may include requiring premanufacture or processing **notices**, promulgating **regulations** concerning the distribution and handling of the substance, or commencing a **civil action** to obtain the relief necessary to address an imminent hazard, as discussed below. [TSCA §4(f)]

Premanufacture and processing notices

Manufacturers and processors of new substances, or substances that will be applied to significant new uses, must first **notify** the Administrator that they intend to manufacture or process the substance and submit the data from any required testing. If no testing is required, they must submit data showing that the new substance or significant new use will not present an unreasonable risk of injury to health or the environment. [TSCA §5]

A person may obtain an exemption from the premanufacture notice requirement for small quantity generators, for chemicals that exist only temporarily as a result of the manufacture or processing of a chemical substance, at the Administrator's discretion, and for purposes of test marketing if other testing has been or is being conducted by another manufacturer or processor. Fair and equitable reimbursement of those who conducted or are conducting the testing shall be required of a person that receives a test marketing exemption. [TSCA §5(h)]

Concerning substances for which information is insufficient, the Administrator may issue a proposed order to **restrict manufacture** or use pending development of further information. [TSCA §5(e)(1)(A)]

When a manufacturer or processor files **objections**

to a proposed order, the order shall not take effect. [TSCA §5(e)(1)(C)] However, the Administrator may seek a judicial injunction. [TSCA §5(e)(2)(A)(i)]

Regulation of hazardous chemical substances and mixtures

In the case of a substance that presents an unreasonable risk of injury to health or the environment, the Administrator is authorized to prohibit or limit manufacture or processing, to require certain labeling and recordkeeping by manufacturers or processors, and to regulate the use or disposal of the substance. [TSCA §6]

Imminent hazards

In the case of an **imminently hazardous substance**, the Administrator may commence a civil action in U.S. district court for seizure of the substance and other appropriate relief, including mandatory notification, recall, and repurchase of the substance by the manufacturers, processors, or distributors. [TSCA §7]

Reporting and retention of information

The Administrator shall promulgate rules establishing required **recordkeeping** procedures and **reporting** requirements for manufacturers and processors. [TSCA §8(a)]

The Administrator shall compile, keep current, and publish a **list** of each chemical substance manufactured or processed in the United States. [TSCA §8(b)]

Manufacturers, processors, and distributors shall maintain records of **significant adverse reactions** to health or the environment caused by their substances. [TSCA §8(c)]

Inspections

The Act authorizes the Administrator's representatives to conduct limited **inspections** of premises on which chemical substances or mixtures are processed or stored and of conveyances used to transport such substances. [TSCA §11]

Exports and imports

The Act's requirements generally do not apply to toxic substances distributed for **export** unless the Administrator determines that there will be an unreasonable risk of harm in the United States, except that a notice of intent to export shall be given to the Administrator for a chemical substance whose manufacture or processing requires submission, under the Act, of test data or a premanufacture notice. [TSCA §12]

Imports are subject to the Act's requirements, and

any noncomplying substance shall be refused entry into U.S. customs territory. [TSCA §13]

Enforcement

The Act provides for **civil and criminal penalties** for violations. [TSCA §§15, 16, 17(a), 19]

Substances produced in violation of the Act may be **seized**. [TSCA §17(b)]

The Administrator shall waive compliance with the Act on a request from the President that the waiver is necessary in the interest of the **national defense**. [TSCA §22]

Preemption

Federal testing requirements for a substance generally **preempt** state testing requirements for the substance. Federal rules governing premanufacture notice and regulation of hazardous chemicals generally preempt any state regulations designed to address the same risks. [TSCA §18]

Citizen suits

Any person may commence a **citizen suit** against alleged violators or the Administrator, subject to certain limitations. [TSCA §20]

Any person may **petition** the Administrator for promulgation, repeal, or amendment of certain rules issued under the Act. [TSCA §21]

Asbestos hazard emergency response

The Administrator shall promulgate **regulations** that prescribe inspection procedures to determine whether asbestos-containing material is present in **school buildings**, that define the appropriate levels of response actions, that require the implementation of maintenance and repair programs, that require periodic surveillance of school buildings where asbestos is located, and that prescribe standards for transportation and disposal of asbestos-containing material to protect human health and the environment. All of the activities are to be carried out under the authority of local educational agencies. [TSCA §203(a)-(h)]

The Administrator shall promulgate regulations that require each local educational agency to develop for its school buildings an **asbestos management program**, which shall include inspection statements, plans for response actions, long-term surveillance, and use of warning labels for asbestos remaining in the buildings, among other things. [TSCA §203(i)] Local educational agencies that fail to comply shall be subject to **civil penalties**. [TSCA §207(a)]

Any person may file a **complaint** with the governor alleging the presence of asbestos in a school building. The Administrator or the governor shall investigate and

respond to any such complaint within a reasonable time. [TSCA §207(d)]

Whenever there is an **imminent and substantial endangerment** and the local educational agency is not taking sufficient action, the Administrator or the governor is authorized to act to protect human health and the environment. [TSCA §208]

Indoor radon abatement

The national long-term **goal** of the United States with respect to radon levels is that the air inside buildings be as free of radon as the ambient air outside of buildings. [TSCA §301]

EPA is directed to publish an updated version of its document *A Citizen's Guide to Radon*, which shall include information on the health risks associated with exposure to radon, the cost and technical feasibility of reducing radon concentrations, the relationship between long-term and short-term testing techniques, and outdoor radon levels around the country. [TSCA §303]

EPA shall develop **model construction standards** and techniques for controlling radon levels in new buildings. [TSCA §304]

The federal government shall develop and implement activities to **assist state radon programs**, including, among other things, establishing a radon information clearinghouse, designing and implementing training seminars for state and local officials, and developing and demonstrating radon measurement and mitigation techniques. [TSCA §305(a)]

The Administrator is authorized to make **grants to states** to assist them in developing and implementing their radon programs. [TSCA §306]

EPA shall conduct a study to determine the **extent of radon contamination in the nation's schools**. [TSCA §307(a)]

Lead exposure reduction

The Administrator shall promulgate regulations to require that individuals involved in lead-based paint activities are properly trained, that training programs are accredited, and that contractors involved in such activities are certified. [TSCA §402]

States may obtain authorization to enforce lead-exposure reduction standards, regulations, or other requirements under the Act. [TSCA §404] Such **state programs** may impose more stringent requirements than the federal program. [TSCA §404(e)]

The Administrator, in cooperation with other federal agencies, shall conduct a program to promote **lead-exposure abatement**, which shall include exposure studies, public education, establishment of a clearinghouse and hotline to provide technical assistance, and establishment of testing protocols and perfor-

mance characteristics to ensure that lead-based paint hazard evaluation and reduction products are effective for their intended use. [TSCA §405]

The Administrator shall publish and revise a **lead-hazard information pamphlet**. [TSCA §406]

Polychlorinated biphenyls (PCBs)

The Administrator shall prescribe methods for **disposal** of PCBs and require them to be **labelled** with adequate warnings. [TSCA §6(e)]