

EPA: Now's Your Chance to Get Foxes Out of the Henhouse

By [Samantha Liskow](#) / Published: October 10, 2023



NOTE: This is the second in a series about EPA's regulation of new chemicals.

What Happened?

EPA recently proposed new regulations for its safety reviews of new chemicals under our nation's main chemicals law, the Toxic Substances Control Act (TSCA). With this action, the agency has a big chance to solve major problems that have undermined scientific integrity, transparency, and public confidence in EPA's ability to ensure the safety of new chemicals. Unfortunately, the proposed regulation that EPA put out for comment this year falls far short of this goal.

EDF has joined with other organizations, including AFL-CIO, the American Federation of Teachers, and the National Resources Defense Council, in a [letter urging EPA to make fundamental changes](#) (PDF, 178KB) to these proposed regulations. One of the most important is this: the agency should end its longstanding practice of sharing about the risks of new chemicals with only the companies that make them—and allowing those companies to dispute the results.

Why It Matters

This practice, which has no basis in the law, creates serious problems. EPA itself has recognized that scarce agency resources are depleted when it shares with those companies. That's because companies take the opportunity to refute EPA's risk findings—and submit new information that they should have provided up front—in attempts to show that the risks are actually smaller. In

doing this, the companies seek to have EPA scientists [revisit their assessments](#)— which the agency has agreed to for chemical after chemical.

In addition, by allowing industry to review and challenge EPA's findings and any risk management measures it intends to impose, the agency gives wide and unilateral access to its decision-making processes to the very participants who have financial interests in the agency's decisions about their chemicals.

It's important to note that this process operates entirely out of public view. Only the chemical companies and their consultants are given an opportunity to review and seek to influence EPA's determinations. The agency offers no such access or opportunity to any other stakeholders, such as unions, public health groups, or community advocates.

Our Take

Instead of this back-and-forth between EPA and industry, the agency should implement a straightforward review process for new chemicals that is consistent with TSCA. Specifically, EPA should require companies to submit all required information with their new chemical applications before EPA begins to review them. EPA should then proceed with its review and communicate its final risk determination and any needed risk management to the companies — and the public — at the end of the process.

If EPA insists there are times when it's necessary to share draft risk findings or risk management measures with companies before the agency completes its review, EPA regulations should require that all relevant documents and communications be made public at the same time, and that the chemical review be paused, so that all interested parties may also review and comment on them.

Why should EPA make this long-overdue change? By following this straightforward process— which is defined in the law—EPA would prevent chemical companies from having undue and exclusive influence over the agency's assessments and decisions on new chemicals. Such a move would also help restore public trust, ensure scientific integrity, and bring much-needed transparency and accountability to the agency's reviews of new chemicals. Public participation in the process could prevent [problematic decisions](#) that can harm people's health.

But the public cannot participate if it is entirely shut out of the process, while chemical companies are permitted to consult throughout the scientific review of their proposed chemicals. A change in the new chemicals review process is long overdue, and EPA can address the imbalance in favor of industry by writing fair rules to protect those who would bear the risks if dangerous new chemicals were approved.

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