

CONSUMER PRODUCTS

Many useful consumer products may soon disappear from the market, and innovation may dwindle, as policy makers—federal, state, and local—expand precautionary policies to ban and eliminate useful chemicals. For example, regulators and state lawmakers are placing some products on “chemicals of concern” lists, simply because they have the potential to cause adverse health effects at relatively high levels, even though risks are negligible or nonexistent at the very low levels at which those chemicals appear in consumer products.

Listing requires little consideration of the science, but it invites unnecessary regulation and, by scaring consumers about insignificant risks, even encourages voluntary elimination of many products. Such random elimination of technologies wastes the human ingenuity and investment that went into making those goods and denies society their benefits. Innovators must then divert resources to find substitute products, which may themselves pose new risks. The result is a poorer, potentially more dangerous world.

Congress should:

- ◆ Avoid legislation that creates or encourages arbitrary “chemicals of concern” lists or imposes scientifically unfounded precautionary bans on valuable chemicals.
- ◆ Promote legislation requiring federal agencies to employ risk- and-science-based standards for all chemical regulations.
- ◆ Increase oversight activity of the U.S. Environmental Protection Agency’s (EPA) development of concern lists, as well as voluntary programs that characterize chemical risk without regulatory due process.

Congress and various regulatory bodies are advancing regulations purely on the basis of tenuous hazard profiles rather than on genuine risk. “Hazard” simply represents the potential for danger given specific circumstances or exposures. For example, water can be hazardous because excessive consumption can produce fatal water intoxication or hyponatremia, yet there is no need to regulate it or place it on a concern list. But that same approach is being used to demonize many synthetic

chemicals that have been used safely in consumer products for decades.

EPA officials, for example, are developing a “chemicals of concern” list on the basis of hazard profiles for a number of chemicals to increase market pressure for their elimination without having to navigate the regulatory process to impose bans or other regulations. The agency also uses its Design for the Environment program to push companies to phase out certain chemicals because of their hazard profiles alone. The EPA can get away without proper reviews and standards because that program is considered voluntary.

Members of Congress have also introduced several bills to ban chemicals without regard to the potential adverse impacts of such bans. For example, during the 113th Congress, Sen. Chuck Schumer (D-N.Y.) introduced the Children and Firefighters Protection Act of 2014 (S. 2811), which would ban the use of 10 flame-retardant chemicals at levels of about 1,000 parts per million in children’s products or upholstered furniture—and which would empower the Consumer Product Safety Commission to ban more. It does not require any evaluation of the benefits of those products, nor does it consider whether their absence will increase fire risks.

But we do know that fire risks are real and substantial. For example, the National Fire Protection Association reports that, in 2013, there were 1.24 million fires in the United States that caused 3,240 deaths, 15,925 injuries, and \$11.5 billion in property damage. Meanwhile, there is little evidence that anyone has died or suffered significant injuries from trace chemicals found in furniture or clothing. It is dangerous to advance policies that ban such chemicals without demanding that regulators first consider the potential that, without those products, fires may burn more quickly, may be hotter, and may produce more deaths.

Also during the 113th Congress, Sen. Ed Markey (D-Mass.) introduced the Ban Poisonous Additives Act of 2014 (S. 2572), which would eliminate the chemical bisphenol A (BPA) from food containers. The resins that line food containers made with

BPA prevent the development of deadly pathogens in our food supply, protecting consumers from potentially deadly bacteria like *E. coli*. Because BPA resins have no good alternatives, BPA bans could increase food spoilage and serious food-borne illnesses. Meanwhile, the overwhelming body of evidence supports comprehensive scientific evaluations that have all found that the many benefits of that chemical outweigh its very low risks.

Self-styled consumer activist groups are also pushing the Food and Drug Administration to ban the antibacterial chemical triclosan, which has been used safely for more than four decades in soap, toothpaste, and antibacterial gels. Despite good scientific evidence that the chemical reduces bacteria-related risks, many manufacturers are voluntarily removing it from consumer products, and several states are even considering bans.

Valuable consumer products are lost to such rash bans, the cost of which is passed on to consumers. Congress needs to increase its oversight of the EPA, FDA, and other regulatory agencies that mischaracterize the risk profiles of various products by placing them on concern lists or use hazard-based classification systems.

Lawmakers should oppose legislation that bans products on political and unscientific grounds. In addition, lawmakers should pass regulatory reforms that set rulemaking standards for agencies that regulate chemicals in consumer products.

Those standards should require that, before issuing a regulation, such agencies demonstrate that (a) significant risks exist at actual human exposure levels on the basis of the weight of the evidence and the best available, peer-reviewed science; (b) the risks of potential substitute products are unlikely to be higher than those of the existing product; (c) economic costs do not outweigh the benefits; and (d) the regulation chosen is the least burdensome one that meets their public health goal.

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For Further Reading

- William P Kucewicz, *Brominated Flame Retardants: A Burning Issue*, New York: American Council on Science and Health, 1995, <http://acsh.org/2006/08/brominated-flame-retardants-a-burning-issue/>.
- Angela Logomasini, *A Consumer's Guide to Chemical Risk: Deciphering the "Science" Behind Chemical Scares*, Washington, DC: Competitive Enterprise Institute, 2014, <http://cei.org/sites/default/files/Angela%20Logomasini%20-%20Consumer%20Guide%20to%20Chemical%20Risk%20pdf.pdf>.
- Angela Logomasini and Daniel J. Murphy, *Green Chemistry's March of the Ostriches*, Washington, DC: Competitive Enterprise Institute, *Issue Analysis* 2011 No. 7, November 2011, <http://cei.org/sites/default/files/Angela%20Logomasini%20and%20Daniel%20Murphy%20-%20Green%20Chemistry%27s%20March%20of%20the%20Ostriches.pdf>.