

SUMMARY OF CHANGES

Conforming to existing law

- The word “injury” is used in place of “harm” throughout, to be consistent with existing law.

Addressing Articles

- When EPA selects restrictions on articles, language is clarified to ensure that EPA is selecting restrictions to address the identified risk of the substance from the article determined necessary to meet the safety standard.

Existing information to Increase Efficiency

- EPA will incorporate into safety assessments and determinations existing information regarding hazard and exposure published by other Federal agencies or the National Academies, with the objective of increasing the efficiency of the safety assessments and determinations where that information is available, relevant, and scientifically reliable.

Unreasonable Risk

- In relevant places in TSCA, as amended by the bill, the term “unreasonable risk” is either clarified to exclude consideration of costs or other non-risk factors to conform with the safety standard definition, or the word “unreasonable” is dropped.

Deadline for Implementing Restrictions and Prohibitions

- Compliance deadlines for risk management rules are to be “as soon as practicable,” and bans and phase-outs are to be implemented “in as short a period as is practicable.”

Access to CBI information for banned or phased out chemicals

- If EPA bans or phases out a chemical, there is a rebuttable presumption information on that chemical should no longer be protected as confidential business information and can become available to the public with notice and opportunity for judicial review.

State Co-enforcement

- States allowed to co-enforce, with condition that penalties can be collected from either Federal government or State, not both and penalties at the state level cannot be greater than under federal TSCA.

Designation of a Low Priority Chemical

- Allows 90 days of public comment for all listing decisions.
- Allows any member of the public to challenge a low priority decision within 60 days of listing.

Clarification of High Priority Designation

- EPA shall designate a chemical as high priority based on “significant” [rather than “high”] hazard rather and “significant” [rather than “widespread”] exposure, and may designate a chemical as high priority if it has either characteristic.

PBTs

- When setting the initial list of high priority chemicals, EPA must give preference to TSCA Work Plan Chemicals that are persistent and bioaccumulative.
- PBTs added as a criteria for EPA to consider when making prioritization determinations.
- In risk management, EPA is required to select restrictions for PBTs that reduce exposure “to the maximum extent practicable”

High Priority Pause

- Preemption of new state regulatory actions starts when the scope of uses of a chemical is defined (maximum 6 months after a substance is identified as a high priority) and ends when the safety determination is made (no more than 5 years after a substance is identified as a high priority).
- If the deadline for the safety determination is missed, state waivers are automatically granted from the “pause”.
- In addition, EPA “shall” approve a state request for a waiver if the states meets the following criteria:
 - The state requirement doesn’t violate Federal law
 - The state requirement doesn’t unduly burden interstate commerce
 - The state’s concern about the chemical substance or the use of the chemical substance is based in peer-reviewed science
- If EPA fails to make a decision on a state waiver within 90 days, the waiver is approved
- The approval of a waiver as well as “automatic” approval of the waiver can be challenged, in which case the approval is suspended until a decision is reached by EPA or a court, but if there is still no decision after a further 90 days, the waiver is again approved.

Industry Petitioned Chemicals

- In addition to high-priority chemicals designated by EPA, manufacturers and processors can petition EPA to designate additional non-high priority chemicals for safety assessments and determinations.
 - The industry would pay 100% of the cost of the assessment.
 - These chemicals are additional to the high priority list and do not limit the number EPA otherwise designates
 - These chemicals can amount to a minimum of 25% and a maximum of 30% of the cumulative total number of high priority chemicals. (So if EPA is evaluating 25 High Priority Chemicals, there could be an additional 6 to 8 industry-petitioned chemicals that allow EPA to review more chemicals than their resources would otherwise allow).

Throughput of EPA Work Plan Chemicals

- For chemicals that EPA has already identified as high risk chemicals on the TSCA Work Plan, manufacturers can petition for those chemicals to move to a safety assessment and determination, and pay 50% of the cost. EPA has full discretion to approve or deny these industry petitions.

Pre-emption

- Clarification that state clean air and clean water laws are not pre-empted
- State information collection and disclosure laws are protected from pre-emption

Imports

- Delete imports section in order to conform to current law.

Animal Testing

- For the purposes of TSCA submissions to EPA, industry must look to scientifically available alternatives first before conducting animal testing.

Grandfather date moved later

- Any state chemical regulation is permanently protected from preemption that is in effect before August 1, 2015. Previously, the grandfather date was January 1, 2015.