

Summary of the Chemical Safety Improvement Act of 2013

Policy and Goals: This legislation would amend Title I of the Toxic Substances Control Act in order to improve the safety of American consumers and ensure that risks from chemical substances are adequately understood and managed. It is intended to protect health and the environment; build the public's confidence in the federal chemical regulatory system; recognize the States' important role in this system; focus on the type of information needed to make chemical safety determinations; promote greater transparency of information while also protecting confidential business information; and promote innovation within the U.S. chemical industry and its diverse value chain.

Chemical Assessment Framework for Existing Chemicals: The legislation establishes a scientifically robust system, policies and procedures under which EPA would have current, best available science and information to make timely safety determinations about existing chemicals in commerce. The legislation requires that EPA identify high priority chemicals for review and assessment, and determine whether those substances pose an unreasonable risk to human health or the environment under their intended conditions of use.

- **Prioritization Screening:** EPA must first identify what chemicals on the TSCA Inventory today are actually in "active" commerce. Using existing data and information, EPA will evaluate these chemicals through a prioritization screening process to identify chemicals as high or low priority for further assessment. The screening process is to be based on specific criteria including hazard and exposure potential. State governments can make recommendations to EPA for substances to be prioritized, and EPA must respond to those recommendations within 6 months. The prioritization process is dynamic, and EPA can re-prioritize a substance at any time.
- **Safety assessments:** Science based safety assessments of high priority chemicals must be conducted. The safety assessments must be based solely on considerations of risk to human health and the environment, by integrating information about the chemicals' hazard potential, its uses and its potential exposures. These assessments will be made available for public comment.
- **Safety Determinations:** Once a science based safety assessment is conducted, EPA will determine whether a chemical meets the safety standard under its intended conditions of use. EPA will review appropriate information in a safety determination, including the safety assessment, information submitted by a State, and other relevant economic cost and benefit information. In a safety determination, EPA can conclude that a chemical meets the safety standard as currently managed, that it needs additional controls to meet the standard, or that it cannot meet the safety standard under its intended conditions of use even with additional controls. EPA's risk management options include bans and phase-outs. EPA's safety determinations will be final agency action for the purposes of judicial review.

New Chemicals: TSCA's new chemical provisions will be amended to incorporate EPA's current data and information regulatory requirements for new chemical and significant new use reviews. The legislation also requires EPA, on the basis of the information that is available to the Agency, to determine whether a new chemical or a new use is likely to meet the new safety standard, not likely to meet it, or whether more data and information are needed to make this determination. Conditions and restrictions on new chemicals can be established through significant new use rules.

Testing: EPA's tools for requiring manufacturers to conduct testing will be significantly less burdensome than TSCA's current testing authority. Testing may be required – by rule, consent agreement or order – for purposes of performing a safety assessment, making a safety determination, or to meet the testing needs of another Federal statute. The bill replaces current TSCA language that requires EPA to demonstrate a substance poses an "unreasonable risk" before testing can be required, and simply requires EPA to demonstrate the need for the information in safety assessments and determinations. EPA

must use tiered toxicity testing and a structured framework for assessing overall weight of evidence. EPA may prescribe standards for the development of health and environmental information, including information pertaining to aggregate exposure that may be considered in a safety assessment.

Information Collection and Reporting: The legislation requires processors to report information under the Chemical Data Reporting rule, but the requirements may differ from those for manufacturers. To ensure that EPA has a better understanding of what chemicals are actually manufactured, imported or processed, the bill also requires EPA to promulgate a rule under which manufacturers will designate which chemical substances on the TSCA Inventory are currently in commerce. Only chemicals actively in commerce would be prioritized for safety assessments. Inactive chemicals would remain on the Inventory, but manufacturers can provide EPA notice to change a chemical back to active status. Once on active status, EPA can prioritize the substance for further review and regulation, if necessary.

Confidential Business Information: The legislation makes clear what information is protected from disclosure and what information is not. It also requires up-front substantiation for claiming protection from disclosure for chemical identity and certain other information, and it addresses the duration of confidentiality claims.

Preemption: The legislation revises the current preemption provision of TSCA. It limits preemption of State and municipal legislative and regulatory requirements to certain EPA actions, including rules, consent agreements, orders, and safety determinations. Decisions by EPA to designate a chemical as a high or low priority do not affect existing State regulatory requirements. States may obtain a waiver from the preemptive effect of an EPA action under certain conditions, including when there are compelling State or local conditions. There is a separate provision making safety determinations admissible as determinative evidence in federal or state tort actions.

Miscellaneous Provisions: Addresses exports, imports and conforming changes to address the new safety standard and other references and cross references.