



## COMMITTEE ON ENERGY AND COMMERCE

Chairman Fred Upton  
114th Congress

### **The TSCA Modernization Act** (Discussion Draft)

The draft legislation seeks to modernize the decades-old Toxic Substances Control Act (TSCA) in an effort to improve the safety of chemicals while encouraging continued innovation and economic growth. The goal is to provide the public greater confidence in the safety of American-made chemicals and the products that contain them, and to facilitate interstate and global commerce.

#### **Evaluating and managing risks posed by chemicals already on the market**

The draft bill will provide a new system for EPA to evaluate and manage risks associated with chemicals already on the market.

Before restricting one or more uses of a chemical to manage its risk to human health or the environment, EPA must evaluate the risk, applying scientific standards set out in the legislation. Either EPA or a manufacturer (who is willing to pay the EPA administrative cost of the evaluation) may designate a chemical for risk evaluation.

The risk evaluation focuses on determining whether a combination of hazard from and exposure to a chemical substance poses an unreasonable risk of injury to human health or the environment. At this step, cost and other factors not directly related to human health and environment are not taken into account when determining what constitutes an unreasonable risk. The requirement in current law that requirements in rules promulgated under Subsection 6(a) be “least burdensome” is repealed.

If a chemical poses an unreasonable risk (including to one or more subpopulations) the Administrator will be required to develop a rule to manage the risk using Subsection (a) of Section 6 in current law. However, the draft legislation would add requirements that a risk management rulemaking take into account, in addition to health and environmental considerations, such factors as the benefits of the chemical substance, economic consequences of the rule, and cost-effectiveness.

#### **Deadlines for EPA action**

The bill contains deadlines by which EPA must take action: risk evaluations on chemicals selected by EPA must be completed within 3 years, on evaluations initiated by manufacturers within 180 days. Any Subsection 6(a) risk management rule must follow completion of risk evaluations by 90 days.

#### **Testing authority for risk evaluations**

The bill gives EPA authority to require testing on chemicals for purposes of conducting the risk evaluation provided for in the bill's amendments to TSCA Section 6.

### **Resetting the TSCA chemical inventory**

The bill requires the EPA Administrator to collect information necessary to remove any chemical substance that is no longer manufactured or processed in the U.S. from the TSCA Section 8 inventory

### **Limited preemption of state law**

Once EPA makes a final decision on a chemical, either in a rule managing the risk or in a decision that it poses no unreasonable risk, EPA action would then apply in all the states. The discussion draft contains a savings provision to ensure that interpretation of state tort and contract law is not affected by TSCA.

### **Protection of confidential business information**

The bill continues to protect confidential business information submitted to EPA, but adds a provision to allow access to certain state, local, and tribal government officials and health care professionals subject to the same penalties for unauthorized disclosure that already apply to U.S. government employees. The bill also provides a mechanism by which confidentiality claims made after enactment must be reclaimed after ten years. The bill clarifies that current law's exemption from CBI protection for health and safety studies does not include disclosure of confidential chemical formulas.