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Congress Proposes Reform to the Toxic Substance Control Act

A bill intended to modernize the *Toxic Substances Control Act (TSCA)* of 1976 has been introduced in Congress. The proposed bill, known as the *Safe Chemicals Act of 2011*, is based on TSCA reform legislation proposed last year with some key differences. These differences are a direct result of feedback from chemical industry leaders, public officials, scientists, doctors, academics and non-profit organizations.



Major Reforms to Current TSCA Law Included in the 2011 Bill

- Minimum Data Sets (MDS)
 - Requires companies to submit minimum sets of data for new and existing chemicals. MDSs for existing chemicals are required within the earlier of 18 months of a chemical being assigned to a priority class or within five years of enactment of the law. MDSs for new chemicals are due at the time of filing a new chemical notification.
- New Chemical Substance and New Use Review
 - Requires notification when using a new chemical or using a chemical in a new way.
- Safety Standard Determination
 - Redefines the factors that are considered when determining safety. Both new and existing chemicals would be subject to safety determination unless designated by EPA to be intrinsically safe. Places the burden of proving safety on companies. States that safety determinations are not subject to judicial review. If a new or existing chemical is determined to be unsafe, regulatory action, including restriction or banning a chemical, can be taken.
- Disclosure of information
 - Narrows the conditions under which information can be claimed as confidential. Claims approved by EPA would expire after no more than five years.

Key Differences Between 2011 and 2010 Proposed TSCA Reform Bills

- Minimum Data Set Requirements
 - Previously proposed TSCA reform defined and imposed a collective requirement on manufacturers and processors to submit a minimum amount of information about a chemical to the EPA in order to conduct safety standard determinations. The 2011 reform implies that each manufacturer and processor must individually submit this information to the EPA even if it was previously submitted by another company.
- Prioritization
 - The 2010 bill required creation of one large list of priority chemicals. The 2011 bill requires that each chemical be placed into one of these three priority classes: immediate risk management, safety standard determination, or no immediate action.
- Import and Export
 - The 2010 bill removed export notification requirement for actions taken under Section 4 testing rules. The 2011 bill added back the export notification requirement for chemicals that are subject to the data submission requirement. It also states that chemicals imported as part of an article are subject to the same requirements as imported bulk chemicals.
- Confidential Business Information (CBI)
 - CBI claims were subject to a five year expiration in the 2010 bill. The 2011 bill requires the EPA to specify the types of information that do not have a five year expiration. It also allows EPA to release CBI without notice in certain cases, to share CBI with states if they ensure confidentiality and to determine that information previously classified as confidential is no longer subject to such treatment.

Full Text of Proposed Bill: <http://www.gpo.gov/fdsys/pkg/BILLS-112s847is/pdf/BILLS-112s847is.pdf>

Contact Information

If you have any comments and/or questions, please contact your customer service representative or email: cps.info@us.bureauveritas.com

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