



July 26, 2010

THE TOXIC CHEMICALS SAFETY ACT OF 2010 (H.R. 5820)
CHANGES MADE TO THE DISCUSSION DRAFT
Committee on Energy and Commerce

On July 22, 2010, Chairman Henry A. Waxman and Subcommittee Chairman Bobby L. Rush introduced H.R. 5820, the Toxic Chemicals Safety Act of 2010. The bill includes substantial changes to the discussion draft that was released on April 15, 2010. H.R. 5820 will be considered at a hearing on Thursday, July 29, 2010.

Mixtures. The legislation addresses concerns about the burden and workload associated with regulating all mixtures distributed in commerce by clarifying the definition of “mixture,” by allowing the Administrator to group multiple mixtures for treatment under TSCA, and by making the Administrator’s authority to regulate mixtures discretionary in all cases.

Safety standard. The legislation incorporates suggestions for making the safety standard more workable by modifying the standard to be based on the intended uses of the substance only, while still providing the Administrator authority to consider exposures associated with known or foreseeable uses that are not identified as intended uses.

New Uses and New Chemicals. To increase workability and support innovation, the scope of the pre-manufacture notice requirement for new mixtures and new uses has been changed significantly. Under the legislation, no new use of a chemical substance or mixture will require pre-manufacture notification unless the chemical substance or mixture has already received a safety standard determination. New mixtures will also be able to enter the market without satisfying the requirements of Section 5 of TSCA, as will chemical substances exempted because of their intrinsic properties and chemical substances approved as safer alternatives.

Minimum Data Set (MDS). The legislation provides more detail about the components of the MDS and improves the workability of the submission requirements by staggering submissions based on production volume. The bill also provides greater flexibility to the Administrator in determining the penalties for a failure to meet the requirements of a test rule or order.

Confidential Business Information (CBI). The legislation reduces the burden of reviewing requests for confidential treatment of information by requiring the Administrator to review only a representative sample of confidentiality designations and imposing penalties for wrongful designation. The legislation also responds to concerns by allowing for renewal of designations.

Penalties. The legislation provides greater flexibility to the Administrator in determining the penalties for violations committed by an individual manufacturer or processor to avoid unnecessary commercial disruptions.

Exemptions Based on Intrinsic Properties. The legislation responds to concerns about the burden on the Environmental Protection Agency to evaluate chemical substances known to be safe by creating a new exemption from core requirements of the Act for chemical substances or mixtures that have been determined by the Administrator to be safe based on their intrinsic properties.

Safer Alternatives and Green Chemistry and Engineering. This legislation improves and clarifies the process and requirements for approval of safer alternatives to existing chemical substances and mixtures. The legislation also requires the Administrator to promote and support green chemistry and engineering research and to establish a green chemistry workforce education and training program.

International Cooperation and Agreements. This legislation clarifies the obligation of the Administrator to cooperate in international efforts on chemical safety. The bill clarifies and improves the procedures to be implemented if and when the United States becomes a party to designated international agreements on the regulation of chemical substances and mixtures, to ensure that U.S. efforts are consistent with applicable obligations under those agreements.