

Senate Republicans' Sledgehammer To Our Nation's Chemical Safety Law

The bipartisan 2016 amendments to the Toxic Substances Control Act (TSCA) require EPA to determine the safety of all new chemicals and to control chemicals' unreasonable risk before they enter our homes, workplaces, and bodies. Senate Republicans' draft TSCA bill would eliminate that requirement for many chemicals and significantly weaken it for others. The bill would create broad loopholes and offramps that allow chemical companies to narrow or completely bypass the new-chemical review process. It would also let those companies dictate the scope of new chemical reviews and reintroduce the default approvals that allowed PFAS and other toxic chemicals to flood the country without any EPA review or regulation. And it would make it harder for EPA to regulate existing chemicals that are known to pose serious harm, while deferring critical questions about the bill's implementation to an administration that consistently puts the interests of the chemical lobby above the safety of the public. This bill does not promote efficiency or innovation. Instead, it hollows out TSCA's new-chemical review process and drastically reduces EPA's ability to protect the public from cancer, infertility, neurological harm, and other serious injuries.

The bill threatens the health of families, workers, communities, and the environment by:

1. **Allowing dangerous chemicals to come to market without EPA review or approval.** The bill would roll back one of the most important requirements of the 2016 TSCA amendments: that EPA make an affirmative safety determination for all new chemicals and impose restrictions to eliminate unreasonable risk before a chemical can be produced. Instead of that affirmative determination, the bill would allow default approvals of new chemicals in multiple circumstances, including where the use of a new chemical presents severe and widespread risks so long as it is limited to the purposes declared by the manufacturer (pp. 24-25, 46-47).
2. **Putting chemical manufacturers and consultants in charge of their own new-chemical reviews.** TSCA currently requires EPA to conduct a careful, independent assessment of all new chemicals' risks. The bill would allow chemical companies to conduct their own risk assessments, which would be reviewed not by EPA but by a third-party paid by the chemical manufacturer. If EPA takes no further action within a prescribed period, the new chemical could come to market without any restrictions, regardless of its risks (pp. 42-48).
3. **Reducing transparency and scientific integrity about new-chemical reviews.** EPA's new-chemical reviews are already shrouded in secrecy. The bill would worsen those problems by creating new exemptions to the new-chemical Premanufacture Notice Process (PMN) review process. Under existing law, already over half of new-chemical submissions are exempt for the full PMN process; hundreds of PFAS have been approved under PMN exemptions. The bill would exponentially increase the number of new chemicals exempt from review. Under those exemptions, the public would receive no notice, EPA's review would be truncated, and the manufacturer would not have to report ongoing production volumes, locations, and other information generally required by EPA's TSCA regulations, leaving the public with little to no information about toxic chemicals in their air, water, and homes (pp. 19-31, 38-39).
4. **Preventing EPA from reviewing and regulating toxic chemicals derived from the burning of plastic waste.** EPA has found [astronomical](#) health risks from chemicals and fuels derived from the pyrolysis of plastic waste, including cancer risks hundreds of thousands of times higher than EPA's accepted benchmark. But the bill would completely exclude many of those substances from EPA's new chemical program and would allow EPA to discount the risks posed by such chemicals when it does review them (pp. 59-60, 15-16).

5. **Allowing unsafe chemicals to avoid regulations based on a comparison to other chemicals already on the market.** Currently, when EPA makes an unreasonable risk determination, it is specific to the chemical. The bill would change this to a comparative risk assessment, allowing EPA to discount the risks posed by new chemicals if they are marginally safer than an existing chemical. This would impede the development of truly safe substitutes to toxic chemicals, exposing the public to serious health threats without removing the riskier chemical from the market (pp. 15-16).
6. **Preventing EPA from protecting against widely known chemical hazards.** The bill would redefine “unreasonable risk” to exclude any consideration of irritation, corrosion, flammability, and other hazards. This would leave workers, consumers, and the public exposed to chemicals that are known to burn the skin, inflame airways, and overload the lungs’ clearance mechanisms (pp. 2-3).
7. **Limiting EPA’s ability to address “reasonably foreseen” exposures and risks.** Under the current law, EPA must protect against chemicals’ known, intended, and reasonably foreseen conditions of use. The bill proposes a highly restrictive definition of “reasonably foreseen” that would prevent EPA from considering foreseeable spills and releases; companies’ demonstrated non-compliance with workplace exposure standards; and, in many instances, any uses other than those identified by the chemical manufacturer (p. 2).
8. **Weakening EPA’s ability to regulate new chemicals.** TSCA currently requires EPA to protect the public from new chemicals that may present unreasonable risk. The bill would eliminate that requirement and prevent EPA from acting unless it found that such risk was “more likely than not,” an impossibly high bar given the limited information available about many new chemicals (p. 18).
9. **Prioritizing the review of unsafe chemicals.** The bill would create a new “tiering” system that determines the length of EPA’s new-chemical reviews. But the highest tiers would include chemicals that present serious health risks or have known data gaps, depriving EPA of the time it needs to fully evaluate and protect against those chemicals’ risks (pp. 9-15).
10. **Eliminating the public’s ability to petition for the regulation of existing chemicals.** In recent years, members of the public have used TSCA to compel EPA action on PFAS and other dangerous chemicals. The bill would take away this tool and make it much harder for the public to challenge EPA’s denials of other types of petitions (p. 60-64).
11. **Tying the hands of EPA scientists.** The bill would direct the Trump administration to issue guidance, without any public input or scientific guardrails, defining the information required for new-chemical reviews. The bill would also limit the ability of EPA scientists to demand or consider information that goes beyond the administration’s guidance (pp. 52-58).
12. **Granting expansive new authority to an administration that is bent on weakening TSCA.** The bill calls for new guidance from EPA on the requirements for new-chemical submissions and the science that EPA uses to evaluate new chemicals. All of that implementation would fall to an administration that has installed chemical industry representatives in senior leadership positions and attempted to roll back critical public health protections. Any TSCA amendments in this Congress would merely grant more power to an administration that is committed to weakening the statute (pp. 13, 15, 26-27, 50-51, 52-54).

For more information, contact Daniel Savery at dsavery@earthjustice.org.