

Senate Committee Passes Amended TSCA Reform Bill; 2012 Enactment Unlikely

August 2012

On July 25, the Senate Environment and Public Works Committee passed an amended version of S. 847, the Safe Chemicals Act of 2011. The bill is intended to “modernize the Toxic Substances Control Act (TSCA) to require chemical companies to demonstrate the safety of industrial chemicals and the Environmental Protection Agency (EPA) to evaluate and ensure safety based on the best available science.” The measure was introduced by Senator Frank Lautenberg (D-NJ) and cosponsored by Committee Chair Senator Barbara Boxer (D-CA), and was approved by a party line vote of 10 to 8.

While this was probably the last legislative action that will be taken on this bill in the current Congress, it does provide an outline for what Democrats likely will push for in 2013.

As amended, the S. 847 bill would require EPA to evaluate chemicals in commerce (*i.e.*, on the TSCA Inventory) in large batches, with at least one batch to be reviewed every five years. The initial batch would have to be selected from substances reported under the Chemical Data Reporting Rule (CDR). Within each batch, EPA would categorize chemicals as either of “high concern” requiring immediate regulatory attention or “low concern” needing no further review. Chemicals that fail to fit into either category would require a “safety standard determination” (to be conducted in priority order). Substances with “insufficient information” would require minimum data set submissions from manufacturers.

EPA would have the authority to take “expedited action” with chemicals of high concern. The Administrator also could require manufacturers and processors to submit any additional information that the Administrator determines to be necessary to conduct an assessment of the known uses of, and exposures to, the chemical. The Administrator could also impose use restrictions and other conditions on manufacturing, processing, use, distribution in commerce, and disposal, as necessary to achieve the maximum practicable reduction in human or environmental exposure.

Persistent, bioaccumulative, and toxic chemicals for which there is the potential for widespread exposure would automatically be placed into the category of chemicals of high concern, as would chemicals that are “highly hazardous.”