January 18, 2026

Memorandum For: **IHMM Government Relations**

From: **Eugene A. Guilford, Jr., CAE**
Executive Director

Subject: **Discussion Draft of Legislation to Modernize the Toxic Substances Control Act**

On January 15, 2026, the House Energy and Commerce Subcommittee on Environment **announced** it will hold a legislative hearing on **January 22, 2026**, entitled "Chemicals in Commerce: Legislative Proposal to Modernize America's Chemical Safety Law, Strengthen Critical Supply Chains, and Grow Domestic Manufacturing." The hearing will focus on a draft bill titled **Discussion Draft of Legislation to Modernize the Toxic Substances Control Act** (Discussion Draft).

Is this legislation something IHMM should weigh in on?

The text is in the link above, or > https://d1dth6e84htgma.cloudfront.net/H_R_Discussion_Draft_of_Legislation_to_Modernize_the_Toxic_Substances_Control_Act_1_3f4f956a9a.pdf

Key Provisions by Topic

A. Definitions – "Conditions of Use"

Narrowed statutory meaning. The draft revises TSCA's definition of "conditions of use" by limiting EPA's discretion to identify "reasonably foreseen" circumstances to only those that are **"more likely than not"** to occur. This change would narrow the universe of circumstances EPA may include in risk evaluations, with downstream implications for scope, burden of proof, and the administrative record.

Practical effect. EPA's existing chemical evaluations and new chemical determinations would become less expansive and more probability-driven—reducing the likelihood that remote, speculative, or low-probability scenarios drive regulatory outcomes.

B. New Chemical Reviews – TSCA Section 5

The draft would narrow and structure EPA's new chemical review process by:

1. **Limiting scope to submitter-identified conditions of use.**
   EPA's review would focus on the conditions of use **identified by the submitter**, rather than an open-ended requirement to assess "known, intended, and reasonably foreseen" uses beyond the notice.

2. **Requiring probability qualifier for unreasonable risk findings.**
   EPA could determine that a new chemical presents an unreasonable risk only where it is **"more likely than not"** that such unreasonable risk will occur.

3. **Administrator accountability for missed deadlines (nondelegable).**
   If EPA fails to complete a PMN review timely, the draft requires the **Administrator personally** (nondelegable) to issue a statement explaining the failure.

4. **"Best efforts" prioritization of selected notices.**
   EPA would be directed to make "best efforts" to expedite review of notices that offer certain **risk reduction benefits**, qualify for **Safer Choice**, or are necessary to improve the security and resiliency of **domestic critical material supply chains** (as identified by the Secretary of Commerce).

5. **Limits on voluntary suspensions.**
   The draft constrains submitter-requested suspensions (e.g., by imposing a maximum duration).

6. **Section 5(e) orders shift from mandatory to discretionary.**
   The draft changes certain circumstances under which EPA must issue Section 5(e) orders into a **discretionary** posture, giving EPA greater flexibility in selecting tools or conditions to address identified risk.

7. **OECD reliance/exemption authority.**
   The draft would provide new authority to exempt (or streamline) review of certain new chemicals where the submitter shows the activity has been **approved by another OECD member country**.
   Important nuance: the provision functions as a **conditional reliance/exemption mechanism**—not necessarily an automatic pass-through, and likely to depend on comparability and completeness of the OECD member's decision and record.

C. Existing Chemical Risk Evaluations – TSCA Section 6(b)

The draft introduces a set of changes likely to meaningfully narrow and formalize EPA's risk evaluation record:

1. **Likelihood threshold for hazards/exposures.**
   EPA would be directed to evaluate only those hazards and exposures that are **"more likely than not"** to result in unreasonable risk—constraining EPA from building risk determinations around speculative scenarios.

2. **Explicit direction to consider existing federal limits and compliance assumptions.**
   EPA would be instructed to consider existing federal regulatory limits, and to **not assume noncompliance**, including noncompliance with **OSHA standards**.

3. **Final agency action / judicial review.**
   The draft is structured to make final risk evaluations more immediately reviewable. Depending on final legislative text, this may convert final risk evaluations into **final agency action** subject to judicial review without waiting for issuance of a Section 6 risk management rule.

4. **Fee fairness for reliant parties.**
   The draft includes changes designed to address fee equity—aimed at circumstances where parties benefit from EPA's risk work but do not fairly contribute. In practice, this could lead to a more structured **allocation/reallocation** mechanism.

5. **Extend EPA TSCA fee authority.**
   EPA authority to collect fees for risk evaluation activities would be extended for approximately **ten additional years** from enactment.

6. **Preference for actual chemical-specific data.**
   The draft further emphasizes reliance on actual information rather than analogs or modeled data, potentially tightening the basis for hazard characterization and exposure estimates.

D. Existing Chemical Risk Management – TSCA Section 6(a)

The draft would modify the standard and constraints of EPA's risk management authority:

1. **Change in regulatory standard.**
   The risk management aim shifts from eliminating unreasonable risk to minimizing risk **"to the extent reasonably feasible."** This change may increase attention to feasibility, implementation burden, and cost-effectiveness.
2. **Section 9 consistency requirement.**
   The draft would prohibit EPA from issuing Section 6 risk management rules that are **"inconsistent"** with other existing federal requirements—strengthening cross-regulatory coordination and limiting TSCA controls where other federal regimes already govern.

E. TSCA Inventory and Nomenclature – UVCBs

The draft would require EPA to consider equivalency of certain **UVCB** chemical substances. Properly equivalent UVCBs would not be treated as "new" chemical substances—reducing the likelihood of PMN triggers and Section 5 review in some cases.

F. Citizens' Petitions

The draft would revise citizen petition authority by:

- **Removing authority** to petition for issuance of a Section 6(a) risk management rule; and
- **Replacing it** with authority to petition EPA to consider designating a chemical as a **high-priority** substance for risk evaluation.

Practical effect: petitions move "upstream" into prioritization rather than "downstream" into compelled risk management.

G. TSCA Fee Collection

The draft would reauthorize EPA's authority to collect TSCA fees for approximately **ten years**, beyond the current expiration framework (end of FY 2026). This would ensure continued funding for Section 4 testing activities, Section 5 new chemical reviews, and Section 6 risk evaluations.

II. AHMM / CHMM / CHMP Impact Box

For AHMMs (Associate Hazardous Materials Managers)

Operational impacts:

- Increased need to **document actual conditions of use** with credible, probability-based narratives ("more likely than not").
- More strategic attention to **product stewardship and supply chain communication**—especially where priority designation, Safer Choice positioning, or domestic supply chain security is relevant.
- Higher importance of **cross-regulatory alignment** (TSCA + OSHA + DOT + other federal regimes), as TSCA actions must avoid inconsistency with other federal requirements.

What to do now:

- Re-check chemical use profiles, downstream use controls, and disposal realities.
- Tighten documentation demonstrating compliance with OSHA and other federal standards to prevent EPA from assuming noncompliance.

For CHMMs (Certified Hazardous Materials Managers)

Programmatic and record-building impacts:

- More formal evidence thresholds ("best available science," "weight of evidence," "more likely than not") will elevate the importance of building **defensible scientific records**.
- Risk evaluation advocacy becomes more structured: expect greater emphasis on **actual chemical-specific information**, monitoring data, and exposure reality.
- If risk management is limited to "reasonably feasible" minimization, CHMMs will increasingly contribute feasibility and alternatives evidence.

What to do now:

- Build/refresh internal chemical dossiers emphasizing empirical data.
- Maintain written critical-use/alternatives arguments to support interagency/supply chain review.

For CHMPs (Certified Hazardous Materials Practitioners)

Implementation and audit impacts:

- Increased documentation: conditions of use, workplace controls, waste handling, PPE/work practice controls—all mapped to the "most likely" exposure pathways.
- Expanded need to coordinate compliance posture across TSCA and OSHA (and other federal standards) to reduce regulatory friction and strengthen defensibility.
- Potential UVCB equivalency changes may influence inventory status and reporting in product compliance programs.

What to do now:

- Prepare audit-ready records showing compliance with OSHA controls and workplace exposure prevention.
- Coordinate with suppliers on UVCB identification and equivalency documentation.