

1. Further clarify the definition of the safety standard to ensure that all chemical safety decisions are made solely on considerations of risk to human health and the environment, and do not take into account considerations of cost or economic factors;

- Under the new draft, the safety standard definition explicitly prohibits EPA from considering costs and other non-risk factors and requires protection of “potentially exposed or susceptible populations” as well as the general population. (p. 6 of Staff Working Draft Redline)

2. Ensure that protection of vulnerable populations, such as children, pregnant women, the elderly, and workers are analyzed when assessing chemicals and are taken into account when making risk management decisions to provide adequate protection;

- Under the new draft, a new definition of “potentially exposed or susceptible population” includes vulnerability due to elevated exposure and to heightened susceptibility to the effects of chemical exposures. In addition, the new definition states that a “potentially exposed or susceptible population” includes, but is not limited to, infants, children, pregnant women, workers, and the elderly. (p. 5 of Staff Working Draft Redline)

- Under the new draft, the safety standard definition now explicitly prohibits EPA from considering costs and other non-risk factors and requires protection of “potentially exposed or susceptible populations” as well as the general population. (p. 6 of Staff Working Draft Redline)

3. Ensure that there is an enforceable schedule for issuing the initial priority list of chemicals that EPA will assess and that a mechanism is in place to ensure that a sufficient number of substances will be prioritized and assessed from the date of enactment into the future;

Under the new draft:

- a 1-year deadline for establishing the prioritization screening process has been added. (p. 30 of Staff Working Draft Redline)
- within 6 months of enactment, EPA is to establish an initial list of at least 10 high-priority chemicals, on which it may initiate or continue assessments and determinations. (p. 30 of Staff Working Draft Redline)
- EPA can draw from an interim list of active chemicals for prioritization without having to wait for the inventory reset. (p. 30 of Staff Working Draft Redline)
- the high-priority list must be repopulated as safety assessments/determinations are completed. (p. 30 of Staff Working Draft Redline)
- EPA must initiate prioritization within 6 months of enactment. (p. 31 of Staff Working Draft Redline)

4. Ensure that EPA has the authority to order testing of existing chemicals where adequate information is lacking;

Under the new draft:

- any chemical whose prioritization is deferred due to lack of information must be identified along with the basis for that deferral. (p. 32 of Staff Working Draft Redline)
- testing authority has been created for prioritization, as long as no minimum information requirements are imposed on all chemicals. (p. 21 of Staff Working Draft Redline)
- low-priority designations must be based on sufficient information. (p. 32 of Staff Working Draft Redline)
- a chemical can be designated high priority on the basis of insufficient information. (p. 32 of Staff Working Draft Redline)

5. Ensure that procedural and scientific requirements for the prioritization, assessment, and management of risk of chemical substances can be efficiently implemented and are balanced, attainable, and not overly prescriptive;

Under the new draft:

- a new 2-year deadline is set for establishing all policies, procedures and guidance. (p. 6 of Staff Working Draft Redline)
- the many overlapping and redundant policies and requirements have been consolidated and streamlined. (Sec. 3A of Staff Working Draft Redline)
- the problematic definition of “best available science” has been struck. (p. 4 of Staff Working Draft Redline)
- risk assessment approaches favored by industry have been struck or made neutral. (Sec. 3A of Staff Working Draft Redline)

6. Ensure that aggressive but achievable deadlines for all major processes under the law are statutorily mandated;

Under the new draft:

- a new 2-year deadline is added for establishing all policies, procedures and guidance. (p. 6 of Staff Working Draft Redline)
- a 1-year deadline is added for the rule establishing prioritization screening. (p.34 of Staff Working Draft Redline)
- a deadline of 6 months after enactment is added for EPA to initiate prioritization. (p. 31 of Staff Working Draft Redline)
- aggressive deadlines are added for completion of safety assessments, determinations and risk management rules, with a limited ability to extended. (p. 41 of Staff Working Draft Redline)

- a 1-year deadline is added for the inventory reset rule and a 6-month deadline is added for companies to identify active chemicals. (p. 58 of Staff Working Draft Redline)

7. Ensure the federal government has the authority to prohibit articles from entry into the United States when the EPA has banned or regulated a chemical;

Under the new draft:

- coverage of imported articles has been restored. (pp. 68-72 of Staff Working Draft Redline)
- certification for imported articles is provided for, subject to rules established by EPA. (p. 70 of Staff Working Draft Redline)

8. Ensure that only final agency actions are subject to judicial review with explicit designation of what is considered final agency action; and

- Under the new draft, judicial review is triggered only when EPA takes final action, either a final determination that a chemical meets the safety standard or a final rule where EPA finds a chemical does not meet the safety standard. (p. 53 of Staff Working Draft Redline)

9. Ensure that EPA has the adequate resources, including a fair share from the regulated community, to carry out the necessary activities at an aggressive pace.

- Under the new draft, this has not yet been addressed. We agree that adequate resources are needed and that the regulated community should share a portion of those through user fees. We have discussed several options and are prepared to address this portion of the bill at the appropriate time, when we have a complete understanding of the resources that will be needed to implement the program.