



Dear Subscriber,

We are pleased to enclose the January 2024 Update for your 6-volume TSCA Compliance Guide and Online Service.™

- 1) **PFAS Reporting Rule.** On September 28, 2023, EPA announced a final rule requiring comprehensive reporting on per- and polyfluoroalkyl substances (PFAS). The rule, issued under TSCA Section 8(a)(7), and required under The National Defense Authorization Act for Fiscal Year 2020, requires persons who manufactured or imported PFAS or PFAS containing articles for commercial purposes at any time since January 1, 2011, to conduct certain reporting and recordkeeping activities for each year since January 1, 2011. The rule was initially proposed on June 28, 2021 (86 FR 33926), and was subject to multiple rounds of stakeholder input. The final rule contains an expanded definition of PFAS from the proposed rule, encompassing at least an additional 41 PFAS, though EPA chose to provide a structural definition of PFAS in the rule instead of a list of substances, so the complete extent of the rule is somewhat unclear without a chemical-by-chemical analysis. The final categories of information subject to reporting are, as described by EPA:
 - “The common or trade name, chemical identity and molecular structure of each chemical substance or mixture for which a report is required;
 - Categories or proposed categories of use for each substance or mixture;
 - Total amount of each substance or mixture manufactured or processed, the amounts manufactured or processed for each category of use, and reasonable estimates of the respective proposed amounts;
 - Descriptions of byproducts resulting from the manufacture, processing, use, or disposal of each substance or mixture;
 - All existing information concerning the environmental and health effects of each substance or mixture;
 - The number of individuals exposed, and reasonable estimates on the number of individuals who will be exposed, to each substance or mixture in their places of work and the duration of their exposure; and
 - The manner or method of disposal of each substance or mixture, and any change in such manner or method.”

Of note, the phrase “all existing information concerning the environmental and health effects of each substance or mixture” is clarified in the final rule to include only information that a regulated entity already has in its possession. This is a departure from

TSCA Compliance Guide & Online Service

www.TSCA.com

info@TSCA.com

“The World’s Leading Source of Up-to-Date TSCA Information”

and narrower than the general rule requirement that reporting include information “to the extent known or reasonably ascertainable by” the submitter. Also notable is that there is no lower limit for the reporting requirement, which differentiates the new rule from CDR reporting. This rule does not require reporting on activities that are excluded from the definition of “chemical substance” in TSCA section 3(2)(B), but it does require reporting on PFAS that are components of a mixture (mixtures are outside the definition of “chemical substance”). EPA estimates that the industry burden of the rule will be approximately 11.6 million hours and cost between \$800 million and \$843 million for compliance, depending on the discount rate. EPA intends this rule to help create a more complete database of PFAS in commerce, both presently and historically, and inform further actions to protect the public from PFAS exposures. Affected parties have one year from the effective date of the rule for information collection and an additional six months for reporting necessary data. Further, small manufacturers, as defined in 40 CFR 704.3, whose reporting obligations arise solely from article import, will have an additional six months for reporting. This new rule is reflected on pages N1-20 of your TSCA Guide. See 88 FR 70516.

- 2) **Civil Monetary Penalty Inflation Adjustment.** On December 27, 2023, EPA announced a final rule adjusting the maximum and minimum statutory civil monetary penalty amounts under the statutes EPA administers. The new amount, listed in the third column of Table 1 of 40 CFR 19.4, will apply to all civil monetary penalties assessed on or after December 27, 2023, for violations that occurred after November 2, 2015. The new maximum penalty is \$48,512 per day of violation. The text of Introduction pages 16 & 17 have been updated to reflect this development. See 88 FR 89309.
- 3) **MBOCA Records and Reports.** On December 21, 2023, EPA announced it was exercising its TSCA Section 8(c) authority to require manufacturers (including importers) and processors of 4,4'-Methylene bis(2-chloroaniline) (MBOCA), CAS RN 101-14-4, to “submit the records and reports of allegations that this chemical substance causes significant adverse reactions to health or the environment that they are required to maintain and submit to EPA when requested under the [TSCA].” TSCA Section 8(c) requires manufacturers (including importers) and processors to maintain records of significant adverse reactions to health or the environment potentially attributable to chemical substances or mixtures. Those same manufacturers (including importers) and processors must make those records available to EPA upon request. These reporting and recordkeeping requirements are codified in 40 CFR part 717. EPA published notice of the TSCA Section 8(c) request on December 26, 2023, and responses are due within 60 days via EPA’s Central Data Exchange (CDX). EPA claims this is the first use of its Section 8(c) authority in nearly 30 years. EPA has prepared a guidance document regarding Section 8(c) limitations and exclusions, which is being included in this update at pages D65-68. See 88 FR 88915.

TSCA Compliance Guide & Online Service

www.TSCA.com

info@TSCA.com

“The World’s Leading Source of Up-to-Date TSCA Information”

- 4) **Asbestos Reporting Instructions.** On October 16, 2023, EPA announced the availability of instructions for new asbestos reporting requirements under TSCA. The new rules, finalized in July 2023, require comprehensive reporting on all six fiber types of asbestos for any manufacturer, importer, or processor of asbestos who between 2019 and 2022, in any individual year, had annual sales over \$500,000, when combined with any parent corporation's sales. The reporting window begins on February 24, 2024 and ends on May 24, 2024, and reporting can only be done on EPA's Central Data Exchange (CDX). The instructions are available on EPA's website here <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/tsca-section-8a1-reporting-and-recordkeeping>. We have also included the instructions in your TSCA guide, which can now be found at pages E2-55.

Please also note these recent TSCA-related activities:

- **TSCA Consent Decree.** On September 11, 2023, EPA announced it had lodged a proposed consent decree in the lawsuit titled *United States of America v. Apex Building Company, Inc.*, Civil Action No. 23-cv-007838, in the Southern District of New York. The government brought claims against Apex for unlawful work practices governed by the Renovation, Repair, and Painting Rule, 40 CFR part 745. The proposed consent decree resolves the United States' claims, requires Apex Building Company, Inc. to pay \$606,706, and imposes injunctive relief. See 88 FR 62395.
- **Access to CBI.** On September 15, 2023, EPA announced that it authorized contractor Eastern Research Group of Lexington, MA/Chantilly, VA, along with nine of Eastern's subcontractors, to access information submitted to EPA under all sections TSCA. Some of this information may have been claimed as confidential business information (CBI) by the submitting entity. Access to TSCA information will continue through at least November 30, 2027, when the initial contract expires. Access may continue for as long as the contract is renewed, if it is renewed, without Federal Register notice. Personnel of the contractor and subcontractors will be required to sign nondisclosure agreements. See 88 FR 63572; 88 FR 65388.
- **TSCA Lawsuit.** On September 18, 2023, multiple environmental and community groups, including the Sierra Club and Earthjustice, filed a lawsuit against EPA alleging that EPA missed the statutory deadlines for finishing risk evaluations for 22 different chemicals. Those 22 chemicals are alleged to have been released in high volumes in fenceline communities or are contained in common consumer products. TSCA requires that a risk evaluation be completed with 3.5 years from the date it was initiated. Plaintiffs request the court set a binding timeline for EPA to finish the risk evaluations and come into compliance with TSCA. The case was filed in the U.S. District Court for the District of Columbia and is Case No. 1:23-cv-02715.

TSCA Compliance Guide & Online Service

www.TSCA.com

info@TSCA.com

“The World's Leading Source of Up-to-Date TSCA Information”

- **PFAS Analytic Tools.** On September 21, 2023, EPA announced the release of an updated Per- and Polyfluoroalkyl Substances (PFAS) Analytic Tool (Tool). The Tool, which can be found on EPA’s Enforcement and Compliance History Online website, compiles data that EPA believes can be used to evaluate what is known about PFAS manufacture, release, and occurrence in communities. The updated Tool contains new data points from both 2023 and from new facilities. The Tool can be found at <https://echo.epa.gov/trends/pfas-tools>.
- **EPA Information Collection Activities.** On September 22, 2023, EPA announced it had submitted an information collection request (ICR) renewal to the Office of Management and Budget (OMB). The request is titled “Notification of Chemical Exports – TSCA Section 12(b).” This is a proposed renewal of an already existing ICR, scheduled to expire on May 31, 2024. This ICR covers the information collection activities associated with recordkeeping and reporting requirements of TSCA Section 12(b), which requires “any person who exports or intends to export to a foreign country a chemical substance or mixture for which submission of information is required under TSCA sections 4 or 5(b), or for which a rule, action or order has been proposed or promulgated under TSCA sections 5, 6, or 7, shall notify EPA of such export or intent to export.” See 88 FR 65390.
- **GAO PFAS Report.** On September 27, 2023, the U.S. Government Accountability Office (GAO) released a report entitled “Persistent Chemicals: Detecting, Limiting Exposure To, and Treating PFAS Contamination.” GAO claims their work had identified actions that can lead to better PFAS detection in drinking water, limit human exposure, and treat existing PFAS contamination. The full report can be found at <https://www.gao.gov/products/gao-23-106970>.
- **CDX Updates.** On October 6, 2023, EPA announced it was updating the Central Data Exchange (CDX) to support new TSCA CBI rules. Of note, the CDX will now require CBI substantiations be provided within the CDX application instead of as attachments.
- **PFAS Warning.** On October 12, 2023, at an American Bar Association meeting of the Section of Environment, Energy and Resources, the Assistant Administrator of EPA’s Office of Enforcement and Compliance, David Uhlmann, stated that manufacturers of PFAS are targets for investigation and prosecution for their products’ effect on the public. The regulatory scheme under which those investigations and prosecutions will proceed is expected to be announced in the first half of 2024. EPA’s focus will be on companies that are deemed the most responsible for PFAS contamination in the US, which will at least begin with manufacturers and those companies that profited from putting PFAS in their products. Uhlmann did confirm, however, that as long as they were acting in good faith, certain classes of persons would not be subject to enforcement, including farmers who used biosolids, public airports that used aqueous film forming foam for fire suppression,

TSCA Compliance Guide & Online Service

www.TSCA.com

info@TSCA.com

“The World’s Leading Source of Up-to-Date TSCA Information”

municipal wastewater facilities, and publicly owner/operated municipal solid waste landfills.

- **Access to CBI.** On October 16, 2023, EPA announced that it authorized contractors Battelle Memorial Institute of Columbus, OH, along with five of Battelle’s subcontractors, and Abt Associates of Rockville, MD, along with 15 of Abt’s subcontractors, to access information submitted to EPA under all sections of TSCA. Some of this information may have been claimed as confidential business information (CBI) by the submitting entity. Access to TSCA data will continue through at least November 30, 2027, when the initial contract expires. Access may continue for as long as the contract is renewed, if it is renewed, without Federal Register notice. Personnel of the contractors and subcontractors will be required to sign nondisclosure agreements. See 88 FR 71355; 88 FR 71359.

- **Risk Evaluation Rule.** On October 19, 2023, EPA announced a proposed rule to strengthen the risk evaluation process under TSCA. EPA intends this new rule to ensure the risk evaluation process “better align[s] with the law, support robust evaluations that account for all risks associated with a chemical, and provides the foundation for protecting workers and communities from toxic chemicals.” According to EPA, the proposed rule includes the following changes:
 - “A commitment to considering the disproportionate harms facing overburdened communities as part of risk evaluations such as multiple exposure pathways (e.g. in air and water) to the same chemical, and combined risks from multiple chemicals, when such consideration is supported by the best available science, and consistent with TSCA’s statutory deadlines.
 - A requirement that risk evaluations are comprehensive in scope and do not exclude conditions of use or exposure pathways;
 - Clarifications to ensure EPA appropriately considers risks to workers in its risk evaluations;
 - Assurance the Agency will continue to use the best available science to conduct risk evaluations and that decisions are based on the weight of the scientific evidence;
 - A clear requirement for risk evaluations to culminate in a single determination of whether the chemical presents unreasonable risk, rather than on individual chemical uses in isolation;
 - New procedural requirements applicable to substantive revisions of risk evaluation documents to ensure transparency;
 - Adjustments to the process for manufacturer requested risk evaluations for chemicals to better align with the process and timeline associated with EPA-initiated risk evaluations, while also ensuring that the Agency can use the

TSCA Compliance Guide & Online Service

www.TSCA.com

info@TSCA.com

“The World’s Leading Source of Up-to-Date TSCA Information”

authorities provided under the law for gathering any needed additional information on such chemicals.”

Many of these proposed regulations were already announced by the Biden Administration in 2021 and have been incorporated into recent risk evaluations, but EPA believes codifying the regulations will provide stakeholders with more certainty moving forward. See 88 FR 74292.

- **PFAS TRI Reporting.** On October 20, 2023, EPA announced it had finalized a rule to improve reporting on per- and polyfluoroalkyl substances (PFAS) to the Toxics Release Inventory (TRI). The rule eliminates an exemption that allowed facilities releasing small concentrations of PFAS (below 100 lbs) to avoid reporting obligations. EPA is accomplishing this by adding PFAS to the list of Lower Thresholds for Chemicals of Special Concern, which are not subject to *de minimis* exemptions. The new rule should result in more comprehensive data on releases of PFAS, even in small concentrations, that may impact communities. Further, EPA is removing the *de minimis* exemption for Supplier Notification Requirements for all chemicals on the lower thresholds list, which EPA expects to ensure purchasers of products and mixtures are informed of the chemical’s presence. The new rule applies for reporting year beginning January 1, 2024, for reports due by July 1, 2025. See 88 FR 74360.
- **Proposed TCE Ban.** On October 23, 2023, EPA announced a proposed ban on all uses of trichloroethylene (TCE). Historically used as a solvent degreaser in industrial operations, TCE is now most commonly used in cleaning and furniture care products, degreasers, brake cleaners, and tire repair sealants. EPA believes there are safer alternatives available on the market for many of those uses. In EPA’s January 2023 final revised risk determination for TCE, EPA determined that TCE presents an unreasonable risk of injury to human health under its conditions of use. The proposed rule would prohibit most uses within one year, including TCE manufacturing and processing for most commercial and all consumer uses. Limited uses, such as critical Federal Agency uses, battery separators used to make electric vehicle batteries, and the manufacture of certain refrigerants, are granted longer phase-out periods. Further, to support cleanup of legacy TCE contamination at sites, EPA proposes to allow essential lab use and proper disposal of TCE contaminated wastewater to continue for 50 years. See 88 FR 74712.
- **TRI Data.** On October 24, 2023, EPA announced it was publishing updated Toxics Release Inventory (TRI) data for 2022. This new data updates the preliminary 2022 TRI data released in August 2023 and includes revised and/or late submissions received by EPA through October 18, 2023.

TSCA Compliance Guide & Online Service

www.TSCA.com

info@TSCA.com

“The World’s Leading Source of Up-to-Date TSCA Information”

- **6PPD Petition Granted.** On November 2, 2023, EPA announced it was granting the TSCA Section 21 petition of several native Tribes to address the uses of the chemical N-(1,3-Dimethylbutyl)-N'-phenyl-p-phenylenediamine, better known as 6PPD, in tires. 6PPD is commonly used in tires to slow breakdown during their lifespan. The Tribes had argued that a 6PPD byproduct, 6PPD-quinone, was lethal to salmon and other aquatic organism populations. EPA believes that addressing the presence of 6PPD and its byproducts in the environment will help reverse the declining populations of several aquatic species. EPA anticipates publishing a notice of proposed rulemaking under TSCA Section 6 by Fall 2024 to gather more information that may inform a potential final rule. EPA also plans to finalize a rule under TSCA Section 8(d) requiring manufacturers to report lists and unpublished health and safety studies to EPA by the end of 2024. EPA has created a 6PPD specific website to keep the public abreast of the rulemaking progress. That website can be accessed at <https://www.epa.gov/chemical-research/6ppd-quinone>.
- **CBI Rule Lawsuit.** On November 8, 2023, the American Chemistry Council (ACC), along with other manufacturing and trade groups, and the Environmental Defense Fund (EDF) separately filed lawsuits against EPA in the United States Court of Appeals for the District of Columbia regarding the recently promulgated Confidential Business Information Claims Under the Toxic Substances Control Act rule (Rule). The two parties took differing approaches to their challenges. ACC argued that the Rule did not do enough to protect chemical identity confidentiality and that the Rule impermissibly exceeded EPA's authority under TSCA to compel disclosures. EDF, on the other hand, argued that the Rule violated TSCA's text by compelling too little disclosure and favoring withholding of information. On November 15, 2023, the Chamber of Commerce of the United States of America and the National Association of Manufacturers filed a brief as *amici curiae* supporting the ACC and arguing against the Rule. The cases are *American Chemistry Council et al. v. EPA*, Case No. 23-1204, and *Environmental Defense Fund v. EPA*, Case No. 23-1166.
- **Lead Lab Accreditation Program Revisions.** On November 15, 2023, EPA announced proposed revisions to "Laboratory Quality System Requirements (LQSR) Revision 3.0" dated November 5, 2007, under the National Lead Laboratory Accreditation Program (NLLAP). The proposed revisions constitute Revision 4.0 and "are intended to update and streamline the guidance by referencing existing laboratory standards already in practice by NLLAP participating laboratories and directly related to laboratory lead analysis, and to update the test and sampling method standards to better complement EPA's lead-based paint program activities." EPA publishes the LQSR under the authority of TSCA Section 405(b). See 88 FR 78355.
- **EPA OIG Report.** On November 15, 2023, EPA's Office of Inspector General (OIG) issued its report on EPA's fiscal year 2024 top management challenges. One of the top challenges identified is EPA's ability (or inability) to provide timely chemical assessments, as required

TSCA Compliance Guide & Online Service

www.TSCA.com

info@TSCA.com

"The World's Leading Source of Up-to-Date TSCA Information"

by TSCA. The OIG Report highlighted the additional work created by the 2016 Lautenberg Amendments, resulting in an approximate fivefold increase in EPA work, and relatively stagnant budget as reasons for EPA's inability to meet statutory requirements. The full report is available at <https://www.epaig.gov/reports/other/epas-fiscal-year-2024-top-management-challenges>.

- **1,4-Dioxane Meeting Minutes.** On November 17, 2023, EPA announced the availability of meeting minutes and final report from the September 12-14, 2023 Science Advisory Committee on Chemicals (SACC) public meeting regarding the "Draft Supplement to the Risk Evaluation for 1,4-Dioxane." In June 2021, the Biden Administration announced policy changes affecting risk evaluations conducted under the Trump Administration, one of which was 1,4-dioxane. Earlier in 2023 EPA released a draft supplement to 1,4-dioxane's risk evaluation, which considered additional exposure pathways not included in the initial risk evaluation. EPA sought peer review from SACC on several points, including application of occupations exposure modeling approaches and monitoring data for industrial and commercial operations. The meeting minutes and final report are available in docket EPA-HQ-OPPT-2022-0905 and on EPA's webpage at <https://www.epa.gov/tsca-peer-review/peer-review-epas-2023-draft-supplement-14-dioxane-risk-evaluation>.
- **TSCA Consent Agreement.** On November 20, 2023, the Environmental Appeals Board (EAB) issued a final order ratifying a consent agreement between EPA, General Motors Company (GM), and Ultium Cells LLC (UCL) (Agreement). The Agreement resolved alleged violations of TSCA Section 5(a)(1), which requires premanufacture notices for all chemical substances not currently on the TSCA Inventory, and several other related TSCA regulations. According to the Agreement, GM and UCL voluntarily reported that three manufactured (imported) chemical substances were not in compliance with TSCA regulations, though the identity of the substances was claimed as CBI. Because of the voluntary self-disclosure, EPA reduced the penalty amounts in accordance with its "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations (Audit Policy)", 65 Fed. Reg. 19,618 (Apr. 11, 2000). GM and UCL agreed to a penalty of \$654,150 for the violations without admitting to the specific factual allegations contained in the Agreement. A copy of the Agreement is available on Docket No. TSCA-HQ-2023-5008.
- **Proposed PBT Rules.** On November 20, 2023, EPA announced a proposed rule to further regulate two persistent, bioaccumulative and toxic (PBT) chemicals: decabromodiphenyl ether (decaBDE) and phenol, isopropylated phosphate (3:1) (PIP (3:1)). Each of those two chemicals has been subject to risk management rules under TSCA in 2021, though amendments have been issued after the initial rules were promulgated. The new proposed rule would impose workplace safety protections and restrict water releases, and address broader implementation issues with each of the risk management rules in

TSCA Compliance Guide & Online Service

www.TSCA.com

info@TSCA.com

"The World's Leading Source of Up-to-Date TSCA Information"

various sectors. As to decaBDE, EPA says the “new proposed rule would require that workers use personal protective equipment (PPE) for some activities involving decaBDE not subject to the 2021 prohibitions, prohibit releases to water during manufacturing, processing, and distribution in commerce of decaBDE and decaBDE-containing products, and require entities intending to export decaBDE-containing wire and cable for nuclear power generation facilities to notify EPA.” The new proposed rule also extends the compliance date for the nuclear power sector, as decaBDE was present in wire and cable insulation commonly used in nuclear generation facilities. EPA now proposes the compliance date for such wire and cable insulation be extended “until after the service life of the wire and cable.” As to PIP (3:1), EPA had previously extended the compliance deadline to October 2024 after stakeholder comments informed EPA of how challenging compliance would be under the original date. While EPA does not intend to extend the October 2024 compliance date generally, there are certain limited extensions proposed in the new proposed rule. EPA is also proposing additional worker protection measures and phasing out of PIP (3:1) in uses excluded from the 2021 risk management rule. See 88 FR 82287.

- **TSCA Section 5 Orders.** On December 1, 2023, EPA announced it issued orders to Inhance Technologies LLC directing the company to cease production PFAS, which were created in the manufacture of Inhance’s fluorinated high-density polyethylene HDPE plastic containers. Inhance had previously submitted, in December 2022, significant new use notices for nine different PFAS, but Inhance did this only after EPA had issued a notice of violation for failure to notify EPA of PFAS manufacturing in March 2022 and the Department of Justice filed suit for those violations in early December 2022. EPA has determined that three of the nine PFAS chemicals, perfluorooctanoic acid (PFOA), perfluorononanoic acid (PFNA) and perfluorodecanoic acid (PFDA), are highly toxic and the associated risks can only be prevented by prohibiting production. Thus, EPA used its authority under TSCA Section 5(f) to prohibit their continued manufacture by Inhance. Regarding the other six PFAS chemicals, perfluoroundecanoic acid (PFuDA), perfluorododecanoic acid (PFDoA), perfluorotridecanoic acid (PFTrDA), perfluorotetradecanoic acid (PFTeDA), perfluorohexadecanoic acid (PFHxDA), and perfluoro-n-octadecanoic acid (PFODA), EPA determined that they may pose unreasonable risks to health or the environment, and exercised its authority under TSCA Section 5(e) to order Inhance to cease manufacturing of them and to perform additional testing if Inhance intends to restart manufacturing. More information and the orders can be found at <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/epa-orders-issued-inhance>.
- **Access to CBI.** On December 5, 2023, EPA announced that it authorized contractor Chemical Abstracts Service (a division of the American Chemical Society) of Columbus, OH, to access information submitted to EPA under all sections TSCA. Some of this

TSCA Compliance Guide & Online Service

www.TSCA.com

info@TSCA.com

“The World’s Leading Source of Up-to-Date TSCA Information”

information may have been claimed as confidential business information (CBI) by the submitting entity. Access to TSCA information will continue through at least October 31, 2028, when the initial contract expires. Access may continue for as long as the contract is renewed, if it is renewed, without Federal Register notice. Personnel of the contractor will be required to sign nondisclosure agreements. See 88 FR 84320.

- **TSCA Section 6 Authority.** On December 6, 2023, dozens of Republican congressmen sent a letter to EPA Administrator Michael Reagan inquiring about EPA's risk evaluations under TSCA, expressing concern that TSCA implementation was hurting American manufacturing. The congressmen further questioned whether EPA was using its TSCA authority to infringe on the statutory responsibilities of the Occupational Safety and Health Administration (OSHA). Responses to a lengthy list of questions were requested by the middle of December, though any response has not been made public as of this publication.
- **TSCA Lawsuit.** On December 13, 2023, the American Chemistry Council (ACC) filed a lawsuit against EPA for EPA's alleged failure to complete the TSCA manufacturer-requested risk evaluations for diisononyl phthalate (DINP) and diisodecyl phthalate (DIDP). ACC alleges that EPA did not meet the 3.5-year deadline for completion of the risk evaluations, which began on January 2, 2020. The lawsuit was filed in the U.S. District Court for the District of Columbia and is Case No. 1:23-cv-03726.
- **High-Priority Substance Prioritization.** On December 14, 2023, EPA announced it was initiating the prioritization process for five chemical substances as candidates for High-Priority Substances for risk evaluations under TSCA. In December 2019, EPA designated 20 High-Priority Substances pursuant to TSCA Section 6(b)(2)(B). Each of those substances is currently undergoing risk evaluation and EPA expects to complete approximately five risk evaluations annually over the next few years. Additionally, TSCA Section 6(b)(3)(C) requires EPA to designate a replacement High-Priority Substance when the risk evaluation for another High-Priority Substance is complete. Thus, EPA is proactively seeking to designate new High-Priority Substances in anticipation of completing five risk evaluations in the coming year. The five chemicals proposed for prioritization are: Acetaldehyde, CAS RN 75-07-0; Acrylonitrile, CAS RN 107-13-1; Benzenamine, CAS RN 62-53-3; Vinyl Chloride, CAS RN 75-01-4; and 4,4'-Methylene bis(2-chloroaniline) (MBOCA), CAS RN 101-14-4. EPA selected these five chemicals largely in line with public guidance, "A Working Approach for Identifying Potential Candidate Chemicals for Prioritization", released to the public on September 27, 2018, available at https://www.epa.gov/sites/production/files/2018-09/documents/deprioritization_white_paper_9272018.pdf. See 88 FR 87423.

TSCA Compliance Guide & Online Service

www.TSCA.com

info@TSCA.com

"The World's Leading Source of Up-to-Date TSCA Information"

- **TCEP Draft Risk Evaluation.** On December 14, 2023, EPA announced the availability of the draft risk evaluation for the flame retardant Tris(2-chloroethyl) phosphate (TCEP), CAS RN 115-96-8. EPA’s preliminary determination is that TCEP poses an unreasonable risk to human health and the environment. TCEP has historically been used in the paint and coatings industry, aerospace applications, and fabrics/textiles industries, among others, and is present in certain goods imported into the United States. But production of TCEP in the United States has dropped by 99% since 2014. Its remaining uses are in some paints/coatings and in specific aerospace applications. TCEP is of particular interest to EPA because while it is mixed into materials, it does not chemically bond with them and is subject to leaching into the environment. This risk evaluation constitutes the first of the 20 high-priority substances first prioritized in 2019. There will be a peer review of the draft risk evaluation beginning sometime in March 2024, which along with public comments will help inform EPA’s final risk determination. See 88 FR 86894.

- **2023 Mercury Inventory Report.** On December 21, 2023, EPA announced the availability of the 2023 Mercury Inventory Report (Report). The Report details the supply, use, and trade of mercury in the United States. The mercury inventory reporting rule was finalized in 2018 and this is now the second year the inventory report has been issued. EPA identifies the following highlights from the Report:
 - “Thirty-one mercury compounds listed as 'inactive' under the Chemical Substance Inventory since publication of the 2020 report.
 - An overall decline of approximately 13% in the amount of mercury used in the domestic manufacture, sale, and export of mercury-added products, indicative of the growing presence and use of effective alternatives.
 - A decrease of approximately 20% in the amount of mercury used to manufacture products including switches, relays sensors, and valves, as well as an approximately 56% decrease in in the use of dental amalgam. The data submitted on switches and relays fills a previously challenging information gap within the U.S.
 - Low totals of less than 0.1 metric tons for the amount of mercury in domestically manufactured and imported batteries, measuring devices, and other/miscellaneous products.
 - Information relevant for U.S. implementation of the Minamata Convention on Mercury, a multilateral environmental agreement that seeks to protect human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds.”

The full report can be found at https://www.epa.gov/system/files/documents/2023-12/2023-mercury-inventory-report_final.pdf.

TSCA Compliance Guide & Online Service

www.TSCA.com

info@TSCA.com

“The World’s Leading Source of Up-to-Date TSCA Information”

- **Access to CBI.** On December 22, 2023, EPA announced that it authorized contractor CGI Federal Inc. to access information submitted to EPA under all sections TSCA. Some of this information may have been claimed as confidential business information (CBI) by the submitting entity. Access to TSCA information will continue through at least July 16, 2030, when the initial contract expires. Access may continue for as long as the contract is renewed, if it is renewed, without Federal Register notice. Personnel of the contractor will be required to sign nondisclosure agreements. See 88 FR 88611.
- **EPA Information Collection Activities.** On December 28, 2023, EPA announced it had submitted an information collection request (ICR) renewal to the Office of Management and Budget (OMB). The request is titled “Generic Clearance for TSCA Section 4 Test Rules, Test Orders, Enforceable Consent Agreements (ECAs), Voluntary Data Submissions, and Exemptions from Testing Requirements.” This is a proposed extension of an already existing ICR, scheduled to expire on December 31, 2023. This ICR covers the information collection activities associated with EPA’s TSC Section 4 authorities, authorizing and requiring EPA to develop information related to chemicals and their risks. See 88 FR 89686.
- **Asbestos Part 2 White Paper.** On December 28, 2023, EPA announced the release of peer review comments on the white paper for part 2 of the asbestos risk evaluation under TSCA. The white paper presents EPA’s quantitative approach to the human health assessment for the forthcoming Part 2 risk evaluation and was released in August 2023. See 88 FR 51309. The Trump Administration had previously narrowed the scope of EPA’s ongoing risk evaluation for asbestos, excluding legacy uses and disposals from consideration. This exclusion meant that only one type of asbestos fiber, chrysotile, the only type still in use, was evaluated in the part 1 risk evaluation. A court order ruled this narrowed scope unlawful and thus EPA needed to supplement its asbestos risk evaluation with a part 2. EPA anticipates finalizing the Part 2 risk evaluation by the end of 2024. The peer review comments are available on docket EPA-HQ-OPPT-2023-0309.

If there are any questions about these or any other environmental compliance matters, please feel free to contact us. We are here to assist you as part of your subscription.

Best regards,



Larry Silver

TSCA Compliance Guide & Online Service

www.TSCA.com

info@TSCA.com

“The World’s Leading Source of Up-to-Date TSCA Information”