



Dear Subscriber,

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

- 1) **Risk Evaluations Rule.** On April 23, 2024, EPA finalized a rule strengthening risk evaluations conducted under TSCA. The final rule improves upon the process by which EPA conducts TSCA risk evaluations and, according to EPA, enhances environmental protections for communities overburdened by pollution. EPA initially finalized the risk evaluation rule in 2017, but that rule was challenged in court by, among others, the National Resource Defense Council. Those groups challenged several parts of the 2017 rule, including that the rule excluded consideration of a chemical’s legacy uses when conducting a risk evaluation. In a mixed ruling for the Plaintiffs, the Ninth Circuit in *Safer Chems. V. United States EPA*, 943 F.3d 397 (9th Cir. 2019), ruled that TSCA requires consideration of legacy uses in risk evaluations, while rejecting several other challenges. Many of the below changes are in response to the Ninth Circuit ruling and were announced in 2021, having been incorporated into risk evaluations since that time. According to EPA, the final rule includes the following changes to the risk evaluation process:
 - “Consideration of real-world exposure scenarios such as multiple exposure pathways (e.g., in air and water) to the same chemical, and combined risks from multiple chemicals when EPA has the scientific information to do so, which may be particularly important for communities who face greater exposures or susceptibilities to chemicals than the rest of the general population.
 - 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 all workers in its risk evaluations.
 - Consideration of chemical uses that may be required for national security or critical infrastructure by other Federal agencies.
 - Assurance the agency will continue to use the best available science to conduct risk evaluations, that decisions are based on the weight of the scientific evidence and that risk evaluations will be peer reviewed in accordance with both federal and EPA guidance.
 - Discussion of chemical-specific fit-for-purpose approaches that allow for varying types and levels of analysis so that risk evaluations focus less rigorously on the

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conditions of use that are expected to pose low potential risk and can reliably be completed within the timeframes required by the statute.

- A clear requirement for risk evaluations to culminate in a single risk determination on the chemical substance, rather than on individual chemical conditions of use in isolation, and improved communications regarding the uses that significantly contribute to the unreasonable risk.
- New procedures and criteria for whether and how EPA will revise scope and risk evaluation documents, to improve transparency.
- Adjustments to the process for submission and review of manufacturer requests for risk evaluations of chemicals to better align with the process and timeline associated with EPA-initiated risk evaluations, while also ensuring that the agency can use the authorities provided under the law for gathering any needed additional information on such chemicals.
- A requirement that risk evaluations must explicitly consider overburdened communities when identifying potentially exposed and susceptible populations as relevant to the risk evaluation.”

Among other changes to the 2017 rule, EPA rescinded a provision that authorized criminal penalties for the submission of “inaccurate or incomplete information” to EPA during a stakeholder requested risk evaluation. The final rule was effective July 2, 2024. *See* 89 FR 37028.

2) **Methylene Chloride Rule.** On April 30, 2024, EPA announced a final risk management rule banning most uses of methylene chloride. Originally proposed in April 2023 (88 FR 28284), the rule requires a rapid phase down of methylene chloride use, with the first prohibitions effective on February 3, 2025, and most industrial/commercial uses ending within two years. Specific uses have been identified as for continuing methylene chloride use, which generally are highly industrialized processes that are important to national security and the economy. Examples of exempt uses include:

- Use in the production of other chemicals, including refrigerant chemicals that are important in efforts to phase down climate-damaging hydrofluorocarbons under the bipartisan American Innovation and Manufacturing Act.
- Production of battery separators for electric vehicles.
- Use as a processing aid in a closed system.
- Use as a laboratory chemical.
- Use in plastic and rubber manufacturing, including polycarbonate production.
- Use in solvent welding.
- Specific uses required by the National Aeronautics and Space Administration, the Department of Defense, and the Federal Aviation Administration.

For those uses permitted to continue, EPA has created a Workplace Chemical Safety Program for methylene chloride. This program mandates strict exposure limits, monitoring requirements, and worker training/notification requirements intended to help prevent adverse health effects from methylene chloride exposure. Workplaces will have 18 months to comply with this program, though initial monitoring would need to be completed within 12 months of the rule's effective date. The federal government and federal government contractors have additional time to meet those deadlines.

EPA had previously banned one consumer use of methylene chloride in 2019 but use of the chemical remained “widespread”, according to EPA. EPA finalized its risk evaluation of methylene chloride in 2020, which found that methylene chloride posed an unreasonable risk to human health or the environment in 47 out of 53 conditions of use, though the risk assessment was challenged in court as not sufficiently addressing the risks to workers. In November 2022, EPA revised the risk determination in accordance with the policies and orders of the Biden Administration and found that methylene chloride poses an unreasonable risk to human health as a whole chemical. The revised risk determination revoked prior determinations of “no unreasonable risk” for certain conditions of use. This final rule is the second risk management rule EPA has finalized under the 2016 Lautenberg Amendments. The new rule is reflected on pages R3-R4h of your TSCA Guide. See 89 FR 39254.

Please also note these recent TSCA-related activities:

- **Access to CBI.** On April 2, 2024, EPA announced that the Government Accountability Office (GAO) requested and was provided information submitted to EPA pursuant to TSCA section 5. Some of this information may have been claimed as, or has been determined to be, confidential business information (CBI). The section 5 submissions disclosed were submitted between October 1, 2021, and April 2, 2024. GAO is authorized to request such information through 40 CFR 2.209(b) and is using the information to review EPA's practices for managing and assessing EPA's New Chemicals Review program. At the conclusion of the review, all CBI-claimed documents will be destroyed, deleted, or returned to EPA. See 89 FR 22713.
- **Lead Wheel Weight Rulemaking.** On April 3, 2024, EPA announced an advanced notice of proposed rulemaking (ANPRM) regarding the manufacturing, processing, and distribution in commerce of lead for wheel-balancing weights under TSCA. EPA requested that interested stakeholders submit comments and information on use and exposure to lead from wheel weights, and information on available substitutes. In August 2023, a writ of mandamus was filed in the Court of Appeals for the Ninth Circuit by, among other parties, the Center for Environmental Health, requesting the court direct EPA to conduct a rulemaking on lead wheel weights under TSCA (Petitioners). On March 13, 2024, EPA announced a proposed settlement agreement addressing the petition in *Ecology Center*,

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et al. v. U.S. EPA, Case No. 23–70158, and on May 28, 2024, the court granted the joint motion to dismiss the writ of mandamus without prejudice. By way of background, on August 26, 2009, EPA granted a TSCA Section 21 petition from Petitioners and other organizations/individuals requesting that EPA “establish regulations prohibiting the manufacture, processing, and distribution in commerce of lead wheel balancing weights”. Petitioners filed the petition for a writ of mandamus on August 22, 2023, arguing that EPA’s delay in acting pursuant to the 2009 petition was a violation of the Administrative Procedure Act. In the settlement, EPA agreed to, by December 31, 2024, either issue a proposed rule regulating lead wheel weights or sign a determination not to proceed with a rulemaking regulating lead wheel weights. Two weeks after announcing the settlement, on March 27, 2024, EPA sought public input on potential exposure routes to lead from lead wheel weights. Those comments can be found on EPA Docket EPA-HQ-OPPT-2024-0085. This ANPRM is in furtherance of those settlements. See 89 FR 22972.

- **Denial of PCB Petition.** On April 9, 2024, EPA announced it was denying the Washington State Department of Ecology’s (WDOE) TSCA section 21 petition for a rulemaking “to safeguard public health against polychlorinated biphenyls (PCBs) in consumer products.” As reported in our April 2024 Letter, WDOE requested EPA take the following actions:
 - “Commence rulemaking to reassess limits on allowable inadvertent PCBs found in consumer products. This specifically includes as detailed in the definitions of “excluded manufacturing process” and “recycled PCBs” found in 40 CFR 761.3.
 - Adopt a new rule that identifies use of pigments containing PCBs as a “use” of PCBs.
 - In collaboration with state and tribal governments, establish new, lower limits on allowable inadvertent PCBs in consumer products. We suggest an eventual limit of zero, phased in over a ten-year period, along with identification of applicable test methods.
 - In collaboration with state and tribal governments, establish priority consumer products that will be subject to lower allowable limits of inadvertent PCBs at an earlier date. We suggest these lower limits could initially apply to paints and inks, with an effective date for zero PCBs within five years. We also suggest pigments should be subject to an earlier effective date for zero PCBs within of [sic] seven years.
 - In collaboration with state and tribal governments, reassess limits on allowable PCBs found in commercial products, as detailed in 40 CFR 761, et seq., and establish a rulemaking schedule for the adoption of revised regulations.”

EPA interpreted WDOE’s request as one to amend the definitions of “excluded manufacturing process” and “recycled PCBs” at 40 CFR 761.3, as established in the 1984 final rule. EPA denied the request because, according to EPA, WDOE failed to point with specificity to any deficiencies in EPA’s 1984 rule regarding PCBs and EPA’s determination of no unreasonable risk under TSCA section 6(e). Therefore, because EPA

determined the petition to be insufficiently specific, WDOE did not meet their burden under TSCA section 21(b)(1) to show that amending the 1984 final rule was “necessary”. See 89 FR 24824.

- **TSCA Section 21 Petition.** On April 11, 2023, the Public Employees for Environmental Responsibility, the Center for Environmental Health, and other environmental and health advocates, filed a TSCA section 21 petition requesting EPA immediately prohibit the manufacture of fluorinated plastic containers. As reported several times over the past few years, EPA has been engaged in a long-standing dispute with Inhance Technologies, LLC (Inhance), over their manufacturing process of fluorinated plastic containers and the PFAS generated therein. On March 21, 2024, the Fifth Circuit Court of Appeals in the case *Inhance Technologies, L.L.C., v. United States Environmental Protection Agency*, Case No. 23-60620, vacated two orders EPA issues to Inhance under Section 5(f) and 5(e) of TSCA, which prohibited Inhance from manufacturing or processing PFAS during its fluorination process. The Fifth Circuit did recognize that EPA maintained authority to regulate the manufacturing process under TSCA section 6, and this TSCA section 21 petition is a direct response to that Fifth Circuit decision.
- **Asbestos Part 2 Risk Evaluation.** On April 15, 2024, EPA released a draft of the TSCA Risk Evaluation for Asbestos, Part 2: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos. As you may recall, the Trump Administration narrowed the scope of the asbestos risk evaluation to only ongoing uses, excluding legacy uses and disposals. Further, because chrysotile asbestos is the only fiber currently in use, the original risk evaluation did not consider other fibers in the analysis. But in 2019, the Ninth Circuit in *Safer Chemicals, Healthy Families v. EPA*, 943 F.3d 397 (9th Cir. 2019), ruled that EPA improperly excluded legacy uses from the risk evaluation. As a result, the risk evaluation for asbestos was split into two parts. Part 1 was finalized in December 2020, which was specific to chrysotile asbestos and ongoing uses, though the plaintiffs from the litigation still felt that the assessment was insufficient. That led to a 2021 consent decree, wherein EPA agreed to broaden the risk assessment for Part 2. EPA finalized a rule in March 2024 to address the risks to human health identified in Part 1. The Part 2 risk assessment has preliminarily determined that disturbing and handling asbestos associated with legacy uses, such as in floor and ceiling tiles, pipe wraps, and insulation, and that asbestos as a whole chemical, poses unreasonable risk to human health. The Part 2 assessment has also determined that asbestos poses no risk of injury to the environment. EPA intends to finalize this Part 2 risk evaluation by December 1, 2024. See 89 FR 26878.
- **PFAS Legislation.** On April 18, 2024, Senator Dick Durbin (D-IL) and Representative Betty McCollum (D-MN) introduced bicameral legislation entitled the Forever Chemical Regulation and Accountability Act (H.R. 8074, S. 4187) to address what they claim is the

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excessive use of PFAS in commerce. Included in the proposed text of the Act are increased reporting requirements for manufacturers with PFAS in their products, a mandated 10-year phase-out of certain consumer products containing PFAS, and eliminating bankruptcy protections for corporations accused of releasing certain chemicals, including PFAS. Both chambers referred the respective bills to committee within a week of introduction and no action has been taken on the bills since that time. The text of the proposed bill can be found at <https://www.congress.gov/bill/118th-congress/senate-bill/4187>.

- **Asbestos Petitions.** On April 19, 2024, the United Steelworkers and the Asbestos Disease Awareness Organization filed separate petitions in the United States Court of Appeals for the District of Columbia (Case ## 24-189 and 24-190, respectively) requesting the court review the “Asbestos Part 1: Chrysotile Asbestos: Regulation of Certain Conditions of Use under the Toxic Substances Control Act (TSCA)” final rule. The United Steelworkers argue that the final rule does not do enough to protect workers who continue to handle asbestos sheet gaskets, while the Asbestos Disease Awareness Organization argues that the rule does not do enough to protect workers, consumers, and communities.
- **EPA Information Collection Activities.** On April 23, 2024, EPA published for public comment an information collection request (ICR) it planned to submit to the Office of Management and Budget (OMB). The request is titled “TSCA Section 8(b) Reporting Requirements for TSCA Inventory Notifications”. This is a proposed renewal of an already existing ICR, scheduled to expire on January 31, 2025. This ICR covers the reporting and recordkeeping requirements associated with the TSCA Chemical Substance Inventory. See 89 FR 30356.
- **Proposed Consent Decrees.** On April 26, 2024, EPA announced the availability of two proposed consent decrees settling claims made by multiple parties against EPA alleging that EPA failed to perform non-discretionary duties under TSCA. In *Community In-Power and Development Association Inc. v. EPA*, Case No. 1:23-cv-02715 (D.D.C.), brought by Community In-Power and Development Association Inc., Learning Disabilities Association of America, Louisiana Environmental Action Network, Sierra Club, and Texas Environmental Justice Advocacy Services, and in *ACC v. EPA*, Case No. 1:23-cv-03726 (D.D.C.), brought by the American Chemistry Council, which were consolidated on January 17, 2024, the respective plaintiffs alleged that EPA failed to timely complete several risk evaluations in violation of its obligations under TSCA. The proposed consent decrees would resolve all claims in the consolidated litigation and establish deadlines for EPA to take action on the subject risk evaluations. As of the date of publication, the court had not yet entered the proposed consent decrees. See 89 FR 32424.
- **TCEP Peer Reviewer Comments.** On April 30, 2024, EPA released comments from the letter peer review for the draft risk evaluation of Tris(2-chloroethyl) phosphate (TCEP), a

chemical mainly used for flame retardant. The comments will help inform EPA's final risk evaluation for TCEP. EPA's draft risk evaluation proposed to find unreasonable risks to human health from breathing or ingestion of TCEP. Similarly, EPA proposed to find an unreasonable risk to the environment from TCEP, and specifically harm to chronically exposed aquatic organisms. The comments can be found on EPA Docket EPA-HQ-OPPT-2023-0265.

- **EPA Information Collection Activities.** On May 2, 2024, EPA published for public comment an information collection request (ICR) it planned to submit to the Office of Management and Budget (OMB). The request is titled "Collection of Information for TSCA Mercury Inventory Reporting". This is a proposed renewal of an already existing ICR, scheduled to expire on February 28, 2025. TSCA mandates EPA prepare and publish an "inventory of mercury supply, use, and trade in the United States." This ICR is intended to support the development of that inventory and help EPA identify uses of mercury in commerce capable of reduction. *See* 89 FR 30356.
- **Access to CBI.** On May 4, 2024, EPA announced that it authorized contractor General Dynamics Information Technology of Falls Church, VA, 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 data will continue through at least April 24, 2029, when the initial contract expires. Access may continue for as long as the contract is renewed, if it is renewed, without Federal Register notice. General Dynamics personnel will be required to sign nondisclosure agreements. *See* 89 FR 37223.
- **EPA Information Collection Activities.** On May 15, 2024, EPA published for public comment two information collection requests (ICR) it planned to submit to the Office of Management and Budget (OMB). The requests are titled "TSCA Existing Chemical Risk Evaluation and Management: Generic ICR for Interview and Focus Groups" and "TSCA Existing Chemical Risk Evaluation and Management: Generic ICR for Surveys." These are proposed renewals of already existing ICRs, scheduled to expire on February 28, 2025. These ICRs are intended to assist EPA in gathering information for chemical risk evaluations and risk management of existing chemicals under TSCA section 6. *See* 89 FR 42467.
- **New CDR Resources.** On May 16, 2024, EPA announced the availability of a new resource portal and improved reporting tool for the 2024 Chemical Data Reporting (CDR) cycle. The new resource portal, called CDR GuideMe, is a repository for all CDR guidance documents and training materials, including reporting instructions, fact sheets, and selected EPA responses to industry questions. EPA has also updated the reporting tool with the following improvements:
 - Incorporating 2024 CDR reporting codes that can be used and the years covered

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- by the reporting period;
- Providing an updated spreadsheet for uploading chemical information in bulk (available in the resources section of the reporting tool); and
- Improving the functionality to copy substantiations of Confidential Business Information claims between chemicals and for accessing and saving a copy of submitted records.

As a reminder, the CDR rule requires manufacturers (including importers) to report data every four years concerning the manufacturing, processing, and use of chemicals subject to the rule, unless an exception applies. The 2024 submission period, which runs from June 1, 2024, through September 30, 2024, covers activities during calendar years 2020-2023.

- **PFAS TRI Reporting Rule.** On May 16, 2024, EPA issued a final rule to require reporting for seven additional PFAS to the Toxic Release Inventory (TRI).¹ As reported in our April 2024 update, on January 9, 2024, EPA announced the automatic addition of seven per- and polyfluoroalkyl substances (PFAS) to the list of chemicals subject to Toxic Release Inventory (TRI) reporting. The seven PFAS added are: Ammonium perfluorohexanoate, Chemical Abstract Service Registration Number (CASRN) 21615-47-4; Lithium bis[(trifluoromethyl)sulfonyl] azanide, CASRN 90076-65-6; Perfluorohexanoic acid (PFHxA), CASRN 307-24-4; Perfluoropropanoic acid (PFPrA), CASRN 422-64-0; Sodium perfluorohexanoate, CASRN 2923-26-4; 1,1,1-Trifluoro-N-[(trifluoromethyl)sulfonyl] methanesulfonamide, CASRN 82113-65-3; and Betaines, dimethyl(.gamma.-.omega.-perfluoro-.gamma.-hydro-C8-18-alkyl), CASRN 2816091-53-7. EPA has formalized the addition of these seven chemicals by amending the regulations found at 42 CFR § 372.65, the amendment to which was effective June 17, 2024. See 89 FR 43331.
- **PFAS NOI.** On May 17, 2023, Public Employees for Environmental Responsibility (PEER) and the Center for Environmental Health (CEH) filed a notice of intent to sue (NOI) EPA regarding PFAS containing plastic containers. PEER and CEH allege that EPA has abandoned its legal obligation under TSCA section 4(f) to abate the risks to human health posed by fluorinated plastic containers manufactured by Inhance Technologies, LLC, and the proposed plaintiffs seek to force EPA to prohibit the manufacture and distribution of those plastic containers. This is the latest in a string of actions pursued by PEER and CEH

¹ This is not being included in the physical update because TRI reporting regulations are promulgated under authorities separate from TSCA, specifically the Emergency Planning and Community Right-To-Know Act and the Pollution Prevention Act, and are located in an area of the Federal Regulations separate from that contained in your TSCA Guide. We include this information here for reference only but remain available to advise on TRI reporting obligations if needed.

against Inhance and its fluorinated plastic containers, including the TSCA section 21 petition filed on April 11, 2024 (see pg. 5, supra), and the lawsuit *United States v. Inhance Techs. LLC*, 5:22-cv-05055, 2022 WL 17903769 (E.D. Pa. Dec. 19, 2022).²

- **Draft Risk Evaluation Documents.** On May 17, 2024, EPA announced the availability of draft risk evaluation documents for two different phthalates: a draft risk evaluation for Diisodecyl phthalate (DIDP) and the physical chemical, fate, and hazard assessments for Diisononyl phthalate (DINP). As to DIDP, EPA preliminarily determined that only one condition of use that is subject to TSCA poses an unreasonable risk to workers: if unprotected workers were to spray adhesives and sealants that contain DIDP with high-pressure sprayers, because of the potential for high concentrations of DIDP in mist. EPA also preliminarily found that DIDP does not pose an unreasonable risk to consumers, the general population, or the environment. Further, EPA did not find enough evidence to determine that DIDP causes cancer, a result in line with the findings of other organizations.

As to DNIP, EPA preliminarily determined that it is more toxic than DIDP because its effects in rodent models were observed at lower levels. Additionally, EPA preliminarily determined that unlike DIDP, DINP can cause cancer at higher levels of exposure than levels that cause liver damage and developmental toxicity.

Both draft documents have been submitted to the Science Advisory Committee on Chemicals (SACC) for peer review.

- **GAO Report.** On May 21, 2024, the Government Accountability Office (GAO) sent to EPA Administrator Michael Regan a report entitled Priority Open Recommendations: Environmental Protection Agency, in which GAO found EPA had implemented four of the 15 open priority recommendations identified in GAO’s May 2023 letter. Three of the four implemented recommendations relate to assessing and controlling toxic chemicals. According to GAO’s report, EPA implemented those recommendations in the following manner:
 - “In May 2023, EPA’s chemical assessment program provided information to its program and regional offices about the various chemical assessment products available, how they differ, and the length of time each takes to prepare. This information will facilitate offices’ chemical assessment nominations by providing greater predictability about options, thereby helping offices determine which product best meets their needs, consistent with the intent of our

² Both the United States, on May 14, 2024, and PEER/CEH, on May 17, 2024, filed voluntary notices of dismissal of this action. Those notices were granted and the case was dismissed. PEER/CEH note that while they dismissed that action, they are considering other options for addressing Inhance’s fluorinated plastic containers.

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recommendation in our December 2011 report.

- In April 2024, EPA's chemical assessment program completed an analysis to address resource needs. The analysis included metrics for evaluating the assessment program's workforce recruitment and retention strategies. This effort will help the program and EPA leadership assess the level of resources that should be dedicated to the program to meet user needs and to maintain a viable risk information database, consistent with the intent of our March 2008 recommendation.
- The April 2024 analysis also included information on staff specializations, mission critical capabilities, and demand for chemical assessments. Such data will support plans to monitor and evaluate the program's progress toward achieving human capital goals, consistent with our recommendation in our December 2020 report."

The entire GAO report can be found at <https://www.gao.gov/assets/gao-24-107310.pdf>.

- **TSCA Inventory.** On May 23, 2024, EPA announced the release of the latest TSCA Inventory (Inventory). The Inventory is a list of all existing chemicals manufactured, imported, or processed in the United States. The inventory is updated biannually and contains 86,770 chemicals, of which 42,377 are active in U.S. commerce. The next Inventory update will be in early 2025.
- **EPA Information Collection Activities.** On May 30, 2024, EPA announced it was extending the public comment period on an information collection request (ICR) renewal submitted to the Office of Management and Budget (OMB). The request, titled "Notification of Chemical Exports – TSCA Section 12(b)", was originally announced on September 22, 2023. It 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 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; 89 FR 46884.
- **NMP Proposed Rule.** On June 5, 2024, EPA announced a proposed rule to protect workers and consumers from exposure to n-methylpyrrolidone (NMP). EPA finalized a risk evaluation in 2020 which found that NMP causes serious health issues at certain concentrations/exposure levels. If finalized, the rule would limit the concentration of NMP permitted in certain consumer and commercial products, with the concentration limit for glues and adhesives, for example, as not greater than 45%. It would also create strict workplace exposure health controls for many uses of NMP, including requirements to prevent direct skin contact with NMP by workers. The proposed rule would additionally ban some uses that cannot safely continue and for which reasonable alternatives exist, such as in automotive care parts, cleaning and degreasing

products, fertilizers, and furniture care products. See 89 FR 51134.

- **4th Circuit Decision.** On June 10, 2024, the Fourth Circuit issued a decision in *Ctr. For Env't'l Health v. Regan*, Case No. 23-1476, affirming a district court decision from the U.S. District Court for the Eastern District of North Carolina which concluded that the district court lacked jurisdiction to review a granted TSCA section 21 petition. Plaintiffs had petitioned EPA under TSCA section 21 to require testing of 50 different PFAS likely prevalent in their community. EPA granted the petition and decided to use EPA's own National PFAS Testing Strategy (NTS) instead of the testing strategy proposed by the petitioners. Petitioners filed suit alleging that, *inter alia*, EPA functionally denied their petition by utilizing the NTS, and appealed on the grounds that the District Court decided that point incorrectly. However, the Fourth Circuit determined that the petition was properly granted by EPA and that EPA was under no obligation to adopt petitioners testing strategy, and pursuant to TSCA section 21(b)(4)(a) (15 U.S.C. § 2620(b)(4)(A)), the district court was deprived of jurisdiction to hear the case. *Ctr. For Env't'l Health v. Regan*, 103 F.4th 1027 (4th Cir. 2024).
- **1,1-Dichloroethane Peer Review.** On June 13, 2024, EPA announced that the Science Advisory Committee on Chemicals (SACC) will peer review both the draft risk evaluation for 1,1-dichloroethane and the draft hazard assessment supporting the draft risk evaluation for 1,2-dichloroethane. EPA is seeking comment on both at least in part because EPA used data from the 1,2-dichloroethane risk evaluation to fill gaps regarding the toxicity of 1,1-dichloroethane. See 89 FR 50326.
- **Access to CBI.** On June 26, 2024, EPA announced that it authorized contractor Eastern Research Group of Lexington, MA/Chantilly, VA, 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 October 29, 2024, 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 89 FR 53422.
- **New Chemical Review Initiatives.** On June 26, 2024, EPA announced four new initiatives to better protect workers, improve efficiency, and increase transparency during EPA's review of new chemicals under TSCA. Those initiatives are:
 - **Engineering Checklists.** EPA is implementing internal engineering checklists to standardize the new chemical review process and identify potential data gaps early in the review. The checklist addresses information EPA knows is commonly missing from submissions and allows the submitted to provide the information before the agency starts its risk assessment.
 - **Worker Protections.** EPA has updated its boilerplate language for TSCA section

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5(e) consent orders, strengthening worker protection requirements and providing further textual clarity. The new language further requires the language from orders to be readily available to workers and contractors. By way of background, when EPA reviews a new chemical submission, one potential outcome is that the chemical can continue to be manufactured but only under terms of a TSCA section 5(e) order, which typically is in the form of a consent order negotiated between EPA and the submitting party.

- **Updated Statistics.** EPA will begin including completed “rework” risk assessments when reporting statistics on new chemical reviews. “Rework” occurs when EPA must conduct supplemental work after the initial risk assessment has been completed, which is typically the result of new information becoming available that was not in the original new chemical submission.
- **Reference Library.** EPA has made available a reference library for the new chemical division, which contains an index of documents such as compliance advisories, guidance documents, templates, manuals, and other materials relevant to new chemical submissions and the new chemicals division. This action centralizes reference documents, whereas previously such documents were scattered on various EPA webpages, making them difficult to locate.

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

³ Langsam Stevens Silver & Hollaender LLP makes no representations or warranties as to the accuracy of any information contained herein. This letter is intended for informational use only and is not intended to provide legal advice or guidance on any topic.