



Dear Subscriber,

We are pleased to enclose the January 2021 Update for your 6-volume TSCA Compliance Guide and Online Service.™

This update contains:

- 1) **PFAS SNUR Guidance.** On January 19, 2021, EPA published its Final Guidance to Clarify per- and polyfluoroalkyl substances (PFAS) Significant New Use Rule (SNUR). EPA finalized the SNUR for PFAS in July of 2020. This guidance documents clarifies which imported articles are covered by the SNUR, which prohibited companies from manufacturing, importing, processing, or using certain long chain PFAS without first consulting with EPA and gaining approval. The guidance document is provided in whole, with explanatory text, in Volume II, Chapter G. Chapter G is an entirely new chapter that will contain EPA guidance documents concerning SNURs.
- 2) **PBT Final 6(h) Rules.** On January 6, 2021, EPA issued final rules under TSCA Section 6(h) for five Persistent, Bioaccumulative, and Toxic Chemicals (PBTs): 2,4,6-tris(tert-butyl)phenol (2,4,6-TTBP) (86 FR 866); decabromodiphenyl ether (decaBDE) (86 FR 880); hexachlorobutadiene (HCBd) (86 FR 922); pentachlorothiophenol (PCTP) (86 FR 911); and phenol, isopropylated phosphate (3:1) (PIP (3:1)) (86 FR 894). These final rules are effective February 5, 2021. However, the new Biden Administration has placed a freeze on the implementation of these regulations. This practice, common at the outset of a new administration, allows for review of the regulations indefinitely. It is unclear when or if these regulations will be fully implemented. They are being included in the guide so users can prepare as though they will be kept as is by the Biden administration. We will send out further updates as they become available. The updated language and regulations can be found on pages R16-R21.
- 3) **Civil Monetary Penalty Inflation Adjustment.** On December 23, 2020, 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 23, 2020, for violations that occurred after November 2, 2015. The new maximum penalty is \$41,056. See 85 FR 83818. The text of Introduction pages 16 & 17 has been updated to reflect this development.

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- 4) **CDR Court Decision.** On December 22, 2020, the District Court for the Northern District of California issued an opinion regarding EPA’s obligations under the Chemical Data Reporting Rule. The court found that EPA had not complied with its statutory obligations and required EPA to use its authority under TSCA to collect more information from persons and companies concerning asbestos. A brief summary of this decision can be found on pages B10-B11.

Please also note these recent EPA activities:

- **TSCA Section 21 Rulemaking Denial.** On January 22, 2021, EPA announced it reasons for denying a requested rulemaking under TSCA § 21. On October 14, 2020, multiple petitioners requested EPA initiated a rulemaking proceeding or health and environment testing on 54 PFAS allegedly manufactured in North Carolina by The Chemours Company. EPA denied their request and enumerated their reasons in this Federal Register publication. See 86 FR 6602.
- **C.I. Pigment Violet 29.** On January 20, 2021, EPA announced the availability of the final TSCA risk evaluation for C.I. Pigment Violet 29. EPA has determined that specific conditions of use of C.I. Pigment Violet 29 present an unreasonable risk of injury to health or the environment. For those conditions of use for which EPA has found an unreasonable risk, EPA must take regulatory action to address that unreasonable risk through risk management measures enumerated in TSCA. For those conditions of use for which EPA has found no unreasonable risk to health or the environment, the Agency’s determination is a final Agency action and is issued via order in the risk evaluation. See 86 FR 6322.
- **Withdrawal of Proposed Rules.** On January 15, 2021, EPA announced the withdrawal of the proposed rule published on December 16, 2016 (81 FR 91592; FRL-9949-86); the proposed rule published on January 19, 2017 (82 FR 7432; FRL-9950-08); and the portion of the proposed rule published on January 19, 2017 (82 FR 7464; FRL-9958-57) that pertained to n-Methylpyrrolidone and methylene chloride in commercial paint and coating removal. See 86 FR 3932.
- **Section 4 Test Orders.** On January 15, 2021, EPA announced the issuance of test orders under TSCA Section 4 for nine chemicals undergoing risk evaluations. These test orders, a result of EPA needing more information for the pending risk evaluations, require companies to develop and submit information on environmental hazard and inhalation and dermal exposures for workers. Companies subject to the test orders may provide EPA with existing data or conduct new tests. Companies may also work together in

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replying to test orders, so as to share the burden and cost. The nine chemicals subject to these section 4 Test Orders are:

- Chlorinated Solvents
  - 1,1,2-Trichloroethane
  - 1,1-Dichloroethane
  - 1,2-Dichloroethane
  - 1,2-Dichloropropane
  - Trans-1,2-Dichloroethylene
  - o-Dichlorobenzene
  - p-Dichlorobenzene
- Flame Retardants
  - 4,4'-(1-Methylethylidene)bis[e,6-dibromophenol] (TBBPA)
  - Phosphoric acid, triphenyl ester (TPP)

More information on these Test Orders can be found on the EPA's website: <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/tsca-section-4-test-orders>.

- **EPA/OSHA MOU.** On January 12, 2021, EPA and the Occupational Safety and Health Administration (OSHA) announced a Memorandum of Understanding (MOU) guiding communication and coordination between the agencies for evaluating exposure to new chemicals in the workplace. Of note to subscribers, EPA may share confidential business information (CBI) with OSHA in accordance with TSCA § 14(d)(1), EPA regulations 40 CFR 2.209(c) and 2.306(h), and EPA's TSCA Confidential Business Information Protection Manual.
- **TSCA Fees.** On January 9, 2021, EPA published a proposed rule titled Fees for the Administration of the Toxic Substances Control Act (TSCA) that will affect the fees paid under TSCA for fiscal years 2022, 2023, and 2024. This rule proposes three new fee categories, new classifications of fee exemptions, updated TSCA administration cost estimates, new fee allocation methodology for EPA-initiated risk evaluations, and changes to the timing of select activities throughout the fee payment process. Comments are accepted until February 25, 2021. See 86 FR 1890.
- **Cancer Modeling Tool.** On January 8, 2021, EPA announced an updated version of their OncoLogic™ system, which evaluates a chemical's potential to cause cancer. The specific section updated analyzes

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organic chemicals. The system is one of several EPA uses to analyze and estimate the harm to humans and the environment posed by chemicals. OncoLogic™ is available to the public.

- **1,4-Dioxane.** On January 8, 2021, EPA announced the availability of the final TSCA risk evaluation for 1,4-Dioxane. EPA has determined that specific conditions of use of 1,4-Dioxane present an unreasonable risk of injury to health or the environment. For those conditions of use for which EPA has found an unreasonable risk, EPA must take regulatory action to address that unreasonable risk through risk management measures enumerated in TSCA. For those conditions of use for which EPA has found no unreasonable risk to health or the environment, the Agency's determination is a final Agency action and is issued via order in the risk evaluation. See 86 FR 1495.
- **Active/Inactive Rule.** On January 5, 2021, the EPA issued a pre-publication notice titled "TSCA Inventory Notification (Active-Inactive); Reopening of the Reporting Period." Pursuant to the Active-Inactive Rule, EPA had previously mandated that companies report to EPA which chemicals were manufactured, imported, or processed in the United States during the ten years prior to June 21, 2016. The initial reporting period, which closed in October 2018, allowed submitters to claim as confidential business information (CBI) specific chemical identities and retain that information. Following EPA's May 2020 interim list of chemicals scheduled to lose their CBI status, EPA became aware of confusion surrounding CBI claims during the initial reporting period. In response, EPA is re-opening the reporting period to allow companies to submit, amend, or withdraw filings to maintain existing CBI claims. The reopened reporting period will begin 30 days after notice is published in the Federal Register and continue for 60 days thereafter. As of the drafting of this update, notice has not yet been published. See Docket ID# EPA-HQ-OPPT-2016-0426
- **Asbestos (Part 1: Chrysotile Asbestos).** On January 1, 2021, EPA announced the availability of the final TSCA risk evaluation for Asbestos Part 1 (Chrysotile Asbestos). EPA has determined that specific conditions of use of Asbestos present an unreasonable risk of injury to health or the environment. For those conditions of use for which EPA has found an unreasonable risk, EPA must take regulatory action to address that unreasonable risk through risk management measures enumerated in TSCA. For those conditions of use for which EPA has found no unreasonable risk to health or the environment, the Agency's determination is a final Agency action and is issued via order in the risk evaluation. Part 2 of the TSCA Asbestos risk evaluation will deal with legacy uses and associated disposals of asbestos. The planned release for Part 2 risk evaluation is mid-year 2021. See 86 FR 89.

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- **N-Methylpyrrolidone.** On December 30, 2020, EPA announced the availability of the final TSCA risk evaluation for n-Methylpyrrolidone. EPA has determined that specific conditions of use of n-Methylpyrrolidone present an unreasonable risk of injury to health or the environment. For those conditions of use for which EPA has found an unreasonable risk, EPA must take regulatory action to address that unreasonable risk through risk management measures enumerated in TSCA. For those conditions of use for which EPA has found no unreasonable risk to health or the environment, the Agency’s determination is a final Agency action and is issued via order in the risk evaluation. See 85 FR 86558.
- **Perchloroethylene.** On December 18, 2020, EPA announced the availability of the final TSCA risk evaluation for Perchloroethylene. EPA has determined that specific conditions of use of Perchloroethylene present an unreasonable risk of injury to health or the environment. For those conditions of use for which EPA has found an unreasonable risk, EPA must take regulatory action to address that unreasonable risk through risk management measures enumerated in TSCA. For those conditions of use for which EPA has found no unreasonable risk to health or the environment, the Agency’s determination is a final Agency action and is issued via order in the risk evaluation. See 85 FR 82474.
- **Request for Risk Evaluation.** On November 20, 2020, EPA received a manufacturer request to conduct a risk evaluation on four chemical substances as a category: the octahydro-tetramethyl-naphthalenyl-ethanone chemical category. These chemicals are used as a fragrance ingredient. Within 60 business days of receiving the request, EPA is required to open a public comment period of at least 45 days. As of the drafting of this update, EPA has not yet published notice of the public comment period.
- **Trichloroethylene.** On December 18, 2020, EPA announced the availability of the final TSCA risk evaluation for Trichloroethylene. EPA has determined that specific conditions of use of Trichloroethylene present an unreasonable risk of injury to health or the environment. For those conditions of use for which EPA has found an unreasonable risk, EPA must take regulatory action to address that unreasonable risk through risk management measures enumerated in TSCA. For those conditions of use for which EPA has found no unreasonable risk to health or the environment, the Agency’s determination is a final Agency action and is issued via order in the risk evaluation. See 85 FR 75010.
- **Carbon Tetrachloride.** On November 4, 2020, EPA announced the availability of the final TSCA risk evaluation for Carbon Tetrachloride. EPA has determined that specific conditions of use of Carbon Tetrachloride present an unreasonable risk of injury to health or the environment. For those conditions of use for which EPA has found an unreasonable risk, EPA must take regulatory action to address that

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unreasonable risk through risk management measures enumerated in TSCA.

For those conditions of use for which EPA has found no unreasonable risk to health or the environment, the Agency's determination is a final Agency action and is issued via order in the risk evaluation. See 85 FR 70147.

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,

A handwritten signature in blue ink that reads "Larry Silver". The signature is fluid and cursive.

Larry Silver

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