Dear Subscriber,

We are pleased to enclose the January 2025 Update for your 6-volume TSCA Compliance Guide and Online Service.™

1) **LBP Standards.** On October 24, 2024, EPA announced it had finalized "stronger" requirements for identifying and cleaning up lead paint dust in facilities subject to the lead-based paint (LBP) rule. The rule lowers the threshold of lead required to be considered hazardous to any reportable level measured by an EPA-recognized laboratory and lowers the amount of lead that can remain in dust on floors, window sills, and window troughs. According to EPA, the new standards are the lowest levels that can be reliably and quickly sampled in laboratories. These regulations do not require any property owner or occupant to evaluate properties for LBP hazards or take any affirmative action, but instead only apply when any LBP activity, such as abatement, is performed. *See* 89 FR 89416.[1] The regulations were non-substantively amended on December 16, 2024, after EPA was notified of "errors" in the amendatory instructions. *See* 89 FR 101489.

2) **Updated Addresses.** On October 31, 2024, EPA announced it was amending regulations to reflect a change in address for EPA's Region 4 office. The amendments are not substantive and are solely to ensure accurate information is contained in the regulations. Region 4's new office is located at 61 Forsyth Street SW, Atlanta, GA 30303-8960. As it pertains to the regulations in your TSCA Guide, the changes are reflected on pages G9-10; G65-68. *See* 89 FR 86743.

3) **PBT Rule Revisions.** On November 19, 2024, EPA announced revisions to the regulations for two of the five persistent, bioaccumulative, and toxic (PBT) chemicals addressed in EPA's January 2021 rulemaking: decabromodiphenyl ether (DecaBDE) and phenol, isopropylated phosphate (3:1) (PIP (3:1)). EPA believes revising these regulations is necessary to address implementation issues and further reduce, to the extent practicable,

[1] The section with this regulation is forthcoming in April 2025 Update.

exposure to these chemicals. Of note, and specific to DecaBDE, the revisions exclude processing and distribution in commerce of an article that contains the chemical substance, and where the chemical substance has not been newly added, for purpose of repair or maintenance. EPA initially proposed this rule in November 2023. At that time, as to decaBDE, EPA said 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 proposed rule also extended 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 indicated difficulty complying by the original date. EPA also proposed additional worker protection measures and phasing out of PIP (3:1) in uses excluded from the 2021 risk management rule. The final rule largely tracks the proposed rule. The amended regulations appear on pages R18-21f. *See* 89 FR 91486.

4) **New Chemicals Review Process.** On December 4, 2024, EPA announced amendments to the rules governing the new chemical review process under TSCA to ensure that per- and polyfluoroalkyl substances (PFAS) and PBT chemicals with potential for human exposure are always subject to the full, robust safety review process prior to manufacture. The finalized changes to the review process:

    - **Align with Lautenberg Amendments.** EPA believes the amendments will better align the regulations with the 2016 Lautenberg Amendments. Prior to 2016, EPA only made safety determinations for about 20% of new chemical submissions. But the Lautenberg Amendments required EPA to increase that number to 100%, with EPA assigning each new chemical one of five different safety determinations. The amendments update the regulations to require the assignment of one of those five safety determinations for each premanufacture notice, significant new use notice, or microbial commercial activity notice. The amendments also specify the actions EPA must take for each safety determination.

- **Eliminate PFAS/PBT Exemptions.** The amendments "eliminate eligibility for exemptions from the full safety review process for new per- and polyfluoroalkyl substances (PFAS) and other persistent, bioaccumulative, and toxic (PBT) chemicals." Prior regulations permitted EPA to issue low-volume exemptions or low release and exposure exemptions for any new chemical. Those rules allowed exempt chemicals to undergo less thorough examination during the reviews. In April of 2021, EPA announced that it was unlikely that any PFAS would qualify for those exemptions. These amendments codify that announcement, rendering PFAS ineligible, and also add PBT chemicals as exemption-ineligible, codifying EPA's longstanding practice.
- **Improve New Chemical Review Efficiency.** EPA believes the amendments will improve the efficiency of the new chemical review process. For example, the amendments clarify the level of detail needed in new chemical notices, a subject of several EPA webinars over the past 12 months. Perhaps most notably, under these amendments, EPA will no longer accept amended notices when the information contained in the amended notice was reasonably available to the submitter at the time of the original submission. Instead, EPA would restart the review period. According to EPA, this will both encourage submitters to accurately and completely fill appropriate notices and direct EPA resources to notices that contain all the necessary information, resulting in a quicker review process.

This rule was first proposed in May of 2023 and largely tracks the proposed rule. The amendments are reflected on pages M1-2; A5-20; B1-B7; D9-10, D13-14, D19-22, B15-16. *See* 89 FR 102773.

5) **TCE Risk Management Rule**. On December 9, 2024, EPA announced a final rule banning all uses of trichloroethylene (TCE). Most of the bans go into effect within one year, such as the manufacture and processing of TCE for most commercial and all consumer products. EPA states that safer alternatives are readily available for the majority of current TCE uses. A limited number of uses in the workplace will be phased out over a longer period of time, provided that those uses implement stringent worker protection systems, including an inhalation exposure limit that EPA anticipates will reduce long-term workplace exposures. Uses that will not be phased out for at least one year include the use of TCE to clean parts used in aircraft and medical devices, in the manufacture of battery separators, in the manufacture of refrigerants, and to clean parts used in other transportation, security, and

defense systems. The rule also permits essential laboratory use and proper disposal of TCE wastewater to continue for 50 years, primarily in support of cleanup activities at Superfund sites, provided required workplace protections are in place. The final rule was first proposed in October 2023. The rule is reflected on pages R16a-R16o. See 89 FR 102568.

6) **PCE Risk Management Rule.** On December 9, 2024, EPA announced a final rule banning most commercial uses and all consumer uses of perchloroethylene (PCE). The rule requires the rapid phase down of PCE use in manufacturing, processing, and distribution of PCE for consumer use, most of which will be fully banned within three years. The rule also requires a 10-year phase out of PCE use in the dry-cleaning industry, where the use of PCE in newly acquired dry-cleaning machines is banned in six months but the compliance date for PCE-using machines already owned will depend on the type of machine being used. For all the banned uses, EPA states that safer alternatives are readily available. The rule also finalizes stringent worker safety rules for permitted continuing uses, which are generally in industries important to national security, aviation, or other critical infrastructure. Some of the permitted continuing uses include the use of PCE in petrochemical manufacturing, in agriculture chemical manufacturing, as a vapor degreasing solvent, and in adhesives and sealants. EPA has extended the compliance deadline to implement the Workplace Chemical Protection Program from 12 months in the proposed rule to 30 months in the final rule. The final rule was first proposed in June 2023. The rule is reflected on pages R30-40. See 89 FR 103560. EPA released compliance guides for the PCE risk management rule on January 10, 2025, which have been included in this update on pages R41-43; R 44-60. Compliance guides in languages other than English are available on EPA's website.

7) **CTC Risk Management Rule.** On December 11, 2024, EPA announced a final rule to protect workers from the dangers associated with carbon tetrachloride (CTC). This final rule bans several uses and requires robust workplace worker safety measures for others. Those banned uses primarily are currently discontinued uses, such as in fuel and plastic components or for metal recovery. Most continuing uses are permitted but subject to worker safety requirements, a change from the proposed rule where some continuing uses were proposed to be banned. EPA also changed the deadline for implementing the Workplace Chemical Protection Program from 12 months to 26 months in response to comments on the proposed rule. Owners and operators of facilities still using CTC are now required to attest that the engineering controls implemented to reduce worker exposure comply with inhalation exposure limits and do not increase emissions of CTC to outside

ambient air near the facility. The final rule was first proposed in July 2023. The rule is reflected on pages R62-70. *See* 89 FR 103512.

8) **Reporting Rule.** On December 12, 2024, EPA announced a final rule requiring the disclosure of certain unpublished studies to EPA. The final rule applies to manufacturers (including importers) of sixteen specific substances. Those substances are:

- 4,4-Methylene bis(2-chloraniline) (MBOCA) (CASRN 101-14-4);
- 4-tert-octylphenol(4-(1,1,3,3-Tetramethylbutyl)-phenol) (CASRN 140-66-9);
- Acetaldehyde (CASRN 75-07-0);
- Acrylonitrile (CASRN 107-13-1);
- Benzenamine (CASRN 62-53-3);
- Benzene (CASRN 71-43-2);
- Bisphenol A (CASRN 80-05-7);
- Ethylbenzene (CASRN 100-41-4);
- Naphthalene (CASRN 91-20-3);
- Vinyl Chloride (CASRN 75-01-4);
- Styrene (CASRN 100-42-5);
- Tribromomethane (Bromoform) (CASRN 75-25-2);
- Triglycidyl isocyanurate; (CASRN 2451-62-9);
- Hydrogen fluoride (CASRN 7664-39-3);
- N-(1,3-Dimethylbutyl)-N'-phenyl-p-phenylenediamine (6PPD) (CASRN 793-24-8); and
- 2-anilino-5-[(4-methylpentan-2-yl) amino]cyclohexa-2,5-diene-1,4-dione (6PPD-quinone) (CASRN 2754428-18-5).

Manufacturers are required to submit the following types of studies to EPA, regardless of publication status, with specific types of the studies further clarified in the regulations:

- Health and safety studies
- Studies on environmental effects
- Studies on occupational exposure
- Studies on general population exposure
- Studies on consumer exposure

The final rule applies to companies that manufacture the chemical substances, including when it is imported as a pure substance, or within a mixture, formulated product, or article that contains the chemical substance. The subject chemical substances are all either candidates for prioritization or expect to be candidates in the coming years. The reports/studies are due to EPA by March 13, 2025. *See* 89 FR 100756.

Please also note these recent TSCA-related activities:

- **DecaBDE Enforcement.** On September 27, 2024, EPA announced it was extending the May 2, 2023 enforcement statement regarding the TSCA Section 6(h) rule prohibiting the processing and distribution in commerce of decabromodiphenyl ether (DecaBDE)-containing wire and cable insulation for use in nuclear power plants. EPA does not plan to pursue enforcement actions against entities in violation of DecaBDE regulations provided those entities are "diligently seeking to qualify their alternative products in accordance with Nuclear Regulatory Commission regulations and guidance and meet other conditions of this enforcement statement." As of the date of this action, EPA planned to issue a final rule addressing the compliance deadline in Fall 2024 and an effective date in early 2025.

- **SACC Meeting Minutes.** On October 2, 2024, EPA announced the availability of meeting minutes from the Science Advisory Committee on Chemicals (SACC) virtual public meeting on July 30 – August 1, 2024, concerning the draft risk evaluation for Di-isodecyl phthalate (DIDP) and the hazard analysis supporting that draft risk evaluation for Di-isononyl phthalate (DINP). The DIDP draft risk evaluation found that only one of 47 uses of DIDP contributed to unreasonable risk to human health. Similarly, the DINP draft risk evaluation, released publicly after the SACC meeting, found that 42 of 47 conditions of use did not contribute to unreasonable risk, while only one condition of use significantly contributed to unreasonable risks.

  SACC serves as a scientific peer review mechanism for EPA's Office of Chemical Safety and Pollution Prevention. It provides independent scientific advice and recommendations to EPA on the scientific basis for risk assessments, methodologies and pollution prevention measures and approaches for chemicals regulated under TSCA. EPA is currently reviewing feedback from SACC and the public and will incorporate, as necessary, such feedback into

the final risk evaluations for DIDP and DINP. SACC meeting minutes and final report are available on docket EPA-HQ-OPPT-2024-0073.

- **PFAS TRI.** On October 2, 2024, EPA announced it was proposing to add 16 individual PFAS and 15 PFAS categories, representing more than 100 individual PFAS, to the Toxics Release Inventory (TRI). This proposed action would further designate them as chemicals of special concern, requiring more "robust" reporting requirements. According to EPA, the PFAS being proposed are linked to identifiable negative health outcomes, such as cancer or damage to internal organs. This proposed rules also clarifies, pursuant to the National Defense Authorization Act of 2020 (NDAA), how PFAS will be automatically added to the TRI by proposing a list of different types of toxicity values which automatically initiate the process of adding any PFAS with such a toxicity value to the TRI. *See* 89 FR 81776.

- **PFAS Test Orders.** On October 9, 2024, EPA announced it had issued the fifth TSCA Test Order requiring testing on PFAS. This action orders Innovative Chemical Technologies, The Chemours Company, Daikin America, Inc., Sumitomo Corporation of Americas, and E.I. Du Pont de Nemours and Company to conduct and submit testing on 3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl prop-2-enoate, also known as 6:2 fluorotelomer acrylate or 6:2 FTAc. Animal testing on rodents has shown that 6:2 FTAc may cause cancer and other negative health effects. The information EPA receives under this test order will improve understanding of the human health effects of 6:2 FTAc and nearly 100 other structurally similar PFAS. The companies subject to this test order may either conduct the tests described in the order or submit existing testing information the order recipients believe satisfies the order requirements.

- **Proposed Consent Decree.** On October 9, 2024, EPA announced it had lodged a proposed consent decree in the District Court for the Southern District of New York in a lawsuit entitled *United States of America v. Rose Demolition & Carting Inc.*, Civil Action No. 24–7375. The Government sought injunctive relief from Rose Demolition & Carting Inc., based upon the defendant's unlawful work practices during renovations governed by the Renovation, Repair, and Painting Rule, 40 CFR part 745. The proposed consent decree resolves the United States' claims, requires Rose Demolition & Carting Inc. to pay a $100,000 penalty, and imposes injunctive relief. *See* 89 FR 81940.

- **Updated TRI Data.** On October 31, 2024, EPA announced the availability of updated Toxic Release Inventory (TRI) data. This dataset supplements the preliminary data released in July 2023 and includes revised and late submissions received by EPA as of October 23, 2024. The 2023 data was collected from more than 20,000 facilities across the country and includes data for 21 new chemicals not previously part of TRI data collection. The 2023 data can be found at: https://www.epa.gov/toxics-release-inventory-tri-program/tri-preliminary-dataset.

- **EPA Information Collection Activities.** On November 7, 2024, EPA announced the availability of an information collection request (ICR) it planned to submit to the Office of Management and Budget (OMB) titled "Toxic Substances Control Act (TSCA) Section 4 Test Orders for the Standardized Testing of Per- and Polyfluoroalkyl Substances (PFAS)". This ICR represents a new information request and not a renewal of an existing ICR. This ICR covers the information collection activities associated with TSCA Section 4 PFAS test orders, which, as described above, were announced on October 9, 2024. Data received pursuant to this ICR will help inform the National PFAS Testing Strategy and help EPA determine whether any modification to the Strategy is necessary. *See* 89 FR 99278.

- **1,4-dioxane Risk Assessment.** On November 13, 2024, EPA announced the availability of the final supplement to the risk evaluation and final risk determination for 1,4-dioxane. EPA's final determination is that the chemical poses an unreasonable risk of injury to human health, including the potential to cause cancer and harm the liver and nasal tissue. In June 2021, the Biden Administration announced policy changes affecting risk evaluations conducted under the Trump Administration, one of which was 1,4-dioxane. In early 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. A final SACC report was issued on November 17, 2023. Several members of SACC commented that omissions in the risk assessment, such as not evaluating general population exposures in drinking water or air or methods of exposure to 1,4-dioxane as a byproduct, left substantial portions of the population at risk. This final risk evaluation addresses the concerns expressed by SACC members.

The final risk evaluation found that 22 out of 26 commercial and industrial uses contribute to unreasonable risk to workers. EPA further found that 1,4-dioxane poses an unreasonable risk to the general population and fenceline populations, but it does not pose an unreasonable risk to the environment. EPA must next begin the risk management process, which culminates in a proposed rule under TSCA Section 6 to address the unreasonable risks of 1,4-dioxane. *See* 89 FR 89993.

- **PFAS Strategic Roadmap.** On November 14, 2024, EPA announced the availability of EPA's PFAS Strategic Roadmap: Three Years of Progress (Report). Under the Biden administration, EPA worked to mitigate the risks of PFAS to public health and the environment. The Report describes EPA's progress on the administration's goals and methods of achieving those goals, including the Agency's utilization of the Toxic Substances Control Act (TSCA) to regulate these "forever chemicals" in manufacturing and purchasing. Key actions highlighted in the Report include finalizing a rule to generate the largest-ever dataset on PFAS in commerce and refining the National PFAS Testing Strategy and PFAS Analytic Tools to inform future regulatory decisions and enhance public transparency regarding PFAS detection in manufacturing. To prevent PFAS reintroduction, EPA finalized a SNUR prohibiting the manufacture of 329 inactive PFAS without a comprehensive risk evaluation and issued additional SNURs to extend protections to all future manufacturers and processors. The Agency also proposed regulations to eliminate premarket review exemptions, requiring reporting on over 100 individual PFAS, and will begin performing rigorous reviews for newly manufactured PFAS under an established framework. Additionally, in alignment with Executive Order 14057, EPA developed resources to help purchasers identify sustainability standards that restrict PFAS as an entire chemical class rather than as individual or grouped chemicals. These measures are intended to strengthen regulatory safeguards in commerce, reduce PFAS exposure, and enhance public health protections. The full Report is available at https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024.

- **6PPD ANRPM.** On November 14, 2024, EPA announced it was issuing an advanced notice of proposed rulemaking (ANPRM) under Section 6 of TSCA to gather information on the chemical N-(1,3-Dimethylbutyl)-N'-phenyl-p-phenylenediamine, better known as 6PPD, and its derivative product, 6PPD-quinone. This ANPRM comes after a flurry of activity on 6PPD in recent years. On August 1, 2023, Earthjustice petitioned EPA on behalf of three

Native American tribes to ban the manufacture, use, processing, or distribution of 6PPD. 6PPD is widely used in the manufacture of tires to prevent the tires from breaking down and has been in use since the middle of the 20th century. The petition stated that 6PPD is highly reactive and transforms on the surface of tires or in the environment into various byproducts, including 6PPD-quinone. The petition argued that 6PPD-quinone is the second most toxic chemical to aquatic species ever evaluated by EPA and that exposure to 6PPD-quinone can kill a coho salmon or steelhead trout within hours.

EPA granted the petition on November 2, 2023. At that time, EPA anticipated 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 planned 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.

EPA also published a proposed rule in March 2024 under TSCA Section 8(d) that would require manufacturers, including importers, of 16 specific chemical substances, including 6PPD, to report to EPA the data from unpublished health and safety studies. Manufacturers would also be required to submit unpublished data concerning environmental effects and potential population/subpopulation exposures to these chemicals.

The ANPRM is issued, in part, to solicit information including: environmental effects of 6PPD on aquatic and terrestrial ecosystems, potential human health effects, environmental fate and transport, exposure pathways, persistence and bioaccumulation, additional uses of 6PPD, and releases from consumer products such as sneakers, playgrounds, rubber-modified asphalt, reused tire or other rubber products. *See* 89 FR 91299.

- **EPA Information Collection Activities.** On November 22, 2024, EPA announced that it submitted an ICR to the OMB titled "TSCA Mercury Inventory Reporting". This is an extension of an already existing ICR, scheduled to expire on February 28, 2025. Under TSCA, EPA is required to assist in the preparation and publication of an ''inventory of mercury supply, use, and trade in the United States''. 15 U.S.C. 2607(b)(10)(B) and (D).

Based on the inventory of information collected through this ICR, TSCA directs EPA to ''identify any manufacturing processes or products that intentionally add mercury'' and ''recommend actions, including proposed revisions of Federal law or regulations, to achieve further reductions in mercury use''. 15 U.S.C. 2607(b)(10)(C). This ICR is intended to assist in developing the inventory. *See* 89 FR 92680.

- **LBP Enforcement Alert.** On November 22, 2024, EPA announced an enforcement alert (originally issued in October 2024) for the lead Renovation, Repair, and Painting (RRP) Rule. The RRP Rule, among other requirements, requires that any projects that disturb lead-based paint in homes, childcare centers, or preschools built before 1978 be performed by lead-safe certified contractors. EPA's website highlights recent enforcement efforts under the RRP rule, including an individual who was sentenced to 16 months in prison for knowingly violating the RRP Rule and fabricating records. As of the date of publication, the Trump administration EPA has not revoked the enforcement alert. More information can be found at:

  https://www.epa.gov/enforcement/enforcement-alert-epa-enforces-lead-renovation-repair-and-paint-regulations-against.

- **TSCA Consent Decrees.** On November 22, 2024, the U.S. District Court for the District of Columbia entered two consent decrees, in *Community In-Power and Development Association Inc. v. EPA*, Case No. 1:23-cv-02715 (D.D.C.) and *ACC v. EPA*, Case No. 1:23-cv-03726 (D.D.C.), establishing deadlines for EPA to complete the risk evaluations for 20 High-Priority Chemicals and two manufacturer-requested risk evaluations. As discussed in your July 2024 Update, multiple parties brought claims against EPA alleging that EPA failed to perform non-discretionary duties under TSCA related to risk evaluation timelines. The entered consent decrees require EPA to complete the risk evaluation process for the 20 High-Priority Chemicals, including the final risk evaluations, by December 31, 2026 (with specific intermittent deadlines for specific individual chemicals), and the manufacturer requested risk evaluations for DIDP and DINP by December 31, 2024, and January 15, 2025, respectively.

- **SACC Meeting Minutes.** On November 27, 2024, EPA announced the availability of meeting minutes from the SACC virtual public meeting on September 17-19, 2024, concerning the draft risk evaluation for 1,1-dichloroethane and the human health hazard

assessment supporting that draft risk evaluation for 1,2-dichloroethane. As reported in your October update, both of these chemicals have similar physical structures but are used differently in commerce and are being evaluated separately by EPA. 1,2-dichloroethane has been better studied over the years, and because of the structural, physical, chemical, metabolic, cancer and non-cancer toxicological similarities between the two chemicals, EPA utilized data on the toxicity of 1,2-dichloroethane to fill gaps in the understanding of the toxicity of 1,1-dichloroethane for its draft risk evaluation. The draft risk evaluation of 1,1-dichloroethane found that "exposure to 1,1-dichloroethane may increase the risk of kidney and other cancers, as well as harmful non-cancer renal, nasal, immune system, and reproductive effects to workers." However, "EPA preliminarily found no unreasonable risk to the general population from breathing air where 1,1-dichloroethane was released from facilities or ingesting drinking water or surface water or soil from 1,1-dichloroethane disposed to land (i.e., direct disposal to landfills or land applied biosolids from public wastewater treatment works treating 1,1-dichloroethane-containing wastewater)". EPA also "found no unreasonable risk to potentially exposed and susceptible subpopulations, which included infants exposed to drinking water during formula bottle feeding, subsistence and tribal fishers, pregnant women and people of reproductive age, and individuals with compromised immune systems or neurological disorders." Additionally, EPA found that chronic exposure to 1,1-dichloroethane by aquatic organisms poses an unreasonable risk of injury, acute exposure did not pose an unreasonable risk to those same aquatic organisms. *See* 89 FR 54815. EPA is currently reviewing the feedback from SACC and the public, and will incorporate, as necessary, such feedback into the final risk evaluations. SACC meeting minutes and final report are available on docket EPA-HQ-OPPT-2024-0114.

- **Asbestos Part 2 Final Risk Evaluation.** On November 27, 2024, EPA announced the release of the final Risk Evaluation for Asbestos Part 2: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos. On April 15, 2024, EPA released a draft of the TSCA Risk Evaluation for Asbestos Part 2. As discussed in your July 2024 Update, the first Trump Administration narrowed the scope of the original asbestos risk evaluation to only cover ongoing uses, excluding legacy uses and disposals, and did not consider fibers other than chrysotile asbestos, the only asbestos fiber currently in use. 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 was split into two parts. Part 1 was finalized in December 2020, which was

specific to chrysotile asbestos and ongoing uses, though the *Safer Chemicals* plaintiffs still felt that the assessment was insufficient. That led to a 2021 consent decree, through which 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 preliminarily determined that asbestos poses unreasonable risk to human health as a general matter, including but not limited to when it is disturbed or handled in connection with legacy uses like floor and ceiling tiles, pipe wraps, and insulation. This finding was included in the final risk evaluation, which concluded that legacy uses significantly contribute to the material's unreasonable risk. The Part 2 evaluation also found that asbestos poses no risk to the environment. EPA will now begin the risk management process to address unreasonable risks posed by legacy uses and associated disposals of asbestos. *See* 89 FR 95777.

- **PFAS SNURs.** On November 29, 2024, EPA issued a supplemental notice of proposed rulemaking that would update December 2022 significant new use rules for 17 PFAS that are subject to premanufacture notices and an EPA TSCA order. The updated SNURs require any person who intends to manufacture or import any of the 17 PFAS for "significant new uses" to provide EPA 90 days' notice. Persons subject to the rule must receive EPA approval prior to commencing manufacture or importation. *See* 89 FR 94642.

- **1,3-Butadiene Draft Risk Evaluation.** On December 2, 2024, EPA announced the availability of the draft risk evaluation for 1,3-butadiene and requested both public comment and peer review by SACC. The draft risk evaluation examined risks of exposure to 1,3-butadiene from facilities that use, manufacture, or process the chemical under conditions of use subject to TSCA and products resulting therefrom. The draft risk evaluation preliminarily concludes that 1,3-butadiene presents an unreasonable risk of injury to human health for workers and the general population from inhalation exposure. The general public may be exposed to 1,3-butadiene through vehicle exhaust, tobacco smoke, burning wood, or forest fires, but EPA found that consumer uses do not significantly contribute to the unreasonable risk presented by 1,3-butadiene. This is because consumer goods contain only small concentrations of 1,3-butadiene, which is unlikely to degrade or otherwise expose consumers. The draft risk evaluation also found that 1,3-butadiene does not present an unreasonable risk to the environment. *See* 89 FR 95779.

- **Improved Modeling Tool.** On December 5, 2024, EPA announced an improved version of OncoLogic, a peer-reviewed predictive system modeling tool that analyzes chemical structures to determine the likelihood that they might cause cancer. Billed as more user-friendly, the improved tool includes subsystems that can evaluate fibers, metals, and polymers modules, and features a streamlined interface that is much easier for non-experts to navigate, a standardized reporting format that allows users to quickly view and export results, and increased transparency in the science behind the predictions provided by the model.

- **Phthalates Risk Evaluation Schedules.** On December 10, 2024, EPA announced a schedule for the risk evaluations of 5 phthalates: benzyl butyl phthalate (BBP), dibutyl phthalate (DBP), di(2-ethylhexyl) phthalate (DEHP), diisobutyl phthalate (DIBP), and dicyclohexyl phthalate (DCHP). The schedule calls for draft risk evaluations to be released beginning in January 2025 and continue through Spring 2025.

- **TSCA Suit Dismissal.** On December 11, 2024, the U.S. District Court for the District of Columbia dismissed a case, filed by Public Employees for Environmental Responsibility (PEER) and the Center for Environmental Health (CEH) against EPA on July 25, 2024. PEER and CEH alleged that EPA has failed to perform non-discretionary duties under TSCA Section 4(f). As noted in the July 2024 Update of your TSCA Guide, PEER and CEH filed a notice of intent in May 2024 to sue EPA regarding PFAS containing plastic containers. PEER and CEH alleged that EPA has abandoned its obligations Section 4(f) to abate the risks to human health posed by fluorinated plastic containers manufactured by Inhance Technologies, LLC, and sought to force EPA to prohibit their manufacture and distribution. The plaintiffs sought a court order setting an "expeditious" deadline for a rule under TSCA Section 6 prohibiting PFAS production during the fluorination of plastic containers. The court concluded that EPA fulfilled any non-discretionary duties, however, noting that EPA granted the plaintiffs' TSCA Section 21 petition requesting prohibition of the manufacture of fluorinated plastic containers before the lawsuit was filed. The lawsuit is titled *Center for Environmental Health and Public Employees for Environmental Responsibility v. Regan*, Case No. 24-2194. The Plaintiffs appealed the dismissal of their suit on December 26, 2024.

- **Access to CBI.** On December 13, 2024, EPA announced that it authorized contractor SRC, Inc. (SRC) of North Syracuse, NY, 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. Under contract number 68HERC25D0001, SRC will assist the Office of Pollution Prevention and Toxics (OPPT) in evaluating chemistry, fate, hazard, or other aspects of chemical substances for chemicals under review under various sections of TSCA. SRC will have access to TSCA data through at least October 22, 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. SRC personnel will be required to sign nondisclosure agreements. *See* 89 FR 101007.

- **Proposed Consent Decree.** On December 13, 2024, EPA announced it had lodged a proposed consent decree in the District Court for the Southern District of New York in a lawsuit entitled *United States, et al. v. Lilmor Management LLC, et al.,* Civil Action No. 24 Civ. 9520. The Government sought injunctive relief under TSCA and the Residential Lead-Based Paint Hazard Reduction Act of 1992 against Lilmor Management LLC (''Lilmor''), Morris Lieberman, and 49 limited liability companies for failure to make required disclosures to prospective tenants about lead-based paint in their apartments, as required by the Lead Disclosure Rule (24 CFR part 35, subpart A, and 40 CFR part 745, subpart F). The United States also sought to enjoin Lilmor and Lieberman under TSCA for failing to comply with safe work practices and related requirements during renovations, as required by the Renovation, Repair, and Painting Rule, 40 CFR part 745. The United States sought further relief on a theory of public nuisance. The State of New York joined the lawsuit and filed related state law claims. The proposed consent decree requires the Defendants to pay a $3.25 million administrative penalty to the United States and to perform injunctive relief set forth in the consent decree, including the abatement of lead-based paint and remediation of substandard living conditions. The defendants are further required to pay $325,000 to a New York City agency and create a restitution fund of $2.925 million. The settlement also provides for the hiring of a third-party housing expert to oversee settlement implementation. *See* 89 FR 102955.

- **High-Priority Substance Risk Evaluations.** On December 18, 2024, EPA announced it was designating five chemicals as High-Priority Substances for risk evaluation and beginning the risk evaluation process. Such a designation is not a finding of unreasonable risk but is instead used to initiate the risk evaluation process. The five chemicals designated 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. These five chemicals were initially proposed for prioritization in January 2024. On December 31, 2024, EPA announced the preliminary lists of manufacturers, subject to fees for the risk evaluations of those five chemicals. The lists were compiled using information submitted under TSCA section 8(a) and include TRI reporting data and Chemical Data Reporting Rule data. *See* 89 FR 107099.

- **High-Priority Substance Prioritization.** On December 18, 2024, EPA began the prioritization process for five chemical substances to be designated as High-Priority Substances for TSCA risk evaluations. 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 (or has completed their 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: 4-Tert-Octylphenol, CASRN 140–66– 9, Docket ID No.: EPA–HQ–OPPT– 2018–0496; Benzene, CASRN 71–43–2, Docket ID No.: EPA–HQ–OPPT–2018–0475; Ethylbenzene, CAS RN 100–41–4, Docket ID No.: EPA–HQ–OPPT–2018– 0487; Naphthalene, CASRN 91–20–3, Docket ID No.: EPA–HQ–OPPT–2018– 0454; and Styrene, CASRN 100–42–5, Docket ID No.: EPA–HQ–OPPT–2018–0461. *See* 89 FR 102903.

- **Violet 29 Proposed Rule.** On December 20, 2024, EPA announced a proposed rule to protect workers from inhalation exposure to C.I. Pigment Violet 29 (PV29). EPA concluded in its 2021 risk evaluation that PV29 presents an unreasonable risk to human health in powder form, but poses no risk when incorporated into paint, coatings or other materials. The proposed rule would mandate respiratory protections and cleaning programs in workplaces where PV29 is used in powder form. The proposed rule also mandates downstream notifications and enhanced recordkeeping requirements for manufacturers (including importers), processors, and distributors in commerce. *See* 90 FR 3107.

- **Lead Wheel Weight Rulemaking.** On December 20, 2024, EPA declined to initiate a proposed TSCA rulemaking addressing the manufacture, processing, or distribution in commerce of lead for wheel-balancing weights. 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. On March 13, 2024, EPA announced a proposed settlement agreement addressing the petition in *Ecology Center, et al. v. U.S. EPA*, Case No. 23–70158. 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 violated the Administrative Procedure Act. In the settlement, EPA agreed to either issue a proposed rule regulating lead wheel weights or sign a determination not to proceed with a rulemaking regulating lead wheel weights by December 31, 2024. 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 docket EPA-HQ-OPPT-2024-0085. The ANPRM was in furtherance of those settlements. EPA's decision not to proceed with rulemaking comes after EPA reviewed information from public comments and further technical analysis, which showed that risks to children from lead wheel weights are significantly less than described in the 2009 petition. Further, the comments indicated that vehicle manufacturers no longer install lead wheel weights on new vehicles sold in the US, mitigating the need for new rules addressing lead wheel weights. *See* 89 FR 104486.

- **D.C. Circuit Decision**. On December 20, 2024, a D.C. Circuit panel struck part of new TSCA regulations that the court felt could lead to disclosure of chemical manufacturers' trade secrets. On June 1, 2023, EPA issued a final rule updating TSCA's confidential business information (CBI) requirements. The updated rule is designed to increase transparency, modernize CBI reporting and review procedures, and align more closely with the 2016 Lautenberg Amendments. 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 (the "Rule"). The two parties took differing approaches to their challenges: ACC argued that the Rule insufficiently protected chemical identity confidentiality and exceeded EPA's authority under TSCA to compel disclosures. EDF, on the other hand, argued that the Rule violated TSCA 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.

On September 24, 2024, a three-judge panel for the United States Court of Appeals for the District of Columbia heard oral arguments in the case. Observers noted that the judges seemed open to the ACCs challenge, grappling with situations where downstream importers could inadvertently, or possibly deliberately to gain a competitive advantage, waive or void an upstream company's CBI claim. Those same observers reported that the judges seemed skeptical of EDF's arguments.

The panel ultimately accepted ACC's arguments, concluding that the regulations would allow downstream users of a CBI-claimed chemical to inadvertently waive confidentiality when complying with their reporting obligations. Those downstream users only have an EPA-assigned accession number and would be unable to substantiate a confidentiality claim, which EPA would deem as a waiver of the specific chemical identity CBI claim. Thus, the panel found the rule unlawful "to the extent it allows a downstream entity reporting on a chemical substance by accession number and without knowledge of the underlying specific chemical identity to waive confidentiality for that specific chemical identity."

- **Access to CBI.** On December 24, 2024, EPA announced that it authorized contractor General Dynamics Information Technology (GDIT) 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. Under contract number 47QTCK18D0003, task order number 47QFCA22F0018, GDIT and its subcontractors will assist the OPPT by hosting the servers and managing the infrastructure where TSCA CBI resides. 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. GDIT personnel and

subcontractors' personnel will be required to sign nondisclosure agreements. *See* 89 FR 105040.

Best Regards,

Larry Silver

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