

Client Alert

July 2016

TSCA Reform Update: EPA Issues First Year Implementation Plan

On June 22, 2016, President Obama signed into law the Frank R. Lautenberg Chemical Safety for the 21st Century Act, substantially amending the Toxic Substances Control Act (TSCA).¹ The act expands the US EPA's responsibilities and authority under TSCA, and imposes an aggressive implementation schedule. On June 29, the EPA issued its [First Year Implementation Plan \(Plan\)](#), a self-described "roadmap" laying out the major regulatory actions the agency will undertake over the next year (and beyond) to fulfill the act's requirements.

The Plan includes four rulemakings under the category of Framework Actions (processes to guide the longer-term program):

- **Risk Evaluation Process Rule:** a rule to establish the procedure for evaluating the risk of high-priority chemicals, including procedures for manufacturers to request risk evaluations for certain chemicals (statutory deadline mid June 2017).
- **Fees Rule:** a rule authorizing EPA to collect fees, in order to defray the cost of implementing certain provisions (no statutory deadline but needed ASAP).
- **Inventory Rule:** a rule requiring industry to report chemicals manufactured or processed in the last 10 years. EPA will use the results to designate active and inactive chemicals on the TSCA inventory of existing chemicals (statutory deadline mid June 2017).
- **Prioritization Process Rule:** a procedural rule establishing the process and criteria for identifying high- and low-priority chemicals (statutory deadline mid June 2017).

Drafts of the proposed rules are to be published by mid December 2016.

The Plan identifies EPA's statutory obligations to identify and formally initiate risk evaluations for 10 chemicals from the 2014 update of the TSCA Work Plan by mid December 2016 and to publish the scope of each assessment by mid June 2017.

EPA states that it intends to undertake rulemakings with respect to chemicals with risk assessments completed prior to the date of enactment, as permitted by the act, even if they do not cover all conditions of use. Accordingly, EPA anticipates that by the end of 2016 it will issue proposed rules restricting the use of three solvents — trichloroethylene (TCE) in spot cleaning, aerosol degreasing and vapor degreasing, and methylene chloride (MC) and N-methylpyrrolidone (NMP) in paint removers.

EPA affirms its obligation to timely review all submitted premanufacture notices (PMNs) and significant new use notices (SNUNs) (required for manufacture/import/use to commence); it also indicates that for preenactment submissions it will "make every effort" to make a determination within the original deadline, but notes that the act effectively resets the 90-day review period.

¹ See our previous client alert, available [here](#), for an overview of the most significant aspects of the act.

The Plan lays out several other regulatory actions on EPA's plate for the coming year, including:

- developing an approach for the review and determination of confidential business information claims;
- establishing a Science Advisory Committee on Chemicals to provide independent advice;
- developing an annual plan for conducting risk evaluations (statutory deadline on the beginning of each calendar year after enactment);
- publishing an initial list of mercury compounds prohibited from export by statutory deadline of mid September 2016 with publication of first required mercury inventory by statutory deadline of April 1, 2017;
- reviewing the adequacy of standards for identifying small manufacturers and processors and revision of those standards as warranted by statutory deadline of mid December 2016; and
- preparing and submitting a required report to Congress on EPA's capacity and resource needs to conduct risk evaluations and issue rules to address unreasonable risks, by statutory deadline of mid December 2016.

The Plan states that EPA seeks to engage partners and stakeholders in the implementation process. Stakeholders should continue to monitor the numerous developments as they occur.

The day after it released the plan, EPA conducted a webinar to provide an overview of its Plan for implementing the new provisions. EPA's PowerPoint slides are currently available on EPA's website at https://www.epa.gov/sites/production/files/2016-06/documents/june_30_webinar_ppt.pdf.

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