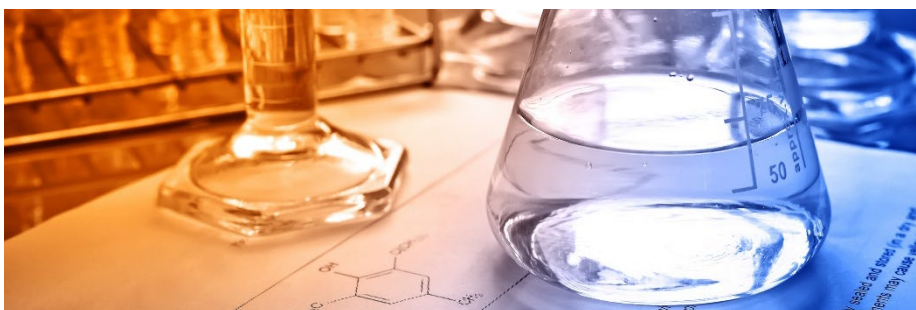


Calendar of TSCA Developments in 2019 and Beyond



EPA faces many TSCA statutory and regulatory deadlines for actions in 2019 and 2020. It has also announced plans to take numerous actions not subject to such a deadline. The industry should anticipate upcoming developments and be prepared to provide comments or take other action.

Acronyms and abbreviations used in this are defined at the end.

Timeline

January 1, 2019

EPA began the year with about 550 PMNs, MCANs, SNUNs, and section 5 exemption applications under section 5 pending review. It expects to receive about 1,000 additional PMNs MCANs, SNUNs, and section 5 exemption applications during 2019.

January 14, 2019

- ◆ Deadline for comments on EPA's draft risk evaluation for Pigment Violet 29, the first of the draft risk evaluations for the first 10 chemical substances to be the subject of risk evaluations per section 6(b)(2)(A). 83 Fed. Reg. 57473.

January 28, 2019

- ◆ First day of work at EPA following the partial government shutdown, which for EPA began on December 29, 2018. Work on the New Chemicals Review Program fully resumed beginning January 31, 2019, 33 days later.

March 5, 2019

AUTHORS

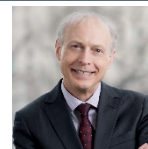
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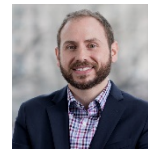
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January 31, 2019

- ◆ Due date for polymer exemption reports for 2018 per the polymer exemption rule, § 723.250(f).

February 8, 2019

- ◆ EPA extended the review periods for all PMNs, MCANs, SNUNs, and section 5 exemption applications pending as of December 29, 2018, by 33 days per section 5(c). 84 Fed. Reg. 2851 (Feb. 8, 2019).

February 13, 2019

- ◆ EPA issued a Notice of Violation of TSCA in connection with GenX and related PFAS. The NOV alleged violations of the PMN requirements, a section 5(e) order, a SNUR, and CDR, and indicated that EPA may allege additional violations.

February 14, 2019

- ◆ EPA published its [PFAS Action Plan](#), which reviewed EPA's ongoing actions under section 5 to regulate PFASs.

February 18, 2019

- ◆ EPA published the [updated Inventory](#) designating chemical substances as either active or inactive per section 8(b)(4)(A). This triggered a 90-day period during which manufacturers and processors may submit a Form B for any substance listed as inactive that EPA should list as active per § 710.30(b)(2).

March 13, 2019

- ◆ EPA will hold a [webinar](#) on future reporting per the Inventory Reset rule.

March 22, 2019

- ◆ Last day for EPA to announce candidates for high-priority and low-priority substances (9 months prior to December 22, 2019, the due date for EPA to begin risk evaluations for 20 high-priority substances and designate 20 low-priority substances, 3½ years after LCSA enactment, per section 6(b)(2)(B)). The prioritization process must last between 9 and 12 months per section 6(b)(2)(C) and § 702.1(d); thus, March 22, 2019, is the last possible date to announce the candidates to meet the December 22, 2019 deadline. There will be a 90-day review period per section 6(b)(1)(C)(i) and § 702.7(d), subject to a possible three-month extension per 6(b)(1)(C)(iii) and § 702.7(e).
- ◆ Effective date for import certification requirements for composite wood products, component parts, and finished goods per § 770.30(d).
- ◆ Last day for sale of composite wood products certified by a third-party certifier approved by the California Air Resources Board and that is also recognized but not accepted by EPA, and component parts and finished goods made from such composite wood products, per § 770.15(d).

March 2019

- ◆ GAO issued a report, "[Chemical Assessments: Status of EPA's Efforts to Produce Assessments and Implement the Toxic Substances Control Act.](#)" The report found that "EPA faces challenges with its ability to implement TSCA, such as managing the risk posed by ongoing litigation, ensuring appropriate resources, developing guidance documents to ensure consistency, and ensuring that

the new chemicals review process is efficient and predictable.”

Spring 2019 or Later (Timing Uncertain)

- ◆ Publication of a supplemental notice of proposed rulemaking for a SNUR for LCPFACs and perfluoroalkyl sulfonates. The Fall 2018 Regulatory Agenda predicted publication in October 2018 (RIN 2070-AJ99).
- ◆ Publication of the second notice of proposed rulemaking for revisions to the list of recipient organisms eligible for the Tier I and Tier II exemptions under the MCAN rule. The Fall 2018 Regulatory Agenda predicted publication in October 2018 (RIN 2070-AJ65).
- ◆ Publication of a final SNUR on toluene diisocyanates and related compounds. The Fall 2018 Regulatory Agenda predicted publication in November 2018 (RIN AJ91).
- ◆ Publication of a final methylene chloride rule. The Fall 2018 Regulatory Agenda predicted publication in December 2018 (RIN 2070-AK07). A draft final rule has been under review at OMB since December 21, 2018, along with a pre-rule on methylene chloride certification and limited access program for commercial paint and coating removal training. This rule is not subject to the amended section 6 requirements so long as it is consistent with applicable section 6 requirements per section 26(l)(4).
- ◆ Publication of a final SNUR on asbestos. The Fall 2018 Regulatory Agenda predicted publication in January 2019 (RIN 2070-AK45).
- ◆ Publication of a proposed rule to establish a plan to review all confidential business information (CBI) claims for specific chemical identities. The final rule is due 1 year after EPA published the active substances list (*i.e.*, by February 19, 2020) per section 8(b)(4)(C). The Fall 2018 Regulatory Agenda predicted publication by January 2019 (RIN AK21). A draft proposed rule has been under review at OMB since February 28, 2019.
- ◆ Publication of final amendments to the SNUR rules updating the hazard communication program and regulatory framework; also making minor amendments to the PMN reporting requirements. The Fall 2018 Regulatory Agenda predicted publication in February 2019 (RIN AJ94).
- ◆ Publication of a final rulemaking technical amendments to the formaldehyde emission standards for composite wood products under Part 770. The Fall 2018 Regulatory Agenda predicted publication in March 2019 (RIN AK47).
- ◆ Publication of the next version of EPA’s New Chemicals Decision-Making Framework: Working Approach to Making Determinations under Section 5 of TSCA, and public meeting to solicit comments and describe the working approach within 60 days of publication. This commitment came in a [letter from then-acting Administrator Wheeler to Senator Carper \(Wheeler letter\)](#) in December 2018.

May 16, 2019

- ◆ Oral argument scheduled in litigation challenging EPA’s risk evaluation framework rule, *Safer Chemicals Healthy Families v. USEPA*, No. 17-72260 and companion cases (9th Cir.).

May 19, 2019

- ◆ Start date for submitting a Form B for any chemical substance listed as inactive on the Inventory prior to manufacture. Per the definition of “inactive substance” in § 710.23, the inactive designations announced on February 18, 2019, take effect 90 days after EPA identifies them as

inactive, *i.e.*, on May 19, 2019. Thereafter, manufacturers must submit a Form B no more than 90 days prior to initiating manufacture of an inactive substance per § 710.30(b)(1).

May 31, 2019

- ◆ Date by which EPA has committed to ensuring that all new PMNs, their attachments, including any health and safety studies, any modifications thereto, and all other associated information are placed online into electronic dockets accessible via ChemView within 45 days of their receipt following an evaluation for CBI, per the Wheeler letter.

June 20, 2019

- ◆ First day that EPA may propose to designate 20 proposed high-priority and 20 low-priority substances per section 6(b)(1)(C)(ii) and § 702.9. This action will probably be delayed while EPA evaluates the comments received on the list of candidate substances. There will be a 90-day comment period per section 6(b)(1)(C)(ii) and § 702.9(g).

June 22, 2019

- ◆ Last day for EPA to propose risk management rules for persistent, bioaccumulative, and toxic chemical substances (PBTs) designated per section 6(h)(1) (3 years after LCSEA enactment). [EPA designated 5 chemical substances as PBTs under this provision](#). 83 Fed. Reg. 24305 (May 25, 2018).
- ◆ Last day for EPA to propose a rule per section 8(a)(6)(A) on limiting the reporting requirements for CDR or other section 8(a) rules for manufacturers of inorganic byproducts that are recycled, reused, or reprocessed. In 2017, EPA convened a Federal Advisory Committee on this issue, but the committee was unable to make a consensus recommendation to EPA. EPA is likely to combine this rulemaking with other proposed changes to the CDR rule. The Fall 2018 Regulatory Agenda predicted publication by December 2018 (RIN AK33). The proposal is expected prior to June 22, since a proposed rule amending the CDR has been under review at OMB since January 29, 2019.

Late June 2019 (Specific Date Not Publicly Available)

- ◆ Due date for an EPA report to Senator Carper describing how EPA is complying with and will comply with section 14, with specific information and statistics related to implementation of section 14(g) (review of CBI claims and unique identifiers), as well as information on how and when the public will be able to track the status of EPA's reviews of CBI claims and have access to EPA's CBI determinations and associated documents on EPA's website, per the Wheeler letter.

July 1, 2019

- ◆ Due date for submission of mercury reports for 2018 to EPA per section 8(b)(10)(D) and § 713.17(b).

October 20, 2019

- ◆ Last day for EPA to publish proposed risk evaluations for the initial 9 chemical substances (other than that for Pigment Violet 29, which was published in 2018), subject to a 6-month extension. Per section 6(b)(4)(G), the final risk evaluations must be published by December 19, 2019, 3 years after initiation of the risk evaluation, which began with the designation of the first 10 chemical substances in 81 Fed. Reg. 91927 (Dec. 19, 2016). There must be 60-day comment period prior to that date per § 702.49 (a) (section 6(b)(4)(H) requires at least a 30-day comment period).

October 20 is 60 days prior to the December 19, 2019 deadline for the final risk evaluations. EPA will probably publish the 9 proposed risk evaluations well before this date since it needs to evaluate the comments received prior to publishing the final risk evaluations.

November 2019

- ◆ Predicted date for publication of the final SNUR for LCPFACs and perfluoroalkyl sulfonates per the Fall 2018 Regulatory Agenda (RIN 2070-AJ99).

December 19, 2019

- ◆ Last day for EPA to publish final risk evaluations for the first 10 chemical substances, subject to a 6-month extension (3 years after initiation of risk evaluation, which began with designation of the first 10 chemical substances on December 19, 2016), per section 6(b)(4)(G) and § 702.49(b).

December 22, 2019

- ◆ Last day for EPA to designate 20 chemical substances as high-priority substances and 20 chemical substances as low-priority substances (3½ years after LCSA enactment). Risk evaluations on the 20 high-priority substances must begin on this date per section 6(b)(2)(B). At the time of designation, EPA will publish a preliminary list of manufacturers subject to risk evaluation fees under per § 700.45(b)(3)(i). A comment period of at least 30 days must be provided per § 700.45(b)(4).
- ◆ Last day for EPA to adopt a final rule on limiting the reporting requirements per the CDR rule or other section 8(a) rules for manufacturers of inorganic byproducts that are recycled, reused, or reprocessed, per section 8(a)(6)(B). EPA will probably combine this rulemaking with the proposed CDR amendments. The Fall 2018 Regulatory Agenda predicted publication by October 2019 (RIN 2070-AK33).

January 1, 2020

- ◆ Effective date of a prohibition on the export of certain mercury compounds per section 12(c)(7)(A).

February 19, 2020

- ◆ Last day for EPA to adopt a final rule to establish a plan to review all CBI claims for specific chemical identities (1 year after EPA published the active substances list) per section 8(b)(4)(C).

April 1, 2020

- ◆ Due date for EPA inventory of mercury supply, use, and trade in the U.S. per section 8(b)(1)(B).

June 19, 2020

- ◆ Last day for EPA to publish final risk evaluations for the first 10 chemicals if there is a 6-month extension.

June 22, 2020

- ◆ Last day for EPA to publish scope documents for the risk evaluations for the 20 high-priority substances (6 months after initiation of the risk evaluations) per section 6(b)(4)(D). By this date, EPA will publish the final list of manufacturers subject to the risk evaluation fee per § 700.45(b)(7). The fee is \$1,350,000 per § 700.45(c)(2)(ix), using allocation procedures at § 700.45(f)(3).

September 30, 2020

- ◆ Last day for EPA to complete its risk evaluation of two substances requested by the manufacturer under section 6(h)(5), per EPA's [Initial Report to Congress](#) on the EPA's Capacity to Implement Certain Provisions of the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Jan. 2017).

December 19, 2020

- ◆ Last day for EPA to propose risk management rules for the first 10 chemical substances (1 year after publishing final risk evaluations) per section 6(c)(1)(A) if EPA determines that any of these chemical substances present an unreasonable risk.

December 22, 2020

- ◆ Last day for EPA to adopt final risk management rules for PBT chemical substances (18 months after the proposed rules) per section 6(h)(3).

Acronyms and Abbreviations

- ◆ TSCA - Toxic Substances Control Act
- ◆ LCSEA - Frank R. Lautenberg Chemical Safety for the 21st Century Act, enacted on June 22, 2016
- ◆ Section - sections of TSCA as amended by the LCSEA
- ◆ Part and § - to 40 C.F.R.
- ◆ CBI - confidential business information
- ◆ CDR - the Chemical Data Reporting rule under Part 711
- ◆ Inventory - TSCA Inventory of Existing Chemical Substances under Part 710
- ◆ LFPAC - long-chain perfluoroalkyl carboxylate substance
- ◆ MCAN - microbial commercial activity notice under Part 725
- ◆ PFAS - per- and polyfluorinated alkyl substances
- ◆ PMN - premanufacture notice under Part 720
- ◆ SNUN - significant new use notice under Part 721
- ◆ SNUR - significant new use rule under Part 721

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