

US EPA Identifies First 10 Chemicals For Risk Evaluations Under The Amended TSCA

On November 29, the US Environmental Protection Agency (US EPA) announced the first 10 chemicals it will evaluate for potential risks to human health and the environment under the recently amended Toxic Substances Control Act (TSCA).

Under the amended TSCA, US EPA was required to select 10 chemicals from the agency's list of TSCA Work Plan chemicals and initiate risk evaluations on those chemicals within 180 days of enactment of the new law (i.e., no later than mid-December 2016). US EPA will evaluate the 10 chemicals to determine whether they "present an unreasonable risk of injury" to health or the environment "under the conditions of use."

"Conditions of use" are defined in the amended TSCA as "the circumstances, as defined by [EPA], under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used or disposed of." US EPA cannot consider costs or "other non-risk factors" in determining whether a chemical substance presents an unreasonable risk.

As presented on [US EPA's website](#), the 10 Work Plan chemicals identified by US EPA for risk evaluations (along with the identified exposure and hazard information) are:

Chemical	Exposure Information from 2014 Work Plan	Hazard Information from 2014 Work Plan
1,4-Dioxane	Used in consumer products. Present in groundwater, ambient air and indoor environments. High reported releases to the environment.	Possible human carcinogen
1-Bromopropane	Used in consumer products. Present in drinking water, indoor environments, surface water, ambient air, groundwater and soil. Estimated to have high releases to the environment.	Possible human carcinogen
Asbestos	Used in chlor-alkali production, consumer products, coatings and compounds, plastics, roofing products and other applications. Also found in certain imported products such as brakes, friction products, gaskets, packing materials and building materials.	Known human carcinogen; Acute and chronic toxicity from inhalation exposures
Carbon Tetrachloride	Used in commercial/industrial products. Present in biomonitoring, drinking water, indoor environments, surface water, ambient air, groundwater and soil. High reported releases to the environment.	Probable human carcinogen
Cyclic Aliphatic Bromide Cluster (HBCD)	Flame retardant in extruded polystyrene foam, textiles, and electrical and electronic appliances.	Acute aquatic toxicity
Methylene Chloride (MC)	Used in consumer products. Present in drinking water, indoor environments, ambient air, groundwater and soil.	Probable human carcinogen
N-methylpyrrolidone (NMP)	Used in consumer products. Present in drinking water and indoor environments. High reported releases into the environment.	Reproductive toxicity
Pigment Violet 29 Anthra[2,1,9-def:6,5,10-d'e'f']diisoquinoline-1,3,8,10(2H,9H)-tetrone	Used in consumer products. Estimated to have moderate releases to the environment.	Aquatic toxicity

Trichloroethylene (TCE)	Used in consumer products. Present in drinking water, indoor environments, surface water, ambient air, groundwater and soil.	Probable human carcinogen
Tetrachloroethylene (also known as perchloroethylene)	Used in consumer products and dry cleaning. Present in biomonitoring, drinking water, indoor environments, ambient air, groundwater and soil. High reported releases to the environment.	Probable human carcinogen

Within six months, US EPA must release a scoping document for each of these 10 chemicals, which includes the hazards, exposures, conditions of use and the potentially exposed or susceptible subpopulations that US EPA plans to consider in the risk evaluation. US EPA must complete the risk evaluations within three years (although the Agency may extend the deadline for up to six months if additional data or testing is needed). US EPA must provide at least 30 days for public notice and comment on a draft risk evaluation. The Agency is also required to “consider” a draft risk evaluation submitted by an “interested person.”

If US EPA determines that a chemical presents an unreasonable risk, the Agency must issue a rule under TSCA Section 6 to mitigate the risk(s) within two years thereafter. If US EPA determines that a chemical substance does not present an unreasonable risk, the Agency’s decision is subject to judicial review and can be challenged in court.

The amended TSCA also requires US EPA to initiate risk evaluations on at least 20 additional chemicals within three and a half years after enactment (i.e., by December 2019). At least half of those chemicals must be selected from US EPA’s TSCA Work Plan chemicals list.

US EPA has already initiated TSCA Section 6 rulemakings for three of the 10 chemicals identified for risk evaluations: trichloroethylene (TCE), N-Methylpyrrolidone (NMP) and methylene chloride. In its announcement about the risk evaluations, US EPA noted that the amended TSCA allows the Agency to publish proposed and final Section 6 rules for risk assessments completed prior to enactment of the new law, consistent with the scope of the previously completed risk assessments. According to US EPA, the current Section 6 rules cover only certain specific uses of these three chemicals, and the Agency intends to evaluate “the other remaining uses” of the chemicals in the upcoming risk evaluations.

Companies that manufacture, import or process any of the 10 chemicals – as well as other interested parties – should pay close attention as US EPA moves forward with the risk evaluations, including development of the scoping documents that the Agency must issue within six months. While the amended TSCA requires US EPA to issue a formal rule within one year after enactment (i.e., no later than mid-June 2017), establishing the process for how risk evaluations will be conducted, that rule may not be finalized before US EPA issues the scoping documents for the 10 chemicals and proceeds with the risk evaluations. US EPA’s draft of the proposed rule is presently undergoing review by the federal Office of Management and Budget (OMB), and it is unclear when the proposed rule will be published for public comment. Our lawyers will monitor US EPA’s risk evaluations and the rulemaking closely.

For more information about US EPA’s risk evaluations or the amended TSCA, please contact one of the individuals listed below.

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