

New TSCA In Action

June 2017

May was a busy month for Toxic Substances Control Act (TSCA) implementation activities. Wiley Rein held a webinar on protecting confidential business information (CBI) in TSCA submissions. For a copy of the presentation, "TSCA CBI: The Rules Have Changed", please contact Diana Dillion at ddillon@wiley.law. CBI protection questions may come up in a variety of ways, from day-to-day new chemical submissions, section 8(e) toxicity data reporting that extends through the supply chain, and information on uses of existing chemicals that Environmental Protection Agency (EPA) will be seeking as it implements its new authority in this area. In addition, this presentation describes the choices and rules companies will need to consider for the TSCA Inventory Reset exercise that is scheduled to begin in June 2017.

EPA has sent a final rule to the Office of Management and Budget (OMB) for review to implement the prioritization process for existing chemicals under TSCA. Prioritization will determine when and if existing chemicals will undergo full EPA risk evaluations and whether EPA will regulate or restrict their uses. OMB has up to 60 days to review the final rule, and interested stakeholders can ask to meet with OMB during this period to discuss their concerns with the rule. This development signals EPA's intent to meet the statutory deadline of June 2017 for finalizing this rule.

On May 24, EPA announced a direct final rule to postpone several effective dates by which companies will need to comply with various provisions of EPA's new formaldehyde emission standards for composite wood products. Affected companies should continue to track this development however, because any adverse comments filed by June 8, 2017, will require EPA to withdraw these extensions and take alternative means to get them into place. This rule affects

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companies that make and distribute cabinetry, laminates, furniture, and other consumer products. EPA is extending the December 12, 2017 date for emission standards, recordkeeping, and labeling until March 22, 2018. The December 12, 2018 date for import certification requirements is postponed until March 22, 2019, and the December 12, 2023 date for provisions applicable to producers of laminated products will not take effect until March 22, 2024. In addition, EPA will continue to allow California Air Resources Board (CARB) Third Party Certifiers (TPC) to certify composite wood products under TSCA without an accreditation issued by an EPA TSCA Title VI Accreditation Body so long as the TPC remains approved by CARB, is recognized by EPA, and complies with all aspects of the December 12, 2016 final rule.