

## **Ask the 3Expert: What can organizations expect in the first year of U.S. TSCA Reform?**

The U.S. Environmental Protection Agency (EPA) has published its first year implementation plan for the reformed Toxic Substances Control Act (TSCA). Among many other measures, the Frank R. Lautenberg Chemical Safety for the 21st Century Act, signed into law on 22 June 2016, sets aggressive deadlines for EPA to take certain actions.

During the first year, EPA plans to take the following actions:

**New chemicals.** Review and make affirmative determinations on all premanufacture notices (PMNs) and significant new use notices (SNUNs) before manufacturing may begin.

**Confidential business information (CBI).** Within 90 days, review and make a determination on all incoming CBI claims for the chemical identity of chemicals that have been offered for commercial distribution. For claims that are upheld, EPA will apply a unique identifier to the chemical within the 90 days as well and will make a plan to link associated information within 30 days.

**Ongoing Section 6 rulemaking.** EPA will continue its work on addressing identified risks from trichloroethylene (TCE), methylene chloride (MC) and N-methylpyrrolidone (NMP), with the goal to establish final rules on TCE used in spot cleaning, aerosol degreasing and vapor degreasing, as well as on MC and NMP in paint removers, by the end of 2017.

EPA is also required in the first year after enactment to complete actions including:

- Publish the scope of risk evaluations for the first 10 chemicals.
- Establish an annual risk plan for evaluations including the chemicals which will be evaluated, status of other chemicals under evaluation and the resources needed.
- Ban mercury compounds from export (this will be in addition to the current ban on exporting elemental mercury, which has been in effect since 1 January 2013).
- Publish an inventory of mercury supply, use and trade in the U.S.
- Review the adequacy of standards for defining small businesses.
- Report to Congress on its capacity and resources needed to conduct risk evaluations and to issue rules addressing unreasonable risks, among other issues.

The agency also aims to establish processes in the first year which will guide the longer term program development under the revised TSCA. These actions will include: formally initiating risk evaluations on 10 Work Plan chemicals; establishing a procedural rule on the process and criteria for identifying high priority chemicals for risk evaluation and for identifying low priority chemicals; establishing a procedural rule on the process for evaluating the risk of high priority chemicals; consulting on the fees which EPA is authorized to collect to defray the cost of industry-requested risk evaluations; establishing a final rule requiring industry to report chemicals manufactured/processed in the previous 10 years; and taking actions to establish the Science Advisory Committee on Chemicals.

## *Looking forward*

After the first year, EPA is subject to other deadlines, including but not limited to: establish a mercury use/product reporting rule within two years; issue a final rule on CBI review and substantiation within 1.5 years; establish guidance for generic names for CBI chemicals within two years; negotiate rulemaking on byproducts reporting under the Chemical Data Reporting rule (CDR) within three years; and establish a strategy for alternative testing methods within two years.

The amended TSCA and the associated EPA actions will have significant impacts on chemical manufacturers, importers, distributors, processors and other downstream users.