

China Sets out a Regulatory Roadmap to Control New Chemicals

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On May 24, 2022, China State Council issued an [Action Plan on New Pollutants Governance](#) (“Plan”) to set out a regulatory roadmap to control new chemicals and outline an enhanced enforcement framework for compliance. The Plan establishes a framework, which will be developed by decrees and regulations to come, for an environmental risk management system for chemicals, and integration and expansion of China’s existing regulatory programs on chemicals. It also encourages local governments to implement a risk assessment system and promulgate local control plans, rules, and standards on the management of key chemicals to supplement the regulatory programs specified in the Plan.

Companies manufacturing chemicals, importing chemicals, using chemicals in their production, and any facility that releases or discharges the new pollutants, as well as companies manufacturing or importing toys, student supplies, and major consumer products, are likely to be directly and indirectly affected by this new roadmap.

Background

New pollutants, according to the China Ministry of Ecology and Environment (“MEE”), refer to “*toxic and hazardous chemicals with the characteristics of biological toxicity, environmental persistence, bioaccumulation, etc. which pose great risks to the ecological environment or human health, but have not been included in environmental management or existing management measures are not sufficient.*” See the [Transcript of MEE Monthly Press Conference in March 2022](#). The precise scope of new pollutants covered by this roadmap will be clarified in forthcoming lists.

“New pollutant governance” was first announced in the [Proposals of the Central Committee of the Communist Party of China on Formulating the Fourteenth Five-Year Plan for National Economic and Social Development and the Long-term Goals for 2035](#). The [Outline of the Fourteenth Five-Year Plan for National Economic and Social Development and the Long-term Goals for 2035](#) confirmed the importance of new pollutant governance and required to improve the environmental risk management of toxic and hazardous chemicals. The objective of strengthening new pollutant governance was further emphasized by the State Council in its [Opinions on Deepening Pollution Prevention and](#)

[Control Battle](#) in 2021 and [Report on the Work of the Government in 2022](#) respectively.

In November 2021, the MEE crafted the draft action plan for public comments (with only a very short window for comments) and later submitted it to the State Council for approval. On May 4, the State Council finalized the Plan and released it on May 24.

Key Takeaways

As a policy document, the Plan sets out the main working targets for management and control of new pollutants. Particularly, according to the Plan, by 2025:

- chemicals with high concern and high production (consumption) volume will be scanned and assessed on their environmental risks;
- lists of key new pollutants subject to control will be released dynamically;
- prohibitions or restrictions of production/sale/import/use of key new chemicals will be implemented; and
- emission and discharge restrictions on key new pollutants will be implemented.

To this end, 17 types of measures will be taken which will significantly impact chemicals manufacturers, processors, importers as well as any facility that releases or discharges the new pollutants. It will also affect manufacturers and importers of certain products, e.g. toys, student supplies, and consumer products.

The major measures are summarized below:

1. Four types of new pollutants will be the key focus:
 - a. persistent organic pollutants,
 - b. endocrine disruptors,
 - c. antibiotics and
 - d. microplastics.
2. Producers, processors, and importers of the chemicals, as well as facilities that emit and discharge these new pollutants, would be likely subject to the new pollutant environmental risk management system. That system is composed of a chemical substance environmental information survey system, a new pollutant environmental investigation and monitoring system, a chemicals environmental risk assessment system, and a key new pollutants control system.
 - a. The chemical substance environmental information survey system is designed to collect basic information on chemicals, such as types, quantities, and use of the chemicals. For the chemicals subject to prioritized environmental risk management, detailed information on production, processing use, discharge quantity and routes,

and hazard characteristics are expected to be disclosed.

- b. The new pollutant environmental investigation and monitoring system is intended to expand existing monitoring network to new pollutants. Key areas, industries, and industrial parks will set up monitoring points and the new pollutants in underground water will be investigated and monitored by the relevant standards.
 - c. The chemicals environmental risk assessment system will focus on environmental and health hazard testing and risk screening on chemicals with high concern, high production (use), high environmental detection rate, and distributed use. A prioritized assessment plan for environmental risks of chemicals and a list of chemicals subject to prioritized control will be drafted dynamically.
 - d. To manage the key new chemicals identified through assessment, a list of key new pollutants subject to control will be created and a “one product one control measure” policy will be implemented. Chemicals subject to prioritized control, antibiotics, and microplastics will be included in the List. The new chemicals included in the List will be subject to production/use prohibition or restriction and/or emission restriction requirements.
3. Producers and processors of new chemicals, or emitters and dischargers of new pollutants, will be classified as a key discharge entity. They will be required to:
- a. take pollution control measures to meet relevant pollutant discharge standards and environmental quality target requirements;
 - b. obtain pollutant discharge permit to specify the implemented pollution control standards and the pollution control measures;
 - c. periodically carry out environmental monitoring on the outlets and their surrounding areas and assess environmental risks;
 - d. disclose the discharge information of new pollutants and take preventive measures.
4. New chemicals will be banned or restricted from use in certain products. Particularly, the key new chemicals will be restricted from use in toys and school supplies and required to be labeled in key consumer products under the environmental labeling program. The existing List of Strictly Restricted Toxic Chemicals will be extended to cover chemicals with strictly restricted use to be subject to more stringent import and export control.

What is next?

The MEE has been taking a leading role in drafting a regulation on environmental risk management of toxic and hazardous chemicals. It is expected that relevant technical standards and rules to guide market players to fulfill their obligations under the environmental risks management system will be further developed to implement the regulation over the next couple of years.

What should affected companies do now?

Companies that might be affected by this initiative should proactively engage in the rulemaking process through trade associations or other alliances, or directly through comment procedures, during the public commenting period for coming regulations.

Two key subsidiary documents (i.e., a prioritized assessment plan for environmental risks of chemicals and the list of key new pollutants subject to control) are in the pipeline to be issued this year.

For chemicals manufacturers, processors and importers, as well as dischargers, it would be advisable to start to revisit internal chemicals management systems to ensure all information on potentially affected chemicals, and releases and discharges of pollutants, are properly recorded and kept.

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