

Recent Regulatory Agendas Show Robust Slate of Rulemakings Coming for TSCA and PFAS

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In June 2023, federal agencies released their “Spring 2023” Regulatory Agendas that provide an outlook for numerous upcoming regulatory actions on chemicals which could have significant implications for the regulated community.

PFAS

The US Environmental Protection Agency (EPA) and US Department of Defense (DoD) released their [Spring 2023 Unified Agendas of Regulatory and Deregulatory Actions](#) detailing upcoming rulemakings, including actions related to per- and polyfluoroalkyl substances (PFAS). As reflected by EPA’s release of a proposed national primary drinking water regulation in March 2023, the release of an advanced notice of proposed rulemaking to designate additional PFAS as CERCLA Hazardous Substances in April 2023, and EPA’s new [TSCA Framework to Prevent Unsafe PFAS from Entering the Market](#), federal agencies are initiating PFAS-related regulatory actions that will pose new compliance challenges with far-reaching implications for a broad spectrum of the regulated community and affected stakeholders. **Among these regulatory items are:**

- DoD’s proposal to prohibit the Department from procuring the following items that contain perfluorooctane sulfonate (PFOS) or perfluorooctanoic acid (PFOA): nonstick cookware or cooking utensils for use in galleys or dining facilities and upholstered furniture, carpets and rugs that have been treated with stain-resistant coatings.
- EPA’s final national primary drinking water regulation (NPDWR) for certain PFAS.
- EPA’s final rule designating PFOA and PFOS as CERCLA hazardous substances and EPA

consideration of other PFAS for listing.

- Two proposed actions under RCRA to designate certain PFAS as RCRA hazardous constituents and clarification on how PFAS can be cleaned up through the RCRA corrective action process.
- EPA's final rule to require reporting and recordkeeping of PFAS under TSCA Section 8(a)(7).

TSCA

In June 2023, EPA finalized a rulemaking to bolster confidential business information (CBI) requirements and released its proposed procedural rule for new chemicals. EPA has also begun to release multiple proposed risk management rules under section 6 of TSCA, including for methylene chloride and perchloroethylene. However, multiple planned regulatory actions are still delayed, including the majority of the TSCA risk management rules, likely due to funding and resource challenges. **Among the TSCA-related regulatory items are:**

- Proposed TSCA section 6 risk management rules for the “first ten” chemicals that underwent risk evaluation.
- Proposed procedural rules to revise the current regulations for chemical risk evaluations and new chemical reviews.
- Increased TSCA fees.
- Revised risk management rules for persistent, bioaccumulative and toxic (PBT) chemicals.
- Final reporting rules for asbestos and PFAS (and products/articles containing them).
- Significant New Use Rules (SNURs) for uses of high priority chemicals that are “not currently ongoing” and certain “inactive” PFAS.

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