

## EPA implementation of TSCA to be 'enormous undertaking'

'Very aggressive deadlines' under new law, says former EPA official

16 June 2016/ TSCA, United States

The US EPA will be faced with an “enormous undertaking” in implementing TSCA reform, once it is signed into law, says Steve Owens, a principal at the law firm Squire Patton Boggs and a former Assistant Administrator of the EPA’s Office of Chemical Safety & Pollution Prevention.

Last week, Congress passed the Frank R Lautenberg Chemical Safety for the 21st Century Act. With the bill officially on the president’s desk as of 14 June, only his signature separates the measure from law.

The Lautenberg Act sets out “very aggressive deadlines” that will “not be easy to meet”, agreed Jim Aidala – a former Assistant Administrator for the EPA Office of Prevention, Pesticides, and Toxic Substances (OPPTS) and senior government consultant at Bergeson & Campbell – during a *Chemical Watch* webinar on TSCA reform this week.

### Year one

Within a year of the law’s enactment, the EPA will be required to:

- establish a rule for an “inventory reset”, to be used to determine active substances in commerce;
- establish a rule for substance prioritisation;
- establish a rule for the risk evaluation (RE) process;
- issue guidance for assisting individuals in developing REs; and
- set up a Science Advisory Committee on Chemicals.

One year, Mr Owens told *Chemical Watch*, is “not a lot of time” to draft and propose a rule, collect and respond to public comments, complete requisite Office of Management and Budget (OMB) reviews and issue a final rule.

And the rulemakings that the agency will be required to complete, in its first year, are “pretty major” – and will be developed alongside other policies, procedures and guidance documents that are prescribed by the Act.

The agency, he said, “will need to work very closely with stakeholders, from the beginning, to ensure that the rules developed in the first year are workable for both industry and the environmental community.”

Outside these rules, the EPA will also be required, within six months of enactment, to be working on risk evaluations of at least ten chemicals. During this period, it must also provide a report to Congress on its capacity for implementing the law’s mandates, and conduct a review of reporting and record keeping requirements on small businesses.

A variety of additional deadlines and requirements await through 2021.

Judah Prero, an attorney with Sidley Austin, points out that the EPA has got a head start on some of this work. The way in which the agency identifies priority substances, for example, has already been explored via the Work Plan chemicals process.

“It’s manageable,” added Mr Owens, “but it’s going to be very, very challenging.”

### **Additional hurdles**

With November elections looming, the upcoming change in EPA administration is something else that Mr Owens says must be factored in.

The EPA, he said, “will have to do as much as they can over the next six to seven months – essentially, between when the law is enacted and 20 January – to build up some momentum and get a lot of the basic concepts and provisions hammered out, so that when the new administration comes in, they can pick up the ball and run with it.”

Mr Aidala said that there’s a lot of flexibility in the legislation. Discretion is helpful for regulators, he said, especially if the law isn’t revised for another 40 years. But flexibility also “invites challenges, about who is interpreting it and what [are] appropriate definitions”.

Another challenge, points out Mr Owens, is that because the bill was not negotiated through a formal conference committee, there is no conference committee report to accompany the final measure.

And while some provisions in the final bill are similar to those expounded upon in the House and Senate Committee reports for the bills that passed each chamber last year, others are new to the final bill. This means that “EPA will have to make its own way as it tries to interpret many of the specific requirements,” he said.

The EPA could not be reached for comment by press time.

**Kelly Franklin, Editor, North America**

**Further Information:**

[Resources](#)

© CW Research Ltd. You may circulate web links to our articles, but you may not copy our articles in whole or in part without permission, except for the purposes of circulation to colleagues who are also licensed users

CORRECTIONS: We strive for accuracy, but with deadline pressure, mistakes can happen. If you spot something, we want to know, please email us at: [reportanerror@chemicalwatch.com](mailto:reportanerror@chemicalwatch.com)

We also welcome YOUR NEWS: Send announcements to [news@chemicalwatch.com](mailto:news@chemicalwatch.com)