

# Publications

## EPA Releases Final Rules for TCE and PCE Under the Toxic Substances Control Act

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The U.S. EPA recently announced that it released new risk management rules under the Toxic Substances Control Act (TSCA) for TCE and PCE.<sup>1</sup> Manufacturers and other industrial clients need to be cognizant of these new rules because they will be expected to comply shortly following the publication of the final rules.

### TCE

TCE is primarily used “as an intermediate during the manufacture of refrigerants.”<sup>2</sup> Other less common uses of TCE include use in solvents, lubricants, adhesives, sealants, paints, coatings, and other miscellaneous products.<sup>3</sup>

TCE can cause liver cancer, kidney cancer, and non-Hodgkin’s lymphoma.<sup>4</sup> Non-cancer health hazards from TCE include damage to the central nervous system, liver, kidneys, immune system, reproductive organs, and fetal heart defects.<sup>5</sup>

Because TCE is highly hazardous, the EPA’s final rule under the TSCA effectively bans TCE use.<sup>6</sup> For most entities, TCE will be prohibited from use within a year after the publication of the rule.<sup>7</sup> The timeline for compliance is:

- A prohibition on manufacturing (including importing) TCE beginning 90 days from publication of this final rule;
- A prohibition on processing TCE beginning 180 days from publication of this final rule;
- A prohibition on distribution in commerce of TCE or TCE-containing products beginning 180 days from publication of this final rule; and,
- A prohibition on industrial or commercial use of TCE and TCE-containing products beginning 270 days after publication of this final rule.<sup>8</sup>

The rule provides exceptions that should only apply to a few TCE uses.<sup>9</sup> Under the rule, any continued use of TCE must be done so with strict protection measures pursuant to a workplace chemical protection program (WCPP).<sup>10</sup>

If your company uses TCE, reach out to your Vorys attorney to ensure compliance with the TCE rule as soon as possible. After the rule is published, the timeframe for compliance will come quickly.

## PCE

PCE is primarily used as a solvent dry cleaning and vapor degreasing.<sup>11</sup> Other uses include:

- Catalyst regeneration in petrochemical manufacturing;
- A variety of commercial and consumer applications such as adhesives, paints and coatings, aerosol degreasers, brake cleaners, aerosol lubricants, sealants, stone polish, stainless steel polish and wipe cleaners.<sup>12</sup>

PCE is less hazardous than TCE, but still comes with serious health risks mainly in the form of neurotoxicity adversely affecting vision and cognitive function.<sup>13</sup>

The rule for PCE is more complex than that of TCE. Rather than a ban, the rule only prohibits PCE use in dry cleaning and other consumer and commercial uses.<sup>14</sup> Where PCE use can continue, the rule provides extensive guidance that is PCE use specific.<sup>15</sup> The timeframes for compliance are also based on the use of the PCE.<sup>16</sup>

The shortest timeframe for compliance applies to the dry-cleaning industry, which imposes a prohibition on TCE use in new dry cleaning machines 180 days after the publication of the final rule.<sup>17</sup> Otherwise, companies typically have at least 360 days after publication of the final rule to come into compliance.<sup>18</sup>

Although more time is allotted for compliance with the PCE rule, there is still less than a year allotted for some requirements. Do not delay contacting a Vorys attorney to advise on the applicability of the rule and what measures are necessary for compliance.

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<sup>1</sup> The press release can be read at this url: <https://www.epa.gov/newsreleases/biden-harris-administration-announces-latest-actions-under-nations-chemical-safety-law>.

<sup>2</sup> Trichloroethylene (TCE); Regulation under the Toxic Substances Control Act (TSCA) at 27.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 98-99.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 17.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 17-18.

<sup>12</sup> *Id.*

<sup>13</sup> [Perchloroethylene \(PCE\); Regulation under the Toxic Substances at 12.](#)

<sup>14</sup> *Id.* at 113; *id.* at 116.

<sup>15</sup> This makes this rule more complicated than the rule for TCE. And the EPA wrote the rule to be severable —any event staying or otherwise invalidating on aspect of this rule should not affect the enforcement of other provisions wherever possible. *Id.* at 72-74.

<sup>16</sup> *Id.* at 77-161.

<sup>17</sup> *Id.* at 127.

<sup>18</sup> *Id.* at 77-161.