

TSCA 2024 CDR Reporting Deadline Extended – Confirm Your CBI is Protected

September 30, 2024

On September 27, 2024, the U.S. Environmental Protection Agency (EPA) published a final rule extending the submission deadline for the 2024 Toxic Substances Control Act (TSCA) Chemical Data Reporting (CDR) from September 30 to November 22, 2024 (89 Fed. Reg. 79150). EPA's Chemical Data Exchange (CDX) reporting tool incorrectly indicated in some circumstances that Confidential Business Information was captured in a submission when it was not. EPA extended the deadline to allow submitters to review their submissions and update as appropriate.

The CDR rule requires manufacturers (including importers) of chemicals listed on the TSCA Chemical Substance Inventory (TSCA Inventory) to report, every four years, data on the manufacturing, processing, and use of those chemicals. The reporting threshold is generally a production volume of 25,000 pounds or more of a chemical substance at any single site; however, a reduced threshold of 2,500 pounds applies in certain circumstances. The 2024 data submission period applies to activities conducted during calendar years 2020-2023. The CDR database is a comprehensive source of basic screening-level and exposure-related information on industrial chemicals. Data collected under the CDR rule have a central role in providing information that impacts EPA's selection and risk evaluation of existing chemicals under TSCA.

According to EPA, late in the 2024 reporting period, EPA confirmed technical issues relating to the ability of the reporting tool to correctly capture substantiations for chemical identity confidential business information (CBI) claims across multiple chemicals. When submitters copied substantiations from one chemical to another, the information was not copied, but the application erroneously indicated that it was

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correctly copied. EPA anticipates that the reporting tool will be working properly by the end of September. To allow time for companies that have submitted CDR forms to review their submission and make updates as appropriate, EPA extended the deadline. The extension does not alter the substantive reporting requirements.

Historically, technical issues that raised doubts about proper CBI protection on CDX also led to the need for an extension of the CDR submission period in 2020. Since that time, the reliability of the CDX reporting tool appears to have worsened. For the TSCA Section 8(a)(1) reporting rule for asbestos, EPA extended the May 24 reporting deadline until July 5, 2024, to remedy technical errors that rendered the system inoperable for submitters and raised concerns, in part, about proper CBI protection of the data submitted. More recently, on September 5, 2024, EPA proposed to postpone the start of the reporting period for Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) under TSCA Section 8(a)(7), from November 12, 2024, to July 11, 2025. As the reason for delaying the PFAS reporting period, EPA referred to insufficient resources to update and make available the CDX software application and its TSCA CBI protection features in time for the November 2024 start date.

These examples demonstrate EPA's recognition of the importance of concerns regarding the functionality of its reporting tool, particularly regarding CBI protection. Thousands of companies across the country are required to enter commercially sensitive information on CDX to comply with the law. The examples highlight the need for additional and specific funding support from Congress for updating CDX, to ensure the reliability and integrity of the system.

Please let us know if you have any questions regarding CDR reporting.