

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

ALLIANCE FOR A STRONG U.S. BATTERY  
SECTOR,

Petitioner,

v.

U.S. ENVIRONMENTAL PROTECTION AGENCY,  
and JANE NISHIDA, Administrator (Acting), United  
States Environmental Protection Agency,

Respondents.



Case No. \_\_\_\_\_

**PETITION FOR REVIEW**

Pursuant to the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2618, the Administrative Procedure Act, 5 U.S.C. § 706, and Rule 15 of the Federal Rules of Appellate Procedure, Petitioner Alliance for a Strong U.S. Battery Sector (“Petitioner”) hereby petitions this Court for review of the order of Michael S. Regan,<sup>1</sup> the former Administrator of Respondent United States Environmental Protection Agency (“EPA”), promulgating the final rule titled “Trichloroethylene (TCE); Regulation under the Toxic Substances Control Act (TSCA),” which was published in the Federal Register on December 17, 2024, 89 Fed. Reg. 102,568 (Dec.

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<sup>1</sup> Mr. Regan resigned from the position of EPA Administrator effective December 31, 2024. His successor, Jane Nishida, is named as Respondent in his place.

17, 2024) (“TCE Rule”), and “issued” for purposes of judicial review on December 31, 2024. *See* 40 C.F.R. § 23.5(a); 15 U.S.C. § 2618(a)(2) (citing 28 U.S.C. § 2112).

Petitioner has attached a copy of the TCE Rule as Exhibit 1. Petitioner seeks review of the TCE Rule pursuant to 15 U.S.C. § 2618(a)(1)(A), which authorizes any person, within 60 days of the promulgation of a rule under TSCA Subchapter I, to petition for review to the United States Court of Appeals for the circuit in which such person resides or in which such person’s principal place of business is located. Petitioner’s principal place of business is located within this Circuit.

Petitioner challenges the TCE Rule as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; in excess of statutory jurisdiction, authority, or limitations; and without observance of procedure required by law. *See* 15 U.S.C. § 2618(c)(1)(B) (providing that 5 U.S.C. § 706 shall apply to review of a rule under this section).

Dated: January 3, 2025

Respectfully submitted,

/s/ Daniel J. Feith

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## CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the CM/ECF system. I certify that I will transmit a copy to the U.S. Environmental Protection Agency's Office of General Counsel by hand delivery and by certified mail, return receipt requested to accomplish service pursuant to 28 U.S.C. § 2112 and 40 C.F.R. 23.12(a), and will mail a copy of this petition by certified mail, return receipt requested, to:

Merrick B. Garland, Attorney General  
Department of Justice  
950 Pennsylvania Ave. NW  
Washington, DC 20530

Todd Kim, Assistant Attorney General  
Department of Justice  
Environmental and Natural Resources Division  
950 Pennsylvania Ave. NW  
Washington, DC 20530

Dated: January 3, 2025

Respectfully submitted,

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# Exhibit 1



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 751

[EPA-HQ-OPPT-2020-0642; FRL-8317-02-OCSPP]

RIN 2070-AK83

### Trichloroethylene (TCE); Regulation Under the Toxic Substances Control Act (TSCA)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) is finalizing a rule to address the unreasonable risk of injury to health presented by trichloroethylene (TCE) under its conditions of use. TSCA requires that EPA address by rule any unreasonable risk of injury to health or the environment identified in a TSCA risk evaluation and apply requirements to the extent necessary so that the chemical no longer presents unreasonable risk. EPA's final rule will, among other things, prevent serious illness associated with uncontrolled exposures to the chemical by preventing consumer access to the chemical, restricting the industrial and commercial use of the chemical while also allowing for a reasonable transition period with interim worker protections in place where an industrial and commercial use of the chemical is being prohibited, and provide time-limited exemptions for critical or essential uses of TCE for which no technically and economically feasible safer alternatives are available.

**DATES:** This final rule is effective on January 16, 2025.

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPPT-2020-0642, is available online at <https://www.regulations.gov>. Additional information about dockets generally, along with instructions for visiting the docket in-person, is available at <https://www.epa.gov/dockets>.

#### FOR FURTHER INFORMATION CONTACT:

For technical information: Gabriela Rossner, Existing Chemicals Risk Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 565-2426; email address: [TCE.TSCA@epa.gov](mailto:TCE.TSCA@epa.gov).

For general information: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620;

telephone number: (202) 554-1404; email address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Executive Summary

##### A. Does this action apply to me?

##### 1. General Applicability

This action applies to you if you manufacture, process, distribute in commerce, use, or dispose of TCE or products containing TCE. TSCA section 3(9) defines the term “manufacture” to mean “to import into the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States), produce, or manufacture.” Therefore, unless expressly stated otherwise, importers of TCE are subject to any provisions regulating manufacture of TCE (see also Unit I.A.2.). The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities include:

- Crude Petroleum Extraction (NAICS code 211120);
- Fossil Fuel Electric Power Generation (NAICS code 221112);
- Other Electric Power Generation (NAICS code 221118);
- Broadwoven Fabric Mills (NAICS code 313210);
- Narrow Fabric Mills and Schiffli Machine Embroidery (NAICS code 313220);
- Nonwoven Fabric Mills (NAICS code 313230);
- Textile and Fabric Finishing Mills (NAICS code 313310);
- Fabric Coating Mills (NAICS code 313320);
- Wood Window and Door Manufacturing (NAICS code 321911);
- Prefabricated Wood Building Manufacturing (NAICS code 321992);
- Paper Bag and Coated and Treated Paper Manufacturing (NAICS code 322220);
- Petroleum Refineries (NAICS code 324110);
- All Other Petroleum and Coal Products Manufacturing (NAICS code 324199);
- Petrochemical Manufacturing (NAICS code 325110);
- Other Basic Inorganic Chemical Manufacturing (NAICS code 325180);
- Ethyl Alcohol Manufacturing (NAICS code 325193);
- All Other Basic Organic Chemical Manufacturing (NAICS code 325199);
- Plastics Material and Resin Manufacturing (NAICS code 325211);
- Medicinal and Botanical Manufacturing (NAICS code 325411);

- Pharmaceutical Preparation Manufacturing (NAICS code 325412);
- Paint and Coating Manufacturing (NAICS code 325510);
- Adhesive Manufacturing (NAICS code 325520);
- Polish and Other Sanitation Good Manufacturing (NAICS code 325612);
- Photographic Film, Paper, Plate and Chemical Manufacturing (NAICS code 325992);
- All Other Miscellaneous Chemical Product and Preparation Manufacturing (NAICS code 325998);
- Polystyrene Foam Product Manufacturing (NAICS code 326140);
- Urethane and Other Foam Product (except Polystyrene) Manufacturing (NAICS code 326150);
- Tire Manufacturing (except Retreading) (NAICS code 326211);
- Tire Retreading (NAICS code 326212);
- Rubber and Plastics Hoses and Belting Manufacturing (NAICS code 326220);
- Rubber Product Manufacturing for Mechanical Use (NAICS code 326291);
- All Other Rubber Product Manufacturing (NAICS code 326299);
- Pottery, Ceramics, and Plumbing Fixture Manufacturing (NAICS code 327110);
- Gypsum Product Manufacturing (NAICS code 327420);
- Iron and Steel Mills and Ferroalloy Manufacturing (NAICS code 331110);
- Iron and Steel Pipe and Tube Manufacturing from Purchased Steel (NAICS code 331210);
- Rolled Steel Shape Manufacturing (NAICS code 331221);
- Steel Wire Drawing (NAICS code 331222);
- Nonferrous Metal (except Aluminum) Smelting and Refining (NAICS code 331410);
- Copper Rolling, Drawing, Extruding, and Alloying (NAICS code 331420);
- Nonferrous Metal (except Copper and Aluminum) Rolling, Drawing and Extruding (NAICS code 331491);
- Secondary Smelting, Refining, and Alloying of Nonferrous Metal (except Copper and Aluminum) (NAICS code 331492);
- Nonferrous Metal Die-Casting Foundries (NAICS code 331523);
- Iron and Steel Forging (NAICS code 332111);
- Nonferrous Forging (NAICS code 332112);
- Custom Roll Forming (NAICS code 332114);
- Powder Metallurgy Part Manufacturing (NAICS code 332117);
- Metal Crown, Closure, and Other Metal Stamping (except Automotive) (NAICS code 332119);

- Metal Kitchen Cookware, Utensil, Cutlery, and Flatware (except Precious) Manufacturing (NAICS code 332215);
- Saw Blade and Handtool Manufacturing (NAICS code 332216);
- Metal Window and Door Manufacturing (NAICS code 332321);
- Sheet Metal Work Manufacturing (NAICS code 332322);
- Ornamental and Architectural Metal Work Manufacturing (NAICS code 332323);
- Power Boiler and Heat Exchanger Manufacturing (NAICS code 332410);
- Metal Tank (Heavy Gauge) Manufacturing (NAICS code 332420);
- Metal Can Manufacturing (NAICS code 332431);
- Other Metal Container Manufacturing (NAICS code 332439);
- Hardware Manufacturing (NAICS code 332510);
- Spring Manufacturing (NAICS code 332613);
- Other Fabricated Wire Product Manufacturing (NAICS code 332618);
- Machine Shops (NAICS code 332710);
- Precision Turned Product Manufacturing (NAICS code 332721);
- Bolt, Nut, Screw, Rivet and Washer Manufacturing (NAICS code 332722);
- Metal Heat Treating (NAICS code 332811);
- Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers (NAICS code 332812);
- Electroplating, Plating, Polishing, Anodizing and Coloring (NAICS code 332813);
- Industrial Valve Manufacturing (NAICS code 332911);
- Fluid Power Valve and Hose Fitting Manufacturing (NAICS code 332912);
- Plumbing Fixture Fitting and Trim Manufacturing (NAICS code 332913);
- Other Metal Valve and Pipe Fitting Manufacturing (NAICS code 332919);
- Ball and Roller Bearing Manufacturing (NAICS code 332991);
- Small Arms Ammunition Manufacturing (NAICS code 332992);
- Ammunition (except Small Arms) Manufacturing (NAICS code 332993);
- Small Arms, Ordnance, and Ordnance Accessories Manufacturing (NAICS code 332994);
- Fabricated Pipe and Pipe Fitting Manufacturing (NAICS code 332996);
- All Other Miscellaneous Fabricated Metal Product Manufacturing (NAICS code 332999);
- Farm Machinery and Equipment Manufacturing (NAICS code 333111);
- Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing (NAICS code 333112);
- Construction Machinery Manufacturing (NAICS code 333120);

- Mining Machinery and Equipment Manufacturing (NAICS code 333131);
- Oil and Gas Field Machinery and Equipment Manufacturing (NAICS code 333132);
- Food Product Machinery Manufacturing (NAICS code 333241);
- Semiconductor Machinery Manufacturing (NAICS code 333242);
- Sawmill, Woodworking, and Paper Machinery Manufacturing (NAICS code 333243);
- Printing Machinery and Equipment Manufacturing (NAICS code 333244);
- Other Industrial Machinery Manufacturing (NAICS code 333249);
- Optical Instrument and Lens Manufacturing (NAICS code 333314);
- Photographic and Photocopying Equipment Manufacturing (NAICS code 333316);
- Other Commercial and Service Industry Machinery Manufacturing (NAICS code 333318);
- Industrial and Commercial Fan and Blower and Air Purification Equipment Manufacturing (NAICS code 333413);
- Heating Equipment (except Warm Air Furnaces) Manufacturing (NAICS code 333414);
- Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing (NAICS code 333415);
- Industrial Mold Manufacturing (NAICS code 333511);
- Special Die and Tool, Die Set, Jig and Fixture Manufacturing (NAICS code 333514);
- Cutting Tool and Machine Tool Accessory Manufacturing (NAICS code 333515);
- Machine Tool Manufacturing (NAICS code 333517);
- Rolling Mill and Other Metalworking Machinery Manufacturing (NAICS code 333519);
- Turbine and Turbine Generator Set Unit Manufacturing (NAICS code 333611);
- Speed Changer, Industrial High-Speed Drive and Gear Manufacturing (NAICS code 333612);
- Mechanical Power Transmission Equipment Manufacturing (NAICS code 333613);
- Other Engine Equipment Manufacturing (NAICS code 333618);
- Air and Gas Compressor Manufacturing (NAICS code 333912);
- Measuring, Dispensing, and Other Pumping Equipment Manufacturing (NAICS code 333914);
- Elevator and Moving Stairway Manufacturing (NAICS code 333921);
- Conveyor and Conveying Equipment Manufacturing (NAICS code 333922);

- Overhead Traveling Crane, Hoist and Monorail System Manufacturing (NAICS code 333923);
- Industrial Truck, Tractor, Trailer and Stacker Machinery Manufacturing (NAICS code 333924);
- Power-Driven Hand Tool Manufacturing (NAICS code 333991);
- Welding and Soldering Equipment Manufacturing (NAICS code 333992);
- Packaging Machinery Manufacturing (NAICS code 333993);
- Industrial Process Furnace and Oven Manufacturing (NAICS code 333994);
- Fluid Power Cylinder and Actuator Manufacturing (NAICS code 333995);
- Fluid Power Pump and Motor Manufacturing (NAICS code 333996);
- Scale and Balance Manufacturing (NAICS code 333997);
- All Other Miscellaneous General Purpose Machinery Manufacturing (NAICS code 333999);
- Audio and Video Equipment Manufacturing (NAICS code 334310);
- Capacitor, Resistor, Coil, Transformer, and Other Inductor Manufacturing (NAICS code 334416);
- Electronic Connector Manufacturing (NAICS code 334417);
- Printed Circuit Assembly (Electronic Assembly) Manufacturing (NAICS code 334418);
- Other Electronic Component Manufacturing (NAICS code 334419);
- Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing (NAICS code 334511);
- Automatic Environmental Control Manufacturing for Residential, Commercial and Appliance Use (NAICS code 334512);
- Instruments and Related Products Manufacturing for Measuring, Displaying, and Controlling Industrial Process Variables (NAICS code 334513);
- Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals (NAICS code 334515);
- Electric Lamp Bulb and Part Manufacturing (NAICS code 335110);
- Residential Electric Lighting Fixture Manufacturing (NAICS code 335121);
- Commercial, Industrial and Institutional Electric Lighting Fixture Manufacturing (NAICS code 335122);
- Other Lighting Equipment Manufacturing (NAICS code 335129);
- Major Household Appliance Manufacturing (NAICS code 335220);
- Power, Distribution and Specialty Transformer Manufacturing (NAICS code 335311);
- Motor and Generator Manufacturing (NAICS code 335312);
- Switchgear and Switchboard Apparatus Manufacturing (NAICS code 335313);

- Relay and Industrial Control Manufacturing (NAICS code 335314);
- Storage Battery Manufacturing (NAICS code 335911);
- Fiber Optic Cable Manufacturing (NAICS code 335921);
- Current-Carrying Wiring Device Manufacturing (NAICS code 335931);
- Carbon and Graphite Product Manufacturing (NAICS code 335991);
- Automobile Manufacturing (NAICS code 336111);
- Light Truck and Utility Vehicle Manufacturing (NAICS code 336112);
- Heavy Duty Truck Manufacturing (NAICS code 336120);
- Motor Vehicle Body Manufacturing (NAICS code 336211);
- Truck Trailer Manufacturing (NAICS code 336212);
- Motor Home Manufacturing (NAICS code 336213);
- Travel Trailer and Camper Manufacturing (NAICS code 336214);
- Motor Vehicle Gasoline Engine and Engine Parts Manufacturing (NAICS code 336310);
- Motor Vehicle Electrical and Electronic Equipment Manufacturing (NAICS code 336320);
- Motor Vehicle Steering and Suspension Components (except Spring) Manufacturing (NAICS code 336330);
- Motor Vehicle Brake System Manufacturing (NAICS code 336340);
- Motor Vehicle Transmission and Power Train Parts Manufacturing (NAICS code 336350);
- Motor Vehicle Seating and Interior Trim Manufacturing (NAICS code 336360);
- Motor Vehicle Metal Stamping (NAICS code 336370);
- Other Motor Vehicle Parts Manufacturing (NAICS code 336390);
- Aircraft Manufacturing (NAICS code 336411);
- Aircraft Engine and Engine Parts Manufacturing (NAICS code 336412);
- Other Aircraft Part and Auxiliary Equipment Manufacturing (NAICS code 336413);
- Guided Missile and Space Vehicle Manufacturing (NAICS code 336414);
- Guided Missile and Space Vehicle Propulsion Unit and Propulsion Unit Parts Manufacturing (NAICS code 336415);
- Other Guided Missile and Space Vehicle Parts and Auxiliary Equipment Manufacturing (NAICS code 336419);
- Railroad Rolling Stock Manufacturing (NAICS code 336510);
- Ship Building and Repairing (NAICS code 336611);
- Boat Building (NAICS code 336612);
- Motorcycle, Bicycle and Parts Manufacturing (NAICS code 336991);

- Military Armored Vehicle, Tank and Tank Component Manufacturing (NAICS code 336992);
- All Other Transportation Equipment Manufacturing (NAICS code 336999);
- Wood Kitchen Cabinet and Counter Top Manufacturing (NAICS code 337110);
- Upholstered Household Furniture Manufacturing (NAICS code 337121);
- Nonupholstered Wood Household Furniture Manufacturing (NAICS code 337122);
- Metal Household Furniture Manufacturing (NAICS code 337124);
- Institutional Furniture Manufacturing (NAICS code 337127);
- Wood Office Furniture Manufacturing (NAICS code 337211);
- Surgical Appliance and Supplies Manufacturing (NAICS code 339113);
- Dental Equipment and Supplies Manufacturing (NAICS code 339114);
- Jewelry and Silverware Manufacturing (NAICS code 339910);
- Sporting and Athletic Goods Manufacturing (NAICS code 339920);
- Gasket, Packing, and Sealing Device Manufacturing (NAICS code 339991);
- Fastener, Button, Needle and Pin Manufacturing (NAICS code 339993);
- All Other Miscellaneous Manufacturing (NAICS code 339999);
- Metal Service Centers and Other Metal Merchant Wholesalers (NAICS code 423510);
- Industrial Supplies Merchant Wholesalers (NAICS code 423510);
- Other Chemical and Allied Products Merchant Wholesalers (NAICS code 424690);
- Paint, Varnish, and Supplies Merchant Wholesalers (NAICS code 424950);
- New Car Dealers (NAICS code 441110);
- Used Car Dealers (NAICS code 441120);
- Sporting Goods Stores (NAICS code 451110);
- Scheduled Passenger Air Transportation (NAICS code 481111);
- Other Support Activities for Air Transportation (NAICS code 481111);
- Other Warehousing and Storage (NAICS code 493190);
- Motion Picture and Video Production (NAICS code 512110);
- Other Financial Vehicles (NAICS code 525990);
- Research and Development in the Physical, Engineering, and Life Sciences (except Nanotechnology and Biotechnology) (NAICS code 541715);
- Research and Development in the Social Sciences and Humanities (NAICS code 541720);
- Offices of Other Holding Companies (NAICS code 551112);

- Carpet and Upholstery Cleaning Services (NAICS code 561740);
- Hazardous Waste Treatment and Disposal (NAICS code 562211);
- Solid Waste Landfill (NAICS code 562212);
- Materials Recovery Facilities (NAICS code 562920);
- Junior Colleges (NAICS code 611210);
- Colleges, Universities and Professional Schools (NAICS code 611310);
- General Automotive Repair (NAICS code 811111);
- Automotive Exhaust System Repair (NAICS code 811112);
- Automotive Transmission Repair (NAICS code 811113);
- Other Automotive Mechanical and Electrical Repair and Maintenance (NAICS code 811118);
- Automotive Body, Paint and Interior Repair and Maintenance (NAICS code 811121);
- Automotive Glass Replacement Shops (NAICS code 811122);
- Automotive Oil Change and Lubrication Shops (NAICS code 811191);
- All Other Automotive Repair and Maintenance (NAICS code 811198);
- Consumer Electronics Repair and Maintenance (NAICS code 811211);
- Computer and Office Machine Repair and Maintenance (NAICS code 811212);
- Communication Equipment Repair and Maintenance (NAICS code 811213);
- Other Electronic and Precision Equipment Repair and Maintenance (NAICS code 811219);
- Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance (NAICS code 811310);
- Home and Garden Equipment Repair and Maintenance (NAICS code 811411);
- Other Personal and Household Goods Repair and Maintenance (NAICS code 811490);
- Coin-Operated Laundries and Drycleaners (NAICS code 812310);
- Drycleaning and Laundry Services (except Coin-Operated) (NAICS code 812320); and
- Industrial Launderers (NAICS code 812332).

## 2. Applicability to Importers and Exporters

This action may also affect certain entities subject to import certification and export notification requirements under TSCA (<https://www.epa.gov/tsca-import-export-requirements>). Persons who import any chemical substance in bulk form, as part of a mixture, or as

part of an article (if required by rule) are subject to TSCA section 13 (15 U.S.C. 2612) import certification requirements and the corresponding regulations at 19 CFR 12.118 through 12.127 (see also 19 CFR 127.28(i)). Those persons must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA (see 19 CFR 12.121). The EPA policy in support of import certification appears at 40 CFR part 707, subpart B.

In addition, any persons who export or intend to export a chemical substance that is the subject of this final rule are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) and must comply with the export notification requirements in 40 CFR part 707, subpart D. Any person who exports or intends to export TCE must comply with the export notification requirements in 40 CFR part 707, subpart D.

If you have any questions regarding the applicability of this action to a particular entity, consult the technical information contact listed under **FOR FURTHER INFORMATION CONTACT**.

*B. What is the Agency's authority for taking this action?*

Under TSCA section 6(a) (15 U.S.C. 2605(a)), if the Agency determines through a TSCA section 6(b) risk evaluation that a chemical substance presents an unreasonable risk of injury to health or the environment, EPA must by rule apply one or more requirements listed in TSCA section 6(a) to the extent necessary so that the chemical substance or mixture no longer presents such risk.

*C. What action is the Agency taking?*

Pursuant to TSCA section 6(b), EPA determined in 2023 that TCE presents an unreasonable risk of injury to health, without consideration of costs or other non-risk factors, including an unreasonable risk to potentially exposed or susceptible subpopulations (PESS) identified by EPA as relevant to the 2020 Risk Evaluation for TCE under the conditions of use (Refs. 1, 2). A description of the conditions of use that contribute to EPA's determination that TCE presents an unreasonable risk is in III.B.1. of the proposed rule (88 FR 74712, October 31, 2023 (FRL-8317-01-OCSP)), with a summary in Unit II.C.4 of this final rule. Accordingly, to address the unreasonable risk, EPA is issuing this final rule to:

(i) Prohibit the manufacture (including import), processing, and distribution in commerce of TCE for all uses (including all consumer uses (see Unit IV.B.2.)), as described in Unit

IV.B., with longer compliance timeframes for manufacture, processing, and distribution in commerce related to certain industrial and commercial uses;

(ii) Prohibit the industrial and commercial use of TCE, as described in Unit IV.B.1., with longer compliance timeframes for certain uses;

(iii) Prohibit the manufacture (including import) and processing of TCE as an intermediate for the manufacturing of hydrofluorocarbon 134a (HFC-134a), following an 8.5-year phase-out, as described in Unit IV.B.3.;

(iv) Prohibit the industrial and commercial use of TCE as a solvent for closed-loop batch vapor degreasing for rayon fabric scouring for end use in rocket booster nozzle production by Federal agencies and their contractors, following a 10-year phase-out, outlined in Unit IV.B.4.;

(v) Prohibit the manufacture (including import), processing, distribution in commerce, and use of TCE as a laboratory chemical for asphalt testing and recovery, following a 10-year phase-out, outlined in Unit IV.B.5.;

(vi) Prohibit the manufacture (including import), processing, distribution in commerce, and industrial and commercial use of TCE as a solvent in batch vapor degreasing for essential aerospace parts and components and narrow tubing used in medical devices, following a 7-year TSCA section 6(g) exemption, outlined in Unit IV.G.1.;

(vii) Prohibit the manufacture (including import), processing, distribution in commerce, and industrial and commercial use of TCE as a solvent in closed loop vapor degreasing necessary for rocket engine cleaning by Federal agencies and their contractors, following a 7-year TSCA section 6(g) exemption, outlined in Unit IV.G.2.;

(viii) For vessels of the Armed Forces and their systems, and in the maintenance, fabrication, and sustainment for and of such vessels and systems, prohibit the industrial and commercial use of TCE as: potting compounds for naval electronic systems and equipment; sealing compounds for high and ultra-high vacuum systems; bonding compounds for materials testing and maintenance of underwater systems and bonding of nonmetallic materials; and cleaning agents to satisfy cleaning requirements (which includes degreasing using wipes, sprays, solvents and vapor degreasing) for: materials and components required for military ordnance testing; temporary resin repairs in vessel spaces where welding is not authorized; ensuring polyurethane adhesion for electronic

systems and equipment repair and installation of elastomeric materials; various naval combat systems, radars, sensors, equipment; fabrication and prototyping processes to remove coolant and other residue from machine parts; machined part fabrications for naval systems; installation of topside rubber tile material aboard vessels; and vapor degreasing required for substrate surface preparation prior to electroplating processes, following a 10-year TSCA section 6(g) exemption, outlined in Unit IV.G.3.;

(ix) Prohibit the emergency industrial and commercial use of TCE in furtherance of the NASA mission for specific conditions which are critical or essential and for which no technically and economically feasible safer alternative is available, following a 10-year TSCA section 6(g) exemption, outlined in Unit IV.G.4.;

(x) Prohibit the manufacture (including import), processing, distribution in commerce, disposal, and use of TCE as a processing aid for manufacturing battery separators for lead acid batteries, following a 20-year TSCA section 6(g) exemption, as described in Unit IV.G.5.;

(xi) Prohibit the manufacture (including import), processing, distribution in commerce, disposal, and use of TCE as a processing aid for manufacturing specialty polymeric microporous sheet materials following a 15-year TSCA section 6(g) exemption, as described in Unit IV.G.6.;

(xii) Prohibit the manufacture (including import), processing, distribution in commerce, and use of TCE as a laboratory chemical for essential laboratory activities and some research and development activities, following a 50-year TSCA section 6(g) exemption, as described in Unit IV.G.7.;

(xiii) Require strict workplace controls to limit exposure to TCE, including compliance with a TCE workplace chemical protection program (WCPP), which would include requirements for an interim existing chemical exposure limit (ECEL) revised from the proposed rule, as well as dermal protection, for conditions of use with long term phase-outs or time-limited exemptions under TSCA section 6(g), as described in Unit IV.C., or prescriptive workplace controls, as described in Unit IV.D.;

(xiv) Prohibit the disposal of TCE to industrial pre-treatment, industrial treatment, or publicly owned treatment works, through a phaseout allowing for longer timeframes for disposal necessary for certain industrial and commercial uses as described in Unit IV.B.6., along with a 50-year TSCA section 6(g)

exemption for disposal for cleanup projects before prohibition, as described in Unit IV.G.8., and interim requirements for wastewater worker protection, as described in Unit IV.E.; and

(xv) Establish recordkeeping and downstream notification requirements, as described in Unit IV.F.

EPA notes that all TSCA conditions of use of TCE are subject to this final rule. “Conditions of use” is defined in TSCA section 3(4) to mean the circumstances, as determined by EPA, under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of.

#### *D. Why is the Agency taking this action?*

Under TSCA section 6(a), “[i]f the Administrator determines in accordance with subsection (b)(4)(A) that the manufacture, processing, distribution in commerce, use or disposal of a chemical substance or mixture, or that any combination of such activities, presents an unreasonable risk of injury to health or the environment, the Administrator shall by rule . . . apply one or more of the [section 6(a)] requirements to such substance or mixture to the extent necessary so that the chemical substance no longer presents such risk.” TCE was the subject of a risk evaluation under TSCA section 6(b)(4)(A) that was issued in November 2020 (Ref. 1). In addition, EPA issued a revised unreasonable risk determination for TCE in January 2023 (Ref. 2), determining that TCE, as a whole chemical substance, presents an unreasonable risk of injury to health under the conditions of use. On October 31, 2023, EPA issued a proposed rule (88 FR 74712) (FRL–8317–01–OCSP) under TSCA section 6(a) to regulate TCE so that it no longer presents unreasonable risk (hereinafter “2023 TCE proposed rule”). The Agency received public comment on the proposed rule, and with this action, EPA is finalizing the 2023 TCE proposed rule with modifications so that TCE no longer presents an unreasonable risk. The conditions of use that contribute to the unreasonable risk from TCE are described in Unit III.B.1. of the 2023 TCE proposed rule.

EPA emphasizes that while some of the adverse effects from TCE exposure are experienced following acute single exposures, other risks are incurred following long-term repeated exposures. Risks of non-cancer effects, specifically fetal cardiac defects and autoimmunity, are the most sensitive adverse effects following exposure. In addition, risks of other significant adverse outcomes associated with TCE exposure include:

non-cancer effects (liver toxicity, kidney toxicity, neurotoxicity, immunosuppression, reproductive toxicity, and developmental toxicity), as well as cancer (liver, kidney, and non-Hodgkin’s lymphoma). This final rule will eliminate the unreasonable risk to human health from TCE, as identified in the 2020 Risk Evaluation for TCE (Ref. 1) and the 2023 Revised Unreasonable Risk Determination for TCE (Ref. 2).

While EPA’s rule will result in a ban of TCE, the timeframes for the phase-outs differ across conditions of use and are described in fuller detail in Unit IV.B. One phase-out is for uses that may impact the Agency’s efforts to address climate-damaging HFCs (and the associated adverse impacts on human health and the environment) under the American Innovation and Manufacturing Act of 2020 (AIM Act) (42 U.S.C. 7675). EPA is implementing a longer phase-out in tandem with strict workplace controls for the manufacturing (including import) and processing of TCE as an intermediate in the generation of HFC–134a, one of the regulated substances subject to a phasedown under the AIM Act. More information on HFC–134a is in Unit V.A.1. of the 2023 TCE proposed rule.

Additionally, the Agency recognizes that alternatives to TCE may not be readily available for some important conditions of use. As an example, EPA is finalizing a longer phase-out timeframe for industrial and commercial use of TCE as a solvent for closed-loop batch vapor degreasing for rayon fabric scouring for end use in rocket booster nozzle production by Federal agencies and their contractors. Currently, substitutes and alternative processes do not meet the technical specifications required to clean the rayon fabric in order to safely produce rockets. Similarly, EPA is finalizing a longer phase-out for the industrial and commercial use of TCE in laboratory use for asphalt testing and recovery, based on information provided by state departments of transportation and regulated entities regarding the timeframes needed for revising state certifications that currently include this use of TCE for, among other activities, enabling the recycling of asphalt.

Additionally, EPA recognizes that some conditions of use may be important for national security applications or for other critical needs. For these reasons, this final rule includes a 15-year exemption under TSCA section 6(g) for industrial and commercial use of TCE as a processing aid for battery separator manufacturing in the production of lead-acid battery separators, as well as for the

manufacturing, processing, and distribution in commerce of TCE for this use. EPA recognizes that battery separators are essential components of batteries that power vehicles and systems in the U.S. supply chain for multiple critical infrastructure sectors within the national economy. Further, there are a number of critical uses required for DoD vessels. EPA is finalizing a 10-year exemption under TSCA section 6(g) for DoD vessel requirements for potting, bonding and sealing compounds, and bonding and cleaning requirements for naval combat systems, radars, sensors, equipment, and fabrication and prototyping processes. Additionally, EPA is finalizing a 50-year exemption under TSCA section 6(g) for the industrial and commercial use of TCE for critical laboratory activities; for example, laboratory activities associated with ongoing environmental cleanup projects that fall under the Superfund program or other similar EPA authorities, in which it is necessary to use TCE as a laboratory chemical for the analysis of contaminated soil, air, and water samples.

EPA proposed and is finalizing a requirement to comply with a WCPP, which includes monitoring, adherence to industrial hygiene best practices, and requirements to meet an interim ECEL as a condition for most of the conditions of use for which a phase-out or time-limited exemption was provided. For the remaining conditions of use for which a phase-out or time-limited exemption was provided, EPA is requiring prescriptive worker controls. For many of the conditions of use for which EPA is finalizing longer phase-outs or time-limited exemptions under the WCPP, data were submitted to support many commenters’ position that a higher interim ECEL than the limit proposed is necessary for successful implementation of worker protections before those conditions of use are prohibited. These comments were submitted to inform the risk evaluation, Small Business Advocacy Review (SBAR) Panel process, the comment period following publication of the 2023 TCE proposed rule, or during stakeholder outreach, and are available in the corresponding public dockets (EPA–HQ–OPPT–2020–0642; EPA–HQ–OPPT–2019–0500; EPA–HQ–OPPT–2016–0737, respectively).

#### *E. What are the estimated incremental impacts of this action?*

EPA has prepared an Economic Analysis of the potential incremental impacts associated with this rulemaking that can be found in the rulemaking