

EPA Takes Unprecedented Action

Agency targets several types of "Risk List" chemicals.

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The U.S. Environmental Protection Agency (EPA) on Dec. 30, 2009, issued a breathtaking series of action plans on "Risk List" chemicals that will shape future legislative proposals which industry will need to participate in and monitor.

EPA has never announced so many actions under the Toxic Substances Control Act (TSCA), nor has it ever so widely cited use of Section 6. That they were issued in this form after Office of Management and Budget (OMB) review is significant, and portends potentially largely unfettered EPA activity this year. EPA's decision to rely on the Office of Pollution Prevention and Toxics' (OPPT) Design for the Environment (DfE) program to assist in alternatives assessments for two of the chemical classes (phthalates and PBDEs) is important.

EPA will establish a "Chemicals of Concern" list that may result in regulations requiring "significant risk reduction measures."

For more information see www.epa.gov/oppt/existingchemicals.

Phthalates Action Plan Summary

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The plan addresses dibutyl phthalate; diisobutyl phthalate; butyl benzyl phthalate; di-n-pentyl phthalate (DnPP); di (2-ethylhexyl) phthalate; di-n-octyl phthalate; diisononyl phthalate; and diisodecyl phthalate. OPPT will take a cumulative risk assessment approach on this class of chemicals. The EPA will:

- In fall 2010 add these eight phthalates to the Concern List and in late 2010 start to add the six phthalates not already on the Toxics Release Inventory (TRI).
- Consider initiating rulemaking in 2012 under TSCA Section 6(a).
- Conduct a DfE and Green Chemistry alternatives assessment by 2012.

For more information see www.epa.gov/oppt/existingchemicals/pubs/actionplans/phthalates.html.

PFCs Action Plan Summary

EPA notes that long-chain perfluorinated chemicals (PFC) comprise two sub-categories: perfluoroalkyl sulfonates (PFAS) and perfluoroalkyl carboxylates (PFAC). PFASs include perfluorohexane sulfonic acid, perfluorooctane sulfonic acid, other higher homologs, and their

salts and precursors. PFACs include perfluorooctanoic acid, other higher homologs, and their salts and precursors. EPA will:

- Consider initiating rules under TSCA Section 6 to manage long-chain PFCs.
- Continue with the 2010/2015 PFOA [spell out] Stewardship Program to work with companies toward elimination of long-chain PFCs from emissions and products.

For more information see www.epa.gov/oppt/existingchemicals/pubs/actionplans/pfcs.html.

PBDEs Action Plan Summary

EPA notes that polybrominated diphenyl ethers (PBDE) include commercial versions of pentabromodiphenyl ether (c-pentaBDE), octabromodiphenyl ether (c-octaBDE), and decabromodiphenyl ether (c-decaBDE). EPA will:

- In fall 2010 begin to add these commercial PDBE mixtures and/or the congeners they contain to the Concern List.
- Start to propose a TSCA Section 5(a)(2) Significant New Use Rule (SNUR) requiring notice to EPA prior to manufacture or import of articles to which c-pentaBDE or c-octaBDE have been added with a notice to be published in 2010.
- Encourage voluntary phase-out of manufacture and import of c-decaBDE. EPA has received commitments from principal manufacturers and importers of c-decaBDE for reductions in manufacture, import, and sales of c-decaBDE starting in 2010, with all sales to cease by Dec. 31, 2013. It also will develop DfE and Green Chemistry alternatives analysis for c-decaBDE to begin in spring 2010.

For more see www.epa.gov/oppt/existingchemicals/pubs/actionplans/pbde.html.

SCCPs Action Plan Summary

Short-chain chlorinated paraffins (SCCP) include all individual chemicals or mixtures that contain: $C_xH_{(2x-y+2)}Cl_y$ where $x = 10-13$; $y = 3-12$; and the average chlorine content ranges from approximately 40% to 70% with limiting molecular formulas set at $C_{10}H_{19}Cl_3$ and $C_{13}H_{16}Cl_{12}$. EPA will evaluate whether medium-chain chlorinated paraffins (MCCP) and long-chain chlorinated paraffins (LCCP) also should be addressed. EPA says:

- Some specific SCCPs, MCCPs, and LCCPs currently being manufactured and/or used in the U.S. aren't on the TSCA Inventory. Any substance not listed is classified as a new chemical. EPA will address the discrepancy between specific chlorinated paraffins companies are actually manufacturing or importing and those on the inventory.
- Will consider action under TSCA Section 6(a) to ban or restrict SCCPs based on persistence, bioaccumulation, and toxicity and their presence in the environment.
- Will evaluate whether manufacturing, processing, distribution in commerce, use, and/or disposal of MCCPs and LCCPs should also be addressed.

For more information see www.epa.gov/oppt/existingchemicals/pubs/actionplans/sccps.html.

These plans are bold, and telegraph EPA's intent to modify TSCA. If these plans become a reasonable method of assessment and control, they would be less radical than others proposed. They also indicate that however crippled some may view past TSCA implementation, reform -- , not revolution -- may suffice to meet the needs of a modern chemical control law.

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