Identifying Priority Chemicals Under TSCA

By

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The U.S. Environmental Protection Agency (EPA) on August 18, 2011, rolled out its new approach for identifying priority chemicals for review and assessment under the Toxic Substances Control Act (TSCA). EPA invited public input on its "Discussion Guide: Background and Discussion Questions for Identifying Priority Chemicals for Review and Assessment" (Discussion Guide) (available at http://www.epa.gov/opptintr/existingchemicals/pubs/chempridiscguide.html), and convened a webinar on September 7, 2011, to review and consider it. This column outlines the Discussion Guide.

Background

The Discussion Guide explains EPA's goals of chemical prioritization, its planned process for determining priority chemicals for review, including prioritization factors and data sources, and an overview of how certain chemicals will be selected from the priority list for assessment. EPA will use a two-step process. In Step 1, EPA plans to identify an initial group of priority chemicals for review by using a specific set of data sources to identify chemicals that meet one or more of the Action Plan priority factors. EPA requested input on two related aspects of Step 1: (a) prioritization factors; and (b) data sources for prioritization factors. In Step 2, EPA intends to refine that group by using a broader range of data sources to analyze further and

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select specific chemicals from the initial group for further assessment. EPA requested input on the data sources for further analysis to be used in Step 2.

EPA will use its existing information collection and testing authorities under TSCA Sections 4 and 8 to develop needed information. EPA also lists its TSCA Section 11(c) subpoena authority as a tool to collect additional information if a priority chemical has a less robust hazard or exposure database.

Sources to Identify Chemicals for Prioritization

EPA lists in Table 1 potential data sources it would consider in identifying chemical substances for prioritization. These include, among others: Proposition 65 (Prop 65) chemicals; "Potential Children's Health Concern" under the National Toxicology Program (NTP) Center for the Evaluation of Risks to Human Reproduction (CERHR) program; the Washington State Children's Safe Product Act list is identified as a source of data for children's products; and Inventory Update Reporting (IUR)/Chemical Data Reporting (CDR) Rule information.

Prioritization Factors

The Discussion Guide also lists factors for identifying candidate chemicals for review: potentially of concern for children's health (*e.g.*, chemicals with reproductive or developmental effects); persistent, bioaccumulative, and toxic (PBT); probable or known

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carcinogens; used in children's products; used in consumer products; and detected in biomonitoring programs.

Conclusion

The EPA document outlines how EPA intends to identify priority chemicals for review and assessment. Important details are lacking, and a final document will presumably fill in the details. Step 1 could generate a large list of chemicals that would need to be narrowed considerably to yield a manageable list of chemicals. It is not entirely clear how chemicals go from list 1 to list 2.

EPA states that it would consider "risk-based prioritization factors" in Step 1. The data sources identified, however, are limited to exposure or hazard factors and, only through a not yet defined integration step would risk-based understandings emerge. While EPA takes pains to state that it will focus only on TSCA chemicals and uses, it is not clear that EPA will integrate the Step 1 data given that chemicals meeting "one or more factors" would go into the review step.

Despite EPA's disclaimer, there will likely be important commercial and market implications for chemical substances that are listed as priority chemicals for review or assessment, particularly in light of the potential for large lists evolving from Step 1 and the absence of a clear pathway on how Step 1 chemicals may be the subject of refinement to become Step 2 chemicals. Indeed, the development of a long list of chemicals under Step 1 may yield a

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de facto chemicals of concern list, complete with the attendant adverse implications so much has already been written about. For this reason, readers are urged to give careful and deliberate consideration to the factors that EPA intends to use in its prioritization approach, and to monitor for developments in this regard.

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