

## CLIENT ALERT

### EPA Announces New List of Chemicals Targeted for Risk Assessment Under TSCA, Including 20 Flame Retardants

March 28, 2013

On March 27, 2013, EPA announced its new "hit list" of chemicals that will undergo full risk assessment and analysis in the coming year as part of the Toxic Substances Control Act (TSCA) Work Plan. Prominent on the list are 20 flame retardants that are widely used in furniture, textiles, electronic equipment, and other household products.

This list represents EPA's second round of risk assessments, and is viewed as one of the agency's primary tools for regulating chemicals under its current TSCA authority while statutory reform efforts languish in Congress.

EPA will subject four of the flame retardants to a full risk assessment:

- 2-Ethylhexyl ester 2,3,4,5- tetrabromobenzoate (TBB)
- 1,2- Ethylhexyl 3,4,5,6-tetrabromo-benzenedicarboxylate, or (2-ethylhexyl)-3,4,5,6 tetrabromophthalate (TBPH)
- Tris(2-chloroethyl) phosphate (TCEP)
- Hexabromocyclododecane (HBCD)

Flame retardants have come under scrutiny by federal and state regulators and the plaintiffs' bar for potential adverse health effects and persistence in the environment, and EPA's new risk assessments will be closely watched by all interested parties.

EPA will also conduct a full risk assessment on the following chemicals:

- Octamethylcyclotetrasiloxane (D4) – which is used in personal care products
- 1-Bromopropane – a solvent used in dry cleaning, electronics manufacture, and auto parts cleaning
- 1,4-Dioxane – a solvent used in dry cleaning, inks, and adhesives

EPA states that it will define the scope of these seven assessments to focus on chemical uses with significant potential for exposure to humans and/or the environment. EPA also intends to issue draft risk assessments for public review and comment and peer review as the drafts are completed. If, as a result of an assessment, EPA concludes that a specific use of a substance will result in significant risk, the Agency says that it will evaluate potential risk reduction actions.

In addition to these seven substances, EPA also plans to evaluate a number of closely related materials:

- Five members of the *brominated phthalates* group (like TBB and TBPH): 2-(2-Hydroxyethoxy) ethyl 2-hydroxy propyl 3,4,5,6 tetrabromobenzenedicarboxylate; 3,4,5,6-Tetrabromo-1,2-benzenedicarboxylic acid, mixed esters with diethylene glycol and propylene glycol; 1,2- (2,3-dibromopropyl) benzenedicarboxylate; and two chemicals whose identities have been claimed confidential, listed by EPA as "Confidential A" and "Confidential B."

- Two additional members of the **halogenated phosphate esters** group (like TCEP): 2-Propanol, 1,3-dichloro-, phosphate (TDCPP); and 2-Propanol, 1-chloro-, phosphate (TCPP).
- An additional member of the **cyclic aliphatic bromides** group (like HBCD): 1,2,5,6-Tetrabromocyclooctane.
- Tetrabromo bisphenol A (TBBPA) --4,4'-(1-Methylethylidene)bis(2,6-dibromophenol)

Separate from the TSCA Work Plan, EPA will begin environmental fate investigations of the following eight flame retardants.

- 1,2,4,5-tetrabromo-3,6-bis(pentabromophenoxy)-benzene or Tetradecabromo-1,4-diphenoxybenzene
- 1,2 bis(Pentabromophenyl) ethane (DBDPE)
- 1,1'-[1,2-Ethanediybis(oxy)]bis[2,3,4,5,6-pentabromo-benzene] or 1,2-Bis(2,3,4,5,6-pentabromophenoxy) ethane
- 1,1'-[1,2-Ethanediybis(oxy)]bis[2,4,6-tribromobenzene] or 1,2-bis (2,4,6-Tribromophenoxy) ethane (TBE)
- 2,4,6-Tris-(2,4,6-tribromophenoxy)-1,3,5-triazine
- Benzene,1,3,5-tribromo-2-(2,3-dibromopropoxy) (DPTE)
- Confidential C
- Confidential D

EPA has ranked these flame retardants as having "high" persistence, bioaccumulation, and/or exposure potential, but has indicated that it currently lacks adequate data to conduct full risk assessments. Significantly, EPA announced that "during its review of data on flame retardant chemicals in commerce, [it had] identified approximately 50 flame retardant chemicals that are unlikely to pose a risk to human health, making them possible substitutes for more toxic flame retardant chemicals." This disclosure highlights the possibility that EPA's 2013 risk assessments may be conducted in parallel with a state-initiated flame retardants alternatives assessment—potentially based on recent draft guidance issued by a consortium of state regulators.

EPA has encouraged companies to submit comments and additional data on the listed chemicals—including unpublished studies and information on uses and potential exposures— by May 30, 2013. Submissions should be made to docket EPA-HQ-OPPT-2011-0516, available [here](#).

If you need assistance analyzing the potential impact of these risk assessments on your business, or would like to draft comments, Crowell & Moring attorneys have been tracking these developments closely and are available to assist you.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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