

CLIENT ALERT

EPA Announces the First Ten Chemicals for Risk Evaluation Under the "New TSCA"

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Implementation of TSCA Reform Marches Forward

EPA announced yesterday the first ten chemicals that will be subject to risk evaluations, and possibly restrictions, under the "new" TSCA. The first ten chemicals are:

- 1,4-Dioxane
- 1-Bromopropane
- Asbestos
- Carbon Tetrachloride
- Cyclic Aliphatic Bromide Cluster
- Methylene Chloride
- N-methylpyrrolidone
- Pigment Violet 29
- Tetrachloroethylene (aka perchloroethylene)
- Trichloroethylene

According to EPA, the majority of these chemicals are used in a broad range of consumer products and services, from cosmetics (1,4 Dioxane) to dry-cleaning (1-Bromopropane, Tetrachloroethylene).

As part of the risk evaluation process, EPA will examine hazard and exposure data for each substance to assess whether the chemical presents an "unreasonable risk of injury to health or the environment." If, as a result of this evaluation, a substance is found to present an unreasonable risk, EPA will engage in rulemaking to impose restrictions on the substance necessary to mitigate that risk.

The risk evaluation process for these ten substances will commence with the publication of EPA's announcement in the Federal Register. After that, the Agency will have six months within which to release a "scoping document" for each chemical. This document will capture the "hazard(s), exposure(s), conditions of use, and the potentially exposed or susceptible subpopulation(s) the agency plans to consider for the evaluation." Under the new law, EPA must complete its risk evaluations within three years of publication of the Federal Register notice.

Companies that manufacture, import, process or otherwise utilize any of the ten substances identified in EPA's announcement must consider whether, and how best, to participate in the upcoming risk evaluation process – starting with the scoping documents to be published by EPA in June 2017. Companies that fail to participate in the process may be blindsided by restrictions that EPA imposes following completion of these risk evaluations.

EPA's announcement is just the latest in a series of actions that the Agency has taken to quickly move forward with implementation of the new TSCA law. In recent weeks EPA has submitted two sets of proposed regulations to OMB for review. One of the proposed rules would establish the process and criteria for identifying "high priority" chemicals for risk evaluation. The second proposed rule would establish the process EPA will follow for conducting risk evaluations. EPA has promised to propose two additional sets of regulations by the end of 2016 – pertaining to the "Inventory re-set" and fees.

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

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