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EPA Holds Calls on Plan to Reduce Burden for Certain Stakeholders Subject to TSCA Fees Rule Requirements for EPA-Initiated Risk Evaluations

Article By:

Lynn L. Bergeson

Carla N. Hutton

On April 16, 2020, the U.S. Environmental Protection Agency (EPA) hosted a call on its recently announced plan to reduce the burden for certain stakeholders subject to the Toxic Substances Control Act (TSCA) fees rule requirements for EPA-initiated risk evaluations. The call covered:

- How EPA's plan to initiate a rulemaking to consider proposing exemptions to the current rule's requirements impacts manufacturers and other businesses;
- What the "No Action Assurance" means for importers of articles and producers of byproducts and impurities; and
- Reporting obligations during the current comment period, which will close **May 27, 2020**.

EPA announced on March 25, 2020, that plans to initiate a new rulemaking process to consider proposing exemptions to the current rule's self-identification requirements associated with EPA-initiated risk evaluations for manufacturers that:

- Import the chemical substance in an article;
- Produce the chemical substance as a byproduct; or
- Produce or import the chemical substance as an impurity.

During the call, EPA stated that it expects to begin rulemaking in the short term with the goal of issuing a final rule by **October 1, 2021**. As a bridge to the final rule, EPA issued a "No Action Assurance" for these three categories of manufacturers. EPA will not pursue enforcement action against entities in these manufacturer categories for failure to self-identify under 40 C.F.R. Section 700.45(b)(5).

EPA has posted frequently asked questions (FAQ) about TSCA fees for EPA-initiated risk

evaluations. The current FAQs include:

March 2020 Rulemaking Announcement and No Action Assurance

1. Why is EPA announcing its intention to propose exemptions to the TSCA fees rule?
2. What is the expected timing for this rulemaking?
3. Is EPA considering any other changes to the TSCA fees rule as part of this rulemaking?
4. What does the "No Action Assurance" mean?
5. Do entities in the three categories in the planned regulatory change still have to self-identify during the comment period closing on **May 27, 2020**?
6. Are entities in the three categories impacted by the planned regulatory change still responsible for paying a portion of the risk evaluation fee?
7. What should I do if I've already self-identified as a manufacturer, but fall into one of the three categories in the planned regulatory change?
8. What should I do if I've been identified on a Preliminary List, but fall into one of the three categories in the planned regulatory change?
9. What should I do if I fall into one of the three categories in the planned regulatory change, but have NOT yet self-identified and was NOT identified on a Preliminary List?
10. What constitutes an "article" for purposes of the planned regulatory change?
11. What constitutes a "byproduct" for purposes of the planned regulatory change?
12. What constitutes an "impurity" for purposes of the planned regulatory change?

Reporting for TSCA Fees

1. What do I have to do if my entity was erroneously on a Preliminary List?

EPA has posted the slides for the call. EPA states that it will post a transcript of the call on its website.

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