



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Toxic Substances Control Act Amendments: U.S. Environmental Protection Agency Identifies Five "Fast-Tracked" Chemicals

Arkansas Environmental, Energy, and Water Law Blog

10/12/2016

The United States Environmental Protection Agency ("EPA") issued a news release stating that it has identified five chemicals that will receive "expedited action."

The chemicals are identified as:

- Decabromodiphenyl ethers (DecaBDE), used as a flame retardant in textiles, plastics and polyurethane foam
- Hexachlorobutadiene (HCBD), used in the manufacture of rubber compounds and lubricants and as a solvent;
- Pentachlorothio-phenol (PCTP), used as an agent to make rubber more pliable in industrial uses
- Tris (4-isopropylphenyl) phosphate, used as a flame retardant in consumer products and other industrial uses
- 2, 4, 6-Tris (tert-butyl) phenol, used as a fuel, oil, gasoline or lubricant additive

The EPA action is driven by recent amendments to the Toxic Substances Control Act ("TSCA").

TSCA provides EPA with the authority to require reporting, record-keeping and testing requirements, and restrictions relating to chemical substances and/or mixtures.

The key provisions of the TSCA amendments included:

- Create a new system for EPA to evaluate and manage risks of chemicals already on the market
- Set deadlines for EPA to take action (i.e., risk evaluations must be completed within three years)
- Ensure user fees paid to EPA are used for chemical management activity
- Provide limited preemption of state law
- Maintain protection of confidential business information

EPA notes that the TSCA amendments gave manufacturers an opportunity to request by September 19, 2016, that the agency conduct risk evaluations for the persistent, bioaccumulative and toxic chemicals ("PBT") on the agency's 2014 Work Plan as an alternative to expedited action. The agency states in the news release that requests for risk evaluations were made for two chemicals that can be used in fragrance mixtures.

As to the remaining PBT chemicals, EPA states it must move ahead to take expedited action to reduce exposure to those chemicals to the extent practicable. Once the agency identifies where those chemicals are used and human exposure, it states it will move directly to propose limitations on their use.

[A copy of the EPA news release can be downloaded here.](#)