wiley

EPA Moves Forward with PBT Rule
—

September 2016

This month, EPA confirmed the seven highly persistent, bio-accumulative or toxic non-metal PBT substances that will be covered by EPA's new Section 6(h) mandate to impose restrictions on certain PBT chemicals. The Lautenberg Act requires EPA to adopt these PBT restrictions by December 2020, without first conducting a risk evaluation. By contrast, substances designated "high priority" will require a risk assessment and an unreasonable risk finding before EPA can restrict the chemical by rule under Section 6.

The seven PBT substances listed by EPA are:

- Decabromodiphenyl ethers (DecaBDE) (CASRN 1163-19-5);

- Ethanone, 1-(1,2,3,4,5,6,7,8-octahydro-2,3,5,5-tetramethyl-2-naphthalenyl)- (CASRN 54464-59-4);

- Ethanone, 1-(1,2,3,4,5,6,7,8-octahydro-2,3,8,8-tetramethyl-2-naphthalenyl)- (CASRN 54464-57-2);

- Hexachlorobutadiene (CASRN 87-68-3);

- Pentachlorothio-phenol (CASRN 133-49-3);

- Phenol, isopropylated, phosphate (3:1) (iPTPP) (CASRN 68937-41-7); and

- 2,4,6-Tris(-tert-butyl)phenol (CASRN 732-26-3)

These chemicals have many uses, including as flame retardants, a rubber additive and various other consumer product and industrial uses.

EPA also has posted instructions for manufacturers to exercise their statutory right to request to have a risk evaluation conducted on their chemical in lieu of direct regulation under the 2020 PBT rule. Risk assessment requests, once made, cannot be withdrawn.

Practice Areas
—

Environment & Product Regulation
Toxic Substances Control Act (TSCA)

Until EPA proposes the PBT rule, we will not know what EPA has planned for these substances. The regulation could include restrictions targeted at particular uses or populations or EPA could propose a complete ban and phase out. EPA action will likely vary by chemical, particularly given the chemicals pose different levels of risk and exposure, and viable substitutes may be available only for some of the substances.