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EPA Final Rule Requires Testing of 19 High Production Volume Chemicals

The Environmental Protection Agency (EPA) has announced that it will publish a final rule this week requiring manufacturers, importers, and processors of 19 specific high production volume (HPV) chemical substances to conduct screening information data set (SIDS) testing. This final rule comes on the heels of EPA's announcement that it has signed a statement of intent with the European Chemicals Agency to cooperate on data sharing and risk analysis, among other things.

BACKGROUND

In 1998, EPA created the voluntary HPV Challenge Program to collect a baseline set of data to be available to EPA and the public on some 2,800 HPV chemicals. HPV chemicals are manufactured or imported in amounts equal to or greater than one million pounds per year and were first identified in EPA's 1990 Inventory Update Reporting (IUR) rule issued under TSCA § 8(a). EPA claims that of the 2,800 HPV chemicals, no publicly available basic hazard data exist for 43 percent of the chemicals while only limited data are available for the remaining substances.

AUTHORITY

EPA is relying on its authority under TSCA § 4(a)(1)(B) to require testing. Under that provision, EPA has made a finding that these 19 chemicals are "produced in substantial quantities; there is or may be substantial human exposure to them; existing data are insufficient to determine or predict their health and environmental effects; and testing is necessary to develop the data." (See page 7 of the unpublished final rule). These findings are based, in part, on the production volume data that was submitted under the 2006 IUR rule and other studies indicating that some workers and consumers may be at risk to exposures to the chemicals in some industrial applications and consumer products.

MOVING FORWARD

The rule will take effect 30 days from the publication date, which is expected to be January 7,

2011. The 19 chemicals must undergo SIDS testing to evaluate the following endpoints: acute toxicity, repeat dose toxicity, development and reproductive toxicity, genetic toxicity, ecotoxicity, and environmental fate. In response to comments, EPA did change some testing requirements from those originally proposed in the Federal Register published on July 24, 2008, for certain chemicals. All testing data will be made publicly available on [EPA's Web site](#).

You may view the prepublication copy of the final rule, including a table of the 19 chemicals and the tests required by each chemical on EPA's Web site at:
<http://www.epa.gov/hpv/pubs/general/hpv2%20prepublication%20notice.pdf>.

FOR MORE INFORMATION

Robinson & Cole LLP's Environmental and Utilities Practice Group is assisting a number of clients with existing and emerging rules regulating the manufacture, use, remediation, and disposal of chemicals and chemical wastes. For questions regarding all aspects of TSCA and the regulation of chemicals, please contact one of the following attorneys:

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