

EPA Initiates Development Processes for TSCA Amendments

On June 22, 2016, President Obama signed into law the Frank R. Lautenberg Chemical Safety for the 21st Century Act. This legislation amended the Toxic Substances Control Act of 1976 (TSCA) for the first time since its original enactment and was designed to implement major changes and improvements in the federal law that gives EPA authority to evaluate and regulate the importation, production, distribution, use and disposal of chemicals and chemical products. The goal of TSCA remains to regulate chemical substances that present an “unreasonable” risk of



By Douglas G. Haynam

injury to human health or the environment, but the amended TSCA will do so much more aggressively and provide EPA with tools and deadlines that will change the way businesses introduce and market both existing and new chemicals into the economy.

injury to human health or the environment, but the amended TSCA will do so much more aggressively and provide EPA with tools and deadlines that will change the way businesses introduce and



The goal of TSCA remains to regulate chemical substances that present an “unreasonable” risk of injury to human health or the environment...

Included among the changes to TSCA by these amendments are the following:

- creates a mandatory duty on EPA to evaluate existing chemicals and establishes clear and enforceable deadlines for completion of the process;
- chemicals will be assessed against a risk-based safety standard without the benefit of risk-benefit balancing in the original TSCA;
- unreasonable risks identified in the risk evaluation must be eliminated without regard to cost/benefit balancing;
- expands EPA authority to require by order development of chemical information by manufacturers to assist EPA in its evaluation process;
- mandates that EPA make an affirmative determination on the safety of new chemicals or new uses of chemicals prior to entry into the marketplace;
- establishes a one-year deadline for EPA to establish by rule its process to conduct risk evaluations to determine whether a chemical substance presents an unreasonable risk of injury to health and the environment and the process by which it will conduct the risk evaluation;

- requires EPA to identify 10 high priority chemical substances for risk evaluation within six months, and expand the list to 20 within 3 ½ years, and then requires as evaluations are completed that EPA continually add new chemicals to the evaluation process; and
- expands the regulation of mercury and compounds.

Additional information regarding the TSCA Amendments is available on USEPA's website. EPA's PowerPoint presentation from a webinar it conducted on June 30, 2016 is available at <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frank-r-lautenberg-chemical-safety-21st-century-act-june>

EPA has held a series of meetings and webinars designed to educate the public and secure public input on how it should conduct the activities required of it under the amended TSCA. The agency intends to pursue an aggressive implementation process to meet the deadlines imposed by the new act. EPA is presently scheduled to issue four proposed rules in mid-December addressing the chemical prioritization process, the risk evaluation process, the imposition of new TSCA fees and a rule to require industry reporting of chemicals manufactured/processed in the previous 10 years. In addition, on November 29 EPA announced the first 10 chemicals it will evaluate for potential risks to human health and the environment under the new law. The new TSCA requires EPA within six months to release a scoping document for each chemical and to complete the chemical risk evaluation within three years.

Finally, while the advent of a Trump Administration could institute obstacles to some environmental initiatives, it is highly unlikely to have much effect on

the new TSCA. The Congressionally mandated deadlines in the new legislation, in conjunction with the willingness of those who are interested in seeing these changes implemented to go to court to enforce timely implementation, suggests that the new TSCA will not be detoured.

For additional information, contact Douglas G. Haynam at dhaynam@slk-law.com or 1-800-444-6659, ext. 1354.