



THE ADMINISTRATIVE WATCH

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MANUFACTURERS, PROCESSORS AND EXPORTERS OF 34 CHEMICALS IMPACTED BY NEW TSCA TEST AND EXPORT NOTICE REQUIREMENTS

Recently, the United States Environmental Protection Agency (EPA) issued a final test rule under the Toxic Substances Control Act (“TSCA”) requiring certain manufacturers and potentially processors of any one of 34 chemicals to conduct skin absorption tests. EPA determined that there is substantial human exposure to these chemicals and that existing data on skin absorption rates are insufficient. The rule also requires persons exporting any form or mixture of these substances to provide written notification to EPA. This final rule became effective on May 26, 2004.

The term “manufacture” refers to those persons that produce or import any of the listed chemicals. Processors include persons preparing a chemical substance or mixture for distribution after its manufacture in the same physical form, in a different form, or as part of an article. Entities that are subject to the test rule fall within two groups, designated as Tier 1 and Tier 2. Entities in Tier 1 include all manufacturers who do not fall within the Tier 2 category. Tier 2 entities include: (i) all processors and (ii) manufacturers that produce any of the listed chemicals:

- Ø In an amount less than 1,100 pounds annually;
- Ø In small quantities used solely for research and development;
- Ø As a byproduct;
- Ø As an impurity;
- Ø As a naturally-occurring substance;
- Ø As a non-isolated intermediate; or
- Ø As a component of a Class 2 substance (i.e., substances that cannot be fully represented by a specific chemical structure diagram).

Tier 1 entities must either provide EPA with letters of intent to conduct the required skin tests; perform the tests and submit the data; or apply for an exemption. Tier 2 entities need not take any action unless they are notified by EPA that they are required to do so.

All exporters of any form of these chemicals or a mixture containing one of these chemicals are subject to the export notification requirements. Export notification is generally not required for chemicals contained in articles. The written notification to EPA must specify the name of the chemical substance, the countries of import, and the intended dates of export.

The 34 chemical substances addressed by the rule include:

Acetonitrile	<i>p</i> -Nitrochlorobenzene	Methyl isoamyl ketone
Carbon disulfide	<i>p</i> -Nitroaniline	Nonane
Vinylidene chloride	Benzyl chloride	Catechol
Dicyclopentadiene	<i>p</i> -Xylene	Diphenylamine
Dimethyl sulfate	<i>p</i> -Dichlorobenzene	Diacetone alcohol
Isophorone	Ethylene dichloride	Dimethyl acetamide
Propylene dichloride	Methyl formate	<i>n</i> -Heptane
Methyl acetate	1-Nitropropane	<i>p</i> -Methoxyphenol
2-Nitropropane	Chlorobenzene	Vinyl toluene
Naphthalene	Cyclohexanol	Tetrahydrofuran
Biphenyl	Pentane	
<i>tert</i> -Butylcatechol	Dipropylene glycol methyl ether	

If you have any questions regarding EPA's latest TSCA Testing Rule, please contact Michele Gutman at (412) 394-5425 or Susanne Herald at (412) 394-6590 or any of the other attorneys in the Environmental, Health & Safety Services Group at Babst, Calland, Clements & Zomnir, P.C.