

March 20, 2006

**MEMORANDUM****New TSCA Regulatory Activities by EPA**

EPA has been unusually active in the area of Toxic Substances Control Act (“TSCA”) regulation during the first few months of 2006. Highlights include the following.

- **Exports.** EPA has proposed amendments that would relax some of the requirements governing the submission of export notifications under TSCA Section 12(b). EPA proposes to expand the categories of substances subject to one-time, rather than annual, notification and (addressing a longstanding industry concern) to set de minimis concentrations of reportable substances in mixtures that would not trigger notification requirements. **Comments on the proposal are due by April 10, 2006.** *71 Federal Register* 6733 (February 9, 2006).
- **PFOS/PFOA/PFAS.** Two recent proposals involve perfluorinated compounds, which are being closely scrutinized in the U.S. and abroad due to environmental persistence and allegations of adverse health effects.
  - One proposal would amend the TSCA premanufacture notification (PMN) polymer exemption to make certain perfluorinated polymers ineligible for the exemption. Under the exemption, many polymers that are not on the TSCA Inventory may be manufactured or imported without the submission of a PMN, as long as certain other requirements are met. If EPA's proposal is finalized, the manufacture or import of perfluorinated substances covered by the proposal and not on the Inventory would have to go through the 90-day (at least) PMN review and, given EPA's concerns about perfluorinated compounds, would likely trigger close scrutiny and possibly restrictions. **Comments on the proposal are due by May 8, 2006.** *71 Federal Register* 11484 (March 7, 2006).
  - The other proposal would expand the scope of the existing significant new use rule (SNUR), 40 CFR 721.9582, to cover TSCA Inventory-listed perfluoroalkyl sulfonates (PFAS) not already covered by the SNUR. Numerous (183) additional substances would thus become subject to the requirement for 90 days' advance notice before manufacture/import of the substances for any use except for specified exemptions (already in the SNUR for most already-covered substances). The comment period on the proposal is short: EPA is particularly interested in any comments indicating that the listed substances are already in use for purposes other than the exempted uses. (A SNUR can not be issued for existing uses.)

**Comments are due by April 10, 2006.** *71 Federal Register* 12311  
(March 10, 2006).

- Finally, EPA has finalized a rule requiring toxicity and environmental fate testing of 17 high-production-volume (“HPV”) chemicals (manufactured or imported in volumes of 1 million or more pounds annually) not being sponsored in the Voluntary HPV Challenge Program. The rule applies to manufacturers of the listed chemicals, and may cover processors if manufacturers do not undertake the required testing. **The rule’s effective date is April 17, 2006.** *71 Federal Register* 13708 (March 16, 2006).

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For more information on these or other TSCA developments, please contact Cindi Lewis (202-789-6018, [clewis@bdlaw.com](mailto:clewis@bdlaw.com)) at Beveridge & Diamond, P.C.