

Protecting Stakeholder Interests in TSCA Risk Management

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Potential impact of risk management rules

- May ban or restrict company's uses
- May restrict availability of chemical for other uses
- Marketplace impact
- Possible tort suits

Risk management rule may not be so bad

- Unreasonable risk determination may not apply to company's uses
- Possible "does not present" determination for company's uses
- Risk management rule may preempt state requirements
- Compliance with rule may help with tort suits

Strategy for stakeholder advocacy

Pre-prioritization
stage or
manufacturer
request

Prioritization
candidates
announced

Proposed high-
and low-priority
designations

Risk evaluation
draft scope

Draft risk
evaluation

Proposed risk
management
rule

Most effective stakeholder actions

Work to avoid having a risk evaluation for the chemical

- Pre-prioritization, candidates, proposed high-priority chemicals

Work to get an appropriate scope for the risk evaluation

- Risk evaluation's scope determines risk management rule's scope
- Risk evaluation's scope determines preemption's scope

Work to get a "does not present" determination

Work to get an appropriate risk management rule

Build record for proposed rule before EPA proposes it

- Silver Book – risk assessment should answer questions for risk managers
- Proposed rule follows risk determination in 1 year, final rule 1 year later
- Section 6(a) gives wide variety of risk management options, from labeling to bans
- Proposed rule will announce EPA's choices

Which risk management measures?

- Ban or restrict “to the extent necessary so that the chemical substance or mixture no longer presents such risk.”
- Potential impact on conditions of use not found to present an unreasonable risk

EPA must consider non-risk factors

- EPA must factor in these issues to the extent practicable:
 - Benefits of the substance for various uses
 - Economic consequences of the rule, e.g., effect on national economy, small business, and technological innovation
 - Costs and benefits of rule and an alternative

Additional factors

- Replacement parts
- Use in articles
- For a ban, whether alternatives that benefit health and environment will be reasonably available
- Compliance dates: ASAP to 5 years

Questions?

Thank you!



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