

EPA Accepting Comments on Proposed Toxic Substances Control Act (TSCA) Rule Concerning 1- bromopropane (1-BP)

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OVERVIEW

Last month, EPA issued a proposed rule under the Toxic Substances Control Act, 15 U.S.C. §2601 et seq. (TSCA), addressing the “unreasonable risk” identified in its risk evaluation of solvent 1-bromopropane (1-BP). Specifically, EPA determined that 1-BP presents an unreasonable risk of injury to health due to adverse health effects associated with exposure to 1-BP, including neurotoxicity, developmental toxicity from inhalation exposures and dermal exposures, and cancer from chronic inhalation exposures.

1-BP is used as a solvent in vapor degreasing, dry cleaning, spot cleaners, stain removers, adhesives, sealants, and automobile care products in commercial and industrial settings. Consumer uses include adhesives, degreasers, cleaners, and automobile care products.

EPA has the authority under TSCA to regulate entities including: (i) manufacturers (including importers) and processors (e.g., formulators); (ii) distributors; (iii) commercial users (workplaces and workers); and (iv) entities disposing of chemicals for commercial purposes. While EPA cannot directly regulate consumer users, under TSCA EPA has authority to regulate at the manufacturing, processing and distribution levels in the supply chain to eliminate or restrict the availability of chemicals and chemical-containing products for consumer use. This enables EPA to regulate key points in the supply chain to effectively address what it views as unreasonable risks to consumers.

HIGHLIGHTS OF THE PROPOSED RULE

EPA is proposing to prohibit the manufacture (including import), processing, and distribution for the following consumer uses (except use in insulation):

- Consumer use as solvent in aerosol spray degreasers/cleaners
- Consumer use in spot cleaners and stain removers
- Consumer use in liquid cleaners
- Consumer use in liquid spray/aerosol cleaners
- Consumer use in arts, crafts, hobby materials
- Consumer use in automotive care products
- Consumer use in anti-adhesive agents

EPA proposes that the prohibitions of manufacturing, processing, and distribution in commerce of 1-BP for consumer use would become effective in 6 months for manufacturers, 9 months for processors, 12 months for distributing to retailers, and 15 months for all other distributors (including retailers) after the publication date of the final rule in the Federal Register.

EPA is further proposing to prohibit the manufacturing (including import), processing, distribution in commerce, and use of 1-BP for occupational Conditions of Use (COU) that are not continuing under Workplace Chemical Protection Program (WCPP) or prescriptive controls, as follows:

- Industrial and commercial use in adhesives and sealants
- Industrial and commercial use in dry cleaning solvents, spot cleaners and stain removers
- Industrial and commercial use in liquid cleaners and liquid spray/aerosol cleaners
- Other industrial and commercial uses: arts, crafts, hobby materials; automotive care products; anti-adhesive agents; functional fluids

As for workplace controls, EPA is proposing an inhalation exposure limit (ECEL of 0.05 ppm), while also providing flexibility in implementation and compatibility with existing OSHA requirements when possible. EPA also is proposing to require a WCPP for occupational COUs not prohibited or subject to other prescriptive controls, including for: (i) manufacturing: domestic manufacturing and import; (ii) processing: incorporation into a formulation, mixture, or reaction products; (iii) industrial and commercial use as solvent for cleaning and degreasing in cold cleaners; (iv) industrial and commercial use as solvent in aerosol spray degreaser/cleaner; and (v) other industrial and commercial uses, including: electronic and electronic products and metal products, asphalt extraction, laboratory chemicals, temperature indicator – coatings, and solvent for cleaning and degreasing in vapor degreasers.

Specific prescriptive controls (gloves) are being proposed for certain occupational COUs with only dermal exposure, including for: (i) manufacturing (import); (ii) processing as a reactant, incorporation into articles, repackaging, and recycling; and (iii) disposal.

The proposed rule also contains recordkeeping and downstream notification requirements.

CONCLUSION

EPA is accepting comments on the proposed rule until September 23, 2024. The proposed rule can be found here: <https://www.govinfo.gov/content/pkg/FR-2024-08-08/pdf/2024-17204.pdf>

Given the breadth of EPA's authority and the proposed rule's expected impact on manufacturers, processors, distributors, and commercial users, potentially impacted businesses should track this proposed rulemaking and consider submitting comments.

If you have questions concerning this proposed rule, or would like assistance with preparing and submitting comments, please contact Michelle Skjoldal.