

EPA Seeks Comments on Nonylphenol and Nonylphenol Ethoxylates Rulemaking

On July 10, 2007, EPA published a Federal Register notice announcing that the Agency had received from a coalition of environmental organizations a petition filed under Section 21 of the Toxic Substances Control Act ("TSCA"). The petition asks EPA: (1) to use the Agency's authority under TSCA Section 4 to require manufacturers of nonylphenol ("NP") and nonylphenol ethoxylates ("NPE") to conduct specific testing on the substances, including chronic toxicity testing of NPE oligomers, additive aquatic toxicity of NP and NPE, endocrine disruption potential, vitellogen gene expression, levels of NP and NPE and possible estrogenic effects in humans, health impacts on workers handling the chemicals at industrial laundries, and exposure to NPE in residential indoor air; and (2) to utilize the Agency's authority under TSCA Section 6(a) to require labeling of all products containing the chemicals, restrict use of the chemicals if the user cannot verify that the chemical will receive proper treatment from an activated sludge treatment process, ban use of NP and NPE in industrial and consumer detergents, and require pollution prevention planning by facilities that use 2000 kg or more of NP or NPEs.

Under TSCA Section 21, EPA must grant or deny a petition within 90 days of receipt, in this case by September 4, 2007. EPA will take comments on the petition until July 25, 2007 and has established an electronic docket, with ID number EPA-HQ-OPPT-2007-0490, which can be accessed through the Federal Rulemaking Portal at <http://www.regulations.gov>. Comments can be submitted on-line or mailed to the Agency's Document Control Office.

TSCA Section 21 states that if EPA denies the petition or fails to act within 90 days, the petitioners may seek de novo review of their petition in district court. To obtain a court order requiring TSCA rulemaking, Petitioners must demonstrate to the court by a preponderance of evidence that information available to EPA is insufficient to permit a reasoned evaluation of the effects of the substance and in the absence of such information, the substance may present an unreasonable risk to health or the environment (Section 4 rulemaking), or that there is a reasonable basis to conclude that a rule is necessary to protect health or the environment against an unreasonable risk (Section 6(a) rulemaking).

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