

## *Changes to TSCA Regulations Create De Minimis Exception and One-Time-Only Reporting*

by Steven M. Siros

On January 16, 2007, new regulations under the Toxic Substances Control Act ("TSCA") will become effective. The new regulations modify the TSCA export notification requirements set forth at 40 C.F.R. § 707. These modifications create a *de minimis* exception to the TSCA export reporting requirements and also change some of the export reporting requirements from an annual to a one-time-only notification.

Current TSCA regulations require exporters to notify the U.S. Environmental Protection Agency ("EPA") prior to exporting any amount of a TSCA-regulated chemical substance to a foreign country. The new regulations set *de minimis* concentration levels below which notification is not required for the export of TSCA-regulated chemical substances.

The new regulations create three new *de minimis* categories for TSCA-regulated substances. For most chemical substances, export notification will not be required if the substance is being exported at a concentration of less than 1% (by weight or volume). Chemicals that are known or potential human carcinogens will be exempt if they are exported at a concentration of less than 0.1% (by weight or volume). The final category of chemicals includes polychlorinated biphenyls ("PCBs"). Export of PCBs will not trigger the export notification requirement unless they are being exported at a concentration of more than 50 parts per million ("ppm") (by weight or volume).

In addition, under the existing regulations, when a TSCA export notification is required, exporters are required to notify EPA on an

annual basis. Under the new regulations, the notification requirement is changed to a one-time reporting requirement for chemicals that have export notifications triggered by TSCA sections 5(a)(2), 5(b), and 5(e). For all other chemicals that have export notifications triggered by TSCA sections 5(f), 6, or 7, exporters will continue to be required to submit annual export notifications to the EPA.

EPA estimates that the new *de minimis* exception will reduce TSCA export notifications by 20% and the new one-time-only provisions will create a 50% reduction in export notifications after the first year. Together, the new regulations are expected to save the regulated community over \$75,000 annually, which is 20% of industry costs in this area.

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**For more information, please contact the following Jenner & Block attorney:**

**Steven M. Siros**, Partner  
Tel: 312 923-2717  
Email: [ssiros@jenner.com](mailto:ssiros@jenner.com)