

TCE Risk Assessments Now Based on Whole Chemical, Not Conditions of Use

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On January 8, 2023, U.S. Environmental Protection Agency (“EPA”) issued its final revision to the [risk determination for TCE under the Toxic Substances Control Act](#) (“TSCA”). The revision reclassifies the risk evaluation of TCE to evaluate the substance as a whole, rather than specific to its conditions of use as outlined in the 2020 risk determination. In addition, EPA clarified that it will no longer rely on the assumed use of personal protective equipment (“PPE”) as part of its risk determination. Instead, the use of PPE will be considered during risk management.

TCE, or trichloroethylene, is a colorless solvent with an odor resembling that of chloroform. It is considered a volatile organic compound and has a wide range of industrial and commercial uses. TCE is commonly used as an industrial degreaser and found in paints and coatings, refrigeration, as well as consumer products like hoof polish, lubricants, pepper spray, and many household cleaning products.

Section 6 of TSCA requires EPA to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment under its conditions of use. There has long been disagreement over whether a chemical substance should receive a single determination that is comprehensive for the substance after considering all its conditions of use (a “whole-chemical determination”) or whether multiple determinations, specific to individual conditions of use (“condition-of-use-specific determinations”) are more appropriate.

Until now, the risk determination for TCE has been condition-of-use specific, TCA but is now classified as presenting an unreasonable risk as a whole chemical, given all of its known uses. This means that EPA believes that TCE presents an unreasonable risk of injury to health, regardless of its conditions of use. And while it recognizes that appropriate PPE can mitigate these risks, EPA will no longer assume that individuals working with and around TCE are properly utilizing PPE.

EPA will be proposing and taking public comments on risk management actions to address this new unreasonable risk determination for TCE. Affected parties are encouraged to take advantage of opportunities to comment and to keep an eye out for any related regulations, which could include prohibitions or requirements limiting the manufacture, processing, distribution in commerce, commercial use, or disposal of TCE.