What EPA-OSHA Continued Partnership on Chemical Safety Might Mean for Employers

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On Dec. 19, 2024, the U.S. Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA) renewed their cooperation by issuing a Memorandum of Understanding (MOU) for coordinating chemical safety efforts under the Toxic Substances Control Act (TSCA) and the Occupational Safety and Health Act. The MOU sets forth principles of the working relationship between EPA and OSHA with respect to existing chemical substances that are subject to prioritization, risk evaluation, and risk management by EPA under Section 6 of the TSCA. The MOU became effective upon signing by both agencies and stays in effect for five years.

Highlights of the MOU

- **Coordination During Regulatory Development under TSCA Section 6**: EPA and OSHA will each provide to the other agency recurring updates on the respective agency's activities. EPA will keep OSHA updated on the workplace exposures identified during TSCA Section 6 prioritization, risk evaluation, rulemaking and implementation efforts. OSHA, in turn, will provide to EPA updates on OSHA's activities related to chemicals that are subject to TSCA Section 6 prioritization, risk evaluation or risk management efforts. Specifically, for those chemicals with completed Section 6 risk evaluations that are regulated by OSHA chemical-specific standards or Permissible Exposure Limits (PELs), OSHA intends to indicate whether efforts are underway to review or update chemical-specific standards or other intended regulatory actions that relate to multiple chemicals in OSHA's regulatory agenda on a semi-annual basis.
- **Outreach and Communications**: As the agencies' respective regulatory jurisdiction relating to TSCA-regulated chemicals may impact some of the same workplaces or workers, the agencies commit to communicating the separate requirements of new EPA rules and relevant OSHA requirements in outreach and communications materials to relevant stakeholders. The agencies plan to coordinate with one another on the developing and updating of stakeholder communication materials about EPA TSCA Section 6 rules and OSHA rules that regulate the same chemical hazards.
- **Inspections and Enforcement**: Among other relevant information, the agencies will share information on each agency's focus areas (e.g., national emphasis areas) for inspections and enforcement of chemical safety in areas of mutual interest, information on complaints, inspections and potential violations. The agencies will mutually refer potential violations under TSCA Section 6 and OSHA standards in workplaces within their respective jurisdictions and take other cooperative steps to share information on such potential violations. OSHA intends to encourage state OSHA plans to participate in all information-sharing activities under the MOU.[1]

Practical Implications for Employers: The MOU is not the first time that EPA and OSHA have announced collaboration on chemical safety but continues the agencies' collaborative arrangement under their prior agreements. As the MOU does not provide any chemical-specific plans by the

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agencies, it is unclear whether OSHA plans to take any action based on recent chemical-specific determinations by EPA under the TSCA (such as for PFAS). But as the MOU emphasizes the ongoing collaborative stance between EPA and OSHA, employers should continue to track further announcements by the agencies in this regard, including any change in direction under the new administration. Employers should also proactively review workplace chemical safety measures that may be subject to overlapping jurisdiction by the two agencies and ensure compliance with the applicable regulations.

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[1] The MOU also provides protocols for sharing confidential information between the agencies.

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