

TSCA Enforcement

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\$950,000 [penalty settlement](#) for TSCA violations paid by New Jersey company. [2007]

That's *after* cutting the best deal the company could with EPA. Fines in the hundreds of thousands of dollars are not uncommon with TSCA. EPA is very serious about TSCA compliance.

EPA Regional officers conduct inspections for Toxic Substances Control Act (TSCA) compliance on companies (regardless of size) that make or process chemical substances. Big companies are visited on a regular schedule, but smaller companies are inspected randomly. If you mix raw materials together to make formulations you use as part of your production process or to sell to customers, you are subject to TSCA. An inspector could walk in any day, point to a drum and require you to prepare a list of the chemicals that are in it. He'd then check for compliance with various TSCA requirements, such as:

- Each substance you use and make for commercial purposes must be listed on the TSCA Master Inventory or be exempt. *Don't assume just because a chemical substance has a CAS# and has been around for eons, it is on the TSCA Inventory.*
- If there are chemical reactions taking place between the raw materials you mix, each intentional component must be on the TSCA Master Inventory. *You must file a premanufacture notice (PMN) for EPA to review to get a chemical newly listed on the Inventory.*
- Isolated process intermediates that never leave your site are still subject to Inventory listing.
- Each and every import of a chemical must have a TSCA certification filed with US Customs.
- Manufacturers and importers of chemicals reported for the 2006 TSCA Inventory Update Rule.
- There are various reporting and recordkeeping requirements for companies who only process (mix, coat, repackage) chemical substances. These requirements range from having an ongoing system to collect allegations of significant adverse reactions and reporting substantial risk information, notifications to EPA when you export certain chemicals, and one time reporting of detailed information on use and exposure for individual chemicals that are specified by occasional regulations.

Violations of TSCA carry a heavy cost: up to \$37,500 per day per violation occurring in the last five years. Every day you make a lot of an unlisted chemical, it's a violation.

Even worse, EPA can require you to stop production for months if you have a chemical not on the TSCA Inventory. The time and effort of your management, regulatory staff and lawyer to work with EPA can significantly increase the costs of violations.

Compliance Imperative: Know what the TSCA Inventory status is of all the chemicals you have on site – whether you purchase them or make them. Check on chemicals new to your site BEFORE you begin. Put a compliance program in place. If you find a violation, stop and fix it. Knowing violations are criminal. Self-reporting violations will reduce the penalty. Know what your TSCA requirements are and comply.

Contact EHS Strategies, Inc. at gla@ehsstrategies.com for help.