



EPA is Considering Fracking Chemical Disclosure Rule Options under TSCA

On May 19, 2014, the EPA published in the Federal Register an Advance Notice of Proposed Rulemaking (NPRM) titled "Hydraulic Fracturing Chemicals and Mixtures" in which the agency requests comments on the potential design for, and scope of, a reporting program to capture information on the chemicals used in hydraulic fracturing operations. The NPRM is available [here](#).

The NPRM was published as the EPA's first step in responding to a citizen petition filed pursuant to the Toxic Substances Control Act (TSCA). EPA is seeking broad comment on the information that should be reported or disclosed, and the method that should be used to obtain such information. According to the NPRM, EPA is considering both regulatory (obligatory) and voluntary disclosure program options.

Section 8 of TSCA (15 U.S.C. § 2607) authorizes the EPA to promulgate rules requiring manufacturers and processors of chemical substances to maintain records and report information to the agency as the EPA Administrator may reasonably require. According to the NPRM, the hydraulic fracturing industry includes a variety of companies that may fall under Section 8, including chemical manufacturers, chemical suppliers who engage in processing, service providers mixing chemicals on-site to create the hydraulic-fracturing fluids, and service providers responsible for injecting the hydraulic fracturing fluid into the well to fracture the formation.

At this point, EPA has presented numerous specific questions relating to what should be reported, how the information should be reported, whether the program should be obligatory, what system could be used, what incentives

might be available should the program be voluntary, and how the reported information could be disclosed to the public.

The deadline for comments from interested stakeholders is August 18, 2014. For additional information on this issue, please contact [David Scott](#) at Beatty & Wozniak.

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