
EPA INCLUDES ACTIVE-INACTIVE DESIGNATIONS ON UPDATED TSCA INVENTORY

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The U.S. Environmental Protection Agency's (EPA) April 2018 Toxic Substances Control Act (TSCA) Chemical Substance Inventory is now available (<https://www.epa.gov/tsca-inventory/how-access-tsca-inventory>). For the first time, the Inventory includes a field designating substances that are "active" in U.S. commerce based on the following:

- Reporting from the 2012 and 2016 Chemical Data Reporting cycles;
- Notices of Commencement received by EPA since June 21, 2006; and
- Notice of Activity Form A's received by EPA through the February 7, 2018, deadline, per the TSCA Inventory Notification (Active-Inactive) Rule.

EPA states that it "carefully *processed* and conducted a quality check of the data to ensure duplicate entries and confidential business information were removed" from the large number of notices received under the Active-Inactive Rule. EPA also posted a list of substances reported in a Notice of Activity Form A from February 8 through March 30, 2018 (<https://www.epa.gov/tsca-inventory/list-substances-reported-under-tsca-inventory-notification-active-inactive-rule>). According to EPA, this list should assist processors in determining which of their substances on the Inventory have not yet been designated as "active." Based on our review, the Inventory lists approximately 38,303 total active substances, or about 44.5 percent of the substances listed on the Inventory. It is somewhat surprising that a greater percentage of the non-confidential substances were notified as active (45.6 percent of non-confidential business information (CBI) substances compared to 40.5 percent of confidential substances). Because most substances added to the Inventory through the premanufacture notification (PMN) process

were added with CBI identities (62.7 percent), we expected that a greater proportion of the CBI substances would be notified as active.

The deadline for voluntary submission of a Notice of Activity Form A by processors is October 5, 2018. Presumably, processors should only find substances in their supply chain that were notified as active by a manufacturer or importer. It is important, however, that suppliers verify that all chemicals in their supply chains are listed on the Inventory as active, exempt from listing on the Inventory, or excluded from TSCA. Substances that are declared inactive after the end of the processor reporting period may not be manufactured, imported, or processed without first submitting a "Form B" Notice of Activity to EPA.

More information on the TSCA Inventory rulemaking and TSCA Inventory issues is available on Bergeson & Campbell, P.C.'s (B&C[®]) blog under the key phrase "TSCA Inventory" (<http://www.tscablog.com/blogs/tagged/TSCA+Inventory>) and on B&C's TSCA Reform News & Information webpage (<http://www.lawbc.com/knowledge-resources/tsca-reform-news-info>). More information on EPA's Final TSCA Inventory Notification (Active-Inactive) Rule is available in B&C's memorandum, "EPA Issues Final TSCA Framework Rules" (<http://www.lawbc.com/regulatory-developments/entry/epa-issues-final-tsca-framework-rules>). Specific information on changes in the Central Data Exchange (CDX) system is available in B&C's blog item, "EPA Updates eNOA Template in CDX System" (<http://www.tscablog.com/entry/epa-updates-enoa-template-in-cdx-system>).

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