

Martha Marrapese Discusses Push for *De Minimis* Exemptions in TSCA Fees Rule

Inside EPA's Inside TSCA

November 23, 2020

Martha E. Marrapese, partner in Wiley's Environment & Product Regulation Practice, was quoted by *Inside EPA's Inside TSCA* in a November 17 article discussing *de minimis* waivers in the proposed revisions for the Toxic Substances Control Act (TSCA) fees rule. Groups representing electronics firms, with support from specialty chemical manufacturers, are urging the Office of Management and Budget (OMB) to include *de minimis* exemptions for small volume production or imports. The Environmental Protection Agency's (EPA) proposal has chemical manufacturers and downstream users at odds over the agency's methods for calculating fees payments, according to *Inside TSCA*.

Inside TSCA cited a Wiley blog post by Ms. Marrapese, published in *The WELL*, which addressed some key issues. She urged administration officials to exempt parties that import *de minimis* amounts of chemicals in mixtures, noting the provision is critical because the current system for the next 20 chemicals results in unfair fee allocations to those parties.

EPA is likely to propose fee exemptions for research and development chemicals, and exemptions on chemicals that are present in imported articles and as impurities or byproducts.

With respect to low levels of chemicals in imported mixtures, she does not believe that EPA or suppliers of chemicals that undergo risk evaluation should be concerned about shrinking the fee base. Most "*de minimis*" importers are already downstream customers of the major manufacturers and importers of these chemicals. Historically, these companies were never directly part of the TSCA fee base and

Related Professionals

Martha E. Marrapese
Partner
202.719.7156
mmarrapese@wiley.law

Practice Areas

Environment & Product Regulation
Toxic Substances Control Act (TSCA)

they do not benefit from these chemicals to the same extent as raw material suppliers.

Ms. Marrapese wrote in her blog post that EPA and “major manufacturers and importers” will put more emphasis in the proposed revisions to the fee rule on requiring greater flexibility in fee sharing,” she added.

Ms. Marrapese is in favor of the *de minimis* fee exemption because, as she noted, EPA’s current fees rule unfairly imposes per capita fees on responsible companies regardless of the volumes they import.

To read the article, click here (*subscription required*).