

# EPA Holds “EO” Meetings to Take Comment on TRI, TSCA Reform and TSCA Lead, Asbestos and Formaldehyde Rules

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June 2017

The Environmental Protection Agency (EPA) held a series of public meetings in May 2017 to allow public comments on various EPA programs. The meetings are part of the Agency’s broader effort to review rules for modification or repeal, as required by two Executive Orders (EO) issued earlier this year: EO 13777 and EO 13771. We focus here on meetings that were recently held to address the Toxics Release Inventory (TRI), TSCA reform generally, and specific standards under TSCA for lead, asbestos, and formaldehyde.

At the TSCA reform meeting, both environmental NGOs and industry participants stressed the importance of moving forward with implementing the Lautenberg Chemical Safety Act in a timely fashion. Commenters representing manufacturers testified that EPA should ensure that regulatory decisions are made using sound science, and requested that EPA issue expected guidance documents in a timely manner. One industry group commented that, when conducting chemical risk evaluations, absent evidence to the contrary, EPA should assume that relevant OSHA rules have been complied with.

At the TRI meeting, support was voiced for EPA to continue this important information disclosure program. It was also noted that the TRI program is mandated by statute, so, absent Congressional action, EPA must continue to effectively implement the TRI requirements. An electronics industry association representative asked that the TRI reporting threshold for lead be raised and the TRI small business exemption be broadened. The representative expressed concern that the current 10-pound reporting threshold for lead, along with the narrow small business exemption, catches too many businesses that

## Practice Areas

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Environment & Product Regulation  
Occupational Health and Safety

report zero lead releases.

At the meeting on lead, asbestos, and formaldehyde, most speakers expressed support for the TSCA Lead Renovation, Repair, and Painting (RRP) rule. A number of commenters stated that they believe the rule is necessary to protect workers and residents, and in particular children. The RRP rule requires contractors disturbing fixtures or housing components that contain lead in certain residential settings to be trained and certified every five years, test for lead at work sites, and follow lead safe work practices when lead is present. During the meeting, the most frequent claim and criticism voiced about the program was that lead testing kits have excessively high false positive rates, requiring costly lead practices in cases where it might not be necessary. Another issue raised was that there is inadequate enforcement of the RRP rule, but commenters differed on whether federal or state level enforcement was preferable.

Supporters of the RRP rule who testified included state agencies, lead renovation trainers, lead repair contractors, home builders, and associations representing the learning disabled, nurses and environmental consultants, among others. One organization representing paint decorating contractors suggested that the rule be revised to require lead testing only in homes built before 1960, rather than pre-1978, but did not present hard data to support this recommendation.

There were mostly favorable comments about TSCA's Asbestos Hazard and Emergency Response Act (AHERA), which controls the proper handling, encapsulation, and removal of asbestos in schools. Many commented that similar requirements should be extended to public and commercial buildings.

The strongest criticism at the meetings was focused on the TSCA formaldehyde rule. The home furnishings industry said that the rule is too burdensome by unnecessarily applying formaldehyde emission certification requirements to both core manufacturers and laminated board fabricators. Commenters noted that California exempts laminate fabricators. Representatives from the Environmental Defense Fund, however, commented that the California exemption is a loophole that EPA determined needed to be closed based on science.

EPA is expected to hold more meetings addressing the substance of the Executive Orders in the coming months.