



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF CHEMICAL SAFETY AND
POLLUTION PREVENTION

September 7, 2022

**Removal of Certain Companies from Seven TSCA Section 4(a)(2) Orders Issued in 2022
(Clarification)**

This version of the “Removal of Certain Companies from Seven TSCA Section 4(a)(2) Orders Issued in 2022” statement clarifies some of the concepts discussed in the original version (August 5, 2022) and reflects the fact that the removal of certain companies from certain orders has now been completed.

For eight chemical substances undergoing risk evaluation, EPA has issued two rounds of Section 4 Orders. For the first round of Orders issued in January 2021 (2021 Orders), EPA excused from the requirements of test orders those companies who agreed to cease manufacture and/or processing of the chemical substance that was the subject of the order (referred to as the “cease manufacturer option”). The 2021 Orders provide that if the company resumes manufacture and/or processing of the chemical while testing obligations remain in effect for that chemical substance under the Order the company is once again subject to the Order, needing to provide a new response to the Order.

For the second round of Orders initially issued in March 2022 (2022 Orders), the Agency did not provide a cease manufacture response option. For seven of the eight chemical substances subject to the 2022 Orders, one or more companies subject to the 2022 Order had used the cease manufacture response option for the 2021 Order for the same chemical substance.

Though the 2022 orders do not provide a cease manufacture response option, the Agency recognizes that a company who ceased manufacture and processing of a chemical substance in response to a 2021 Order on that chemical substance forewent a business opportunity in reliance upon EPA’s representation that testing on the chemical substance would not be required by the company. Accordingly, EPA removed from a 2022 Order on a chemical substance any company who made successful use of the cease manufacture response option for a 2021 Order on that same chemical substance, and where such companies have not, as required by the response option, notified EPA of their having recommenced manufacture and/or processing of the chemical substance.

Removal of such companies due to EPA’s approval of the cease manufacture response option provided in the 2021 Order only applies to the seven 2022 Orders issued for the eight subject chemical substances:

- Chlorinated Solvents:
 - 1,1,2-trichloroethane (CASRN 79-00-5)
 - 1,2-dichloroethane (CASRN 107-06-2)
 - 1,2-dichloropropane (CASRN 78-87-5)
 - *trans*-1,2-dichloroethylene and 1,2-dichloroethylene (CASRN 156-60-5)
 - *o*-dichlorobenzene (CASRN 95-50-1)
 - *p*-dichlorobenzene (CASRN 106-46-7)
- Flame Retardants:
 - 4,4'-(1-methylethylidene)bis[2,6-dibromophenol] (TBBPA) (CASRN 79-94-7)
 - phosphoric acid, triphenyl ester (TPP) (CASRN 115-86-6).

As to any future Section 4 Orders that involve a chemical substance for which a 2021 Order provided the option to cease manufacturing the substance, these future Section 4 Orders will not include any company who properly exercised the option to cease manufacturing/processing the substance, provided the company does not start or resume manufacturing/processing the substance. Further, any such excluded company that manufactures/processes the chemical substance during the lifespan of a 2022 Order for that chemical substance will be readded to the Order for that substance.

Removal of affected companies from the 2022 Orders is a unique situation. It is based on the equities of a company having ceased manufacture in reliance on the provisions of the 2021 Order. The rationale discussed in this document does not apply in other situations.

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