

Significant new use rule for multi-walled carbon nanotube

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As of June 6, 2011, the EPA began enforcing a significant new use rule for the chemical substance generically known as multi-walled carbon nanotubes (“MWCNT”). This new regulation is limited to those nanotubes which were the subject of premanufacture notice P-08-199. The EPA has cited concerns that this particular substance is hazardous to human health as justification for instituting this rule. This new rule will affect several industries, including chemical manufacturing and petroleum refining.



The new use rule requires manufacturers, importers or processors of this variety of MWCNT to provide the EPA with at least 90 days notice before engaging in any use of the substance that is considered a significant new use pursuant to EPA guidelines. The EPA will then determine whether the proposed new use is permissible and will institute any limitations or prohibitions before the activity commences. New uses include utilizing the substance without complying with stringent workplace protection regulations which require the utilization of certain equipment and procedures when handling the substance. A new use may also arise where the substance is used outside of its site of manufacture or import. The requirements of this rule do not apply to quantities of the chemical substance after it has been completely reacted (cured), incorporated or embedded into a polymer matrix that itself has been reacted (cured), or embedded in a permanent solid polymer form not intended to undergo further processing except for mechanical processing. For a complete list of uses which are the



subject of this new rule, see Title 40 of the Code of Federal Regulations, Part 721.10183.

The rule was published on May 6, 2011. In order to prevent industries from taking advantage of the window between the publication and effective dates of the rule, the EPA will consider a significant new use to have occurred if it happens any time after the publication date. An industry will not be exempt from the requirements of the rule if they have engaged in the new use between the publication and effective date of the regulation. Moreover, a significant new use of MWCNT will also trigger certain record retention requirements. A manufacturer, importer or processor of MWCNT must keep documents indicating the volume, origin and destination of the substance as well as records documenting the establishment of safety programs and the content of labels.

LINKS

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