



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

NOV 23 2011

OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION

Ms. Deborah Goldberg  
Earthjustice  
156 William Street, Suite 800  
New York, NY 10038

Dear Ms. Goldberg:

Re: TSCA Section 21 Petition Concerning Chemical Substances and Mixtures Used in Oil and Gas Exploration or Production

The U.S. Environmental Protection Agency (EPA) is responding to the petition concerning chemical substances and mixtures used in oil and gas exploration or production that you and other petitioners filed under section 21 of the Toxic Substances Control Act (TSCA) on August 4, 2011. Your petition requests that EPA require manufacturers and processors of E&P chemical substances and mixtures to 1) develop test data pursuant to TSCA Section 4, and 2) and maintain records and submit reports to the EPA on E&P chemical substances and mixtures and any data on environmental or health effects and exposures pursuant to TSCA section 8(a). Further, it requests that EPA have manufacturers, processors and distributors 1) submit copies of any information related to significant adverse reactions to health or environment pursuant to TSCA section 8(c), and 2) submit health and safety studies related to E & P chemical substances and mixtures pursuant to TSCA section 8(d).

On November 2, 2011 EPA provided an initial response to the petition. In that response, EPA denied the TSCA section 4 request for issuance of a test rule because the petition does not set forth sufficient facts to conclude that it is "necessary to issue" the requested TSCA section 4 rule, as required by TSCA section 21(b)(1). My letter further indicated that we were continuing to evaluate the remainder of the petition and would need until November 23 to complete that evaluation.

EPA has now decided to partially grant the TSCA section 8(a) and section 8(d) requests in the petition. We believe there is value in initiating a proposed rulemaking process using TSCA authorities to obtain data on chemical substances and mixtures used in hydraulic fracturing.

We intend to provide ample opportunity for dialogue and input about the design and scope of TSCA reporting requirements. As the first step, EPA will convene a stakeholder process to develop an overall approach that would minimize reporting burdens and costs, take advantage of existing information, and avoid duplication of efforts. This dialogue will also focus on how the information reported could be best aggregated and disclosed to maximize transparency and public understanding. States, industry and public interest groups would be full partners in this discussion.

To facilitate public comment, we will publish an advance notice of proposed rulemaking identifying key issues for further discussion and analysis.

These efforts to gather information will inform EPA's proposal, but given efforts underway, our expectation is that the TSCA proposal would focus on providing aggregate pictures of the chemical substances and mixtures used in hydraulic fracturing. This would not duplicate, but instead complement, the well-by-well disclosure programs of states.

Your petition also requested that EPA invoke TSCA authorities to collect information on chemicals used in the E&P sector in addition to those used in hydraulic fracturing. While we are denying this aspect of your petition, EPA will continue to review chemicals used in the E&P sector.

As the President's Blue Print for A Secure Energy Future describes, natural gas is an important component of our domestic energy portfolio. The Blue-print also outlines the need for disclosure to improve public confidence and knowledge. We firmly believe that the development of our natural gas resources can continue to evolve responsibly, building off the important work that has already been done by the states, the industry and others to disclose crucial information to the American public.

Thank you for your continued interest in the Agency's efforts to assess and manage chemical risks.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Owens", written over a faint circular stamp.

Stephen A. Owens  
Assistant Administrator