

Erik Baptist Discusses Potential Industry Challenge to EPA's Announcement of Policy for TSCA New-Chemicals Review Program

Inside EPA's Inside TSCA

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Erik C. Baptist, partner in Wiley's Environment & Product Regulation Practice, was quoted by *Inside EPA's Inside TSCA* in an April 13 article about potential facial challenges over the U.S. Environmental Protection Agency's (EPA) recent announcements to tighten the implementation of the Toxic Substances Control Act (TSCA) new-chemicals program.

"I would not be surprised if there is litigation on EPA's policy announcement," said Mr. Baptist, who previously served as Deputy Assistant Administrator for Law and Policy in the EPA's Office of Chemical Safety and Pollution Prevention (OCSPP). He noted that chemical-sector groups or individual firms may want to file facial challenges instead of waiting for EPA to issue orders or rules based on the Agency's policy.

Mr. Baptist also said he could envision a trade group filing suit based on Acting Administrator for the OCSPP Michal Freedhoff's announcement that EPA would increase the use of TSCA orders to limit potential risks from new chemicals rather than targeting litigation in response to a determination on an individual pre-manufacture notice (PMN).

"I can understand why a manufacturer, who has routine interactions and business before EPA, would be reluctant to bring an individual lawsuit against the Agency," Mr. Baptist told *Inside TSCA*. "If industry does not want to wait for a particular PMN to serve as the test case, then it might make sense to challenge the policy broadly and as an

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