



April 21, 2022

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Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
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Re: Comments on the Draft Risk Evaluation for C.I. Pigment Violet 29 (Anthra[2,1,9-def:6,5,10-d'e'f]diisoquinoline-1,3,8,10(2H,9H)-tetrone)

Docket Identification Number EPA-EPA-HQ-OPPT-2016-0725

The OSH Law Project is grateful for the opportunity to comment on this draft risk evaluation.

The OSH Law Project strongly supports EPA's proposal to "make an unreasonable risk determination for PV29 as a whole chemical substance, rather than making unreasonable risk determinations separately on each individual condition of use evaluated in the risk evaluation." (87 FR 12692) We agree that "a whole chemical approach better aligns with TSCA's objective of protecting health and the environment." (87 FR 12693). We further agree that "Since the chemical-specific properties cut across the conditions of use..., [and] the Agency's risk findings and conclusions encompass the majority of those conditions of use... the Agency's risk determination for PV 29 is better characterized as a whole chemical risk determination rather than condition-of-use-specific risk determinations." (87 FR 12693) We strongly agree with EPA's proposal to "supersede the no unreasonable risk determinations (and withdraw the associated order) for PV 29 that were premised on a condition-of-use-specific approach to determining unreasonable risk." (87 FR 12693)

In addition to the reasons provided by EPA, we believe that another strong reason a determination should be a whole chemical determination is that all the exposure data are from a single manufacturing workplace. No matter how good those data might be, they don't provide specific information about exposure in non-manufacturing conditions of use and thus do not permit separate risk determinations for each condition of use. Thus, EPA lacks data that would permit exempting any condition of use from its unreasonable risk determination.

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The OSH Law Project previously submitted comments criticizing EPA's earlier decision to reduce estimated exposures by the APF of respirators that may or may not be worn by workers. Comments submitted by the UAW on January 14, 2019 (EPA-HQ-OPPT-2018-0604-0015) and December 17, 2020 (EPA-HQ-OPPT-2018-0604-0120) also argued against assuming the use of PPE in risk evaluation. The OSH Law Project is pleased that EPA appears to have adopted that position. EPA states (87 FR 12694) "When undertaking unreasonable risk determinations as part of TSCA risk evaluations, however, EPA does not believe it is appropriate to assume as a general matter that an applicable OSHA requirement or industry practice is sufficient to address the risk, applicable to all potentially exposed workers, or consistently and always properly applied... [T]he Agency cannot assume that all facilities have adopted these practices for the purposes of making the TSCA risk determination. Additionally, as previously noted, self-employed individuals and public sector workers who are not covered by a State Plan are not covered by OSHA requirements... Therefore, going forward, EPA intends to make its determination of unreasonable risk from a baseline scenario that does not assume compliance with OSHA standards, including any applicable exposure limits or requirements for use of respiratory protection or other PPE..."

We wish to note in addition that there are no OSHA standards that cover PV 29 (not even a PEL adopted from a consensus standard in the early 1970s) and that a chemical such as PV 29 can pose an unreasonable risk under TSCA. OSHA's general duty clause likely provides little protection for workers exposed to PV 29 at exposure levels EPA determines pose an unreasonable risk. Such exposures are unlikely to trigger OSHA's respiratory protection standard.

The OSH Law Project is pleased that "EPA intends to strive for consistency with applicable OSHA requirements and industry best practices, including appropriate application of the hierarchy of controls, when those measures would address an unreasonable risk; ensure the EPA requirements apply to all potentially exposed workers; and develop occupational risk mitigation measures to address any unreasonable risks identified by EPA. Consistent with TSCA section 9(d), EPA will consult and coordinate TSCA activities with OSHA and other relevant Federal agencies for the purpose of achieving the maximum applicability of TSCA while avoiding the imposition of duplicative requirements." (87 FR 12694)

We believe that this is very important because there are existing OSHA chemical standards that provide effective worker protection within the limits of the Occupational Safety and Health Act as interpreted by the courts. The framework laid out by these standards, including but not limited to management commitment, employee participation, information and training, hierarchy of controls and ancillary requirements such as medical evaluation and, where appropriate, medical removal, would be a good model for EPA to follow in its risk management for PV 29 and other chemicals that pose unreasonable risk in the workplace.

Respectfully submitted,



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