



## IRWIN Regulatory Newsletter – April 2019

### Federal

1. Restrictions for Methylene Chloride in Paint Removal
2. List of National Compliance Initiatives Available for 2020-2023
3. Updated TSCA Inventory Available
4. Regulatory Initiatives for Polyfluoroalkyl Substances (PFAS)

### Massachusetts

5. Proposed Hazardous Waste Amendments
6. Proposed MCP Amendments
7. Additions to TURA Substance List: Hexabromocyclododecane and C1-C4 Halogenated Hydrocarbons
8. Enforcement Initiative for Waste Ban Compliance
9. Proposed Restrictions on Flame Retardants

### Rhode Island

10. New General Permit for Industrial Stormwater

### IRWIN News

*Please read about our remediation project!*

See the write-up at the end of this newsletter and on our website.

FOR MORE INFORMATION SEE BELOW OR CALL US AT 508-653-8007

\*\*\*\*\*

### 1. FEDERAL: New Restrictions on Methylene Chloride in Paint Removal

EPA has announced new requirements under the Toxic Substances Control Act restricting the usage of methylene chloride for paint and coating removal. Beginning in November 2019, the manufacture, processing, and distribution in commerce of methylene chloride for consumer use in paint and coating removal will be prohibited. EPA is also requiring that manufacturers, processors, and distributors of methylene chloride must notify downstream users in writing about the restrictions on uses of methylene chloride.

EPA is considering similar regulations for commercial use of methylene chloride in paint and coating removal, but is also accepting comment on an alternate approach involving a combination of training and other administrative controls. Comments are being accepted until **May 28, 2019**.

<https://www.federalregister.gov/d/2019-05666>

<https://www.federalregister.gov/d/2019-05865>

## **2. FEDERAL: EPA Compliance Initiatives for 2020-2023**

EPA has published a proposed listing of national compliance initiatives for years 2020 through 2023. These initiatives are selected periodically in order to focus federal resources in regulatory areas where EPA has identified particular compliance issues. New and extended compliance initiatives under consideration include the following:

- Reducing hazardous air pollutant emissions, with particular focus on equipment leaks and improperly operated flares.
- Improving compliance with RCRA air emission standards for hazardous waste management.
- Reducing the risks and impacts of industrial accidents and releases.
- Reducing the rate of significant noncompliance with the NPDES program.
- Improving compliance with air emission standards in the energy extraction sector, with particular focus on facilities that emit larger quantities of VOC or are located near vulnerable populations or nonattainment areas.
- Increasing compliance with drinking water standards.
- Reducing children's exposure to lead by supporting various EPA programs that regulate lead contamination and expanding consumer education.

<https://www.federalregister.gov/d/2019-01548>

## **3. FEDERAL: TSCA Chemicals Inventory Available**

EPA has released its 2019 update to the TSCA chemicals inventory. Under the 2016 TSCA reform law EPA recently finished collecting notifications for chemicals that were manufactured or imported between June 2006 and June 2016, and the inventory was updated based on the notifications that were received. Approximately half of the 68,000 chemicals listed in the inventory were designated as "active". Facilities seeking to manufacture or process a chemical listed as "inactive" will need to submit a notification to EPA to relist that chemical as "active" before manufacturing or processing can begin.

<https://www.epa.gov/tsca-inventory>

## **4. FEDERAL: Regulatory Initiatives for PFAS**

EPA has released its action plan for regulatory initiatives to limit exposure to per- and polyfluorinated alkyl substances (PFAS). PFAS are a category of chemicals used in a variety of applications including firefighting foams, chemical processing, building/construction, aerospace, electronics, semiconductor and automotive industries, stain- and water-resistant coatings, food packaging, and waxes and cleaners. Some rulemaking initiatives that are being taken for PFAS include:

- A health advisory has been issued regarding PFAS in drinking water, EPA has established test methods and collected monitoring data for PFAS from public water systems. EPA is initiating the rulemaking process to establish a drinking water standard for PFAS.
- EPA is considering listing PFAS as a Toxics Release Inventory (TRI) reporting chemical.
- EPA is considering whether to pursue rulemaking to restrict usage of PFAS in certain applications under the Toxic Substances Control Act (TSCA).

<https://www.epa.gov/pfas>

At the state level, MassDEP has also announced that it is considering revisions to a number of state regulatory programs to incorporate requirements for PFAS. Some rulemaking initiatives that are being taken for PFAS include:

- MassDEP is also pursuing rulemaking to establish a drinking water standard for PFAS. MassDEP denied a petition to set an interim standard for PFAS while the rulemaking process is underway. A program is being developed to certify laboratories to analyze samples for PFAS.
- Numerical standards for PFAS are being proposed at contaminated sites under the Massachusetts Contingency Plan (MCP).
- MassDEP and the Department of Fire Services held a collection program for unused fire-fighting foam containing PFAS.
- MassDEP is considering listing PFAS as a Toxics Use Reduction Act (TURA) reporting chemical.

<https://www.mass.gov/info-details/per-and-polyfluoroalkyl-substances-pfas>

## **5. MASSACHUSETTS: Proposed Waste Site Cleanup Amendments**

MassDEP is proposing several amendments to the Massachusetts Contingency Plan (MCP) regulations at 310 CMR 40.0000. The proposed revision includes a variety of changes including:

- Changes to various numerical MCP criteria including Reportable Concentrations, Imminent Hazard criteria, and cleanup standards. Some standards would be raised and some lowered. Numerical standards would also be added for polyfluoroalkyl substances (PFAS).
- Amendments to criteria for determining current or potential drinking water areas.
- Amendments to several aspects of risk characterization requirements including sampling strategy, statistical methods, Imminent Hazard evaluations, identification of Hot Spots, and selection of reference toxicity values.
- Revisions to facilitate the presumptive approval process for applications of remedial additives near sensitive receptors.
- Amendments to monitoring and reporting for Active Exposure Pathway Mitigation Measures with particular focus on protection of measures for drinking water protection.
- Amendments to public notice requirements, particularly in cases where an Imminent Hazard or Critical Exposure Pathway is present.

MassDEP has begun presenting the proposed amendments to the LSP community and plans to make a draft of the regulation available for public comment in 2019.

<https://www.mass.gov/regulations/310-CMR-40-massachusetts-contingency-plan>

## 6. MASSACHUSETTS: Proposed Hazardous Waste Amendments

MassDEP is proposing several amendments to the state hazardous waste regulations at 310 CMR 30.000. The proposed revision includes a variety of changes including:

- Adoption of the federal conditional exclusion for solvent-contaminated wipes. The proposed rule would supersede MassDEP's existing solvent wipes policy (Policy No. BWP-94-015).
- Adopting federal regulations that provide an alternate compliance option for eligible academic entities to facilitate making waste determinations and managing waste in laboratories.
- Addition of several federally listed wastes and underlying hazardous constituents.
- Fluorescent lamp crushing by very small quantity generators (VSQGs) and universal waste handlers would no longer be allowed without a license.
- Adoption of the federal conditional exclusion for recycling of cathode ray tubes.
- Clarification would be added that silver recovery cartridges generated from on-site treatment of photographic processing wastewaters may be managed as Class A Regulated Recyclable Material when being sent for silver reclamation.

<https://www.mass.gov/regulations/310-CMR-30000-massachusetts-hazardous-waste-regulations#proposed-amendments-public-comment>

## 7. MASSACHUSETTS: Additions to TURA Toxic or Hazardous Substance List

Massachusetts has updated the Toxic or Hazardous Substance list under the Toxics Use Reduction (TUR) program to include two new chemical categories:

- The hexabromocyclododecane category (HBCD, CAS # 25637-99-4 and 3194-55-6) is now listed beginning with reporting year 2018. This category has been designated as a Persistent and Bioaccumulative Toxic (PBT) chemical with a reporting threshold of 100 pounds.
- The C1-C4 halogenated hydrocarbons not otherwise listed (C1-C4 NOL) category is now listed beginning with reporting year 2019. This category is defined as any chemical substance that has four or fewer carbons, at least one halogen, and only hydrogen as the other constituent. However, substances having this chemical structure that are already individually listed under TURA (approximately 80 chemicals) do not also need to be reported as part of the C1-C4 NOL category. In particular, a number of refrigerants and refrigerant substitutes that are not already individually listed under TURA are included in this reporting category.

<https://www.mass.gov/regulations/301-CMR-4100-toxic-or-hazardous-substance-list>

## 8. MASSACHUSETTS: Enforcement Initiative for Waste Ban Compliance

MassDEP has undertaken an enforcement initiative for improving compliance with its ban on landfill disposal of certain types of recyclable materials. Materials that must not be disposed include paper, cardboard, glass, plastic, metal containers, construction materials and leaves and yard waste.

Under its compliance initiatives MassDEP has been issuing reminder notices to first-time offenders, followed by a penalty if the facility continues to dispose of banned materials. MassDEP announced that its 2018 enforcement activities included issuing notices of noncompliance to over 100 facilities for disposing of banned waste, with the most commonly disposed material being cardboard.

<https://www.mass.gov/guides/massdep-waste-disposal-bans>

## 9. MASSACHUSETTS: Proposed Legislation for Flame Retardants

The Massachusetts legislature has introduced a bill that would prohibit the use of listed flame retardants in certain applications including bedding, carpeting, children's product, residential upholstered furniture or window treatment. The list of flame retardants that would be prohibited includes a number of chlorinated and brominated flame retardants as well as antimony trioxide, and the proposed law would allow MassDEP to restrict additional chemicals based on recommendations from the Science Advisory Board. The bill was originally voted on in 2018 and was approved at the conclusion of the legislative session but was pocket vetoed by the Governor. However, the bill has been reintroduced for further consideration in 2019.

<https://malegislature.gov/Bills/191/S1230/BillHistory>

<https://malegislature.gov/Bills/191/H3500>

## 10. RHODE ISLAND: Stormwater General Permit Available

RIDEM has issued a 2019 Multi-Sector General Permit (MSGP) for industrial stormwater discharges in Rhode Island. The MSGP covers certain stormwater discharges from industrial activities that are exposed to stormwater. Facilities covered under the MSGP are required to develop a Stormwater Management Plan (SWMP), implement best management practices, and comply with monitoring and inspection requirements. Changes from the 2013 MSGP include:

- Total Suspended Solids (TSS) and Oil and Grease have been added as benchmark monitoring requirements for all permittees regardless of industrial sector.
- The frequency of benchmark monitoring, impaired waters monitoring, and effluent limitation monitoring have each been increased to four times per year.
- A framework was added for implementing incremental reviews and corrective actions for facilities whose monitoring results exceed benchmark values during consecutive years.
- Consolidation of quarterly and annual inspection schedules.
- Reports must now be submitted electronically using the NPDES eReporting Tool (NeT) and NetDMR systems. Additionally, Stormwater Management Plans must be submitted electronically or made publicly available as part of the Notice of Intent process.

Facilities that were previously covered under the 2013 MSGP, or that would like to be covered as a new discharge, need to submit a Notice of Intent (NOI) to be covered under the 2019 MSGP. The filing deadline for existing discharges is **August 2, 2019**. Facilities may also submit NOI's for proposed new stormwater discharges.

<http://www.dem.ri.gov/programs/water/permits/ripdes/>

## FEATURE PROJECT: SOURCE ELIMINATION FOR RESOLVING VAPOR INTRUSION

IRWIN's client owned a former gasoline station property on Cape Cod with residual gasoline impacts that extended underneath a current commercial retail building and were holding up sale of the property.

The primary concern was for vapor intrusion; and, the purchaser did not want to contend with an Activity and Use Limitation (AUL), which required that the cleanup achieve residential standards. While sub-slab depressurization systems (SSDS) will control vapor intrusion they require ongoing operation and maintenance and application of an AUL.



IRWIN Engineers successfully achieved closure under the MCP for unrestricted future use within fourteen months. We implemented an integrated combination of remedial actions that addressed removal of vapors trapped underneath the building by conducting soil vapor extraction (SVE) and elimination of the ongoing source of vapors by treating the ground water with in-situ bioremediation. For treating the SVE remedial air emissions IRWIN used a portable, rental, catalytic oxidation unit. By destroying the vapors on-site there was no need to manage remediation waste off-site, as with carbon filters, and with an associated cost savings.

Falmouth Products, Inc., PO Box 541, Falmouth, MA, 02541, USA – Phone (508) 548-6686. www.falmouthproducts.com

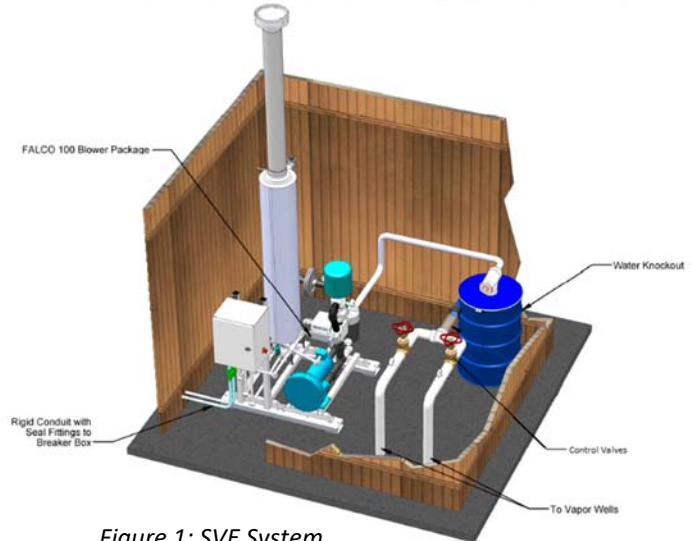


Figure 1: SVE System

Applying alternative construction methods for treatment underneath the building was implemented without interruption of retail operations inside the building.

IRWIN Engineers’ creative remediation approach allowed the property owner to achieve a Permanent Solution with No Conditions within fourteen months of initiating response actions; and, that resulted in a timely sale of the property with higher valuation.

FOR MORE INFORMATION CALL US AT 508-653-8007

\*\*\*\*\*

IRWIN Engineers, Inc.  
33 West Central Street  
Natick, MA 01760

This IRWIN Regulatory Newsletter is prepared and edited by Irwin Engineers, Inc. The opinions of the authors are solely those of the authors. This Newsletter is published and distributed by IRWIN with the understanding that neither it nor the editors or authors is responsible for inaccurate information. The information set forth in this Newsletter should not be construed or relied upon as legal advice and is not intended as a substitute for consultation with counsel.