



IRWIN Regulatory Newsletter – April 2017

Federal

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

1. FEDERAL: Review of Existing Regulations

EPA has issued a request for public comments under [Executive Order No. 13777](#) which requires federal agencies to undertake a review process for existing regulations. Public comments are being requested on which regulations meet one of several review criteria, such as regulations that are outdated or ineffective, eliminate jobs or inhibit job creation, or impose costs that exceed benefits. Comments are being accepted until **May 15, 2017**.

EPA has already announced several regulations that will be included in the regulatory review effort:

- The Clean Power Plan which limits CO₂ emissions from fossil fuel fired power plants.
- Standards of performance for greenhouse gas emissions from electric generating units and from motor vehicles for model years 2022-2025.
- New Source Performance Standards for the oil and gas sector.
- The definition for “waters of the United States” under the Clean Water Act that was revised in 2015.

<https://www.federalregister.gov/d/2017-07500>

2. FEDERAL: Proposed Inventory Notification under TSCA

EPA is proposing to require a notification for chemicals that were manufactured (including imported) for commercial purposes between June 2006 and June 2016, in order to distinguish active from inactive chemicals in its chemical inventory. Reports would be due 180 days after the effective date of the final rule, and would need to include the chemical identity and date but not the quantity manufactured. EPA is also proposing to establish a required notification if manufacture of a chemical listed as inactive resumes in the future.

Reporting would be optional for facilities that process chemical substances. However, EPA indicated that if a chemical is designated as inactive, processing of that chemical will no longer be permitted until the chemical becomes listed as active again. A draft listing of inactive chemicals will be made available to allow for processors to notify for chemicals that have not already been reported.

<https://www.federalregister.gov/documents/2017/01/13/2016-31923/tsca-inventory-notification-active-inactive-requirements>

3. FEDERAL: Chemical Regulations under TSCA

EPA has issued proposed and recently promulgated rules under the recently amended Toxic Substances Control Act (TSCA) to restrict uses of several chemicals. Affected chemicals include:

- **Trichloroethylene** (TCE, CAS # 79-01-6): EPA proposed to prohibit commercial use of TCE for vapor degreasing, aerosol degreasing, and spot cleaning in dry cleaning facilities, as well as manufacture, processing, and distribution in commerce of TCE for those applications. EPA is also proposing to require that manufacturers, processors, and distributors of TCE must notify downstream users in writing about the restrictions on uses of TCE. The public comment period for the proposed regulation has been extended until **May 19, 2017**.
- **Methylene Chloride** (dichloromethane, CAS # 75-09-2) and **n-methylpyrrolidone** (NMP, CAS # 872-50-4): EPA proposed to prohibit commercial use of methylene chloride for paint and coating removal, as well as manufacture, processing, and distribution in commerce of

methylene chloride for those applications. EPA is also proposing to require 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 NMP, but is also considering an alternate approach involving a combination of concentration limits, labeling, and worker protection programs. The public comment period for the proposed regulation has been extended until **May 19, 2017**.

- **Formaldehyde** (CAS # 50-00-0): In a separate rulemaking action EPA issued a new rule limiting emissions of formaldehyde from several types of composite wood products including hardwood plywood, medium-density fiberboard, and particleboard. This final rule includes provisions regarding conditional exemptions, testing and quality control, labeling, recordkeeping, product inventory sell-through provisions including a product stockpiling prohibition, and a third-party certification program for inspection and testing. Compliance dates range from December 2017 to December 2023 depending on the type of wood product.
- **Nanoscale materials**: EPA is requiring a notification for certain chemical substances when manufactured (including imported) or processed at the nanoscale. The notification will be required to include available information about chemical identity; production volume; methods of manufacture; processing, use, exposure and release information; and available health and safety data. Reports for existing chemicals that were manufactured or processed within the past three years will be due **May 12, 2018**.

EPA has also announced a list of 10 chemicals scheduled for further evaluation for risks to public health and the environment. In addition to TCE, methylene chloride, and NMP, the other chemicals announced are 1,4-dioxane (CAS # 123-91-1), n-propyl bromide (1-bromopropane, CAS # 106-94-5), asbestos, carbon tetrachloride (CAS # 56-23-5), cyclic aliphatic bromide cluster (e.g., hexabromocyclododecane), pigment Violet 29 (CAS # 81-33-4), and tetrachloroethylene (perchloroethylene, CAS # 127-18-4). The amended TSCA law requires EPA to release a scope of work for each of the above chemicals which includes the hazards, exposures, conditions of use, and the potentially exposed or susceptible subpopulations that will be considered for the risk evaluation. Public comments are currently being accepted on the draft scopes of work for several chemicals listed above.

<https://www.epa.gov/assessing-and-managing-chemicals-under-tsca>

<https://www.epa.gov/formaldehyde/formaldehyde-emission-standards-composite-wood-products>

4. FEDERAL: Proposed Listing of n-Propyl Bromide as a Hazardous Air Pollutant

EPA has issued a draft notice indicating that it plans to add n-propyl bromide (1-bromopropane, CAS # 106-94-5) to the federal list of Hazardous Air Pollutants. n-Propyl bromide is a common industrial solvent used particularly in degreasing. If the proposed listing is implemented, the Title V permitting threshold for n-propyl bromide emissions would be lowered to 10 tons per year, and facilities conducting certain types of operations with n-propyl bromide may also become subject to National Emission Standards for Hazardous Air Pollutants (NESHAPs). The public comment period for the notice has been extended until **June 8, 2017**.

<https://www.federalregister.gov/d/2017-00158>



5. FEDERAL: Proposed Delay of Risk Management Program Amendments

EPA has amended its Risk Management Program regulations (40 CFR 68) for chemical accident prevention under the Clean Air Act. This regulation requires risk management planning for facilities with processes that contain listed toxic or flammable chemicals in quantities exceeding applicable thresholds. Changes made to the regulation include:

- Requirements to evaluate the feasibility of inherently safer technology as part of Process Hazard Analyses.
- Requirements for certain facilities to coordinate with local emergency responders to confirm the availability of response resources, conduct annual notification exercises, and conduct emergency response drills at specified frequencies.
- Amended requirements for root cause analyses and audits following a release or near miss.
- Requirements to make certain information publicly available upon request, provide additional requested information to local emergency response agencies, and conduct public meetings following a reportable release.
- Various content and formatting changes for Risk Management Plans submitted to EPA.

Following publication of the final rule EPA received several petitions for reconsideration, and has administratively delayed the effective date of the rule until June 2017. EPA has also proposed to further extend the effective date of the new regulation, and is accepting comments on the proposed extension until **May 19, 2017**.

<https://www.epa.gov/rmp/final-amendments-risk-management-program-rmp-rule>

6. FEDERAL: New OSHA Standard for Occupational Exposure to Beryllium

OSHA amended its occupational exposure standards by adding a chemical-specific standard for beryllium and beryllium compounds (29 CFR 1910.1024). The previous Permissible Exposure Limit (PEL) for beryllium was 2 $\mu\text{g}/\text{m}^3$ (8-hour time weighted average) and 5 $\mu\text{g}/\text{m}^3$ (ceiling). The new rule lowers the PEL to 0.2 $\mu\text{g}/\text{m}^3$ (8-hour TWA) and 2 $\mu\text{g}/\text{m}^3$ (ceiling), and also establishes an action level of 0.1 $\mu\text{g}/\text{m}^3$ (8-hour TWA). The rule also contains ancillary provisions for employee protection such as methods for controlling exposure, respiratory protection, medical surveillance, hazard communication, and recordkeeping.

The rule change has a graduated implementation schedule with most requirements becoming effective in March 2018. Following publication of the final rule OSHA received several petitions for reconsideration, and has administratively delayed the effective date of the rule until May 2017.

<https://www.osha.gov/berylliumrule/>

7. FEDERAL: Amendment to Hazard Ranking System

EPA has amended its Hazard Ranking System, which is used for evaluating sites for inclusion on the National Priorities List under the Superfund program. The revision added a component to account for risk to human health due to subsurface intrusion for contaminants that enter regularly occupied structures through via the subsurface. The most common type of subsurface intrusion is vapor intrusion, but seepage of contaminated groundwater must also be considered. The risk from subsurface intrusion will be added as part of the score for the soil exposure pathway which is one of

the four categories of pathways that are used to calculate the score for a site, and methodology for evaluating subsurface intrusion risk is described in the revised regulation.

EPA indicated that in general it does not plan to re-evaluate sites that were previously evaluated and scored below the threshold for potential inclusion on the NPL unless new or changed information becomes available, but that the revised scoring system will apply if a site is re-evaluated. Other components of the ranking system or procedural requirements for adding sites to the NPL were not affected by the rule change.

EPA administratively delayed the effective date of the rule until May 2017, but has not indicated further plans to reconsider or modify the new regulation.

<https://www.epa.gov/superfund/hrs-subsurface-intrusion>

8. MASSACHUSETTS: Updated Enforcement of TUR Reporting Regulation

MassDEP has announced an updated enforcement policy for reporting under the Toxics Use Reduction Act (TURA), for facilities who submit past due Form S reports for chemicals that were subject to reporting in previous years. Facilities who voluntarily submit previously-owed Form S's will be required to submit two years of past owed Form S's with chemical use fees and administrative late fees, although toxics users who have never reported under TURA and self-disclose within 45 days of discovery will only be required to back report for one year. Facilities that are discovered to be out of compliance will be required to submit reports and fees for the past four years. Facilities who were required to conduct TUR planning will also be required to prepare a TUR plan within a time frame acceptable to MassDEP. Facilities with questions about MassDEP's announcement may contact Susan Peck at susan.peck@state.ma.us or 617-292-5870.

9. MASSACHUSETTS: Air Emissions Reporting Deadlines Extended

MassDEP has announced that it is currently in the process of reformatting the air source registration and greenhouse gas reporting forms in eDEP, and that online reporting for both programs is temporarily unavailable until the transition is complete. MassDEP has extended the reporting deadline for greenhouse gas emissions to **December 15, 2017** and expects that access to the reporting forms in eDEP will be available by mid-October. A revised schedule for source registration access and reporting deadlines has not yet been announced, but MassDEP has indicated that letters will be mailed to source registration filers when the forms are available for use.

<http://www.mass.gov/eea/agencies/massdep/climate-energy/climate/approvals/ma-greenhouse-gas-emissions-reporting-program.html>

<http://www.mass.gov/eea/agencies/massdep/service/online/source-registration.html>

10. MASSACHUSETTS: ePLACE Online Permitting and Licensing Portal Available

MassDEP has announced the availability of the ePLACE system for submitting permit applications and other submittals to MassDEP electronically. Online application forms are expected to become available in several phases, and several types of submittals are now being accepted:

- Limited Plan Approval applications
- 50% / 25% Facility Emission Cap applications



- Notifications of on-site recycling activity
- Third party inspector applications for solid waste facilities
- Backflow prevention device tester and cross connection surveyor certifications
- TUR Planner certifications

<https://permitting.state.ma.us/CitizenAccess/>

11. MASSACHUSETTS: Proposed Greenhouse Gas Emission Regulations

MassDEP has proposed a set of regulatory amendments for reducing greenhouse gas emissions to implement the Global Warming Solutions Act and Governor Baker's [Executive Order 569](#). Particular greenhouse gas emission sources that would be covered under the proposed regulations include:

- Electricity generators and retail electricity sellers
- Transportation sector and state vehicle fleet
- Gas-insulated switchgear with particular focus of sulfur hexafluoride emissions
- Methane leaks from the natural gas distribution system

<http://www.mass.gov/eea/agencies/massdep/news/comment/reducing-ghg-emissions.html>

12. MASSACHUSETTS: Adoption of Updated Electrical Code

The Massachusetts Electrical Code (527 CMR 12.00) has been updated to reference the 2017 edition of the National Electrical Code (NFPA 70). The 2014 edition was referenced previously. The Massachusetts Electrical Code also includes a listing of state-specific amendments to NFPA 70 and this list has been updated as well.

<http://www.mass.gov/courts/docs/lawlib/500-599cmr/527cmr12.pdf>

13. MASSACHUSETTS: Groundwater Discharge Amendments

MassDEP finalized amendments to the groundwater discharge permit program regulations at 314 CMR 5.00. Changes made to the regulation include:

- New permitting exemptions for certain types of land application regulated by the Department of Agricultural Resources, and clarification of applicability for some other discharges such as storm water, ground source heat pumps, and Underground Injection Control wells.
- Consolidation of financial assurance mechanisms for private wastewater treatment facilities receiving residential wastewater. The application requirements for private wastewater treatment facilities were also amended to require a self-certification that the facility meets certain operational requirements.
- Public notice and comment are no longer required for administrative permit renewals.
- Discharge Monitoring Reports must be submitted electronically effective September 2017.

<http://www.mass.gov/eea/docs/dep/water/laws/rr/314cmr5redline.pdf>

14. MASSACHUSETTS and NEW HAMPSHIRE: NPDES General Permits Available

EPA has finalized the NPDES Remediation General Permit (RGP) for discharges from certain remediation activities in Massachusetts and New Hampshire. The RGP covers remediation activities



from eight general categories: petroleum-related site remediation; non-petroleum-related site remediation; contaminated / formerly contaminated site dewatering; pipeline and tank dewatering; aquifer pump testing; well development / rehabilitation; dewatering / remediation of collection structures; and dredge-related dewatering. The RGP includes permit limitations and monitoring and reporting requirements for effluent flow (1 million gallons per day), pH, temperature and various other chemical parameters based on the type of remediation activity and the receiving water of the discharge. Operators are also required to implement Best Management Practices and develop a Best Management Practices Plan. Facilities previously covered under the 2010 RGP must submit a Notice of Intent (NOI) by **July 7, 2017** to be covered under the updated RGP, and may also need to provide sampling data along with the NOI for certain parameters depending on the type of discharge.

EPA has also finalized the NPDES Construction General Permit (CGP) for stormwater discharges from construction activities. The CGP contains requirements for technology-based and water-quality based effluent limitations, periodic site inspections, and developing a stormwater pollution prevention plan. Facilities previously covered under the 2012 CGP must submit a Notice of Intent (NOI) by **May 17, 2017** to be covered under the updated CGP.

<https://www3.epa.gov/region1/npdes/rgp.html>

<https://www.epa.gov/npdes/epas-2017-construction-general-permit-cgp-and-related-documents>

15. RHODE ISLAND: Amendments to Air Regulations

Rhode Island DEM finalized amendments to various sections of the state air pollution control regulations. The revision includes changes affecting the following provisions:

- The sulfur content limit for alternative fuels was increased from 500 ppm (current) and 15 ppm (starting July 2018) to 1% (current) and 0.5% (starting July 2018).
- Registration requirements for surface coating operations were revised for consistency with RIDEM's general recordkeeping and reporting regulations. The rule also now excludes adhesives that are already regulated under the RACT rule for adhesives and sealants.
- Compliance testing for sources under the NOx emission standard was reduced from annually to once every five years, and the tune up frequency for commercial and institutional boilers was reduced from annually to once every two years. Some amendments were also made to test methods and tune up procedures for consistency with federal requirements.
- The applicability for the wood products manufacturing standard was revised to only apply to sources with the potential to emit 25 tons per year of HAP from wood products manufacturing, as opposed to 25 tons per year of HAP facility wide.
- The organic solvent cleaning RACT regulations were revised to provide an exemption from certain requirements for cold cleaners smaller than 1 liter, provide an alternative means of compliance for spray gun cleaning operations, and allow users of certain machines additional time to compile monthly records.
- Several chemicals that have been delisted by the EPA as volatile organic compounds were also delisted at the state level. RIDEM did not delist tert-butyl acetate or HFE-347pcf2 which were delisted as VOC at the federal level in 2016.

<http://www.dem.ri.gov/documents/regulations/index.php>



16. NEW HAMPSHIRE: Regulatory Changes for Air Toxics Modeling

New Hampshire DES made a number of changes to its regulations for air modeling of Regulated Toxic Air Pollutants (RTAP). In particular:

- The applicability of the air modeling rule has been changed to add exemptions for POTW's and pump stations, routine boiler maintenance, and use of isopropanol, nitrous oxide, and ethylene oxide at health care facilities.
- Toxicity classes and / or Allowable Ambient Levels have been adjusted for approximately 30 listed chemicals. Some values have been raised and some lowered.
- Four new chemicals were added to the RTAP listing: peracetic acid, ethyl isocyanate, n,n-diethylhydroxylamine, and inorganic manganese compounds.

<http://des.nh.gov/organization/commissioner/legal/rulemaking/documents/env-a1400amd-adtpstd.pdf>

17. NEW HAMPSHIRE: Proposed Regulatory Changes for Hazardous Waste Management

New Hampshire DES is proposing a number of changes to its hazardous waste management regulations. In particular:

- Requirements would be added for generators to keep documentation of periodic inspections of hazardous waste accumulation areas.
- NHDES is proposing to clarify requirements for hazardous waste generators including documenting waste determinations, generator classification calculations, notification requirements, accumulation and labeling, manifests, responding to releases, and recycling of wastes.
- Several federal listings and exemptions for certain types of waste would be incorporated by reference.
- Federal regulations including land disposal restrictions, drip pads and containment buildings, and import / export provisions would be incorporated by reference.

<https://www.des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

FOR MORE INFORMATION CALL US AT 508-653-8007

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