



IRWIN Regulatory Newsletter – August 2017

Federal

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

1. FEDERAL: Risk Evaluations Under TSCA

EPA has finalized its procedures under the newly amended Toxic Substances Control Act for prioritizing chemicals for risk evaluation, and for conducting risk evaluations on selected chemicals. EPA’s prioritization process will include selection of candidate chemicals, screening reviews, and proposed and final priority designations for each chemical, with public comment periods before the screening review and before the final designation is issued. TSCA requires that EPA must designate at least 20 chemical substances as High Priority and 20 as Low Priority by December 2019.

High Priority chemicals must then undergo a risk evaluation which will include a scope document, hazard assessment, exposure assessment, risk characterization, and a draft and final risk evaluation which will state whether the chemical presents an unreasonable risk to health or the environment. Interested parties will also be allowed to submit draft risk evaluations to EPA, and EPA has

published a guidance document to assist with preparing and submitting risk evaluations. EPA has now issued scope documents for each of the first ten chemicals that were selected for risk evaluation under TSCA in 2016 (asbestos, 1-bromopropane, carbon tetrachloride, 1,4-dioxane, HBCD, methylene chloride, n-methyl pyrrolidone, perchloroethylene, pigment violet 29, and trichloroethylene).

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

2. FEDERAL: Proposed Inventory Notification under TSCA

EPA finalized a rule that will 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 will be due February 7, 2018 (180 days after the effective date of the final rule), and must include the chemical identity but not the quantity manufactured. A notification is also required if manufacture of a chemical listed as inactive resumes in the future.

Reporting is 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. Reports for processors will be accepted until October 5, 2018.

<https://www.federalregister.gov/d/2017-15736>

3. FEDERAL: Delay of Risk Management Program Amendments

EPA has announced a delay in the effective date until February 2019 for a recent revision to its Risk Management Program regulations (40 CFR 68) for chemical accident prevention under the Clean Air Act, which requires risk management planning for facilities with processes that contain listed toxic or flammable chemicals in quantities exceeding applicable thresholds. The rule change affects several aspects of the RMP regulation including Process Hazard Analyses, emergency response planning, root cause analyses and audits following a release or near miss, and communication with the public. Note that some provisions of the amended rule have compliance dates after February 2019, and EPA has not yet extended those compliance dates but indicated that it may propose to do so pending further review of the RMP amendments.

<https://www.federalregister.gov/d/2017-12340>

4. FEDERAL: Draft Updates to EPA Air Pollution Control Cost Manual

EPA has announced the availability of draft updates for two chapters in its Air Pollution Control Cost Manual, including “Carbon Adsorbers” (Section 3.1) and “Flares” (Section 3.2) which were previously updated in 1999 and 2000 respectively. The Control Cost Manual contains data and equations to aid users in estimating capital costs for installation and annual costs for operation and maintenance of various types of air pollution control devices. The Control Cost Manual is used by the EPA for estimating the impacts of rulemakings, and serves as a basis for sources to estimate costs

of controls that are Best Available Control Technology (BACT). Comments on the updated chapters are being accepted until **October 19, 2017**.

<https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/cost-reports-and-guidance-air-pollution>

5. FEDERAL: Proposed Revised Definition of Waters of the United States

EPA has proposed to revise the definition of “Waters of the United States” for the purpose of various programs under the Clean Water Act such as National Pollutant Discharge Elimination System (NPDES) regulations for direct and indirect discharges, accidental discharge reporting under CERCLA, and the Spill Prevention, Control, and Countermeasures (SPCC) regulation for facilities storing oil. The regulatory definition was previously amended in 2015, but the amendment was stayed by a court decision.

EPA is now proposing to reinstate the definition that was in place prior to the rule change. This definition generally interprets the Clean Water Act to cover navigable waters, interstate waters and interstate wetlands, and waters used for interstate commerce such as recreational purchases or for catching fish or shellfish, with specific wording varying based on regulatory program. Comments on the proposed revision are being accepted until **August 28, 2017**.

<https://www.federalregister.gov/d/2017-13997>

6. FEDERAL: OSHA Extends Deadline for Occupational Injury and Illness Reporting

OSHA has announced a delay in the first reporting deadline under its revised Recording and Reporting Occupational Injuries and Illnesses regulation (29 CFR 1904), which required employers in certain industries to submit injury and illness data to OSHA electronically on an annual basis starting July 1, 2017. However, OSHA experienced a delay in making the online reporting system available, and has announced that reports for year 2016 must be submitted by **December 1, 2017**. OSHA’s online Injury Tracking Application is now accessible and is accepting reports.

<https://www.osha.gov/injuryreporting/index.html>

7. FEDERAL: Proposed Changes to OSHA Beryllium Standard

OSHA is proposing a series of changes to its newly promulgated standards for occupational exposure to beryllium in the construction and shipyard industries (29 CFR 1926.1024 and 1915.1024). The proposed rule would retain the Permissible Exposure Limit (PEL) of $0.2 \mu\text{g}/\text{m}^3$ (8-hour time weighted average) and $2 \mu\text{g}/\text{m}^3$ (short term exposure limit), but would remove the ancillary provisions required by the rule including the action level of $0.1 \mu\text{g}/\text{m}^3$, methods for controlling exposure, respiratory protection, medical surveillance, hazard communication, and recordkeeping. The general industry standard for exposure to beryllium would not be affected. Comments on the proposed rule are being accepted until **August 28, 2017**.

<https://www.federalregister.gov/d/2017-12871>

8. MASSACHUSETTS: EIPAS Permitting and Information Portals Available

MassDEP has announced the availability of the Energy and Environmental Information and Public Access System (EIPAS), an online permitting and information database which will be used by MassDEP and other Executive Office of Energy and Environmental Affairs agencies. EIPAS will include the ePLACE portal which was introduced for online permit application submittals earlier this year, as well as an Information Data Portal which lists permitting and enforcement data for Massachusetts facilities, and a Public Comment Portal which allows users to access pending and recent permit applications and submit public comments.

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

<http://eeaonline.eea.state.ma.us/portal#!/home>

<https://public.env.state.ma.us/PublicApp/>

9. NEW HAMPSHIRE: Regulatory Changes for Hazardous Waste Management

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

- Requirements were added for generators to keep documentation of periodic inspections of hazardous waste accumulation areas.
- NHDES clarified 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 were incorporated by reference.
- Federal regulations including land disposal restrictions, drip pads and containment buildings, and import / export provisions were incorporated by reference.

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

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