IAEG™
INTERNATIONAL AEROSPACE ENVIRONMENTAL GROUP

Newsletter

Global Environmental and Chemical Regulations, Policies and Standards

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NEWSLETTER

Global Environmental and Chemical Regulations, Policies, and Standards
March 2022

WHO IS IAEG?

The International Aerospace Environmental Group (IAEG) is a non-profit organization of global aerospace companies created to collaborate on and share innovative environmental solutions for the industry. The group works to promote the development of voluntary consensus standards and provide accessible solutions for key environmental issues.

Members of IAEG recognize that there are currently a wide variety of different laws and regulations impacting health and the environment in place worldwide. The complexity and variability of requirements and guidance has led to an increased burden for the industry and its supply chain.

IAEG work groups address such issues as chemical material declarations and reporting requirements, the development of alternative technologies and greenhouse gas reporting and management. They create a forum for diverse and often competitive businesses to come together and share information on industry-wide opportunities for the promotion and adoption of global environmental requirements. In addition, IAEG provides opportunities for wider education on environmental issues and the supply chain via its meetings agendas and bespoke seminars.

IAEG WORK GROUP 9 NEWSLETTER

The Aerospace and Defense (AD) industry is committed to developing an approach to help the AD industry evaluate emerging global environmental and chemical regulations and their impact on compliance and potential operational risk for companies and their supply chain. The objectives are to:

- Maintain a list of global regulations, policies and standards considered and to be considered, including executive summaries of those regulations.
- Develop a method to evaluate designated emerging regulation's potential impact on compliance and/or operational risk, business continuity and/or impact on supply chain.
- Develop summaries of the associated timeline for regulations (e.g., deadlines) and highlight the specific impacts.
- Develop communication materials and conduct informational webinars, as appropriate, for member companies and/or AD supply chain companies, as appropriate.

This Newsletter summarizes environmental and chemical regulations relevant to the AD industry. Contact Lisa Brown at myrna.l.brown@lmco.com or Lindsey Bean at lindsey.bean@ngc.com for any questions on this Newsletter. For general assistance on IAEG matters, contact Christer Hellstrand at chellstrand@iaeg.com or Amanda Myers at Amanda.Myers@sae.org.

  RETURN TO TABLE OF CONTENTS

NEWSLETTER

Global Environmental and Chemical Regulations, Policies, and Standards
March 2022

TABLE OF CONTENTS

  RETURN TO TABLE OF CONTENTS

EUROPE 13

NORTH AMERICA 15

  RETURN TO TABLE OF CONTENTS

Oceania 19

Australia 19

  RETURN TO TABLE OF CONTENTS

ASIA

China

Announcement on the inclusion of registered new chemical substances in the "Inventory of Existing Chemical Substances in China" (the first batch of the ninth batch in 2022) (published)

On 3 March 2022, the Chinese Ministry of Ecology and Environment (MEE) announced the addition of 18 substances to the Inventory of Existing Chemical Substances in China. These substances were manufactured in or imported into China before 15 October 2003, which fulfilled the supplementation criteria but missed the previous supplementation window. They are now regulated as existing chemical substances in China and are free from new chemical registration or notification requirements under the Measures for the Ecology and Environmental Management Registration of New Chemical Substances (i.e., MEE Order No. 12).

There are no non-compliance provisions associated with this update.

More information and the list of substances can be found here in English and in this announcement in Chinese

Amendments to the Stockholm Convention on persistent organic pollutants (consultation)

The Chinese Ministry of Ecology and Environment (MEE) opened a public consultation on 5 March 2022 for proposed amendments to the Stockholm Convention on persistent organic pollutants (POPs). The amendments propose the listing of perfluorohexane-1-sulphonic acid (PFHxS; CAS No. 355-46-4), its salts, and PFHxS-related compounds in Annex A of the Convention (without specific exemptions). Comments were due to MEE by 25 March 2022.

PFHxS is a chemical that falls under the large family of substances called per- and polyfluoroalkyl substances (PFAS). PFHxS, its salts, and PFHxS-related compounds are used in products such as paint additives, stain and water-resistant materials, and fire-fighting foams.

The Stockholm Convention on POPs is an international environmental treaty that aims to eliminate or restrict the production and use of 30 POPs. The Convention was signed on 22 May 2001 but the obligations under the Convention were effective from 1 November 2004 for China. The POPs that are listed under the Convention are distributed in three annexes:

- Annex A (measures must be taken to eliminate the production and use of these chemicals)
- Annex B (measures must be taken to restrict the production and use of these chemicals)
- Annex C (measures must be taken to reduce the unintentional releases of these chemicals)

More information can be found in Chinese in this notice. The initial indicative list of PFHxS from the Stockholm Convention can be found here in English

  RETURN TO TABLE OF CONTENTS

India

Delay in the implementation of Bureau of Indian Standards' Quality Control Orders for four substances (published)

India's Department of Chemicals and Petrochemicals (DCPC) delayed the implementation of Bureau of Indian Standards (BIS) quality control orders (QCOs) for four substances. The BIS QCOs will now enter into force in August 2022 instead of February 2022. The DCPC made this announcement through four notifications (one for each substance) on 31 January 2022. The delay, which was due to COVID-19, enables manufacturers, importers, and traders of the four substances to operate and trade uninterruptedly until August 2022.

The four substances that are subject to a delayed implementation date for the BIS QCOs are:

- acetic acid (CAS No. 64-19-7) – used in the manufacture of rubber and plastic products – enters into force on 3 August 2022
- aniline (CAS No. 62-53-3) – used in dyes, explosives, and intermediates – enters into force on 3 August 2022
- methanol (CAS No. 67-56-1) – used in plastic, paint, and anti-freeze products, and as a solvent – enters into force on 3 August 2022
- morpholine (CAS Number: 110-91-8) – used as an intermediate in the rubber industry, and metal corrosion inhibitor for various equipment – enters into force on 1 August 2022

The QCOs require companies manufacturing or importing these chemicals to comply or face a ban. Companies will have to apply to the BIS for a certificate, which will be valid for two years before it will need renewal. In addition, they must ensure that all packaging and labels display the BIS mark.

Penalties for non-compliance include fines up to 5 lakh rupees.

More information can be found in The Gazette of India.

Draft Indian Standard for terephthalic acid and consultation for 3,4-dichlorophenyl isocyanate (draft)

On 23 February 2022, the Bureau of Indian Standards (BIS) published a draft revision to the Indian Standard (IS) 15030:2001 for terephthalic acid (CAS No. 100-21-0). This provides new requirements, sampling methods, and tests for terephthalic acid. Furthermore, the draft revision establishes requirements for handling, packaging, and marking the substance. Terephthalic acid is used in paints, synthetic fibers and resins, and as an intermediate in polyethylene terephthalate used in liquids' packaging and polyester films. The comment period for this Draft Revision ended on 19 March 2022.

The BIS revised the IS for terephthalic acid due to its combustible and explosive characteristics in line with provisions from other IS [IS 265:2021, IS 266:1993, IS 460(part 1):2020, IS 915:2012, IS 1070:1992, IS 2362:1993 and IS 4161:1967]. The draft revision proposes maximum limits for certain substances contained in terephthalic acid, including:

- 0.2% (by weight) for moisture content
- 10 parts per million (ppm) for ash content
- 5 ppm for the total iron, manganese, cobalt, chromium, and titanium content
- 25 ppm for 4-carboxybenzaldehyde (CAS No. 619-66-9)

To protect human health, the BIS are advising to use dust masks when handling terephthalic acid due to its impacts to the skin, eyes, nose, throat, and lungs if inhaled. There are also mandatory methods proposed to minimize the substance's risk

  RETURN TO TABLE OF CONTENTS

arising from dust. Additionally, terephthalic acid must be supplied in 1,000 kilogram flexible woven plastic containers as agreed between the purchaser and the supplier.

In addition, on 14 February 2022 BIS opened consultation for an IS for 3,4-dichlorophenyl isocyanate (CAS No. 102-36-3), which is used as an intermediate in organic synthesis and for thermoplastic manufacture. The last date of comments was 16 March 2022. The draft IS provides requirements for chemical characteristics, methods of sampling, and testing for 3,4-dichlorophenyl isocyanate. This includes adhering to the provisions set out in two other standards:

- methods of sampling and tests for dye intermediates (IS 5299: 2001)
- methods for determining melting points and ranges (IS 5762: 1970)

The containers in which each of the two substances are held must be securely closed and bear certain information that includes:

- name of the substance
- the name of the manufacturer and their recognized trademark, if any
- month and year of manufacture
- net weight and gross weight
- batch and lot number
- any relevant health hazard warnings

If the draft is approved, products conforming with the requirements set out in this IS could be certified by the BIS and include the conformity mark on the packaging.

More information can be found in the Draft Indian Standard for terephthalic acid - specifications and the Draft Indian Standard for 3,4-dichlorophenylisocyanate - specifications.

Japan

Revisions to the Law Enforcement Ordinance on the Examination of Chemical Substances and Regulation of Manufacturing, etc. (amendment)

The Japanese Ministry of Health, Labor, and Welfare (MHLW) opened a public consultation on 2 March 2022 for a Draft Cabinet Order that outlines draft measures to regulate perfluorooctanoic acid (PFOA)-related substances. This is in line with the Stockholm Convention on persistent organic pollutants. Comments were due on 3 April 2022.

On 22 October 2022, the designation of PFOA (CAS No. 335-67-1) and/or its salts as Class I Specified Chemical Substances was enforced under the Act on the Evaluation of Chemical Substances and Regulation of their Manufacture, etc. (also known as the 'Chemical Substances Control Law'). The Draft Cabinet Order proposes to also designate PFOA-related substances as Class I Specified Chemical Substances. This class of substances are any chemicals that are persistent, highly bio-accumulative, and have a risk of long-term toxicity to humans or predator animals at higher trophic level. Businesses are required to obtain permission from MHLW prior to manufacturing and/or importing these substances. This excludes essential uses and the import of certain products containing these substances.

The Draft Cabinet Order propose to prohibit the import of the following products that contain PFOA-related substances:

- floor waxes
- protective and antifouling agents for textile products
- water and oil repellents

- textile products with water and oil repellent treatment
- antifoaming agents
- coating agents
- optical fiber or its surface coating agents
- fire extinguishers and fire extinguishing agents for fire extinguishers and foam (handling of this product must comply with technical standards).

Essential uses are listed for the manufacture of invasive and implantable medical devices, and certain pharmaceutical products.

More information can be found here in English and Japanese.

Saudi Arabia

Technical regulation for limiting hazardous substances in electrical and electronic equipment (amendment)

On 9 July 2021, the Saudi Standard, Metrology, and Quality Organization published a technical regulation for limiting hazardous substances in electrical and electronic equipment (EEE) and their spare parts. This was due to take effect on 5 January 2022; however, following a meeting of the Conformity Steering Committee on 5 December 2021, the implementation date for the technical regulation was postponed to 4 July 2022, and mandatory enforcement dates were issued for EEE product categories:

- 31 December 2022 for information and communications equipment
- 31 March 2023 for lighting equipment
- 29 June 2023 for electrical and electronic tools and equipment
- 26 December 2023 for monitoring and control tools

Under the technical regulation, applicable products must not exceed the chemical restriction levels for the following six substances:

- cadmium – 0.01% weight by weight (w/w)
- lead – 0.1% w/w
- mercury – 0.1% w/w
- hexavalent chromium – 0.1% w/w)
- polybrominated biphenyls – 0.1% w/w
- polybrominated diphenyl ethers – 0.1% w/w

Medical equipment, weapons, military equipment, aerospace products, extensive industrial stationary tools, and extensive stationary equipment are exempt from the technical regulations. Suppliers must obtain a certificate of conformity in accordance with ISO/IEC 17067 from an accepted body for their product in addition to providing a risk assessment document, and any necessary warnings/cautions and manuals for safe use of the EEE placed on the Saudi Kingdom market.

Penalties for non-compliance include removal of the product from the market, fines and/or imprisonment.

More information can be found in this announcement and this technical regulation from Saudi Standards.

 RETURN TO TABLE OF CONTENTS

Singapore

Amendment to the Environmental Protection and Management Act 2021 (in force)

On 29 October 2021, Singapore's National Environment Agency (NEA) published an amendment to the Environmental Protection and Management Act (EPMA). This was followed by the "Environmental Protection and Management (Amendment) Act 2021 (Commencement) Notification 2022" on 25 February 2022, which specifies the enforcement dates for the changes in the 29 October 2021 EPMA amendment. The EPMA is an Act to consolidate the laws relating to environmental pollution control, to provide for the protection and management of the environment and resource conservation, and for related purposes.

The major change to the EPMA is given in Section 3 (Part 10A) of the 29 February 2022 amendment (effective: 1 October 2022), which provides information regarding control measures for greenhouse gases (GHGs). The key measures include:

- regulating all type of GHG goods (devices, appliances, equipment, articles, or things that require any GHGs) and GHG work (activity involving the use or handling of any GHGs)
- manufacturers and importers of GHG goods must not supply GHG goods unless registered with the Director General (valid for up to three years)
- GHG goods must not exceed its global warming potential limit
- records must be maintained for information relating to the GHG good's environmental impact (including the type, amount, and global warming potential) and environmental protection and management measures – this must be provided to the Director General
- businesses must not carry out GHG work unless registered with the Director General – a competent person (assigned and approved by the Director General) must conduct or supervise the work
- records must be maintained for information relating to the GHG work and the individuals carrying out or supervising those work must be given to the Director General

Other changes given in the other sections of the 29 February 2022 amendment are administrative changes.

Penalties for non-compliance include revoking registrations, fines and/or imprisonment.

More information can be found in this notification and in the Singapore Government Gazette Acts Supplement.

South Korea

National Institute of Environmental Sciences Announcement No. 2022-10: Results of hazard assessment of chemical substances (effective)

On 11 February 2022, South Korea's National Institute of Environmental Research (NIER) published updated hazard evaluation results for 30 existing chemical substances (unique numbers: 2022-170 to 2022-199). These substances were registered and reviewed under K-REACH from January 2021 to March 2021. Of these 30 substances that were evaluated, 28 were deemed to be toxic.

Under the K-REACH, hazard evaluations for substances are conducted by the South Korean Ministry of Environment (MoE). The evaluation of a particular substance may result in it being designated as a toxic substance and requiring further risk

  RETURN TO TABLE OF CONTENTS

assessment. Based on the results of the hazard evaluation and risk assessment, the MoE designates the substance in question as being subject to authorization, restriction or prohibition.

The hazard properties and classifications of 4 substances (unique numbers: 2020-032, 2020-034, 2020-041, 2020-050), which were previously assessed, have also been updated following registration changes or further data being made available.

The evaluated 30 substances have a variety of applications such as uses in coating products, adhesives, binding agents in paints, and polymers.

There are no non-compliance provisions associated with this update.

Additional information can be found in English in the hazard assessment results for existing chemicals. More information can be found here in Korean.

Notice No. 2022-90: Draft partial amendment of the enforcement regulations of K-REACH (consultation)

On 18 February 2022, the Korean Ministry of Environment (MoE) opened a public consultation on a draft partial amendment to the enforcement regulations of K-REACH. Comments were due on 30 March 2022. There are three main revisions that are proposed in the amendment:

- addition of Article 34-2:
  - designation of candidate substance for 'substance subject to permission' – requiring permission from the MoE before its manufacture, import, or use under K-REACH
  - the MoE selects the candidate substances based on whether the level of hazard the substance presents is equivalent to a 'priority control substance', the scale of domestic distribution of the substance, its users, and whether it is regulated by other competent authorities globally
- revision of Attachment 1:
  - waiving the requirement for environmental hazard data (when registering a substance under K-REACH) if a company is manufacturing or importing between 0.1 and 1 tonne per year
  - the environmental hazard data requirement can also be waived if the water solubility is less than 1 milligram per liter or if the chemical substance is used as intermediate or process regulator
- revision to Attachment 5:
  - overseas producers of new substances for research and development purposes and importing to South Korea in annual volumes of under 100 kilograms, may apply for an exemption from reporting without disclosing the substance's name and CAS number
  - the company can apply using a safety data sheet instead.

Additional information can be found here in English and in Korean.

  RETURN TO TABLE OF CONTENTS

Vietnam

Decree for regulations on reduction of greenhouse gas emissions and protection of the ozone layer (in force)

On 7 January 2022, the Vietnamese government published a decree for regulations on reduction of greenhouse gas emissions and protection of the ozone layer, which implements provisions of the law on environmental protection 2020 on reduction of greenhouse gas emissions. This decree is applicable to companies and individuals involved in activities causing greenhouse gas (GHG) emissions and ozone depletion: production, import, export, and consumption of GHGs and ozone-depleting substances listed under the Montreal Protocol.

The controlled ozone-depleting substances specified include:

- bromochloromethane (CAS No. 74-97-5)
- carbon tetrachloride (CTC; CAS No. 56-23-5))
- chlorofluorocarbons (CFCs)
- halons
- hydrobromofluorocarbons (HBFCs)
- hydrochlorofluorocarbons (HCFCs)
- methyl bromide (CAS No. 74-83-9)
- methyl chloroform (CAS No. 71-55-6)

According to Article 22 (5) of the decree, the production, import, temporary import, re-export, and consumption of bromochloromethane, CTC, CFC, halon, HBFC, methyl chloroform, HCFC 141b, as well as the products containing these substances are prohibited. The import of methyl bromide is only allowed for the sterilization and quarantine of exported goods.

Under Article 23 of the decree, the Ministry of Natural Resources and Environment detail the following phaseout schedule for HCFCs:

- 1 January 2022 to 31 December 2024: total national consumption for HCFCs must be < 65% of the baseline consumption
- 1 January 2025 to 31 December 2029: total national consumption for HCFCs must be < 32.5% of baseline consumption
- 1 January 2030 to 31 December 2039: total national consumption for HCFCs must be < 2.5% of consumption
- 1 January 2040 onwards: total ban on the import and export of HCFCs

According to Article 6 of the decree, some companies will be obligated to create GHG inventories in the following cases:

- they create emissions of 3,000 tonnes or more of carbon dioxide equivalent
- they are commercial buildings with energy consumption of 1,000 tonnes of oil equivalent
- they are solid waste treating establishments with annual operation capacity of 65,000 tonnes or more

The process to establish the inventories will be decided by the Ministry of Natural Resources and Environment before 30 June 2023. The inventories will be analyzed between 2026 and 2023 to develop and implement a GHG emission reduction plan for Vietnam.

  RETURN TO TABLE OF CONTENTS

There are no non-compliance provisions associated with this update.

Additional information can be found here in English and in Vietnamese.

Decree detailing a number of articles of the Law on Environmental Protection (effective)

On 10 January 2022, the Vietnamese government published Decree No. 08/2022/ND-CP, which provides details about various articles provided in the Law on Environmental Protection 2020 (72/2020/QH14). On the same day, the Ministry of Natural Resources and Environment (MONRE) issued Circular No. 02/2022/TT-BTNMT, which provides the implementation rules for the articles in the law. Both the decree and circular provide requirements for the control of persistent organic pollutants (POPs) and POPs-containing products in Vietnam.

The law provides requirements for environmental protection activities, which includes the management of POPs and raw materials, fuels, materials, products, goods, and facilities containing POPs. This is in line with the Stockholm Convention.

The decree and circular give the obligations for the producers, importers, and operators of POPs and POPs-containing products such as:

- application process for the registration exemption of POPs under the Stockholm Convention
- labeling requirements
- information disclosure requirements
- conformity assessment and inspection requirements

Specifically, Articles 38 to 42 of the decree provide information regarding the aforementioned obligations. Articles 47 and 48 of the circular provide information about conformity assessment and inspection.

Companies that use POPs listed in Annex XVII of the decree as a direct raw material must apply for exemption. Following approval from the MONRE, a Notice of Approval of Specific POPs Exemption will be issued. From 1 January 2023, this notice will be used by customs to consider and permit the clearance of POPs.

Penalties for non-compliance include fines and suspension of operation for a definite period.

Additional information can be found in English in the decree and in Appendix I: Sample for Protection of Environmental Components and Heritage Nature. The list of POPs can be found in Annex XVII of the Decree. Information in Vietnamese can be found here for the Decree and Circular No. 02/2022/TT-BTNMT.

  RETURN TO TABLE OF CONTENTS

EUROPE

European Union

Amendment to Regulation (EU) No 649/2012 of the European Parliament and of the Council regarding the listing of pesticides, industrial chemicals, persistent organic pollutants, and mercury and an update of customs codes (adopted)

On 10 February 2022, the European Commission (EC) adopted an amendment to the European Union (EU) Prior Informed Consent (PIC) Regulation (Regulation [EU] No 649/2012), which proposes to add several substances to Annex I (chemicals subject to export notification) and Annex V (chemicals subject to an export ban) of the Regulation. This follows a public consultation for the draft version of the amendment, which concluded on 16 November 2021 (see 'draft' update number 281). The PIC Regulation regulates the import and export of certain hazardous chemicals and places obligations on companies that wish to export these chemicals to non-EU countries. This is in line with the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

The main goals of the amendment to the PIC Regulation are to prevent unwanted imports and ensure that safety information (e.g., hazards, risks, and safe handling) is provided when hazardous chemicals are exported. The changes made to the PIC Regulation include the addition of:

- Annex I:
  - bis(pentabromophenyl) ether (decaBDE; CAS No. 1163-19-5; EC No. 214-604-9)
  - benzene as a constituent of other substances in concentrations equal to, or greater than 0.1% by weight (CAS and EC Nos. not available)
  - mercury (CAS No. 7439-97-6; EC No. 231-106-7)
  - cadmium (CAS No. 7440-43-9; EC No. 231-152-8) and its compounds
- Annex V:
  - perfluorooctanoic acid (PFOA; CAS No. 335-67-1; EC No. 206-397-9), its salts and PFOA-related compounds
  - export ban for fire-fighting foam that contains or may contain PFOA, its salts and PFOA-related compounds
  - export ban that does not apply when perfluorooctane sulfonic acid (PFOS; CAS No. 1763-23-1; EC No. 217-179-8), its salts, and perfluorooctane sulfonyl fluoride (POSF; CAS No. 307-35-7; EC No. 206-200-6) are used as a mist suppressant for non-decorative hard chromium (VI) plating in closed-loop systems
  - several pollutants and mercury products

The amendment to the PIC Regulation will enter into force on the 20th day following that of its publication in the Official Journal of the European Union and will become effective on the first day of the first month following the 45th day after publication.

Penalties for non-compliance vary by Member State.

More information can be found here.

Proposal to identify N-(hydroxymethyl)acrylamide as a substance of very high concern (consultation)

On 4 March 2022, Sweden submitted a proposal to the European Chemical Agency (ECHA) to identify N-(hydroxymethyl) acrylamide (CAS No. 924-42-5; EC No. 213-103-2) as a substance of very high concern (SVHC). Substances that may have serious and often irreversible effects on human health and the environment can be identified as SVHCs. If a substance is identified as an SVHC, it will be added to the Candidate List for eventual inclusion in the Authorisation List. N-(hydroxymethyl)acrylamide is used in the manufacture of polymers and as a cross-linking agent in adhesives and binders for paper products and textiles.

Following the submission of the proposal for N-(hydroxymethyl)acrylamide, a consultation was opened by ECHA to seek views on the proposal. Interested parties are invited to provide comments by 19 April 2022.

More information on the proposal can be found here.

Harmonized classification and labelling consultation on tert-butyl 2-ethylperoxyhexanoate (draft amendment)

On 28 February 2022, the European Chemicals Agency (ECHA) opened a consultation period to invite comments on the hazard classes of tert-butyl 2-ethylperoxyhexanoate (CAS No. 3006-82-4; EC No. 221-110-7). This substance is used in adhesives, sealants, coatings, paints, polymers, and plastic products.

Interested parties can give comments related to the hazard classes by 29 April 2022.

More information can be found here.

Restricting the use of per- and polyfluoroalkyl substances in fire-fighting foams (proposal)

On 23 February 2022, the European Chemicals Agency (ECHA) published a REACH Annex XV restriction dossier proposing to ban the placing on the market, use, and export of all per- and polyfluoroalkyl substances (PFAS) in firefighting foams, where the concentration of total PFAS in firefighting foams cannot exceed 1 part per million. PFAS are a large group of man-made substances used in various products such as firefighting foams, paints and coatings, phosphate ester-based brake and hydraulic fluids, wires and cables, and lubricant for turbine engines, jet engine, and satellite instrumentation. These substances are of high concern due to many PFAS being mobile, persistent, bio-accumulative, and toxic.

The European Commission and ECHA have conducted a study on possible regulatory management options to address the risk of PFAS in firefighting foams. The results showed that fluorine-free firefighting foams, as substitutes of PFAS, are generally available, and technically feasible and effective to the purpose. To give time for industry to replace PFAS-containing foams without compromising fire safety, the restriction dossier proposes certain transitional measures:

- 18 months for training and testing
- 18 months for municipal fire services
- 3 years for civilian ships
- 5 years for portable fire extinguishers

  RETURN TO TABLE OF CONTENTS

- 10 years for establishments covered by the Seveso Directive
- 5 years for any other use

The restriction dossier will be evaluated by ECHA's Scientific Committee for Risk and Socio-Economic Analysis and will be subject to a public consultation, which opened on 23 March 2022 and will last for 6 months. Interested stakeholders will be invited to comment on this proposal during the consultation period.

More information can be found in the registry of restriction intentions until outcome and in the proposal to ban "forever chemicals" in firefighting foam throughout the EU.

NORTH AMERICA

Canada

Determination of not "toxic" status of 34 substances specified on the Domestic Substances List (consultation)

The Canadian Minister of the Environment and Minister of Health conducted a screening assessment on 34 substances specified on the Domestic Substances List (DSL). The DSL provides an inventory of substances in the Canadian marketplace. This falls under the Canadian Environmental Protection Act (CEPA), 1999.

On 26 February 2022, the Canadian government published a Draft Notice following the screening assessment on the 34 substances. The Ministers concluded that these substances are not 'toxic' according to the criteria under paragraph 64(c) of CEPA; these substances do not enter the environment in a quantity or concentration, or under conditions that constitute or may constitute a danger in Canada to human life or health. Therefore, the Ministers propose that no further action is needed on these substances.

In Canada, these 34 substances are generally used as paint additives, processing aids, lubricants, viscosity adjusters, desiccants, pH adjusters, adhesives and sealants, and intermediates. A list of these substances can be found in Annex II of the Notice.

Comments must be provided to the Minister of the Environment by 27 April 2022.

More information and the list of the 34 substances can be found in the Canada Gazette.

Amendment to the Canadian Environmental Protection Act of 1999 (announced)

On 9 February 2022, the Environment and Climate Change Canada reintroduced a bill in the Senate to amend the Canadian Environmental Protection Act (CEPA), 1999. The amendment proposes splitting Schedule 1 (list of toxic substances) of CEPA

  RETURN TO TABLE OF CONTENTS

into two parts: one containing the highest-risk substances that will be prioritized for possible restrictions, and one containing all other toxic substances under CEPA. The bill also aims to:

- minimize risks to vulnerable populations (e.g., children and those in poor health)
- assess the cumulative impact of exposure to hazardous substances
- establish a "watch-list" of concerning substances to guide companies in finding suitable alternatives
- develop a new Plan of Chemicals Management Priorities
- let anyone request for toxicity evaluations
- decrease animal testing

Additionally, the bill contains the following provisions to amend the Canadian Food and Drugs Act:

- creating an environmental notification, risk assessment, and risk management framework
- improving mandatory labelling requirements for consumer products
- increasing transparency of chemicals in supply chains

These proposed significant amendments to CEPA are the first of its kind in 20 years.

More information can be found in Bill S-5 and this announcement from the Government of Canada.

United States

Compliance date extension for phenol isopropylated phosphate (3:1) (published)

On 8 March 2022, the US Environmental Protection Agency (EPA) published a final rule for the further extension of the compliance dates for phenol isopropylated phosphate (3:1) [PIP (3:1); CAS No. 68937-41-7] to 31 October 2024. This applies to the prohibition on processing and distribution of certain PIP (3:1)-containing articles and the PIP (3:1) used to make those articles, as well as the compliance date for the associated recordkeeping requirements for manufacturers, processors, and distributors of PIP (3:1)-containing articles. EPA issued the extension to the compliance dates to ensure supply chains are not interrupted for key consumer and commercial goods. PIP (3:1) is used as a flame retardant in consumer products, as a plasticizer and as a lubricant and hydraulic fluid.

On 6 January 2021, the EPA had published a final rule for prohibition under Section 6(h) of the Toxic Substances Control Act (TSCA) for PIP (3:1) with an initial compliance date of 5 February 2021. On 8 March 2021, the EPA issued a 180-day "No Action Assurance" regarding PIP (3:1) as a result of complaints made by industry. However, in September 2021, the EPA further extended the compliance dates for PIP (3:1) to 8 March 2022.

There are no non-compliance measures associated with this update.

More information can be found in the Federal Register and the EPA announcement on current and future actions on PBT rules.

Infrastructure Investment and Jobs Act: Effective date of Superfund chemical excise tax (published)

On 15 November 2021, President Biden signed the Infrastructure Investment and Jobs Act (H.R. 3684) (the Act), which sets taxes on certain manufactured and imported chemicals. This reinstates and expands the Superfund (also known as the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, CERCLA) chemical excise taxes, which

  RETURN TO TABLE OF CONTENTS

previously expired in 1995, under sections 4661 and 4671. These taxes were used to fund the Hazardous Substance Superfund, which were administered by the US Environmental Protection Agency to clean up hazardous waste sites around the US.

Section 4661 of the Act lists 42 substances that are subject to the Superfund chemical excise tax. The tax applies when these substances are sold by a manufacturer or importer. However, this is only if the substance is manufactured in the US or has entered into the US for consumption, use, or warehousing. Exceptions apply, including:

- taxable chemicals sold by a manufacturer for export or for resale by the purchaser to a second purchaser for export
- methane or butane used as a fuel or in the manufacture or production of any motor, aviation, jet or
- diesel fuel
- sulfuric acid produced solely as a by-product of and on the same site as air pollution control
- equipment
- any substance derived from coal

In December 2021, the US Internal Revenue Service (IRS) published Notice 2021-66, which adds 101 taxable substances to the list under Section 4671 of the Act. The Superfund chemical excise tax applies to importers who sell or use these substances. If an importer provides insufficient information about the chemicals used in these substances to determine the applicable tax, a higher tax may be imposed. There are no rates provided in Notice 2021-66 regarding the rate of tax for each taxable substance. However, this is expected to be issued by 1 July 2022.

The Act also lowered the threshold for a taxable substance from 50% to 20%; a taxable substance is defined now as a substance that contains more than 20% of the weight or value of the materials used to produce the substance.

The Superfund chemical excise taxes will become effective from 1 July 2022 and expire on 31 December 2031. Penalties for non-compliance include fines.

More information can be found in the Act and in Notice 2021-66.

Safe Drinking Water and Toxic Enforcement Act (Proposition 65) (effective)

On 25 February 2022, California's Office of Environmental Health Hazard Assessment (OEHHA) added perfluorooctanoic acid (PFOA; CAS No. 335-67-1) to the Proposition 65 list of chemicals known to the State of California to cause cancer. PFOA was already on the Proposition 65 list of chemicals known to cause developmental toxicity (added on 10 November 2017). Although PFOA is no longer produced in the US and effectively banned under the Stockholm Convention on persistent organic pollutants, it may still be used in non-stick cookware and other consumer products that are obtained in the US from other countries.

The purpose of Proposition 65 is to notify consumers that they are being exposed to chemicals known to cause cancer and/or reproductive toxicity. Consumers can decide on their own if they want to purchase or use the product. A Proposition 65 warning does not necessarily mean a product is in violation of any product-safety standards or requirements.

The warning requirement for significant exposures to PFOA will take effect on 25 February 2023.

Penalties for non-compliance include civil lawsuits and civil penalties of up to $2,500 per day for each violation.

More information can be found in this notice from OEHHA and in the Proposition 65 List.

  RETURN TO TABLE OF CONTENTS

Draft revision to risk determination of pigment violet 29 (consultation)

On 7 March 2022, the US Environmental Protection Agency (EPA) published a draft revision for the Toxic Substances Control Act (TSCA) risk determination for pigment violet 29 (PV29). The draft revision finds that PV29 presents an unreasonable risk to human health, which must be addressed through regulatory measures. PV29 has uses as an intermediate in the creation or adjustment of color of other perylene pigments, in paints and coatings, and plastic and rubber products.

The EPA employed a whole-chemical rather than use-by-use risk determination approach for PV29. This was due to the benchmark exceedances for multiple conditions of use for human health and the irreversible health effects (specifically lung toxicity effects known as alveolar hyperplasia) associated with PV29 exposures. In making this risk determination, the EPA did not make an assumption that workers always appropriately wear personal protective equipment.

Comments on the draft revision are due to EPA on 21 April 2022.

More information can be found in the Federal Register and in this EPA notice for public comments.

Proposed Rule for particulate matter emission standards and test procedures for civil aircraft engines (consultation)

On 3 February 2022, the US Environmental Protection Agency (EPA) published a Proposed Rule for particulate matter (PM) emission standards and test procedures for civil aircraft engines. The proposed standards are equivalent to the engine standards adopted by the United Nations' International Civil Aviation Organization (ICAO) in 2017 and 2020. The standards and test procedures are applicable to certain classes of engines used by civil subsonic jet planes to replace the existing smoke standard for aircraft. These engines can be new type design aircraft engines or in-production aircraft engines.

The proposed standards aim to:

- control the PM emissions
- establish and maintain uniformity in aviation regulations and standards
- migrate, modernize, and streamline the existing regulations into a new part
- align with ICAO by applying the smoke number standards to engines less than or equal to 26.7 kilonewtons rated output used in supersonic aircrafts

Comments are due to the EPA on 4 April 2022.

More information can be found in the Federal Register.

  RETURN TO TABLE OF CONTENTS

Oceania

Australia

Update to the Australian Inventory of Industrial Chemicals (published)

On 17 July 2021 and 18 July 2021, the Australian Government's Department of Health published two notices that add 10 substances (see link below for the list) to the Australia Inventory of Industrial Chemicals (AIIC). Chemical substances listed in the AIIC can be introduced by any registered introducers (manufacturer or importer). According to the Industrial Chemicals (IC) Act 2019, which regulates the manufacture and import of industrial chemicals (chemicals used for purposes other than agriculture, veterinary or therapeutic purposes, or in food or feed), introducers shall apply for registration before introducing an industrial chemical to Australia. For chemicals not listed in the AIIC, introducers shall apply to the Executive Director for an assessment certificate for its introduction.

The notice that was published on 18 February 2022 adds 8 substances in accordance with Section 82 of the IC Act 2019, which states that the Executive Director must list an industrial chemical on the AIIC if 5 years have passed since the assessment certificate was issued. The notice that was published on 17 February 2022 adds 2 substances in accordance with Section 83 of the IC Act 2019, which permits a chemical to be added to the AIIC within 5 years after when the assessment certificate was issued.

Further, the Australia Department of Health published a Notice on 4 March 2022, which adds 8 substances to the AIIC. These substances are:

- 2-propenoic acid, 2-methyl-, C12-16-alkyl esters, homopolymers (CAS No. 2756249-24-6)
- alcohols, C18-22, distn. residues (CAS No. 1160164-88-4)
- octene, hydroformylation products, high-boiling (CAS No. 68526-89-6)
- 2-propenoic acid, 2-methyl-, monoester with 1,2-propanediol, polymer with butyl 2-propenoate, ethenylbenzene, (1-methylethenyl)benzene and rel-(1R,2R,4R)-1,7,7-trimethylbicyclo[2.2.1]hept-2-yl 2-methyl-2-propenoate, tert-Bu peroxide-initiated (CAS No. 1817644-17-9)
- beeswax, ethoxylated (CAS No. 385815-07-6)
- alcohols, C12-18, distn. residues (CAS No. 68603-16-7)
- propanoic acid, 3-hydroxy-2-(hydroxymethyl)-2-methyl-, polymer with .alpha.-hydro-.omega.-hydroxypoly(oxy-1,4-butanediyl) and 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, potassium salt, morpholine-blocked (CAS No. 2759808-92-7)
- xanthylium, 9-(2-sulfophenyl)-3,6-bis[[2,4,6-trimethyl-3-[(1-oxohexyl)amino]phenyl]amino]-, sulfo derivs., inner salts, sodium salts (CAS No. 2251782-75-7)

Penalties for non-compliance include fines.

More information can be found in the 17 February 2022 notice, the 18 February 2022 notice, and the list of substances added to AIIC. Information on the 4 March 2022 notice can be found here.

  RETURN TO TABLE OF CONTENTS

Waste Minimisation (Plastic and Related Products) Regulations 2022 (published)

On 14 March 2022, the Australian Ministry for the Environment published the Waste Minimisation (Plastic and Related Products) Regulations 2022. The regulation restricts the manufacture and sale of various plastic products including products that contain plastic with pro-degradants (plastic that contains additives to accelerate its fragmentation into smaller pieces such as oxo-degradable or photodegradable plastic). The regulation also applies to any packaging, whether alone or if used to package another product.

There are no non-compliance provisions associated with this update.

More information can be found here.

Adoption of the amendments to Industrial Chemicals (General) Rules 2019 related to importing or exporting mercury (effective)

The Minamata Convention of Mercury (the Convention) is an international treaty that aims to protect human health and the environment from the adverse effects of mercury use. Australia ratified the Convention on 7 December 2021, which commits them to controlling and reducing mercury across a range of products, processes, and industries. To comply with the Convention, on 27 August 2021, the Australian Government proposed to tighten the regulation on mercury by amending the Industrial Chemicals (General) Rules 2019. The Industrial Chemicals (General) Rules 2019 set out the details for the regulation of the importation and manufacture of industrial chemicals in Australia under the Australian Industrial Chemicals Introduction Scheme (AICIS).

The amendments include adding the Convention and Australia's obligations under the Convention (measures for importing and exporting mercury for industrial use). The proposal was adopted on 7 March 2022, and the new rules were announced for the import and export of mercury in Australia with immediate effect. The new rules for mercury under the Industrial Chemicals (General) Rules 2019 apply to anyone who imports and/or exports elemental mercury (CAS No 7439-97-6) and/or mixtures of mercury (including alloys of mercury) with a mercury concentration of at least 95% by weight.

Importers and exporters of mercury shall submit an application to the AICIS Business Services and obtain approval before importing and exporting mercury for industrial use.

Penalties for non-compliance include fines.

More information can be found in the Federal Register of Legislation and this chemical information on importing or exporting mercury for the Department of Health of the Australian Government.

Ten draft evaluation statements for 1,417 industrial chemicals (consultation)

On 31 January 2022, the Australian Department of Health announced a notice for public consultation on 10 draft evaluation statements. Comments were due on 28 March 2022. These evaluations cover 1,417 industrial chemicals that are:

- identified as possibly posing a risk to human health and/or the environment
- unlikely to require further evaluation in Australia to manage environmental risks
- not considered for in depth evaluation because they are not commercially active in Australia

  RETURN TO TABLE OF CONTENTS

These substances have various uses, including uses in adhesive and sealants, paints and coatings, lubricants and greases, electronic products, plastic and polymer products, anti-freeze and de-icing products, and air care products. The evaluations are part of Australia's Evaluation Roadmap and are listed in the accompanying Rolling Action Plan, which are completed under the Industrial Chemicals Act 2019. The Act regulates the manufacture and import of industrial chemicals (chemicals used for purposes other than agriculture, veterinary or therapeutic purposes, or in food or feed).

More information can be found in this notice for public comments and in the list of chemicals in draft evaluation statements.

  RETURN TO TABLE OF CONTENTS

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