NEWSLETTER

Global Environmental and Chemical Regulations, Policies, and Standards
November 2021

IAEG INTERNATIONAL AEROSPACE ENVIRONMENTAL GROUP
10-YEAR ANNIVERSARY

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.

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China

Notice on issuing the Comprehensive List of Environmental Protection (2021 Edition) (published)

The Chinese Ministry of Ecology and Environment (MEE) announced the release of the Comprehensive Directory of Environmental Protection (2021 Edition) revising the 2017 edition. The directory will be used as the basis for the Chinese government to formulate and implement various regulations and plans and consists of 2 parts.

Part 1 lists highly polluting products of high environmental risk (dual high products), which include:

- 326 highly polluting products
- 223 products of high environmental risk
- 383 products that are both highly polluting and of high environmental risk

Part 2 of the directory provides 79 priority pieces of equipment used in environmental protection, including equipment for environmental monitoring, air pollution, and solid waste prevention and treatment.

The MEE will coordinate with other ministries and organizations to establish more stringent supervision on the dual high products. This may result in stakeholders being subject to higher production costs during manufacturing when using these products. By enforcing such measures, the MEE expects to achieve the following:

- accelerate the phase out and substitution of the dual high environmental risk products
- encourage various industries to implement environmentally friendly production lines
- advance technical capabilities

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

More information can be found here in English and in Chinese.

Supplementing the Inventory of Existing Chemical Substances in China (published)

The Chinese Ministry of Ecology and Environment (MEE) announced that 23 substances have been included in the Inventory of Existing Chemical Substances (IECSC). Earlier in September 2021, MEE published a draft for public consultation regarding the addition of these substances.

The substances were manufactured in or imported into China before October 15, 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 (MEE Order No. 12).

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

More information can be found here.

Japan

Addition of 194 chemical substances under the Industrial Safety and Health Law (published)

The Japanese Ministry of Health, Labor, and Welfare added 194 substances to the list of existing chemical substances under the Industrial Safety and Health Law (ISHL). These substances were assigned ISHL numbers from 29436 to 29629. In Japan, new chemical substances being manufactured or imported require notification under the ISHL and the Chemical Substances Control Law. Under ISHL, manufacturers and importers of substances classified as existing chemical substances do not need to report the substances to the Ministry as new chemical substances.

Substances are added to the ISHL inventory one year after they have been reported to the Ministry as new chemical substances. The ISHL inventory applies to substances manufactured in or imported to Japan for workplaces uses and is intended to protect workers from harm.

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

More information can be found here in English and in Japanese.

2022 schedule for manufacturing/importing new chemical substances in small quantities (published)

Japan's Ministry of Economy, Trade, and Industry (METI) published the 2022 schedule for companies to report new chemical substances manufactured or imported below one tonne a year under the Chemical Substances Control Law (CSCL). Under the CSCL, substances are classified into the categories of existing or new chemicals. New chemicals must be reported to and evaluated by the METI, the Ministry of Labor and Welfare, and the Ministry of the Environment at least three months prior to manufacture or import. The schedule for 2023 is expected to be published in October 2022.

Penalties for non-compliance include fines up to one million yen and/or imprisonment up to three years.

More information can be found here in English and in Japanese.

Philippines

Chemical Control Order for cadmium, cadmium compounds, and chromium (VI) compounds (in force)

The Philippines Department of Environment and Natural Resources (DENR) issued new Chemical Control Orders (CCOs) for cadmium, cadmium compounds, and chromium compounds. The new CCOs mandate registration of the compounds prior to import, use, or distribution. Companies must register these compounds via the Online Permitting and Monitoring System (OPMS) accompanied with chemical management plans and emergency and contingency plans for the accidents and incidents in which these substances are involved. Any person or entity importing these compounds must apply for an

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importation clearance via OPMS. The regulations also include labeling, training, handling and storage, and transportation requirements.

The following uses of cadmium are exempt from the scope of the recent CCO for cadmium and its compounds:

- batteries
- electronic equipment
- radioactive materials
- fuel products

The companies that have Priority Chemical List compliance certificates are exempt from the registration.

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

For more information you can refer to the CCO for Cadmium and Cadmium Compounds and the CCO for Chromium (VI) Compounds.

Russia

Approval of list of ozone-depleting substances and measures for phasing down or eliminating these substances (draft act)

On 28 October 2021, the Government of the Russian Federation published a draft act that approves a list of ozone-depleting substances (ODSs), including hydrofluorocarbons (HFCs), and places measures for phasing down or eliminating these substances. This is aligned with the Montreal Protocol on Substances that Deplete the Ozone Layer and the Kigali Amendment to the Protocol.

According to the draft act, the design and construction of objects of economic and other activities, which involve the production of ODSs and products containing ODSs, are prohibited. In addition, the Ministry of Natural Resources and Ecology of the Russian Federation (the Ministry) will be responsible for establishing annual volumes of controlled HFCs (listed in Schedule F of the draft act) that are permissible for production in and import into the Russian Federation; this is starting from 1 January 2022. The Ministry shall set limits for ODSs listed in Schedules A, B and C of the draft act.

The act shall enter into force on the day of its publication (final version). However, Articles 6 and 7 of the act shall enter into force on 1 March 2022. Articles 6 and 7 specify that reports must be submitted annually (no later than 1 April) to the Ministry. Article 6 applies to any person involved in the production, storage, recovery, recycling, use for the production of other chemical substances, and the destruction of ODSs. Article 7 applies to any person handling the import, export, production, and destruction of HFCs (listed in Schedule F).

More information can be found here in Russian.

South Korea

Update to online submission for Chemical Accident Prevention Management Plans (announced)

Starting 8 November 2021, South Korea is allowing Chemical Accident Prevention Management Plans to be submitted through an online platform. This follows a recent update to the upper and lower prescribed quantities of toxic substances, restricted substances, prohibited substances, and permitted substances, in accordance with the enforcement regulations of the Chemicals Control Act (CCA).

A hazardous chemical that exceeds the upper prescribed quantity limit requires a Grade 1 Chemical Accident Prevention Management Plan. Grade 2 Chemical Accident Prevention Management Plans apply if the hazardous chemical does not exceed the upper prescribed quantity limit and only exceeds the lower limit.

Under the CCA, Chemical Accident Prevention Management Plans are a mandatory requirement for handling hazardous chemicals in South Korea. This requirement has applied since 1 April 2021.

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

More information can be found here in Korean.

Regulations on regulated quantities of toxic substances, restricted substances, prohibited substances, and permitted substances (in force)

South Korea has updated the upper and lower prescribed quantities of toxic substances, restricted substances, prohibited substances, and permitted substances, in accordance with the enforcement regulations of the Chemicals Control Act (CCA). The CCA aims to protect citizens from the potential harm caused by chemical substances by providing guidance for safe management of chemical substances. The limits aim to minimize the likelihood and severity of industrial accidents involving hazardous substances.

The updated tables include:

- Table 1: regulated toxic substances
- Table 2: regulated restricted substances
- Table 3: regulated prohibited substances

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

More information can be found here in Korean.

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European Union

European Chemicals Agency consultations on applications for authorization and review reports for three substances (draft amendment)

The European Chemicals Agency (ECHA) has opened consultations on six applications for REACH authorisation and review reports for the following three substances:

- trichloroethylene (CAS No. 79-01-6)
  - as extraction solvent in the manufacture of polyethylene separators for lead-acid batteries
  - as extraction solvent for the purification of caprolactam from caprolactam oil
- chromium trioxide (CAS No. 1333-82-0)
  - for chrome plating of automotive plastic components
  - for pre-treatment (etch) in the chrome plating process of automotive plastic components
  - electroplating of different types of substrates for sanitary applications
- 2,2'-dichloro-4,4'-methylenedianiline (CAS No. 101-14-4)
  - for manufacturing polyurethane products

Interested parties are invited to provide comments about the use and application of the substances by 12 January 2022.

More information can be found here.

European Chemicals Agency registry of harmonized classification and labelling intentions for six substances (draft amendment)

The European Chemicals Agency (ECHA) has received intentions and proposals (submitted by Member State competent authorities, manufacturers, importers, or downstream users) for a new or revised harmonized classification and labelling of N-1-naphthylaniline (CAS No. 90-30-2) which is used in lubricants and greases, hydraulic fluids, and metal working fluids. Anyone with relevant information on the identity or hazardous properties of the substance is encouraged to provide this information to the dossier submitter during the early stages of the process, or at the latest during the consultation[1].

More information on N-1-naphthylanine can be found here.

ECHA also opened a consultation period to invite comments on the hazard classes of two substances used in cleaning agents, lubricants, and coolant mixtures (e.g., anti-freeze and de-icing products):

- 1H-benzotriazole (CAS No. 95-14-7)
- methyl-1H-benzotriazole (CAS No. 29385-43-1)

[1] There is no deadline yet as the consultation has not been opened yet for this substance.

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and three substances used in oxidizing and bleaching agents (e.g., detergents and cleaning products) and cosmetic products (e.g., hair dyes, teeth whitening, or bleaching products and nail hardening products):

- perboric acid (H3BO2(O2)), monosodium salt trihydrate [1]; perboric acid, sodium salt, tetrahydrate [2]; perboric acid (HBO(O2)), sodium salt, tetrahydrate; sodium peroxoborate, hexahydrate [3] (CAS No. 13517-20-9, 37244-98-7, 10486-00-7)
- perboric acid, sodium salt [1]; perboric acid, sodium salt, monohydrate [2]; perboric acid (HBO(O2)), sodium salt, monohydrate; sodium peroxoborate [3]; sodium perborate [4] (CAS No. 11138-47-9, 12040-72-1, 10332-33-9, 15120-21-5)
- sodium peroxometaborate (CAS No. 7632-04-4)

Interested parties can provide comments by the deadline of 21 January 2022.

More information on the five additional substances can be found here.

Persistent organic pollutants – setting limit values in Annex I (draft act)

The European Commission (EC) rules implement the European Union's (EU's) international commitments under the Stockholm Convention on Persistent Organic Pollutants. Hexachlorobenzene, a substance used in pesticides, is listed in Annex A to the Stockholm Convention (elimination) and in Annex I to EU Regulation 2019/1021 (list of substances subject to elimination).

The EC is amending Annex I to EU Regulation 2019/1021 by setting a limit value for hexachlorobenzene as unintentional trace contaminant in substances, mixtures, and articles (currently there is no limit value). The limit value is proposed to be 10 milligram per kilogram (i.e., 0.001% by weight). Comments were due to the EC by 6 December 2021.

More information can be found here.

Restriction for bisphenol A and bisphenols of similar concern (consultation)

Germany intends to submit a restriction dossier under Annex XV of the European Union (EU) Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation on 8 April 2022. The restriction will target bisphenol A (CAS No. 80-05-7) and structurally-related bisphenols of similar concern including bisphenol AF (CAS No. 1478-61-1), bisphenol B (CAS No. 77-40-7), bisphenol F (CAS No. 620-92-8), and bisphenol S (CAS No. 80-09-1). A previous call for evidence was opened from 14 October 2020 to 15 February 2021 and now a second call for evidence has been initiated.

The aim of this second consultation is to investigate bisphenol A and structurally-related bisphenols of similar concern for the environment and the possibility of substitution and alternatives and its socio-economic impacts. The second call for evidence is intended to offer an opportunity for stakeholders to provide updated information on uses, including tonnages, emissions, alternatives and transition costs, and limit values.

Comments and/or evidence per the second call for evidence must be provided by 22 December 2021.

More information can be found here.

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Updated concentration limits for certain persistent organic pollutants (draft amendment)

On 28 October 2021, the European Commission adopted a proposal for a regulation amending Annexes IV and V to Regulation (EU) 2019/1021 of the European Parliament and of the Council on persistent organic pollutants (POPs), which sets concentration limits for three POPs in waste. Regulation (EU) 2019/1021 implements the European Union's (EU's) commitments under the Stockholm Convention and United Nations Economic Commission for Europe protocol on POPs. Annex IV of the Regulation contains the list of substances subject to waste management. Annex V contains specific cases where a higher maximum limit is allowed for the substances listed in Annex IV. The goal of setting concentration limits for POPs in waste is to prevent them from re-entering the market and to achieve safer recycling as part of the EU Chemicals Strategy for Sustainability.

The regulation proposes new limits for the following substances:

- Perfluorooctanoic acid (PFOA; CAS No. 335-67-1) and its salts found in waterproof textiles and firefighting foams: Limit of 1 milligram per kilogram (mg/kg) under Annex IV and 50 mg/kg under Annex V
- PFOA-related substances: Limit of 40 mg/kg under Annex IV and 2,000 mg/kg under Annex V
- Dicofol (CAS No. 115-32-2) used as pesticide: Limit of 50 mg/kg under Annex IV and 5000 mg/kg under Annex V
- Pentachlorophenol (PCP; CAS No. 87-86-5) and its salts and esters used in treated wood and textiles: Limit of 100 mg/kg under Annex IV and 1,000 mg/kg under Annex V
- Polybrominated diphenyl ethers (PBDEs) used as flame retardants in textile and plastics: Limit of 500 mg/kg or 200 mg/kg (stricter option)
- Hexabromocyclododecane (HBCDD; CAS No. 25637-99-4) used as flame retardants in textile and plastics: Limit of 500 mg/kg or 100 mg/kg (stricter option)
- Short-chained chlorinated paraffins (SCCPs) used as flame retardants in rubber and plastic waste: Limit of 1,500 mg/kg or 420 mg/kg (stricter option)
- Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/Fs) found as impurities in industrial waste: Limit of 0.010 mg toxic equivalency quotient (TEQ)/kg or 0.005 mg TEQ/kg (stricter option)
- Dioxin-like polychlorinated biphenyls (PCBs) found as impurities in industrial oils and some ashes: Limit of 0.05 mg TEQ/kg

Interested parties are invited to submit comments on the proposed limits by the deadline of 23 December 2021.

Info on the amendment to Annexes IV and V to Regulation (EU) 2019/1021 can be found in the Explanation Memorandum. More information can be found here.

42nd Meeting for Competent Authorities for REACH and CLP: Proposal for a Restrictions Roadmap under the Chemical Strategy for Sustainability (draft)

The European Union (EU) Commission, together with the European Chemicals Agency (ECHA), have published a draft restrictions roadmap that was discussed at the Competent Authorities for REACH and CLP (CARACAL) meeting on 17 and 18 November 2021. The roadmap summarizes the EU Chemicals Strategy for Sustainability Towards a Toxic-Free Environment ("Strategy"; published on 14 October 2020), which (as part of the European Green Deal) aims to protect humans and the environment from hazardous chemicals. CARCAL is an expert group that advises the EU Commission and ECHA on questions relating to the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and Classification, Labelling, and Packaging (CLP) regulations.

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The restrictions roadmap aims to facilitate the prioritization of the following substances (set out in the Strategy) for restrictions for all uses and through grouping, instead of regulating them one by one:

- carcinogenic, mutagenic and reprotoxic substances (CMR)
- endocrine disruptors
- persistent, bioaccumulative, and toxic (PBT) substances
- very persistent and very bioaccumulative substances
- immunotoxicants
- neurotoxicants
- substances toxic to specific organs
- respiratory sensitizers substances

The restrictions roadmap includes a "Rolling List" setting out which restrictions are planned, prepared, and progressed for the most harmful substances. These restrictions intend to maximize the reduction of unacceptable chemical risks using all available resources, through broader restrictions, both through grouping of substances, and addressing a wider range of uses (industrial, professional, consumer uses, and uses in articles). This list will be subject to regular review.

More information can be found here.

Eurasia

The Eurasian Economic Commission amendments to the technical regulations concerning restriction of hazardous substances in electrical and electronic equipment (draft amendment)

The Eurasian Economic Commission (EEC) published draft amendments to the technical regulations concerning the restriction of certain hazardous substances (RoHS) in electrical and electronic equipment (EEE). According to the draft amendments, the EEC will update requirements to control RoHS and further limit their content in EEE. Furthermore, there are new requirements for the disposal of electrical and radio electronics products that have lost their consumer/mechanical properties. The draft amendments are proposed to align with the European Union (EU) Directive 2012/96/EC, which lays down measures to protect human health and the environment by preventing or reducing the adverse impacts of the generation and management of EEE waste.

In addition to updating the RoHS requirements, the draft amendments plan to update TR EAEU 037/2016 provisions related to restricting the content of hazardous substances in electric batteries and accumulators.

The regulatory impact of the changes given in the draft amendments will lead to clarification and confirmation of the list of electrical products and radio electronics subject to verification of compliance with the TR EAEU 037/2016 requirements. The TR EAEU 037/2016 is a RoHS legislation for EEE, which is aligned with the EU RoHS Directive 2011/65/EU.

All interested stakeholders should submit their comments by 20 January 2022.

More information can be found here in English and in Russian.

Switzerland

Partial revision of the Environmental Protection Act - strengthening the Swiss circular economy (consultation)

The Swiss Commission for the Environment, Spatial Planning, and Energy prepared a Preliminary Consultation Draft to amend the Environmental Protection Act (EPA). The EPA, which entered into force on 1 January 1985, aims to protect humans, animals, and plants (including their biological communities and habitats) against harmful effects or nuisances, and to preserve the natural foundations of life sustainably.

The purpose of this Consultation Draft is to create a new legal basis that could strengthen the circular economy by reducing environmental pollution and increasing the efficiency and security of supply of the Swiss economy. The principle of resource conservation should guide legislators and authorities in the implementation of measures to protect the environment and natural resources.

Comments are due to the Swiss Federal Office for the Environment by 16 February 2022.

More information can be found here in English and in German.

Canada

Notice with respect to bisphenol A and its structural analogues and functional alternatives (consultation)

Canada is conducting a consultation on bisphenol A (BPA; CAS No. 80-05-7) and its alternatives under the Canadian Environmental Protection Act, 1999 (CEPA) as part of Canada's Chemicals Management Plan. The consultation covers 188 substances that are being assessed for toxicity. This survey will enable the Canadian Government to gather information about the commercial status, industrial processes, and downstream use of BPA, its derivatives, and its alternatives to inform future risk management policies. BPA is an industrial chemical used to make plastics and epoxy resins used in consumer products, medical devices, in food contact materials, and many more.

The consultation is intended for companies that in the 2019 calendar year:

- manufactured > 10 kilograms (kg) of a listed substance
- imported > 10 kg of a listed substance, alone or in a mixture or product at a concentration ≥ 0.02 % weight/weight (w/w), or in a manufactured item that is part of the 12 categories of items listed under Article 2(2)(c)
- used > 10 kg of a listed substance, alone or at a concentration ≥ 0.02 % w/w

Interested parties are invited to submit comments by the deadline of 16 March 2022.

More information can be found here.

Screening assessments regarding ten flame retardants substances and phenol, methylstyrenated and approach for nine organic and inorganic substances prioritized under the Chemicals Management Plan (proposed)

The Chemicals Management Plan (CMP) is Canada's federal program that assesses and manages chemical substances and micro-organisms that may be harmful to the environment or human health. Pursuant to Section 68 or 74 of the Canadian Environmental Protection Act, 1999 (CEPA), the Minister of the Environment and the Minister of Health conducted a screening assessment of 10 substances of the Flame Retardants Group. According to the draft screening assessment, 6 out of these 10 substances pose a risk to the environment or are entering the environment in a quantity or concentration that may pose a danger to human health. These 6 substances are:

- triphenyl phosphate (TPHP; CAS No. 115-86-6)
- tert-butylphenyl diphenyl phosphate (BPDP; CAS No. 56803-37-3)
- bis(tert-butylphenyl) phenyl phosphate (BDMEPPP; CAS No. 65652-41-7)
- isodecyl diphenyl phosphate (IDDP; CAS No. 29761-21-5)
- isopropylated triphenyl phosphate (IPPP; CAS No. 68937-41-7)
- triethylphosphate (TEP; CAS No. 78-40-0)

There are no additional actions planned for the other 4 substances evaluated in the assessment:

- tris(2-butoxyethyl) phosphate (TBOEP; CAS No. 78-51-3)
- tris(2-ethylhexyl) phosphate (TEHP; CAS No. 78-42-2)
- bis(2-ethylhexyl) phosphate (BEHP; CAS No. 298-07-7)
- tetradecabromo-1,4-diphenoxybenzene (TDBDPB; CAS No. 58965-66-5)

The ministries are also considering potential restrictions on the use of phenol, methylstyrenated (MSP; CAS No. 68512-30-1), which is used in paints and coating products on ships and large equipment. MSP is an organic substance of unknown or variable composition, complex reaction products, or biological materials that is linked to aquatic toxicity and endocrine effects. In the Draft Screening Assessment, the ministries said they planned to recommend a Schedule 1 (toxic substance list) listing for MSP.

Further regulatory and non-regulatory measures may be implemented for the Flame Retardants Group substances and MSP. This is outlined in the respective Risk Management Scope.

On another note, a proposed "Approach for a Subset of Organic and Inorganic Substances Prioritized Under the CMP" was also released. The approach covers 9 substances that were identified in 2006 as priorities for assessment:

- carbon monoxide (CAS No. 630-08-0)
- dichloroacetic acid (CAS No. 79-43-6)
- trichloroacetic acid (CAS No. 76-03-9)
- paraffin waxes and hydrocarbon waxes, chloro, chlorosulfonated (CAS No. 68188-19-2)
- paraffin waxes and hydrocarbon waxes, chloro, sulfonated, ammonium salts (CAS No. 72854-22-9)
- hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX; CAS No. 121-82-4)
- vitamin D3 (CAS No. 67-97-0)

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- ziram (CAS No. 137-30-4)
- coke (coal; CAS No. 65996-77-2)

Additional risk assessment or risk management activities under CEPA may be undertaken if new information becomes available on these substances.

Comments are due by 5 January 2022.

More information can be found in these links for the Flame Retardant Group, phenol, methylstyrenated. Information can be found in this link on the Approach for Subset of Organic and Inorganic Substances Prioritized under the CMP.

United States

Update to the final rule on mandatory mercury reporting (published)

On 8 November 2021, the US Environmental Protection Agency (EPA) published an update to the final rule on mandatory mercury reporting under the Toxic Substance Control Act (TSCA). The update revises the previous version of the final rule (published on 27 June 2018), which requires reporting from persons who manufacture and/or import mercury or mercury-added products, or otherwise intentionally use mercury in a manufacturing process.

The Final Rule implements an order issued by the US Court of Appeals for the Second Circuit ("Second Circuit") on 5 June 2020. The Second Circuit vacated the exemption previously in 40 CFR 713.7(b)(2) of the final rule for persons who import pre-assembled products that contain a mercury-added component. The exemption is also removed from the final rule.

Section 713.7(b) of the final rule, which provides exemptions from the reporting requirements, is amended to include the following exemptions:

- persons who do not manufacture (including import) a mercury-added product with the purpose of obtaining an immediate or eventual commercial advantage
- persons engaged only in the manufacture (other than import) of a product that contains a component that is a mercury-added product who did not first manufacture (including import) the component that is a mercury-added product

According to the final rule, importers of mercury-added products or pre-assembled products that contain a mercury-added component will be required to report according to 40 CFR 713.7(b).

Affected entities are all manufacturers, importers, and processors of mercury and mercury-added products with the following North American Industrial Classification System (NAICS) codes (non-exhaustive list):

- synthetic dye and pigment manufacturing (NAICS code 325130)
- other basic inorganic chemical manufacturing (NAICS code 325180)
- all other basic organic chemical manufacturing (NAICS code 325199)
- plastic material and resin manufacturing (NAICS code 325211)
- pesticide and other agricultural chemical manufacturing (NAICS code 325320)
- paint and coating manufacturing (NAICS code 325510)
- adhesive manufacturing (NAICS code 325520)
- custom compounding of purchased resins (NAICS code 325991)
- photographic film, paper, plate, and chemical manufacturing (NAICS code 325992)

- all other miscellaneous chemical product and preparation manufacturing (NAICS code 325998)
- unlaminated plastic film and sheet (except packaging) manufacturing (NAICS code 326113)
- unlaminated plastic profile shape manufacturing (NAICS code 326121)
- urethane and other foam product (except polystyrene) manufacturing (NAICS code 326150)
- all other plastic product manufacturing (NAICS code 326199)
- tire manufacturing (NAICS code 326211)
- all other rubber product manufacturing (NAICS code 326299)
- iron and steel mills and ferroalloy manufacturing (NAICS code 331110)
- rolled steel shape manufacturing (NAICS code 331221)
- alumina refining and primary aluminum production (NAICS code 331313)
- electromedical and electrotherapeutic apparatus manufacturing (NAICS code 334510)
- automobile manufacturing (NAICS code 336111)
- motorcycle and part manufacturing (NAICS code 336991)
- surgical and medical instrument manufacturing (NAICS code 339112)

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

More information can be found in the Response to Vacatur of Certain Provisions of the Mercury Inventory Reporting Rule and in the Reporting Requirements for the Mercury Inventory.

Significant New Use Rules on Certain Chemical Substances (20-10.B) (published)

The US Environmental Protection Agency (EPA) published significant new use rules (SNURs) for the SNUR Batch 20-10.B under the Toxic Substances Control Act (TSCA). The manufacturers, processors, and importers of these substances must notify the EPA through submitting a Significant New Use Notice (SNUN) at least 90 days before manufacturing, processing, or importing any of these substances for the significant new use. The manufacture or processing for the significant new use shall not commence until the EPA makes an appropriate determination on the notice and has taken risk management actions because of the decision.

SNUR Batch 20-10.B covers the following substances:

- 2-[2-(methylcarboxymonocyclic)amino)ethoxy]alcohol (generic) [CAS No. not available]
- formaldehyde, polymer with alkyl aryl ketone (generic) [CAS No. not available)
- propanedioic acid, 1,3-dihexyl ester (CAS No. 1431-37-4)
- propanedioic acid, 1,3-dicyclohexyl ester (CAS No. 1152-57-4)
- propanedioic acid, 2,2-bis(hydroxymethyl)-, 1,3-dicyclohexyl ester (CAS No. 2222732-46-7)

Penalties for non-compliance include imprisonment up to 15 years and/or a fine of up to $250,000. A convicted organization may be subject to a fine of up to $1,000,000.

More information can be found here.

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National Emission Standards for Hazardous Air Pollutants: Paint stripping and miscellaneous surface coating operations at area sources technology review (proposed rule)

On 19 November 2021, the US Environmental Protection Agency (EPA) conducted a review in accordance with the Clean Air Act (CAA) for the National Emissions Standards for Hazardous Air Pollutants for paint stripping and miscellaneous surface coating operations at area sources. Under the CAA, EPA is required to regulate emissions of hazardous air pollutants.

Based on the results from the review, EPA is proposing to:

- make no changes to the standards
- amend provisions regarding electronic reporting
- make miscellaneous clarifying and technical corrections
- simplify the petition for exemption process
- clarify requirements addressing emissions during periods of startup, shutdown, and malfunction

Industrial sectors that might be affected by the proposed actions include:

- aerospace equipment
- chemical manufacturing and product preparation
- recreational vehicles and other transportation equipment
- rubber-to-metal products
- automobiles and automobile parts

All interested parties should submit their comments by 3 January 2022.

More information can be found here.

Significant New Use Rules on Certain Chemical Substances (21-2.F) (draft amendment)

The US Environmental Protection Agency (EPA) published proposed significant new use rules (SNURs) for the SNUR Batch 21-2.F under the Toxic Substances Control Act (TSCA). SNUR Batch 21-2.F consists of 28 substances.

The manufacturers, processors, importers of these substances must notify the EPA through submitting a Significant New Use Notice (SNUN) at least 90 days before manufacturing, processing, or importing any of these substances for the significant new use. The manufacture or processing for the significant new use shall not commence until the EPA makes an appropriate determination on the notice and has taken risk management actions as a result of the decision.

All interested parties are invited to provide comments until the deadline of 17 December 2021.

More information can be found in the Federal Register.

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Extension of compliance dates for phenol isopropylated phosphate (3:1) (proposed rule)

On 28 October 2021, the US Environmental Protection Agency (EPA) published a proposed rule in the Federal Register to further extend the compliance dates for phenol isopropylated phosphate (3:1) [PIP (3:1); CAS No. 68937-41-7) from 8 March 2022 to 31 October 2024. This updates the pre-publication version of the proposed rule Federal Register notice published on 21 October 2021. A 60-day comment period has been added, which will end on 27 December 2021.

More information can be in the Federal Register and in this EPA site on PBT Chemicals.

Oceania

Australia

Ozone Protection and Synthetic Greenhouse Gas Management Amendment (Reserve Hydrofluorocarbon Quotas) Regulations 2021 (in effect)

On 11 November 2021, the Australian Government published the Ozone Protection and Synthetic Greenhouse Gas Management Amendment (Reserve HFC Quotas) Regulations 2021 (Amendment Regulations). This amends the Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995 (Principal Regulations) in response to worldwide shipping and freight delays caused in part by COVID-19.

The Amendment Regulations amend the Principal Regulations to:

- enable the allocation of reserve hydrofluorocarbon (HFC) quota for the 2022 calendar year to importers who hold a license and quota to import HFCs in 2021 and have ordered before 1 October 2021 for arrival in Australia during 2021, but where the import is delayed until 2022 due to delays outside the importer's control)
- ensure that imports made under a reserve HFC quota in 2022 count towards the importer's 2021 HFC imports for the purposes of calculating the importer's future quota entitlement
- provide a reserve HFC quota limit – the total amount of reserve HFC quota allocated to importers must not exceed the reserve quota limit

Important regulatory timelines dates are as follows:

- Amendment Regulations are effective as of 17 November 2021
- Deadline for submission of a reserve HFC quota application was 1 December 2021[2]
- Deadline for submission of a reserve HFC quota application is 31 January 2022[3]

Reserve quotas will only be available for the 2022 calendar year and require an application to be submitted in accordance with Regulation 61 of the Amendment Regulations and by the deadlines shown above.

[2] This applies if the person has not been allocated a HFC quota for the 2022 calendar year at the time of application
[3] This applies if the person has been allocated a HFC quota for the 2022 calendar year at the time of application

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The Amendment Regulations are made under Section 70 of the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989 ("Act") and are made for the purposes of Sections 36G and 36C of the Act. According to Section 70 of the Act, the Governor-General may make regulations required or permitted by the Act, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. Section 36G of the Act allows the Principal Regulations to provide reserve HFC quota, including the process for applying for reserve HFC quota, the allocation, variation, and cancellation of reserve HFC, and the reserve quota limit. Section 36C of the Act allows the regulations to provide for the allocation and size of HFC quota.

The Act aims to control the manufacture, import and export of ozone-depleting substances (including the phase down of HFCs) to protect the ozone layer and climate, and to implement Australia's obligations under the Montreal Protocol.

Penalties for non-compliance of the Amendment Regulations include fines and/or imprisonment.

More information can be found in the Amendment and the Explanatory Statement.

Draft evaluations of chemicals (consultation)

The Australian Industrial Chemicals Introduction Scheme (AICIS) under the Department of Health opened a consultation on 24 draft evaluation statements for chemicals listed on the Australian Inventory of Industrial Chemicals. The majority of the substances are used in adhesives and sealants, or cleaning products. More information can be found in the list of draft evaluations.

Interested parties are invited to provide comments on the draft evaluations until the deadline of 17 December 2021.

More information can be found here.

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