Mark Hawes

Shurtape Technologies, LLC

EH&S Committee Chair

EHS Committee Activities

- Regulatory /Advocacy
- EPA MACT
  - Risk and Technology Review
  - Liason with EPA
- California Proposition 65 Support
- Continued Monitoring and Reporting on Relevant EHS Regulatory Activity

Regulatory/Legislative Advocate: Bracewell/PRG

Advocacy by Bracewell

- Monthly reports found at: https://www.pstc.org/i4a/pages/index.cfm?pageID=5387 ; Among the issues covered by the reports are:
  - Trade/NAFTA
  - Taxes
  - Environmental

Regulatory Topics:

Waters of the United States (WOTUS) Rulemaking:

The Clean Water Act sets requirements for "WOTUS" and "navigable waterways"

Ambiguity over what is included as "WOTUS" and "navigable waterways, causing confusion and different interpretations of what is covered by federal jurisdiction, including a split Supreme Court decision regarding wetland applicability.

- On October 22, EPA and Department of the Army (agencies) published a final rule (identified "Step 1") repealing the 2015 Rule which has applied to 22 states, the District of Columbia and the U.S. Territories, while the pre-existing regulations apply in more than half the states.
- "Step 1" sets the stage for "Step 2" which is expected to provide a better regulatory certainty for farmers, landowners, home builders and developers, with a new WOTUS definition.

Ref: https://www.epa.gov/wotus-rule/about-waters-united-states ; https://www.jdsupra.com/legalnews/wotus-repeal-step-one-90748/

Regulatory continued

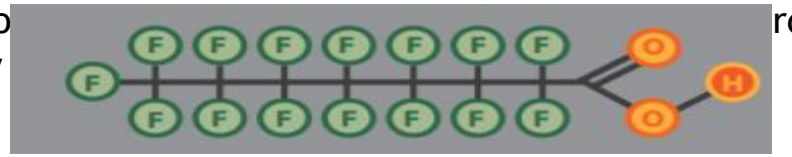
Per- and Polyfluoroalkyl Substances (PFAS)

- Uses: Stain- and water-repellent fabrics, nonstick products, polishes, waxes, paints, cleaning products, fire-fighting foams, metal plating, electronics and oil industry, among others. Ref: https://www.epa.gov/pfas/basic-information-pfas
- Lifecycle of PFAS-→ very resilient
- Due to improved analytical resolution, chemical compounds previously thought not to be our product but may be found due to increased analytical resolution; PFAS are theoretically present in the PSA industry (PTFE)

Public reacting with lack of knowledge and no risk communication

Continue to monitor regulatory framework and reaction to knowledge of a compound previously thought not to be present in environment but is there in ppt or ppb levels → impact to industry and public reaction

Discharge/emission limits not established, however:

- EPA has established the drinking water health advisory levels at 70 parts per trillion (Ref: https://www.epa.gov/ground-water-and-drinking-water/drinking-water-health-advisories-pfoa-and-pfos);
- EPA initiated steps to 

rdous substances" through a statutory mechanisms, including potentially

Regulatory continued

Per- and Polyfluoroalkyl Substances (PFAS) Activities

- In August 2019, California State Water Control Board updated guidelines for detecting and reporting PFAS in drinking water
- PFAS provisions expected to be included in the annual defense authorization bill (NDAA)
- FY 2020 spending bill included directive to set maximum levels in drinking water under the Safe Drinking Water Act.
- House Energy and Commerce Committee put a package together addressing PFAS as follows:
  - Amending Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), requiring cleanups at federal facilities to meet state limits for PFAS.
  - Establishing grants to PFAS-affected water systems to pay for treatment technology.
  - Prohibiting disposal of PFAS-containing firefighting foam through incineration
- Case of Maine diary farm found to have PFAS; caused economic hardship for one farm; expected that waste sludge permitted to be used on his land was the cause. Ref: https://www.fosters.com/news/20190319/dairy-farm-ruined-by-pfas-contaminants
- PA residents exposed to drinking water contaminated with PFAS received medical testing as part of a national study examining the impact that the chemicals can have on human health
  Ref: https://www.inquirer.com/news/pfas-health-study-blood-test-atsdr-pennsylvania-new-jersey-bucks-montco-gloucester-20190923.html

Regulatory continued:

- Emerging Contaminants
  - CERCLA – assignment of Hazardous Substance Classification

  - Lack of Established air, surface water or groundwater standards related to these compounds

    Follow

    1,4 Dioxane

    TNT, DNT

    Nanomaterials

    Brominated Flame Retardants

    Perchlorate

    Tungsten

Regulatory continued:

- **California Proposition 65**
  - PSTC member guidance document (must be logged in): https://www.pstc.org/i4a/pages/index.cfm?pageid=5334
  - Chemicals added to Propostion 65 list as of September 13, 2019:
    - 2-Amino-4-chlorophenol (CAS No. 95-85-2) Hair dye, to color the hair. Ref: https://oehha.ca.gov/chemicals/2-amino-4-chlorophenol
    - 2-Chloronitrobenzene (CAS No. 88-73-3) Used in the synthesis of various chemicals and is an intermediate in the production of colorants. Ref: file:///C:/Users/llavanco/Downloads/mono65-7.pdf
    - 1,4-Dichloro-2-nitrobenzene (CAS No. 89-61-2): Used as an intermediate for pigments, pesticides and UV absorbents in closed systems and in manufacture of dyestuff intermediates

Ref: https://pubchem.ncbi.nlm.nih.gov/compound/1_4-Dichloro-2-nitrobenzene#section=Uses

- 2,4-Dichloro-1-nitrobenzene (CAS No. 611-06-3): Chemical intermediate for chlormethoxyfen, 2,4-difluoroaniline, diazoxide (an antihyperntensive agent) Ref: https://pubchem.ncbi.nlm.nih.gov/compound/2%2C4-dichloronitrobenzene#section=Use-and-Manufacturing
- N,N-Dimethylacetamide (CAS No. 127-19-5): Among other uses, *manufacturing of films and fibers; booster solvent in coatings and adhesives formulations.* Ref: https://pubchem.ncbi.nlm.nih.gov/compound/n_n-dimethylacetamide#section=Uses
- para-Nitroanisole (CAS 100-17-4): Intermediate. Ref: https://pubchem.ncbi.nlm.nih.gov/compound/4-Nitroanisole#section=Consumer-Uses

Regulatory continued:

Toxic Substance Control Act (TSCA)

Know the ingredients of your raw materials! Is it an Active chemical under TSCA? Does it require a PMN? Is it subject to a SNUR? Manufacture = Import under TSCA!

PENALTIES: Certain knowing and willful violations of TSCA can result in up to 1 year imprisonment and/or up to $25,000 per day violation Ref: https://www.epa.gov/enforcement/criminal-provisions-toxic-substances-control-act-tsca#four

ACTIVE/INACTIVE: Substances not reported as manufactured *(including imported)* or processed in the U.S. over a 10 year period ending on June 21, 2016 not reported through Chemical Data Reporting (CDR) considered "inactive" under TSCA. Ref: https://www.epa.gov/tsca-inventory/tsca-inventory-notification-active-inactive-rule

- As of August 5, 2019, manufacturers *(including importers)* and processors are required to notify EPA before reintroducing an "inactive" substance into commerce. To check, access the TSCA Inventory at: https://www.epa.gov/tsca-inventory/how-access-tsca-inventory

TSCAINV_092019

ID	CASRN	ChemName	DEF	UVCB	FLAG	ACTIVITY
9	50-29-3	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-chloro-			S	ACTIVE
10	50-30-6	Benzoic acid, 2,6-dichloro-			PMN; SP; 5E	ACTIVE
11	50-32-8	Benzo[a]pyrene				ACTIVE
12	50-33-9	3,5-Pyrazolidinedione, 4-butyl-1,2-diphenyl-				ACTIVE
13	50-34-0	2-Propanaminium, N-methyl-N-(1-methylethyl)-N-[2-[(9H-xanthen-9-ylcarbonyl)oxy]ethyl]-, bromic				INACTIVE
14	50-45-3	Benzoic acid, 2,3-dichloro-			PMN; SP; 5E	ACTIVE
15	50-54-4	Cinchonan-9-ol, 6'-methoxy-, (9S)-, sulfate (2:1)				INACTIVE
16	50-55-5	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester, (			S	ACTIVE

Regulatory continued:

Toxic Substance Control Act (TSCA) continued

Premanufacture notice (PMN) Submission

- Anyone who plans to manufacture (*including import*) a new chemical substance for a non-exempt commercial purpose to provide EPA with notice before initiating the activity. Existing PMN's are flagged on the TSCA chemical inventory. Ref: https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/basic-information-review-new

Significant New Use (SNUR)

- SNURs for Existing Chemicals (i.e., SNURs not promulgated as a result of TSCA New Chemicals Program review): Section 5(a) SNURs can be used to require notice to EPA before chemical substances and mixtures are used in new ways that might create concerns. Ref: https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/actions-under-tsca-section-5#SNURs
- SNURs for New Chemicals (i.e., SNURs promulgated as a result of TSCA New Chemicals Program review): New chemicals may be issues SNURs following the Agency's review or during the review period.
- If a substance is subject to a SNUR (designated by an "S" flag in the Inventory listing and your intended manufacture, processing, or use of the substance is a significant new use, you would be required to submit a significant new use notification (SNUN) 90 days prior to the manufacture of that substance.

Climate Change:

- Exxon Case
- https://www.nytimes.com/2019/10/22/climate/new-york-lawsuit-exxon.html
- *"If the state prevails, it could prove to be expensive for Exxon Mobil. A state expert has estimated the cost to shareholders of Exxon Mobil's actions at somewhere between about $476 million and $1.6 billion. (The company posted earnings of $20.8 billion for 2019.)"*

Pay attention to the growing wave of climate change lawsuits (www.vox.com)

https://www.vox.com/energy-and-environment/2019/2/22/17140166/climate-change-lawsuit-exxon-juliana-liability-kids

Climate Change:

- Tobacco Settlement – 1998 Master Settlement Agreement
- *Over the years, the states have collected tremendous amounts of commercial tobacco revenue, but are spending little of it on tobacco prevention and cessation programs. According to A State-by-State Look at the 1998 Tobacco Settlement 19 Years Later, states will collect $27.5 billion from the MSA and taxes in Fiscal Year 2018, but will spend less than 3 percent of it on programs to prevent kids from smoking and help smokers quit. No state currently funds tobacco prevention at the level recommended by the Centers for Disease Control and Prevention (CDC); 29 states and the District of Columbia spend less than 20 percent of the CDC recommendation.*
  https://www.publichealthlawcenter.org/topics/commercial-tobacco-control/commercial-tobacco-control-litigation/master-settlement-agreement

MACT Update

- PSTC submitted comments (Oct. 29, 2019) on EPA's proposed revision of the *Paper and Other Web Coating* NESHAP. EPA's proposal is a "residual risk & technology review" (RTR) of the rule, which is directly required by the Clean Air Act
- PSTC's comments included the following:
  - Allowing a more realistic temperature "set-point" for oxidizer control devices
  - Support for and some adjustment of a methodology for accounting for solvent retained in webs, or solvent that is otherwise not emitted
  - Methods for determining the HAP content of coatings
- The final rule will likely be promulgated next spring -- facilities may have only 6 months to comply
- No change in emission limits -- however, the emission limits will now apply at all times, including during startup, shutdown & malfunction. Most facilities will likely need to change their procedures for monthly compliance demonstrations.

CAA

NESHAP

RTR

MACT Appreciation and Recognition:

Thank you John Metzger and Mark Hawes for extra time and effort in working with and visiting EPA on behalf of PSTC. John was instrumental and dedicated in preparing the draft and finalizing proposal comments for submission to EPA by PSTC.

QUESTIONS?

REMINDER:

We need your support! The EHS Regulatory Committee welcomes participation and requests representation from all member companies.