



Environmental Auditing: Federal Compliance Guide

RELEASE 201 – JUNE 2021

new & noteworthy

- **EPA issues TSCA regulations:** On January 6, 2021, EPA issued final regulations (86 FR 880, 86 FR 866, 86 FR 894, 86 FR 911, and 86 FR 992) pursuant to Section 6(h) of the Toxic Substances Control Act (TSCA) prohibiting or restricting the manufacture, processing and/or distribution in commerce of five chemical substances known to be persistent, bioaccumulative and toxic substances (PBTs). The regulations also prohibit and/or restrict the manufacture, processing and/or distribution in commerce of products or articles containing these substances. Regulations were promulgated under 40 CFR Part 751, Subpart E for the following:

- Decabromodiphenyl ether (decaBDE) (CASRN 1163–19–5)
- 2,4,6-tris(tert-butyl)phenol (2,4,6-TTBP) (CASRN 732–26–3)
- Phenol, isopropylated phosphate (3:1) (PIP (3:1)) (CASRN 68937–41–7)
- Pentachlorothiophenol (PCTP) (CASRN 133–49–3)
- Hexachlorobutadiene (HCBD) (CASRN 87–68–3)

A new rulebook, **Rulebook D, TSCA Section 6 Chemicals**, was added to the **Special Pollutants** module. In addition to these regulations, the regulations prohibiting the manufacture and distribution in commerce of methylene chloride for use in consumer paint and coating removal activities (40 CFR Part 751, Subpart B) were added to this rulebook.

- **Clean air emissions standards:** On March 11, 2021, (86 FR 13819) EPA amended 40 CFR Part 63 Subpart A to reflect a court order regarding the General Provisions for National Emissions Standards for Hazardous Air Pollutants (NESHAP) issued on December 19, 2008, by the United States Court of Appeals for the District of Columbia Circuit (the court). The court vacated two provisions previously included in the regulations that exempted sources from compliance with hazardous air pollutant (HAP) nonopacity and opacity emission standards during periods of startup, shutdown, and malfunction (SSM). The court held that under the Clean Air Act (CAA), emissions standards or limitations must be continuous in nature and that the SSM exemptions in these two provisions violate this requirement.

release notes

please review

These changes impact **Rulebook C-1, General Requirements for Hazardous Air Pollutants** in the **Air Quality** module.

highlights of this release

Air Quality

- **Rulebook C-1, General Requirements for Hazardous Air Pollutants**, has been reviewed and amended to include additional details and clarification related to the shartup, shutdown and malfunction plans.

Special Pollutants

- The **Introduction** (*General Applicability Checklist, Regulatory Summary, Key Compliance Definitions, and Acronyms*) and **Pre-audit Preparation** were updated for the addition of a new rulebook.
 - **Rulebook D, TSCA Section 6 Chemicals**, has been added to this module. This rulebook includes EPA regulations prohibiting or restricting the manufacture, processing, and distribution in commerce of methylene chloride and five PBTs.
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did you know?

- **Final Action in Response to Remanded CSAPR Update:** On April 30, 2021, EPA revised (86 FR 23054) its Cross-State Air Pollution Rule (CSAPR) in response to the United States Court of Appeals for the District of Columbia Circuit's (D.C. Circuit) remand of the Cross-State Air Pollution Rule (CSAPR) Update, published on October 26, 2016. The 2016 update attempted to address the good neighbor obligations for the 2008 ozone National Ambient Air Quality Standards (NAAQS) implemented with the Federal Implementation Plans (FIPs) for 22 states by allowing these states to continue their significant contributions to downwind ozone problems beyond the statutory dates by which state were required to demonstrate their attainment of the air quality standards. On the same grounds, the D.C. Circuit also vacated the CSAPR Close-Out in *New York v.* This final rule resolves 21 states' outstanding interstate ozone transport obligations with respect to the 2008 ozone NAAQS. For 9 of the 21 states for which the CSAPR Update was found to be only a partial remedy (Alabama, Arkansas, Iowa, Kansas, Mississippi, Missouri, Oklahoma, Texas, and Wisconsin), their projected ozone precursor emissions in the 2021 ozone season and thereafter do not significantly contribute to a continuing downwind nonattainment and/or maintenance problem, and therefore the states' CSAPR Update FIPs (or the SIPs subsequently approved to replace certain states' CSAPR

Update FIPs) fully address their interstate ozone transport obligations with respect to the 2008 ozone NAAQS. For the 12 remaining states (Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, and West Virginia), this action determined that their projected 2021 ozone season nitrogen oxides (NOX) emissions significantly contribute to downwind states' nonattainment and/or maintenance problems for the 2008 ozone NAAQS. EPA is issuing new or amended FIPs for these 12 states to replace their existing CSAPR NOX Ozone Season Group 2 emissions budgets for electricity generating units (EGUs) with revised budgets via a new CSAPR NOX Ozone Season Group 3 Trading Program and is requiring the implementation of the revised emission budgets beginning with the 2021 ozone season. Based on EPA's assessment of remaining air quality issues and additional emission control strategies for EGUs and other emissions sources in other industry sectors (non-EGUs), EPA is further determining that these NOX emission reductions fully eliminate these states' significant contributions to downwind air quality problems for the 2008 ozone NAAQS.

- **PFASs in Drinking Water:** The Biden Administration is increasing the scrutiny of per- and polyfluoroalkyl substances (PFAS) chemicals in drinking water. An April 11, 2021 (86 FR 37948) proposed rule would require public drinking water systems to collect occurrence data for 29 PFAS chemicals. At this time, PFAS chemicals are not subject to national primary drinking water standards, but EPA is proposing the collection of this information to inform future decision making on its regulation of drinking water. In the near term, EPA plans to move forward with the development of Maximum Contaminant Levels (MCLs) for perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) two of the most prevalent PFAS chemicals.
- **PFASs Added to 40 CFR Part 372 List of Toxic Chemicals:** On June 3, 2021, EPA added (86 FR 29698) three per- and polyfluoroalkyl substances (PFAS) to the list of chemicals subject to toxic chemical release reporting under the Emergency Planning and Community Right-to-Know Act (EPCRA) and the Pollution Prevention Act (PPA). This action implements the statutory mandate in the National Defense Authorization Act for Fiscal Year 2020 (FY2020 NDAA) enacted on December 20, 2019. The three substances - perfluorooctyl iodide (CASRN 507-63-1), potassium perfluorooctanoates (CASRN 2395-00-8), and silver(I) perfluorooctanoate (CASRN 335-93-3) were added to Tables 4 and 5 of 40 CFR 372.65, effective January 1, 2021. Beginning with reporting year 2021, a covered facility must report these PFAS on the annual Toxic Chemical Release Report whenever the quantity manufactured (including imported), processed, or otherwise used exceeds the 100 lb threshold quantity.
- **Significant New Use Rules:** On April 30, 2021 (85 FR 22870), EPA issued significant new use rules, including reporting and recordkeeping requirements, for the following microorganism and chemical substances:
 - 1-Propanaminium, N-(carboxymethyl)- N,N-dimethyl-3-[(3,5,5-trimethyl-1- oxohexyl) amino]-, inner salt (PMN P- 18-391; CASRN 2169783-63-3); see 40 CFR 721.11460;
 - 2-Propenoic acid, 2-methyl-, (2-oxo-1,3- dioxolan-4-yl)methyl ester (PMN P-20- 13; CASRN 13818-44-5); see 40 CFR 721.11461; and
 - Trichoderma reesei strain 3CH-3 (MCAN J-19-1); see 40 CFR 725.1080.

release notes

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- **Significant New Use Rules:** On May 6, 2021, EPA issued significant new use rules (85 FR 24328) including reporting and recordkeeping requirements, for the following microorganism and chemical substances:
 - Amides, tallow, N,N-bis(2-hydroxypropyl) (PMN P-17-382; CAS No. 1454803-04-3); see 40 CFR 721.11278;
 - 2,5-Furandione, polymer with 2-ethyl-2- (hydroxymethyl)-1,3-propanediol, 3a,4,5,6,7,7a-hexahydro-4,7-methano-1H-inden-5(or 6)-yl ester, ester with 2,3- dihydroxypropyl neodecanoate (PMN P-18-41); see 40 CFR 721.11282;
 - Waste plastics, polyester, depolymd. with glycols, polymers with dicarboxylic acids (PMN P-18-70); see 40 CFR 721.11283;
 - Substituted alkanolic acid, polymer with alkylcarbonate, alkanediols and isocyanate substituted carbomonocycles, sodium salt, alkenoic acid substituted polyol reaction products-blocked (PMN P-18-100); see 40 CFR 721.11285;
 - Alkenoic acid, ester with [oxybis(alkylene)]bis[alkyl-substituted alkanediol], polymer with alkylcarbonate, alkanediols, substituted alkanolic acid and isocyanate and alkyl substituted carbomonocycle, sodium salt (PMN P-18-102); see 40 CFR 721.11286;
 - Castor oil, reaction products with soybean oil (PMN P-18-116); see 40 CFR 721.11286;
 - 1-Butanaminium,N,N,Ntributyl-,2(or 5)- [[benzoyldihydrodioxo [(sulfophenyl) amino] heteropolycycle]oxy]-5(or 2)-(1,1- dimethylpropyl)benzenesulfonate (2:1) (PMN P-18-136); see 40 CFR 721.11289;
 - Polythioether, short chain diol polymer terminated with aliphatic diisocyanate (PMN P-18-219); see 40 CFR 721.11291;
 - Alkenoic acid, polymer with alkenylcarbomonocycle, [alkanediylbis (substituted alkylene)] bis[heteromonocycle] and (alkylalkenyl) aromatic, salt (PMN P-18-224); see 40 CFR 721.11292;
 - Alkenoic acid, polymer with substituted alkyloxirane, alkenylcarbomonocycle, alkyl substituted alkyl alkanediol and (alkylalkenyl) aromatic, salt (PMN P-18-225); see 40 CFR 721.11293;
 - Alkyl alkenoic acid, alkyl ester, telomer with alkylthiol, substituted carbomonocycle, substituted alkyl alkyl alkenoate and hydroxyalkyl alkenoate, tertbutyl alkyl peroateinitiated (PMN P-18-233); see 40 CFR 721.11294;
 - Substituted heteromonocycle, polymer with substituted alkanediol and diisocyanate substituted carbomonocycle, alkylene glycol acrylate-blocked (PMN P-18-279); see 40 CFR 721.11603; and
 - Arsenic detecting strain of E. coli with extrachromosomal elements, including an intergeneric screening marker (MCAN J-18-41); see 40 CFR 725.1079.