

Regulatory Updates
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UPCOMING CONFERENCES

- NSC "The Future of EHS" (Virtual and In-Person) – 2/15-18/2022, Louisville KY
- ASSP SafetyFOCUS 2022 – 2/21-25/2022 (In Person in Phoenix AZ); 2/21-3/2/2022 (Virtual)
- NSC Northeast Safety Conference and Expo – 3/16-18/2022, Pittsburgh PA
- Utah Safety Conference and Expo – 3/30-31/2022, Sandy UT
- Florida Chamber Safety Council Conference & Expo - 3/31 and 4/1/2022, Lake Buena Vista FL
- NSC Southeast Safety Conference and Expo – 4/12-14/2022, Charleston SC
- 2022 PCA Annual Meeting - 4/27-29/2022, Palm Beach Gardens FL
- NSC Southern Safety Conference and Expo – 5/10-12/2022, New Orleans LA
- NSC Midwest Safety Conference and Expo – 6/8-10/2022, Indianapolis IN
- ASSP Safety 2022 Professional Development Conference and Exposition - 6/26-29/2022, Chicago IL
- NSC Safety Conference and Expo – 9/16-21/2022, San Diego CA

SAFETY

Statement on the Status of the OSHA COVID-19 Vaccination and Testing ETS -

“The U.S. Department of Labor’s Occupational Safety and Health Administration is withdrawing the vaccination and testing emergency temporary standard issued on Nov. 5, 2021, to protect unvaccinated employees of large employers with 100 or more employees from workplace exposure to coronavirus. The [withdrawal](#) is effective January 26, 2022. Although OSHA is withdrawing the vaccination and testing ETS as an enforceable emergency temporary standard, the agency is not withdrawing the ETS as a proposed rule. The agency is prioritizing its resources to focus on finalizing a permanent COVID-19 Healthcare Standard. OSHA strongly encourages vaccination of workers against the continuing dangers posed by COVID-19 in the workplace.” (OSHA Website, 1/25/2022)

OSHA Cites Large Pork Processor for Exposing Workers to Ergonomic Hazards –

Although there’s no ergonomics standard, OSHA issued a hefty fine against Seaboard Foods LLC Guymon OK under the general duty clause. This serves as a reminder that reducing ergonomics is not only important in reducing employee injuries, but also a legal obligation. From OSHA, “Oklahoma's Seaboard Foods LLC failed to identify, diagnose, treat musculoskeletal disorders. A Guymon OK processing and packing facility – operated by one of the nation's largest pork processors – failed to prevent workers from being exposed to repetitive motion injuries and did not record injuries that needed more than basic first aid. The U.S. Department of Labor's Occupational Safety and Health Administration cited Seaboard Foods LLC for one serious health violation for exposing workers to ergonomic hazards associated with repetitive motion and lifting. The citation follows a six-month OSHA inspection. [The company now faces \\$27,306 in proposed penalties.](#) Additionally, OSHA issued [ergonomic-](#) and [medical-](#) related hazard alerts letters to the employer. ‘Repetitive motion and overexertion can leave workers with chronic and life-changing medical conditions,’ said OSHA Area Director Steven A. Kirby in Oklahoma City. ‘Employers who implement required workplace safety measures, track injuries and identify needed improvements can protect workers from suffering painful, debilitating injuries. We encourage workers to contact us to understand their rights and urge employers to learn how to prevent musculoskeletal disorders.’ [Learn more about the prevention of musculoskeletal disorders in the workplace.](#)” (OSHA website, 12/2/2021)

Hazard Communication Standard, Update on Rulemaking - In mid-December, 12 major chemical organizations sent a joint letter to U.S. Secretary of Labor Martin J. Walsh and Assistant Secretary of Labor Douglas L. Parker reiterating their concerns over proposed changes to OSHA’s Hazard Communication Standard regarding Safety Data Sheets (SDS). The language in the proposed rule would require any manufacturer or importer of a chemical to classify and label that chemical to reflect all hazards of the product as shipped, including changes in physical form, downstream chemical reactions, the products of those downstream chemical reaction. The letter informed OSHA that this requirement creates an “impossible situation” for manufacturers and importers and asked that this specific proposed change be dropped. OSHA has indicated that the earliest possible implementation of a final rule will be December 2022,

months later than originally anticipated. The letter to the Department of Labor can be viewed [here](#).

ENVIRONMENT

NPDES Permits for Indirect Discharges Anticipated to Multiply in 2022 – “Facilities that discharge wastewater with pollutants that have the potential to reach navigable waters via groundwater or other indirect pathways may see increased pressure in the year ahead from environmental organizations and regulatory agencies to obtain a federal Clean Water Act (CWA) NPDES permit for the discharge. Likewise, some facilities may proactively seek to obtain permitting to reduce the risk of potential citizen suits in light of the developing case law following the landmark U.S. Supreme Court decision in *County of Maui, Hawaii v. Hawaii Wildlife Fund*, 140 S. Ct. 1462 (2020). Together, these factors are likely to lead to an increase in the permitting of indirect discharges in 2022.” (Lexology, Manko Gold Katcher & Fox - Brenda Hustis Gotanda, 1/14/2022)

EPA Adds 1-Bromopropane to Clean Air Act HAP List – “US EPA published a Final Rule to add 1-bromopropane (1-BP) to the list of Hazardous Air Pollutants (HAPs) listed in Section 112 of the Clean Air Act. The Rule takes effect on February 4, 2022. 1-bromopropane is the commonly used name for the chemical n-propyl bromide or nPB (CAS 106–94–5). For facilities that emit 1-BP, the decision may impact Clean Air Act compliance responsibilities under programs like NESHAPs and Title V permitting. Under the NESHAPs program, facilities in source categories listed in 40 CFR Part 63 are subject to emissions limits, pollution control requirements, and reporting & recordkeeping standards if they have the potential to emit (PTE):

- 10 tons per year of a single HAP; or
- 25 tons per year of any combination of HAPS.

With 1-BP added to the HAP list, facilities that were previously below these thresholds may now be subject to the program. The same triggers apply to HAPS under the Title V permitting program as well. Because EPA previously published the rationale for adding 1-BP to the HAP list in a June 2021 notice, the agency published the Final Rule without additional opportunity for public comment.” (Lion.com, Roger Marks and Anthony Cardno, CHMM, 1/11/2022)

EPA Publishes Draft Scope of Its Part 2 Risk Evaluation for Asbestos - “On Wednesday, December 29, 2021, the United States Environmental Protection Agency (EPA) published the draft scope of the ‘Risk Evaluation for Asbestos Part 2: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos.’ While more than 60 nations have comprehensive asbestos bans, the United States is undergoing a lengthy asbestos ‘risk evaluation.’ As Part 2 of the EPA’s Asbestos Risk Evaluation becomes open for public comment, the question is whether the eventual findings of the EPA’s risk evaluation will result in stronger asbestos regulations . . . [Prior court decisions have] placed a heavy burden on the EPA to evaluate ‘less burdensome means’ when proposing asbestos regulations. As a result, it is highly unlikely that the EPA will promulgate a rule that matches the scope of the failed 1989 asbestos

ban. While the impact of the EPA’s asbestos risk assessment will probably not result in a nationwide asbestos ban, the risk assessment might incentivize action on the state level. Notably, in 2019, New Jersey became the first state to prohibit the sale or distribution of asbestos-containing products. Connecticut followed with a similar bill. Thus, in the near future, we are more likely to see state attempts to pass comprehensive asbestos bans rather than action on the national level.” Read the full article [here](#). (Lexology, Goldberg Segalla LLP - Kerry L. Jones, 1/4/2022)

EPA Offers Green Stormwater Management Website – The following website from EPA has tools and resources for green stormwater management. It includes information on green tools for managing and reducing stormwater flows to traditional systems by using techniques such as plant or soil systems, landscaping, permeable pavement or other permeable surfaces or substrates, and implementing stormwater harvest and reuse systems. Read more [here](#).

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Send your suggestions and comments to joel@pinechemicals.org.