

**Regulatory Updates**  
**Compiled for the Pine Chemicals Association**  
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UPCOMING CONFERENCES

--**PCA Spring Meeting, 4/3-5/2023, Hilton Head Island SC**

--NSC Spring Safety Conference & Expo, 5/17-19/2023, Indianapolis IN

--ASSP Safety Conference and Expo, 6/5-7/2023, San Antonio TX and Online

--NSC Safety Conference & Expo, 10/23-25/2023, New Orleans LA

## SAFETY

**NIOSH Challenge Aims to Improve Respirator Fit Testing** – “[T]he National Institute for Occupational Safety and Health (NIOSH) launched its latest crowdsourcing competition, the [Respirator Fit Evaluation Challenge](#). This multi-phase prize challenge offers \$350,000 in total prize money for novel solutions to improve respirator fit testing practices. . . Individuals or teams are encouraged to submit an idea to improve respirator fit evaluation. To compete in Phase 1 of the Challenge, participants must submit a 10-page (maximum) concept paper that outlines an idea on how to improve respirator fit testing and feedback **by May 1, 2023**. During Phase 1, up to 20 participants or teams will be eligible to win \$5,000 and continue to Phase 2 of the Challenge. To enter the Challenge, register on the challenge website [referenced above.] Challenge sponsors will host an orientation webinar on **February 2, 2023** for registered participants to gain additional information and ask clarifying questions.” (cdc.gov, 1/10/2023.)

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## ENVIRONMENT

### **Administration Publishes Final Rule Redefining ‘Waters of the United States’**

– “On January 18, 2023, the Biden administration published its [Final Rule](#) revising the definition of ‘Waters of the United States’ (WOTUS) under the Clean Water Act (CWA). Wetlands and waterways that meet the definition of WOTUS are protected by the CWA and subject to the U.S. Environmental Protection Agency’s and Army Corps of Engineers’ jurisdiction. . . The extent of the federal government’s authority under the CWA has been controversial since the passage of the CWA in 1972. The Final Rule marks the federal agencies’ third attempt to redefine WOTUS since 2015. The latest definition under the Final Rule replaces the Trump-era rule that narrowly interpreted WOTUS. . . The Final Rule will become effective on March 20, 2023. However, a pending case before the Supreme Court could affect the viability of the Final Rule. In *Sackett v. Environmental Protection Agency*, the Supreme Court is considering a challenge to the “significant nexus” standard. The Court’s decision, which is expected in the coming months, could require the Biden administration to further revise and refine definition of WOTUS. Furthermore, lawsuits challenging the Final Rule have already been filed, with two suits filed the day the Final Rule was published.” Read the full article [here](#). (Lexology, Sidley Austin LLP - Greta T. Carlson, et al., 1/26/2023.)

### **EPA Publishes Final Reconsideration Of 2020 NESHAP For Miscellaneous Organic Chemical Manufacturing Residual Risk and Technology Review**

- Long story short, EPA made no changes to the regulatory text. “On August 12, 2020, EPA published the final risk and technology review (RTR) for the Miscellaneous Organic Chemical Manufacturing National Emission Standards for Hazardous Air Pollutants (NESHAP) (2020 MON final rule). Subsequently, EPA received and granted petitions for reconsideration on two issues, specifically, on the use of the EPA’s Integrated Risk Information System (IRIS) value for ethylene oxide in assessing cancer risk for the source category, and the use of the Texas Commission on Environmental Quality’s (TCEQ) risk value for ethylene oxide as an alternative risk value to the IRIS value for purposes of evaluating risk as part of the Clean Air Act (CAA) residual risk review. On February 4, 2022, EPA proposed the Reconsideration of the 2020 NESHAP: Miscellaneous Organic Chemical Manufacturing Residual RTR to address these two issues and request public comment. On December 21, 2022, EPA published its final decision to use the IRIS value for ethylene oxide in the risk assessment for the 2020 MON final rule and its decision to reject the use of TCEQ’s risk value for ethylene oxide as an alternative risk value to the IRIS value. [87 Fed. Reg. 77985](#). In the final action, EPA made no changes to the risk assessment or related regulatory text for the miscellaneous organic chemical manufacturing source category. The final action was effective on December 21, 2022.” (Lexology, Bergeson & Campbell PC, 1/18/2023.)

**EPA Proposes to Strengthen PM<sub>2.5</sub> NAAQS** – “[On January 6, 2023](#), after carefully reviewing the most recent available scientific evidence and technical information, and consulting with the Agency’s independent scientific advisors, EPA announced its proposed decision to revise the primary (health-based) annual PM<sub>2.5</sub> standard from its current level of 12.0 µg/m<sup>3</sup> to within the range of 9.0 to 10.0 µg/m<sup>3</sup>. EPA also proposed not to change the current:

- secondary (welfare-based) annual PM<sub>2.5</sub> standard,
- primary and secondary 24-hour PM<sub>2.5</sub> standards, and
- primary and secondary PM<sub>10</sub> standards.

In addition, EPA proposed revisions to other key aspects related to the PM NAAQS, including revisions to the Air Quality Index (AQI) and monitoring requirements. Currently, EPA has primary and secondary standards for PM<sub>2.5</sub> (annual average standards with levels of 12.0 µg/m<sup>3</sup> and 15.0 µg/m<sup>3</sup>, respectively; 24-hour standards with 98th percentile forms and levels of 35 µg/m<sup>3</sup>) and PM<sub>10</sub> (24-hour standards with one-expected exceedance forms and levels of 150 µg/m<sup>3</sup>)." Read the full article [here](#). (epa.gov, 1/6/2023.)

### **EPA ‘Tentatively’ Denies Petition to Classify Discarded Polyvinyl Chloride as**

**RCRA Hazardous Waste** – “EPA announced on January 12, 2023, its response to a rulemaking petition from the Center for Biological Diversity requesting that discarded polyvinyl chloride (PVC) be listed as a hazardous waste under RCRA. [88 Fed. Reg. 2089](#). “EPA states that after careful consideration, it ‘is tentatively denying the petition.’ According to EPA, the petition does not provide sufficient evidence to suggest that listing discarded PVC as a hazardous waste would have a meaningful impact, if any, on reducing exposure to phthalates, including phthalates used as plasticizers in some PVC products. EPA states that based on information presented in the petition, the resources that EPA would have to allocate to list PVC as a hazardous waste are unwarranted and would preclude EPA from pursuing more pressing rulemakings, implementation, and reviews with respect to currently identified hazards under RCRA. Comments on EPA’s tentative denial are due **February 13, 2023**.” (Lexology, Bergeson & Campbell PC, 1/18/2023.)

*Send your suggestions and comments to [joel@pinechemicals.org](mailto:joel@pinechemicals.org)*

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