

Regulatory Updates
Compiled for the Pine Chemicals Association
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UPCOMING CONFERENCES

-SOCMA (Society of Chemical Manufacturers and Associates) Show, 2/19-21/2024, Nashville TN

-PCA Spring Meeting, 5/14-16/2024, Palm Beach Gardens FL

-NSC Spring Safety Conference and Expo, 5/14-16/2024, Rosemont IL

-ASSP Safety Conference and Expo, 8/7-9/2024, Denver CO

-NSC Fall Safety Conference and Expo, 9/13-19/2024, Orlando FL

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The CSB Clears its Investigations Backlog with a Flurry of Holiday Season

Investigation Reports – “As we begin the new year, we wanted to look back and report out on a rather remarkable year at the US Chemical Safety and Hazard Investigation Board (the “CSB”). Most notably, the CSB set and met a goal of clearing out its investigations backlog before the end of CY 2023. By any measure, the CSB just closed its most productive year ever, issuing a record-setting eleven investigation reports. For context, the CSB issued only six reports in 2022, three in 2021, none in 2020, and four in 2019. Currently, the CSB has only two open investigations for incidents that just occurred within the last year and a half.” Read the full article [here](#). (OSHA Defense Report, Beeta B. Lashkari, et al., 1/2/2024.)

OSHA’s 2023 in Review and 2024 Forecast [Webinar Recording] - “On Wednesday, January 17, 2024, the Partners in Conn Maciel Carey’s national OSHA Workplace Safety Practice Group presented a webinar covering OSHA’s 2023 in Review and 2024 Forecast. . . In this webinar, we reviewed OSHA enforcement data and trends, important policy changes at OSHA (e.g., expanding the Severe Violator Enforcement Program and per instance citation authority), and major rulemaking developments (e.g., finalizing E-Recordkeeping, and advancing Heat Illness and the Worker Walkaround Representative rulemaking). We also discussed the top OSHA issues employers should monitor and prepare for in the New Year. . . We are pleased to share these links to a [copy of the slides](#) and a [recording of the webinar](#). This was the 1st webinar event in Conn Maciel Carey LLP’s [2024 OSHA Webinar Series](#). If you would like to be automatically registered for all our future OSHA webinars, click [here](#) to send us an email request and we will get you registered.” (OSHA Defense Report, 1/19/2024.)

Emergency Response Rulemaking - For facilities with an in-house fire brigade, emergency and medical services, and/or technical rescue teams, this proposed rule may be of direct impact. Here is a link to the unofficial proposed [rule](#) which would replace the current Fire Brigades standard. The actual draft language starts on page 563. At a glance, the proposed rule includes the following, some or all of which facilities likely already have. This is not a complete list: Emergency Response Plan, Incident Management System, health and safety inspections and planning where responders may respond, medical surveillance/fit for duty exams for responders every two years. The 90-day comment period will open once the proposed rule is published in the Federal Register, which is to occur at any time. From OSHA’s Emergency Response Rulemaking [web page](#):

Emergency response workers in America face considerable occupational health and safety hazards in dynamic and unpredictable work environments. Current OSHA emergency response and preparedness standards are outdated and incomplete. They do not address the full range of hazards facing emergency responders, lag behind changes in protective equipment performance and industry practices, conflict with industry consensus standards, and are not aligned with many current emergency response guidelines provided by other federal agencies (e.g., DHS/FEMA). In

recognition of the inadequacy of the outdated safeguards provided by the current OSHA standards, the proposed rule seeks to ensure that workers involved in Emergency Response activities get the protections they deserve from the hazards they are likely to encounter while on the job. The proposed rule would replace OSHA's existing Fire Brigades standard, 29 CFR 1910.156, which was originally promulgated in 1980, covers only a subset of present-day emergency responders (firefighters) and has only had minor updates in the 43 years since it was published. The focus of the proposed *Emergency Response* rule is to provide basic workplace protections for workers who respond to emergencies as part of their regularly assigned duties. Notably, the scope of protected workers under the proposed rule would be expanded to include workers who provide emergency medical service and technical search and rescue. OSHA looks forward to receiving comments and other input from interested stakeholders and the general public. (osha.gov)

OSHA Issues Major PSM Enforcement Guide Changes – “A federal worker safety enforcement directive for refineries, chemical plants, and other facilities with large amounts of chemicals has received an overhaul for the first time in 30 years. The new, 103-page [enforcement document](#) released Monday updates [process safety management](#) guidance to include US Occupational Safety and Health Administration advice and direction that’s been issued since the last [update](#) in 1994. . . The new enforcement document is written primarily for OSHA inspectors, but also alerts employers as to what policies and procedures the agency will expect from them. The directive largely uses a question-and-answer format based on OSHA’s interpretation letters of the standard going back to 1992. Many of the questions focus on whether the amount of a hazardous chemical stored at a facility requires compliance. . . There is also guidance on whether disparate operations at refineries and chemical plants are interconnected enough to require compliance. Greg Dillard, a partner with Baker Botts LLP in Houston who represents employers cited by OSHA for process safety violations, said the agency hadn’t previously said a guidance change was imminent. “It appears that OSHA has attempted to transform its prior non-enforceable letters of interpretations into enforceable policies,” Dillard said. The new guidance removes instructions from the 1994 directive that guided inspectors on how to conduct inspections. Instead, it tells inspectors to follow a separate directive, the 2017 [national emphasis program](#) for process safety released during the final week of the Obama administration.” (news.bloomberglaw.com, Bruce Rolfsen, 1/29/2024.)

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New Source Review, Potential Changes in 2024 - The New Source Review program has been one of the more complex and contentious EPA regulations. This [article](#) details potential forthcoming changes. (Lexology, Manko Gold Katcher & Fox - Carol F. McCabe, 1/18/2024.)

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Send your suggestions and comments to ehs@pinechemicals.org