Message

From: Tanner, Barbara [Tanner.Barbara@epa.gov]
Sent: 3/27/2019 3:13:52 PM
To: Faeth, Lisa [Faeth.Lisa@epa.gov]; Anderson, Steve [Anderson.Steve@epa.gov]; Askinazi, Valerie [Askinazi.Valerie@epa.gov]; Baptist, Erik [Baptist.Erik@epa.gov]; Barkas, Jessica [barkas.jessica@epa.gov]; Beck, Nancy [Beck.Nancy@epa.gov]; Bertrand, Charlotte [Bertrand.Charlotte@epa.gov]; Blair, Susanna [Blair.Susanna@epa.gov]; Buster, Pamela [Buster.Pamela@epa.gov]; Canavan, Sheila [Canavan.Sheila@epa.gov]; Caraballo, Mario [Caraballo.Mario@epa.gov]; Carroll, Megan [Carroll.Megan@epa.gov]; Cherepy, Andrea [Cherepy.Andrea@epa.gov]; Christian, Myrta [Christian.Myrta@epa.gov]; Corado, Ana [Corado.Ana@epa.gov]; Davies, Clive [Davies.Clive@epa.gov]; Dekleva, Lynn [dekleva.lynn@epa.gov]; Devito, Steve [Devito.Steve@epa.gov]; Doa, Maria [Doa.Maria@epa.gov]; Drewes, Scott [Drewes.Scott@epa.gov]; Dunn, Alexandra [dunn.alexandra@epa.gov]; Dunton, Cheryl [Dunton.Cheryl@epa.gov]; Edelstein, Rebecca [Edelstein.Rebecca@epa.gov]; Edmonds, Marc [Edmonds.Marc@epa.gov]; Elwood, Holly [Elwood.Holly@epa.gov]; Farquharson, Chenise [Farquharson.Chenise@epa.gov]; Fehrenbacher, Cathy [Fehrenbacher.Cathy@epa.gov]; Feustel, Ingrid [feustel.ingrid@epa.gov]; Frank, Donald [Frank.Donald@epa.gov]; Gibson, Hugh [Gibson.Hugh@epa.gov]; Gimlin, Peter [Gimlin.Peter@epa.gov]; Gorder, Chris [Gorder.Chris@epa.gov]; Gordon, Brittney [Gordon.Brittney@epa.gov]; Grant, Brian [Grant.Brian@epa.gov]; Gray, Shawna [Gray.Shawna@epa.gov]; Groeneveld, Thomas [Groeneveld.Thomas@epa.gov]; Guthrie, Christina [Guthrie.Christina@epa.gov]; Hanley, Mary [Hanley.Mary@epa.gov]; Helfgott, Daniel [Helfgott.Daniel@epa.gov]; Henry, Tala [Henry.Tala@epa.gov]; Kapust, Edna [Kapust.Edna@epa.gov]; Kemme, Sara [kemme.sara@epa.gov]; Koch, Erin [Koch.Erin@epa.gov]; Krasnic, Toni [krasnic.toni@epa.gov]; Lavoie, Emma [Lavoie.Emma@epa.gov]; Lee, Mari [Lee.Mari@epa.gov]; Lee, Virginia [Lee.Virginia@epa.gov]; Leopard, Matthew (OEI) [Leopard.Matthew@epa.gov]; Liva, Aakruti [Liva.Aakruti@epa.gov]; Lobar, Bryan [Lobar.Bryan@epa.gov]; Mclean, Kevin [Mclean.Kevin@epa.gov]; Menasche, Claudia [Menasche.Claudia@epa.gov]; Morris, Jeff [Morris.Jeff@epa.gov]; Moss, Kenneth [Moss.Kenneth@epa.gov]; Mottley, Tanya [Mottley.Tanya@epa.gov]; Moyer, Adam [moyer.adam@epa.gov]; Myers, Irina [Myers.Irina@epa.gov]; Myrick, Pamela [Myrick.Pamela@epa.gov]; Nazef, Laura [Nazef.Laura@epa.gov]; Ortiz, Julia [Ortiz.Julia@epa.gov]; Owen, Elise [Owen.Elise@epa.gov]; Parsons, Doug [Parsons.Douglas@epa.gov]; Passe, Loraine [Passe.Loraine@epa.gov]; Pierce, Alison [Pierce.Alison@epa.gov]; Pratt, Johnk [Pratt.Johnk@epa.gov]; Price, Michelle [Price.Michelle@epa.gov]; Reese, Recie [Reese.Recie@epa.gov]; Reisman, Larry [Reisman.Larry@epa.gov]; Rice, Cody [Rice.Cody@epa.gov]; Richardson, Vickie [Richardson.Vickie@epa.gov]; Ross, Philip [Ross.Philip@epa.gov]; Sadowsky, Don [Sadowsky.Don@epa.gov]; Santacroce, Jeffrey [Santacroce.Jeffrey@epa.gov]; Saxton, Dion [Saxton.Dion@epa.gov]; Scarano, Louis [Scarano.Louis@epa.gov]; Scheifele, Hans [Scheifele.Hans@epa.gov]; Schmit, Ryan [schmit.ryan@epa.gov]; Schweer, Greg [Schweer.Greg@epa.gov]; Scott Selken [spselken@up.com]; Scott, Elizabeth [Scott.Elizabeth@epa.gov]; Selby-Mohamadu, Yvette [Selby-Mohamadu.Yvette@epa.gov]; Seltzer, Mark [Seltzer.Mark@epa.gov]; Sheehan, Eileen [Sheehan.Eileen@epa.gov]; Sherlock, Scott [Sherlock.Scott@epa.gov]; Simons, Andrew [Simons.Andrew@epa.gov]; Sirmons, Chandler [Sirmons.Chandler@epa.gov]; Slotnick, Sue [Slotnick.Sue@epa.gov]; Smith, David G. [Smith.DavidG@epa.gov]; Smith-Seam, Rhoda [smith-seam.rhoda@epa.gov]; Stedeford, Todd [Stedeford.Todd@epa.gov]; Strauss, Linda [Strauss.Linda@epa.gov]; Symmes, Brian [Symmes.Brian@epa.gov]; Thompson, Tony [Thompson.Tony@epa.gov]; Tierney, Meghan [Tierney.Meghan@epa.gov]; Tillman, Thomas [Tillman.Thomas@epa.gov]; Tomassoni, Guy [Tomassoni.Guy@epa.gov]; Tran, Chi [Tran.Chi@epa.gov]; Turk, David [Turk.David@epa.gov]; Vendinello, Lynn [Vendinello.Lynn@epa.gov]; Wallace, Ryan [Wallace.Ryan@epa.gov]; Wheeler, Cindy [Wheeler.Cindy@epa.gov]; Widawsky, David [Widawsky.David@epa.gov]; Williams, Aresia [Williams.Aresia@epa.gov]; Williams, Bridget [Williams.Bridget@epa.gov]; Williamson, Tracy [Williamson.Tracy@epa.gov]; Wills, Jennifer [Wills.Jennifer@epa.gov]; Wise, Louise [Wise.Louise@epa.gov]; Wolf, Joel [Wolf.Joel@epa.gov]; Wright, Tracy [Wright.Tracy@epa.gov]; Yowell, John [yowell.john@epa.gov]; Tanner, Barbara [Tanner.Barbara@epa.gov]
Subject: News Articles (For EPA Distribution Only)

BNA.COM ARTICLES

Judges Pillory EPA in Decade-Long Battle Over Common Pesticide

Posted March 26, 2019, 10:52 PM

- Federal appeals court question EPA attorneys for 90-day response deadline in possible chlorpyrifos ban
- Groups first petitioned EPA in 2007 to ban chemical linked to neurological delays in children

Federal appeals court judges March 26 hammered the EPA on how quickly the agency could react if ordered to adopt a rule on the safety of the pesticide chlorpyrifos.

Oral arguments before an 11-judge en banc panel at the U.S. Court of Appeals for the Ninth Circuit follow a ruling of a three-judge panel of the same court last summer ordering a ban of the pesticide, which the EPA appealed.

The arguments also come a dozen years after the Natural Resources Defense Council and the Pesticide Action Network petitioned the agency to ban all uses of chlorpyrifos on food; and two years after then-EPA Administrator Scott Pruitt—in March 2017—denied the request, and the groups and seven states filed an administrative petition.

"You've had 10 years or more to look at this. We've changed administrations. We've changed science. How long do you need to look at this?" Judge M. Margaret McKeown asked March 26.

Chlorpyrifos, a Dow-produced chemical, is widely used on crops including almonds and soybeans, and by golf courses and greenhouses. But the pesticide also has been linked to developmental problem in children.

In August, a three-judge 9th Circuit panel had nullified the EPA's 2017 decision to pass on making a rule, even though the rulemaking process had begun under the Obama administration, which sought to ban the chemical's use.

The three-judge panel agreed with a dozen organizations and seven states that intervened in arguing no amount of chlorpyrifos on food could be deemed safe based on a federal standard set by the Federal Food, Drug and Cosmetics Act. The EPA sets limits, or tolerances, for pesticide residues including chlorpyrifos in food.

The EPA then petitioned for the full slate of appeals court judges to review the ruling.

It took judges several rounds of questions to get Jonathan D. Brightbill, deputy assistant attorney general representing the EPA, to confirm that the agency could respond within 90 days of a final order from the full court.

'EPA Violated the Law'

The insecticide is made by Dow AgroSciences LLC, which now operates under the name Corteva Agriscience, FMC Corp., and Adama Agricultural Solutions Ltd. It has been linked to children's cognitive and developmental health.

The Trump adminstration's EPA allowed chlorpyrifos' use "even though it did not and could not find it safe," Patti Goldman, managing attorney for Earthjustice, told the court during arguments in San Francisco.

The agency had two choices—continue allowing use of chlorpyrifos in food and make a requisite safety ruling, or revoke and modify the permitted levels, Andrea Oser, representing the New York Attorney General's office arguing for the states, told the court.

"And EPA has done neither," Oser said.

The case is LULAC v. Pruitt, 9th Cir., No. 17-71636, oral arguments 3/26/19.

https://news.bloombergenvironment.com/environment-and-energy/judges-pillory-epa-in-decade-long-battle-over-common-pesticide

INSIDEEPA.COM ARTICLES

Stakeholders Draw Battle Lines Over TSCA, IRIS Programs On Hearing's Eve

March 26, 2019

The House science committee is holding a March 27 hearing that is expected to highlight major stakeholder divisions on whether EPA's embattled Integrated Risk Information System (IRIS) program or the agency's emerging toxics program should play the lead role assessing chemical risks.

The hearing, EPA's IRIS Program: Reviewing Its Progress And Roadblocks Ahead, is expected to provide Democrats and environmentalists an opportunity to defend the IRIS program in the face of continuing attacks from industry groups and the Trump administration, whose officials are seeking to scale back its agenda and limit its regulatory application.

The March 27 hearing will likely stand in contrast to similar hearings in previous Congresses held under the gavel of former Chairman Lamar Smith (R-TX), which focused on industry concerns with IRIS' strict risk estimates.

But industry groups and their supporters are likely to continue criticizing the program for being overly conservative and are likely to champion EPA's toxics office, which is implementing the revised Toxic Substances Control Act (TSCA), as an alternate chemical assessor, though environmentalists say it has been "captured" by industry interests.

Jennifer Sass, a senior scientist with the Natural Resources Defense Council (NRDC) argues in a March 26 blog post that the IRIS program has greater credibility than the TSCA program.

"In contrast to the industry-captured TSCA program, EPA's Office of Research and Development (ORD) continues to receive favorable reviews for its implementation of chemical assessments through the [IRIS] program," she writes.

In contrast, the chemical industry is calling for further strengthening and accountability for the program, though it is stopping short of calling for abolishing the program as some conservatives have.

"We hope that the IRIS program will one day be able to produce high-quality, scientifically sound toxicity values, but there is still a great deal of work to be done to get to that point," the American Chemistry Council (ACC) says in a March 25 blog. Still, ACC argues that the "IRIS program has been plagued by serious issues for years as noted on many occasions by the National Academy of Sciences (NAS), the Government Accountability Office (GAO), congressional committees ... and other stakeholders. The program's failure to address those issues means that IRIS hazard assessments cause unnecessary alarm and misstate the potential impact of a given substance on public health."

Such critiques serve as a backdrop to Trump administration efforts to sideline the program in favor of the toxics office's efforts to implement a revised TSCA program. EPA's toxics office is led by former ACC lobbyist and IRIS critic Nancy Beck, who is now the political deputy.

Formaldehyde Assessment

For example, the agency formally announced last week that it was shelving IRIS' long-running assessment of formaldehyde and would instead hand it off as an anticipated high-priority assessment under the TSCA program, which is likely to take a narrower look at potential risks.

The IRIS assessment has long drawn industry criticism, especially after a critical review of an earlier draft by NAS called for wholesale changes to the IRIS program, including more transparency and stronger causal evidence in the assessments.

In a release announcing the formaldehyde decision, toxics chief Alexandra Dunn promised that the draft IRIS assessment would be utilized by the toxics office in completing its evaluation. Dunn also sought to explain the decision, arguing that the IRIS program could not take "regulatory steps" while the toxics office can.

While a draft version of IRIS' formaldehyde assessment had reportedly been completed, the assessment was dropped from the program's agenda late last year along with a host of other pending assessments that had been in the works for years.

But a GAO report released earlier this month raised questions about EPA's priority-setting process that led it to drop formaldehyde from IRIS' agenda. In response, Democrats are seeking an ethics investigation into the top Trump research appointee's role in the IRIS prioritization process.

And a subsequent GAO report rejected arguments from EPA and continued to list both IRIS and the TSCA program as a "high risk" issue in need of senior management oversight and urged Congress and the administration to ensure the agency has "sufficient" funds to ensure their successful implementation.

In addition to shelving the IRIS assessment of formaldehyde, the administration is considering limiting the regulatory application of IRIS assessments. EPA is holding a March 27 hearing on its proposed air toxics rules for hydrochloric acid facilities, where the agency is reconsidering whether to continue using a strict Obama-era IRIS value for ethylene oxide (EtO) for regulatory purposes.

While EtO is a major risk driver for the sector, EPA is asking for comment on whether it should continue to use the EtO IRIS assessment -- challenging IRIS' longstanding role as the producer of premiere risk analyses for regulatory decision-making.

The Trump EPA has also proposed significantly reducing IRIS' budget in each of the last three budgets, though Congress did not act on the 2018 or 2019 proposals, and is not expected to act on the 2020 request. Meanwhile, the administration has proposed to increase the toxics program budget since coming into office.

Administration efforts to scale back the IRIS program are drawing strong push back from environmentalists. Even before the toxics office's announcement, the Environmental Defense Fund's Richard Denison branded EPA's dropping

formaldehyde from the IRIS program as "corrupt." Denison pointed out that the top Trump nominee in the research office, David Dunlap, is a former Koch Industries environmental engineer whose recusal statement includes not working on formaldehyde. "Miraculously, [Dunlap's] recusal statement was dated the same day as the IRIS program outlook document," Denison wrote in a Feb. 14 blog post.

"Given the differences in credibility and scientific accountability between the TSCA and IRIS chemical assessments, it is alarming that the recent GAO investigation reported that the EPA Administrator's office is blocking IRIS assessments, while program office leadership is pulling staff from the IRIS program into the TSCA program," Sass writes, pointing to GAO's latest report on IRIS, released March 4. It found that 28 of 30 IRIS staff were working on TSCA assessments last fall, before the new IRIS agenda was published.

"Instead of addressing the industrial sources of its air pollution, the chemical industry and its allies at the TSCA program are attacking the IRIS assessments, scavenging off IRIS resources to staff up the industry-captured TSCA program, shifting the balance of [EPA's Science Advisory Board] from non-industry to industry members," Sass concludes. "Under these conditions it is inevitable that chemical assessments will be weakened, regulatory safeguards will be gutted, and preventable human suffering will rise." -- *Maria Hegstad* (mhegstad@iwpnews.com)

https://insideepa.com/daily-news/stakeholders-draw-battle-lines-over-tsca-iris-programs-hearings-eve

Despite Wheeler Pledge, EPA Seeks To Kill Lead Risk Reduction Program

March 25, 2019

The Trump administration is proposing to eliminate EPA's Lead Risk Reduction Program in fiscal year 2020 despite pledges from Administrator Andrew Wheeler and other top officials who said when unveiling an inter-agency lead strategy late last year that reducing children's exposures to the metal and its risks is a priority.

According to EPA's FY20 **budget justification**, the administration is proposing to zero out the $12.6 million Congress appropriated in FY19 for the program. The budget request says that the funding and 66 associated full-time equivalent employees "are proposed for elimination for this program in FY 2020."

EPA explains that certifications of lead-safe practices for contractors who could disturb old lead-based paint will continue as part of EPA's toxics office's activities, while "[o]ther forms of lead exposure are addressed through other targeted programs such as lead pipe replacement with the State Revolving Funds."

The proposal appears to undercut statements from Wheeler and other officials who have sought to demonstrate a responsibility to reduce exposures.

For example, when Wheeler and other officials unveiled the administration's **interagency lead plan**, the administrator said that protecting people, especially the most vulnerable, is "the first and foremost responsibility of government," and that children in many communities face significant exposures to lead through paint in housing and old pipes that deliver drinking water.

"The Federal Lead Action Plan will enhance the Trump Administration's efforts to identify and reduce lead contamination while ensuring children impacted by lead exposure are getting the support and care they need," he said.

The "Federal Action Plan To Reduce Childhood Lead Exposures and Associated Health Impacts" calls for four categories of actions, including reducing children's exposure to lead, identifying and helping lead-exposed children, improving communication with stakeholders, and supporting and conducting research to inform future lead reduction efforts.

In December, EPA said that it plans to issue by March 2019 an implementation plan with performance metrics for monitoring the agency's progress and demonstrating accountability for meeting the plan's goals.

At the event announcing the plan, Wheeler sought to deflect concern that it lacks new commitments to craft enforceable regulations by arguing that the agency's commitments to finalize rulemaking efforts that are already underway are "new."

Similarly, during her tenure as regional administrator of EPA Region 1, comprising the New England states, Alexandra Dunn -- who now heads EPA's toxics office -- touted EPA's community grants and other activities targeted at reducing lead in drinking water and ensuring the contractors are using lead-safe renovation practices.

As one example, in a press release last May, EPA Region 1 touted its efforts to "reduce children's exposure to lead paint in New Hampshire and Maine seacoast areas." The May 2, 2018 release touted a new "initiative to improve compliance with laws that protect children from lead paint poisoning by sending certified letters this month to about 400 home renovation and painting contractors, property management companies and landlords in and around Portsmouth, N.H. and Portland, Maine areas."

"Reducing exposure to lead is a top priority for EPA under Administrator Pruitt's leadership," Dunn said in the 2018 release, when she was regional administrator of EPA's New England office. "Enforcing lead paint notification and worksite standards helps to level the playing field for companies complying with the law, as well as helps to provide a safer and healthier environment for children." -- *Maria Hegstad* (**mhegstad@iwpnews.com**)

https://insideepa.com/daily-news/despite-wheeler-pledge-epa-seeks-kill-lead-risk-reduction-program

GREENWIRE ARTICLES

9th Circuit set for chlorpyrifos clash

Ellen M. Gilmer, E&E News reporter

The James R. Browning Building in San Francisco houses the 9th U.S. Circuit Court of Appeals. Library of Congress
Published: Tuesday, March 26, 2019

The Trump administration heads to federal court today to fight a 2018 ruling that required EPA to crack down on the pesticide chlorpyrifos.

The 9th U.S. Circuit Court of Appeals will hear oral arguments this evening in a highly anticipated rehearing en banc — before 11 active judges on the court.

The court is weighing whether to reverse a three-judge panel's August decision requiring EPA to ban the farm chemical on food crops. EPA science has linked the pesticide to neurological problems in children.

The 9th Circuit panel concluded the Trump administration failed to justify its 2017 decision to reject a proposed ban that public health advocates have pushed for years.

Government officials then asked the 9th Circuit to revisit the ruling and notched a notable victory in February when that request was granted (***Greenwire***, Feb. 7).

Trump-appointed Justice Department lawyer Jonathan Brightbill is arguing the case for EPA today.

The League of United Latin American Citizens and a coalition of farm, labor and environmental groups opposing EPA in the courtroom will be represented by Earthjustice lawyer Patti Goldman. New York Deputy Solicitor General Andrea Oser is representing a coalition of states pushing for a chlorpyrifos ban.

Documents obtained under the Freedom of Information Act by the Center for Biological Diversity and detailed in a *New York Times* investigation indicate the Fish and Wildlife Service found chlorpyrifos also posed jeopardy to 1,399 endangered species.

Pesticide makers and agriculture groups have argued that banning the chemical would derail many American food crops that rely on it.

The 9th Circuit will stream today's oral arguments **online**, beginning at 5:30 p.m. EDT.

https://www.eenews.net/greenwire/2019/03/26/stories/1060129435

Dems put spotlight on Bernhardt's schedules and meetings
Michael Doyle, E&E News reporter

Acting Interior chief David Bernhardt. Bureau of Reclamation/Flickr

Published: Tuesday, March 26, 2019

On the eve of a crucial Senate confirmation hearing, the Interior Department has turned over to a House panel thousands of pages disclosing more about acting Interior Secretary David Bernhardt's schedules and activities.

The 7,137 documents containing 26,792 pages delivered late yesterday to the Democratic-controlled House Natural Resources Committee include detailed calendars, day-ahead schedule previews and meeting proposal forms describing who has wanted to meet with Bernhardt and why.

"The operations of the Office of the Secretary and the Deputy Secretary involve compiling and managing an ever changing schedule," Cole Rojewski, director of Interior's Office of Congressional and Legislative Affairs, noted in a cover letter.

More than a simple bureaucratic shuffling, the delivery of pages that were part of 2,731 distinct documents marked the latest move in an ongoing struggle involving congressional oversight, executive branch transparency and the particulars of how Bernhardt operates.

The document delivery answered a Feb. 7 joint request from the committee's chairman, Raúl Grijalva (D-Ariz.), and the freshman chairman of the panel's Oversight and Investigations Subcommittee, T.J. Cox (D-Calif.) (***Greenwire***, Feb. 8).

The House Democrats cited meetings with lobbyists that were not previously disclosed and the use of overly general terms. Between August 2017 and September 2018, for instance, Bernhardt's publicly released calendars identified 98 events simply as "external meeting."

Forty entries over the course of the year were identified only as "call" or "call time."

"The versions of your calendars that have been obtained through Freedom of Information Act requests and posted to the DOI website are missing important details," the Democrats **stated**.

Committee spokesman Adam Sarvana said today that the panel was still reviewing the newly received documents, which also included 19,982 pages dealing with Interior's review of national monuments.

Interior now posts more detailed schedules for Bernhardt online, identifying by name and organization the nongovernmental individuals with whom he has met.

Last Thursday, for instance, Bernhardt's calendar shows he met with Nature Conservancy executives Lynn Scarlett and Kameran Onley. Scarlett served in the Interior Department with Bernhardt during the George W. Bush administration.

"Frankly, I believe that all Federal public officials, including members of Congress, should publicly disclose all meetings held with individuals or parties other than government entities, as I am already committed to doing," Bernhardt wrote to Grijalva and Cox last month.

Interior delivered the documents more than a month later than the House members wanted but several days before Bernhardt's confirmation hearing to replace former Interior Secretary Ryan Zinke, to be held Thursday before the Senate Energy and Natural Resources Committee (***E&E Daily***, March 25).

The hearing will illuminate how Bernhardt's critics on and off of Capitol Hill contend the former lobbyist is too cozy with special interests, and private groups, too, have been seeking more documented insight into his day-to-day activities.

Last July, on behalf of the Western Values Project, Democracy Forward filed suit against Interior for failing to release documents in response to 10 FOIA requests for Bernhardt's official communications and other work.

"DOI's foot-dragging is particularly problematic given Acting Secretary Bernhardt's nomination to Secretary and, in advance of his confirmation hearings, his efforts to tout his commitment to agency transparency and ethical public service," the groups' attorneys wrote in a Feb. 22 court filing.

Justice Department attorneys countered in a March 12 filing that Interior had "identified over ten thousand pages of potentially responsive records," with several searches still ongoing, and that officials are "currently reviewing 500 pages per month."

https://www.eenews.net/greenwire/2019/03/26/stories/1060129507

CHEMICAL WATCH ARTICLES

Walmart, Amazon pull paint removers in the face of NGO pressure

26 March 2019 / Built environment, Retail, Solvents, United States, Voluntary action

Walmart and Amazon have both removed online listings for paint removal products containing methylene chloride and N-methylpyrrolidone (NMP), after pressure from the NGO Safer Chemicals Healthy Families.

Both retailers were among the more than dozen who committed to pulling the products from their shelves, following an NGO campaign focused on the hazards the two solvents posed. Walmart committed to doing so by February of this year, and Amazon by 1 March.

But as was the case during a January investigation into five other major retailers, SCHF discovered noncompliance with the commitments after these deadlines.

In the case of Walmart, SCHF and its partners identified 90 pages on Walmart.com for products that "definitely or likely contained" either methylene chloride or NMP. A visit to Walmart retail locations found two products containing methylene chloride or NMP, on shelves in Illinois and Oregon.

Meanwhile, they found 59 such products being sold through Amazon.

With respect to Walmart, SCHF said it notified the company of the violations between 11-15 March. And while it took over a week in certain cases, by 21 March all of the listings in question had been removed.

Amazon removed the listings within 48 hours of notification by the NGO, added SCHF.

This month, the US EPA issued a final rule banning methylene chloride from consumer products. A retail prohibition comes into force 180 days after the effective date of the rule.

SCHF is among the organisations, however, that have criticised the scope of the ban, saying it only covers consumer products, especially considering that many major retailers had already committed to pulling the products.

Related Articles

- US retailer to phase out methylene chloride, NMP paint strippers
- Amazon to ban paint strippers containing methylene chloride and NMP
- Methylene chloride, NMP products remain at major US retailers
- US EPA bans methylene chloride in consumer paint removers
-
- **Further Information:**
-
- SCHF blogpost

NGO study: Prop 65 leads to successful product reformulations

26 March 2019 / Confidentiality & right-to-know, Prop 65, US states

An NGO study has found that two Proposition 65 private enforcement actions resulted in significantly lowered lead content in certain products. And study co-author the Center for Environmental Health (CEH) says that this is evidence that Prop 65 litigation can prompt safer product reformulations nationwide.

California's Proposition 65, which was passed by voters in 1986, requires warning on products exposing consumers to chemicals that can cause reproductive harm or cancer. A unique aspect of the law is that it allows private persons or organisations to take legal action against alleged violators – and be awarded 25% of penalties assessed.

In the study, the CEH – a frequent plaintiff in 'private enforcement' litigation – used a proprietary dataset and one from the California Department of Public Health (CDPH) to look into the long-term impact of such enforcement. It found "dramatic reductions" in chemicals of concern in the two cases it evaluated.

Data showed, for example, that faux leather purses made with lead-containing pigments declined from 34% to 8% over the course of seven years. And online sales indicated that the reduction was nationwide, the study found.

Michael Green, CEO of CEH, said the findings "illustrate why Prop 65 has been so effective in protecting millions of consumers from harmful chemicals without imposing costs on businesses and consumers."

The threat of litigation, he continued, makes "companies respond by providing products that are safer and more environmentally friendly."

Industry, however, has raised concerns that the opportunity to win settlement fees has given rise to a 'bounty hunter' environment, where the burden of proof rests on businesses to demonstrate that a warning was not necessary for a product.

The most recent annual report from California's Office of the Attorney General shows that the total settlement payout for Prop 65 cases exceeded $25m in 2017.

Related Articles

Prop 65: standing the test of time?

Further Information:

- Prop 65 study

2019 Global Outlook: Key GHS developments

Nhat Nguyen, Chemical Watch's chief analyst, and Cristina Garcia, regulatory and compliance analyst, discuss global developments as countries adopt the sixth or seventh edition of GHS

27 March 2019 / GHS, Global

Key Points

- **US OSHA to update the Hazard Communication Standard 2012**
- **Asia Pacific countries lead the charge toward adopting GHS editions**
- **EU considers changing the CLP Regulation**
- **Chile to implement GHS sixth revised edition**

The UN Globally Harmonized System (GHS) of classifying and labelling chemicals has been instrumental in shaping regulatory policy on chemical management across the globe. GHS addresses classification of chemicals by types of hazard and proposes harmonised hazard communication elements, including labels and safety data sheets (SDSs).

First adopted by the United Nations Economic Commission for Europe (UNECE) in 2002 and published in 2003, GHS has been accepted and implemented worldwide amid criticism that, despite its name, it is not actually harmonised. Countries can choose which sections of the GHS they wish to integrate into their regulations.

The first major wave of implementation and compliance came in 2015 when many regions – including the EU, Asia and the US – completed their implementation timelines. More countries are expected to adopt the system in 2019 aligning with either the sixth or seventh edition of GHS.

Event: UN publication of the eighth revised edition of GHS

Since its inception, the UNECE intended GHS to be revised every two years to account for changes, new memorandums of understanding and/or agreements. If the UNECE keeps to its previous schedules, the eighth revised edition should be released by mid 2019.

In December, the UNECE technical committee met to decide some of the potential changes to the eighth revised edition including:

- introduction of a category-based scheme for classification of explosives, similar to that used for other hazard classes;
- new criteria for classification of aerosols and chemicals under pressure;
- review of the viscosity criterion for classification of mixtures with the aspiration hazard;
- new examples on the labelling of small packagings; and
- new precautionary statements for medical response and a possible precautionary pictogram to give the message: "Keep out of reach of children."

Key dates

- First half of 2019 – Publication of the eighth revised edition of GHS
-

Event: Asia Pacific countries consider sixth or seventh edition of GHS

While many countries have met their first set of compliance dates for GHS, Asia Pacific countries are leading the charge toward adopting newer editions of GHS.

Despite having only completed its GHS implementation on 1 January 2017, Australia intends to change from the third revised edition to the sixth edition.

Allan Freeth, New Zealand's chief executive for the Environmental Protection Authority, told Chemical Watch's Regulatory Summit Asia 2018 that New Zealand will take further steps to harmonise with GHS, potentially moving to either the sixth or seventh edition. New Zealand has adopted new legislative instruments (EPA Notices) for labelling and SDSs based on the fifth revised edition of the GHS. The final decision may depend on Australia since New Zealand has a keen interest in harmonising with its closest trade partner.

The Singapore Chemical Industry Council (SCIC) is also reviewing whether to adopt the sixth or seventh edition of GHS. SCIC is spearheading chemical management and hazard communication in Singapore through the Chemical Management and GHS Hazard Communication Taskforce, which is comprised of government, industry and educational organisations. The taskforce's recommendation, once finalised, will be implemented throughout Singapore.

Japan is possibly the furthest ahead with implementation changes. Efforts are underway to revise the country's GHS standards – JIS Z 7252 for classification and JIS Z 7253 for SDSs. The standards are expected to be published in late March and will bring the country's requirements closer to the sixth revised edition of GHS. Industry will have a transition period of about three years to change labels and safety data sheets, if applicable.

Who will this impact the most?

Manufacturers, importers and traders of chemicals used in the workplace (for example, industrial chemicals).

Key dates

- Late March 2019 – Issuance of new GHS standards in Japan

Event: Alignment of Canada, the US and the EU on the seventh edition

Changes might also occur in North America and the EU. The US Occupational Safety and Health Administration (OSHA) plans to update the Hazard Communication Standard 2012 (known as HazCom 2012) in 2019.

Maureen Ruskin, deputy directorate of standards and guidance at OSHA, has told Chemical Watch that the agency's activities will centre around the seventh revised edition of GHS. The proposed rules are expected to be published for consultation in March 2019.

Under the Regulatory Cooperation Council (RCC) Joint Action Plan, Canada is committed to aligning its implementation with the US. Health Canada has published its Forward Regulatory Plan 2018-2020 setting out the agenda for the changes. The agency expects to publish regulatory changes to the Workplace Hazardous Materials Information System (WHMIS), aligning with the seventh in 2019.

The EU is also considering changing the CLP Regulation (which stands for classification, labelling and packaging), which aligns the EU system to the GHS, known as the CLP. The change, if implemented, would align the system with the sixth and seventh edition of GHS. A proposal to implement changes to the SDSs in EC Regulation No 1907/2006 (REACH) is also under development. Industry are expected to be given an 18-month transition period once the changes are finalised.

Who will this impact the most?

In Canada and the US, these changes will have an impact on manufacturers, importers and traders of industrial chemical. In Europe, the changes will affect manufacturers, importers and traders of all chemical products.

Key dates

- First half of 2019 – Changes to the CLP
- March 2019 – Publication of the proposed changes to the US requirement

Event: Latin American countries look to harmonise and align with the sixth edition

GHS activities in Latin America were bubbling in 2018 with more expected in 2019.

In Argentina, all chemicals must be classified under GHS as required under Resolution SRT 801/2015. Brazil has adopted the third revised edition of the GHS, making it mandatory in the workplace through the Regulatory Norm No 26 (NR-26) and Norm ABNT NRB 14725. However, authorities are drafting legislation to align with the sixth edition. As Brazil and Argentina have signed a memorandum of understanding on joint chemical management strategies, it is possible that Argentina may also adopt the sixth edition.

In Chile, there is a National Policy on Chemical Safety which integrates a 2017-2022 action plan including the adoption of the GHS. Chile updated its SDS standard in 2015 with Norm No 2245: 2015 *Hoja de datos de seguridad para productos químicos*, which permits companies to use GHS as the basis for classification. In November 2018, Chile released a draft Regulation on Classification, Labelling and Notification of Chemical Substances and Mixtures, which would formally implement GHS. When Chile publishes the final regulation, it will join Colombia and Costa Rica as one of the few Latin American countries to have adopted the sixth revised edition of the GHS.

Meanwhile, companies in Mexico must comply with the fifth revised edition of GHS as specified by NOM-018-STPS-2015, which became enforceable in October 2018.

Who will be impacted the most?

Manufacturers, importers and traders of chemicals used in the workplace such as industrial chemicals. Chile's implementation is similar to the EU and, as with all companies who trade chemical products including consumer products, will be affected.

Key dates

- 30 December 2022 – Relabelling of products that existed in the Costa Rican market prior to 30 December 2017
- Mid-2019 – Publication of Chile's Regulation on Classification, Labelling and Notification of Chemical Substances and Mixtures
- One-year transition period from the regulation's publication date – Chile's labels and SDSs for single substances for industrial use
- Two-year transition – Chile's labels and SDSs for single substances in non-industrial use
- Five-year transition – Chile's labels and SDSs for mixtures in industrial use
- Seven-year transition – Chile's labels and SDSs for mixtures in non-industrial use

Other potential changes in 2019 and beyond

In the summer of 2018, Israel issued a draft standard SI 2302 Part 1 on classification, labelling, and packaging of chemicals, which is based on the EU's CLP (European Regulation (EC) No 1272/2008). The draft, once finalised, will replace the previous draft standard issued in 2009. The industry will be permitted a three-year transition period to bring all chemical products into compliance. Israel, a member of OECD, has an incentive to implement GHS as the OECD announced in May 2018 that it will require all members to implement GHS.

The New Technical Regulation of Eurasian Economic Union (EAEU) on Safety of Chemical Products was adopted on 3 March 2017 by the Eurasian Economic Commission Council. It is expected to enter into force on 2 June 2021, making

GHS classification criteria and related hazard communication elements (labels and SDSs) mandatory in Armenia, Belarus, Kazakhstan, Kyrgyzstan and Russia. Russia implements GHS through its various national standards.

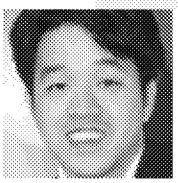
South Africa is expected to update the Occupational and Health Safety (OHS) Act and the Hazardous Chemical Substances Regulations to take account of GHS. While South Africa is not a member of the OECD, it has partnered with the organisation on major programmes and initiatives. South Africa's efforts could spur other countries in the Southern African Development Community, all 16 of which have indicated that they are likely to implement GHS by 2020.

Kenyan authorities have published a draft of the country's Environmental Management and Coordination (Toxic and Hazardous Chemicals and Materials Management) Regulations 2018. If Kenya publishes the final regulation, which applies only to industrial chemicals, it will align the country with the seventh revised edition of GHS.

In Malaysia, authorities are examining the regulations on classification, labeling and packaging and are looking to revise the list of pre-classified chemicals in the industry code of practice for hazard communication.

Key dates

- It is unclear when changes will be finalized



Nhat Nguyen
Chief analyst, Chemical Watch

Related Articles

- Understanding GHS in Australia
- GHS committee to explore coordinating purple book implementation
- US hazcom standard update to align with seventh edition of GHS
- EU opens consultation on updating CLP alignment with GHS
- UN's GHS takes effect in Argentina
- GHS in Latin America: the story so far
- Developments on chemical management in Chile
- Costa Rica, Chile release details of GHS implementation
- Colombia adopts sixth edition of GHS
- Costa Rica, Chile release details of GHS implementation
- Mexico's mandatory GHS standard comes into force
- Israel amends classification of dangerous substances
- OECD makes GHS mandatory for member states
- OECD makes GHS mandatory for member states
- Malaysia to streamline chemical regulations
-
- **Further Information:**
-
- GHS 1st edition (2003)
- GHS (Rev.7) (2017)
- Japan GHS Classification (in Japanese)
- Hazcom 2012 final rule

- Canada Forward Regulatory Plan 2018-2020
- Chile National Policy on Chemical Safety

Government urges industry to be ready for UK REACH

26 March 2019 / Brexit, REACH, UK

The UK government has published further guidance to businesses on UK REACH, urging industry to "be ready" to use the new legislation in the event that the UK leaves the European Union without a deal.

The guidance, published on 25 March, explains the specific steps businesses manufacturing or importing chemicals must take to register them online under UK REACH.

A new IT system will be launched on exit day if there is no agreement on withdrawal terms. This is now set for 22 May or 12 April depending on whether Prime Minister Theresa May gets her withdrawal deal through parliament.

The Department for Environment, Food & Agriculture (Defra) said the IT system would allow:

- businesses that have existing UK-held REACH registrations to validate their registrations (known as 'grandfathering');
- businesses that import chemicals from the European Economic Area (EEA) to submit downstream user import notifications; and
- businesses to register new substance registrations or PPORD (Product and Process Orientated Research and Development) notifications.

To minimise disruption on exit day businesses should start getting ready now, Defra said.

To be ready to use UK REACH, "it's a good idea to access your Echa REACH-IT account and download all the information you hold there," it said in a statement.

"There is no guarantee that UK users will be able to retain access to Echa REACH-IT once the UK leaves the EU and you will need your registration confirmation documents and Echa decisions to comply with UK REACH."

A no-deal Brexit would mean that a range of businesses would be unable to import chemicals directly from the EEA. Sectors that rely on chemicals include motor manufacturing, pharmaceuticals, cosmetics, construction and cleaning products.

MPs are expected to make a series of indicative votes this week to pave the next steps for Brexit, with all options, including Ms May's deal, a no-deal exit, a softer Brexit with a customs union, and a second referendum, still on the table.

Echa says UK companies have initiated the transfer of nearly 3,000 REACH registrations to EU27 entities since the beginning of the year.

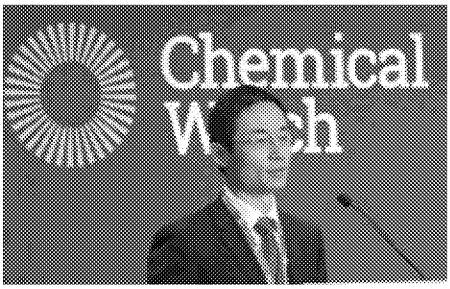
Related Articles

- UK releases additional no-deal Brexit REACH guidance
- Brexit: government hopeful of UK REACH IT readiness
- Nearly 3,000 UK registrations initiated for EU27 transfer – Echa
-
- **Further Information:**
-
- Further guidance

P&G flags pre-registration and polymer rules as K-REACH challenges

Legislation mandates more information from consumer chemical companies

27 March 2019 / Data, K-REACH, South Korea, Substance registration



Consumer chemical companies face unique challenges regarding the pre-registration requirements under K-REACH, Jeff Li, principal scientist at P&G Technology in Beijing, told delegates at the AsiaHub Summit in Washington, DC last week.

Based on P&G's experience, Mr Li said that consumer chemical companies were required to submit more information on:

- substances in products;
- raw materials, including components of mixtures; and
- intentionally-added breakdown products, such as those from soaps.

While smaller companies are able to use spreadsheets to map substances and track shipments, larger companies such as P&G require an IT system to understand "at any moment" if a substance meets registration volume levels.

Another challenge under K-REACH is that, unlike EU REACH, it requires GHS classification at the pre-registration stage. P&G does not have this information for a "big portion" of substances, Mr Li said. Companies may ask their suppliers for the information or try to find it in relevant databases, he added.

Polymer registrations

While the requirement to register polymers is not new under the law, "massive amounts" of them now qualify following amendments, Mr Li said.

K-REACH stipulates registration when a polymer's content comprises just 2% of monomers.

This means that "some very safe polymers" may not be classed as polymers of low concern because the monomers within them may contain hazardous substances. For example, the "very safe" common polymer poly(ethylene oxide) is formed from the hazardous monomer, ethylene oxide, he said.

Another "big challenge" is that companies must jointly register for the same polymer, said Mr Li. But, even among those with the same Cas number, there is significant variation and so the same data cannot often be used. Polymers with the same Cas number can vary in:

- molecular weight (MW);
- monomer reactants;
- residual products;
- end-group reactors and chemical reactions; and
- shapes and tactility, for example in crystallinity, branching and cross-linking.

This is a "tough issue" for government and industry, and the Korean Chamber of Commerce has created a polymer taskforce in response. There are also draft guidelines in circulation among a "small group" of organisations, Mr Li said.

Sunny Lee
Asia editor

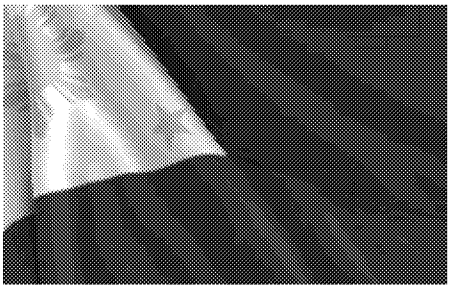
Related Articles

- South Korea's draft implementation rules arrive for updated K-REACH
- K-REACH updated: lessons and challenges

Philippines expands scope for priority control chemicals

And environment bureau reinstates requirement for Piccs certificates

27 March 2019 / Classification, Confidentiality & right-to-know, Philippines



Expanded requirements from the Environmental Management Bureau will require more companies operating in the Philippines to obtain compliance certificates for substances on the priority control list, delegates at the AsiaHub Summit in Washington, DC heard last week.

Edwin Romel N Navaluna at the EMB's chemical management bureau said that the requirement would now apply to all distributors and users, not just manufacturers and importers. All will have to comply with the certification provisions set out in DENR Administrative Order No 2007-23.

Mr Navaluna said the scope has been expanded to help the EMB "track the movement of PCL chemicals from import to the end user".

Piccs certification reinstated

The EMB has also reinstated a requirement for companies to obtain certificates that prove their substances are on the Philippine Inventory of Chemicals and Chemical Substance (Piccs) list, when importing into the country. This was dropped in 2016, but importers have continued to request official confirmation of clearance from them.

The bureau noted a "significant increase" in the number of requests following a Bureau of Customs (BOC) circular last year, which subjected all imported chemicals to mandatory inspections.

Last week, one company told Chemical Watch that its products were stopped at the ports and authorities demanded to see certification.

Because of this, the EMB says, it believes it necessary to repeal the prohibition and allow Piccs certificates, "in order to mainstream the validation process".

To obtain certificates, applicants must submit the following for evaluation:

- a notarised application form (Annex A);
- a copy of business permit;
- Information on 100% composition of mixtures, with corresponding Cas number and name of every chemical; and
- a safety data sheet (SDS).

Mr Navaluna said it will also issue Piccs certificates to companies importing chemicals that require or have requested CBI.

Chemical Control Orders

The EMB is revising the chemical control order (CCO) for mercury to bring it in line with the Minamata Convention. Mercury and its compounds have been subject to a CCO since 1997.

He said the bureau will be proposing additional CCOs for:

- arsenic;
- benzene;

- cadmium;
- chromium; and
- vinyl chloride.

It is also considering plans to require companies to obtain licences for the purchase, distribution and use of CCO chemicals.

An additional 33 chemicals have been added to the Piccs list with immediate effect. The list contains over 47,000 chemicals. The EMB is also currently reviewing a further 50 chemicals for inclusion in the PCL.

Ellen Tatham
Asia reporter

Further Information:

- Scope for PCL certification
- Certification for PICCS
- Additional PICCS

© 2019. Reprinted and distributed by kind permission of Chemical Watch

OTHER ARTICLES

Toxic chemicals can enter food through packaging. We made a list.
Environmental Defense Fund (blog)
CONEG also established the Toxics in Packaging Clearinghouse to maintain the ... Beyond PFAS: More **toxic chemicals** of concern in food packaging.

ACC/TSCA Attack on IRIS: Formaldehyde, Chloroprene, EtO
Natural Resources Defense Council
The Toxics Office is charged with implementing the **Toxic Substances** Control Act (TSCA) as well as the pesticide regulatory laws FIFRA and FQPA.

The 30: Possibly **toxic** 1,4-dioxane found in common household products
News 12 Long Island
The 30: Possibly toxic 1,4-dioxane found in common household products. An environmental group says the the possibly **toxic chemical** compound 1 ...

Environmental group: 65 of 80 household products contain 1,4-dioxane
News 12 Long Island
... carcinogen called 1,4-dioxane. Citizens Campaign for the Environment found the possibly **toxic chemical** compound in 65 of 80 common household ...

Paint Remover Market with Top Players: 3M, **Green** Products, 3X: **Chemistry**
Market Research Periodical
Global Paint Remover Market Professional Survey Report 2019 provides strategists, marketers and senior management with the critical information ...