

DTSC, US EPA, RULEMAKING

DTSC SCP Proposal on Methylene Chloride May Have Greater Significance After EPA Delays Its Own Rulemakings

By ROGER PEARSON, January 10, 2018

In November the Department of Toxic Substances Control announced it was proposing to designate **"paint or varnish strippers containing methylene chloride¹⁾"** as a priority product pursuant to the Department's Safer Consumer Products (SCP) program [see **DTSC Proposes to Designate Paint or Varnish Strippers Containing Methylene Chloride as Priority Product²⁾**, December 5, 2017]. There were some questions raised about the need and scope of any resulting DTSC action, since U.S. Environmental Protection Agency (EPA) had previously proposed its own rule under TSCA to ban most uses of the chemical in consumer and commercial strippers. However, on December 14, EPA quietly indicated that it would delay further action on the methylene chloride rule, along with proposed rules on two other chemicals. Thus DTSC's proposal suddenly acquires a new level of significance—assuming that the agency proceeds with its proposed priority product designation.

The EPA rulemakings involve methylene chloride, trichloroethylene (TCE), and N-methylpyrrolidine (NMP). EPA had completed risk assessments on all three chemicals under the previous version of TSCA prior to the signing of the new TSCA rule by President Obama in June 2016. The new rule permitted EPA to continue the process of regulating the three chemicals under the old law without requiring EPA to start the process over under the new law.

In December of 2016 and January of 2017 EPA published two proposed rules under section 6(a) of TSCA, one to ban commercial use of TCE in vapor degreasing and the second to ban commercial use of TCE for commercial and consumer aerosol degreasing. In January of 2017 EPA issued a proposed rule regulating the use of **methylene chloride and NMP in paint and coating removal³⁾**. Under the normal course of events EPA was expected to finalize these rules sometime in 2018.

On December 19, the **New York Times⁴⁾** and the **Intercept⁵⁾**, which contains the most thorough description of the EPA action can, published stories describing how EPA has apparently pushed these three rules to the back burner. The two articles pointed out that EPA on December 14 published the latest version of its regulatory agenda. While the previous version has included all three rules as "proposed rules," the December 14 version has moved the rules to the "long term action" category meaning, according to the **Intercept⁵⁾**, that further process on the three rules "will be slowed, perhaps indefinitely."

Environmental and health groups were quick to criticize EPA's action. The **Environmental Defense Fund's Richard Dennison⁶⁾**, who helped develop the new law, contends that this latest EPA action is

part of what has been a systematic effort by the Trump Administration to delay virtually all regulatory actions on specific chemicals.

DTSC Will Proceed on Its Own Track

Meanwhile the comment period on DTSC's Priority Product designation of methylene chloride in paint thinners expires on Thursday, January 18, 2018. DTSC scheduled a **public workshop**⁷⁾ on the proposal on January 8.

The actual identification of methylene chloride in thinners as a priority product is a long way from complete. Even if it is finalized it simply starts a process requiring manufacturers to analyze alternatives, which could ultimately lead to further regulation by the Department. However, given EPA's action, DTSC might end up being the only game in town.

Resources for this article

1. paint or varnish strippers containing methylene chloride

http://www.dtsc.ca.gov/SCP/paint_or_varnish_strippers_containing_methylene_chloride.cfm

2. DTSC Proposes to Designate Paint or Varnish Strippers Containing Methylene Chloride as Priority Product

<https://ceitoday.com/articles/13264>

3. methylene chloride and NMP in paint and coating removal

<https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-management-methylene-chloride>

4. New York Times

<https://www.nytimes.com/2017/12/19/health/epa-toxic-chemicals.html>

5. Intercept

<https://theintercept.com/2017/12/19/trump-administration-rolls-back-epa-plan-to-restrict-dangerous-household-chemicals/>

6. Environmental Defense Fund's Richard Dennison

<http://blogs.edf.org/health/2017/12/20/systematic-slowdown-epa-indefinitely-delays-virtually-all-proposed-actions-to-restrict-chemicals-under-tsca/>

7. public workshop

<http://dtsc.ca.gov/SCP/Workshops.cfm>