

**INTERAGENCY
COMMITTEE ON
CHEMICAL
MANAGEMENT**

2022 Biennial Report

Table of Contents

Report Information	3
Authorizing Statute:	3
Executive Summary	4
I. General Updates.....	5
Update on Chemical Nomination and Review Process	5
Update on ICCM Website.....	5
II. Summary of Chemical Use in the State Based on Reported Chemical Inventories	6
Chemical Use According to the Tier II Database	6
2022 Updates to the Tier II Database.....	6
Updates to the Local Emergency Planning Committees.....	7
VOSHA.....	7
III. Summary of Identified Risks to Human Health and the Environment from Reported Chemical Inventories.....	8
IV. Summary of Any Changes Under Federal Statute or Rule Affecting the Regulation of Chemicals in the State	8
ICCM December 14, 2018 Report.....	8
ICCM December 15, 2020 Report.....	9
Scope	9
Section A: Federal Laws and Regulations’ Impact on State Regulatory Authority & Recent Changes in Federal Chemical Requirements	9
Federal Laws and Regulations, State Authority, and Preemption	9
TSCA and Preemption.....	10
Table 1: Federal Changes with Impacts to State Regulation.....	11
Section B: Federal Actions Concerning PFAS Regulation.....	23
Emerging Contaminant: PFAS & EPA Regulatory Actions.....	23
PFOA and PFOS and other Regulated PFAS.....	24
Table 2: Federal Changes with Impacts to PFAS Regulation	26
Section C: Recommendations for Vermont/ICCM Action in Response to Federal Changes..	29
HAZCOM.....	29

V. Recommended Legislative or Regulatory Action to Reduce Risks to Human Health and the Environment from Regulated or Unregulated Chemicals of Emerging Concern30

VI. Final Thoughts.....30

Appendix A – ICCM Members and CAP31

Appendix B – ICCM Background.....32

Appendix C – ICCM’s Chemical Nomination Review Process34

Report Information

Report Name: Interagency Committee on Chemical Management Biennial Report

Years: 2021-2022

Date Reported: December 15, 2022

Authorizing Statute: 10 V.S.A. § 6633(e)

Committees: Senate Committees on:

- Natural Resources and Energy
- Health and Welfare
- Economic Development, Housing and General Affairs

House Committees on:

- Natural Resources, Fish, and Wildlife
- Human Services
- Commerce and Economic Development

Prime Contact: John Beling, Agency of Natural Resources, Chair of the ICCM

Authorizing Statute:

Pursuant to 10 V.S.A. § 6633(e):

On or before December 15, 2020 and biennially thereafter, the Interagency Committee on Chemical Management shall report to the Governor and make recommendations regarding the actions of the Committee in accordance with this section. Copies of the report shall be submitted to the Senate Committees on Natural Resources and Energy, on Health and Welfare, and on Economic Development, Housing and General Affairs and the House Committees on Natural Resources, Fish, and Wildlife, on Human Services, and on Commerce and Economic Development. The provisions of 2 V.S.A. § 20(d) regarding expiration of required reports shall not apply to the report to be made under this section. The report shall include:

- (1) a summary of chemical use in the State based on reported chemical inventories;*
- (2) a summary of identified risks to human health and the environment from reported chemical inventories;*
- (3) a summary of any change under federal statute or rule affecting the regulation of chemicals in the State; and*
- (4) recommended legislative or regulatory action to reduce risks to human health and the environment from regulated and unregulated chemicals of emerging concern.*

Executive Summary

The Interagency Committee on Chemical Management (ICCM) was created to: (1) evaluate chemical inventories in the State on an annual basis, (2) identify potential risks to human health and the environment from chemical inventories in the State, and (3) propose measures or mechanisms to address the identified risks from chemical inventories in the State. The ICCM consists of members from eight different State Agencies/Departments that meet regularly to address these tasks. More on the history of ICCM and its membership can be found in Appendices A and B.

Biennially, the ICCM submits a report to the legislature on its work, chemical use in the State and the potential impacts to human health and the environment, updates to statutes and rules regarding chemical regulation, and recommended legislative or regulatory activities.

Over the past two years, since the 2020 report, much of the work of the ICCM has been impacted by the resources and capacity of ICCM member agencies. Members and technical staff from their respective agencies were active participants in the State's response to the Coronavirus/Covid-19 pandemic serving both on the State Emergency Operation Center and Health Operations Center. Several committee members also moved into new roles, including the former chair of ICCM, Peter Walke. The ICCM is working on refilling currently vacant member spots and getting the new team up to speed on their roles and responsibilities.

The report below focuses on the recent work of the ICCM and addresses the summaries and recommendations tasked pursuant to 10 V.S.A. § 6633(e). The ICCM developed a draft report and shared it with the Citizen Advisory Panel (CAP) and other interested parties for review and comment. After review and consideration of those comments, the ICCM finalized its findings and recommendations.

In 2023, the ICCM plans on evaluating the status of pending projects; reviewing membership roles, responsibilities, and commitment; and re-engaging with the Citizen Advisory Panel (CAP). The ICCM will also continue work to evaluate potential opportunities to protect public health and the environment as information becomes available through the work of individual departments and agencies, and implementation of the review framework and processes recommended in this and its previous reports.

I. General Updates

Update on Chemical Nomination and Review Process

In 2020, the ICCM finalized the Chemical Nomination and Review Process. A copy of this process can be found in Appendix C.

In 2021, the ICCM continued working on developing and testing the required software platform and public webpage for the chemical nomination and review process. The ICCM also identified that due to workload, only one chemical at a time will be sent to the technical team. The ICCM determined that prioritization of the nominated chemicals must occur, so that the highest priority chemicals can be sent to the technical team sooner. The software platform and public webpage part of the chemical nomination and review process were finalized in November 2021.

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In December 2021, the ICCM discussed launching the nomination form to the public. It was identified that due to the State's Covid-19 pandemic response that there were workload and capacity issues for the technical teams that would be reviewing the submitted chemicals. Members identified the deactivation of the Health Operation Center (HOC) as the trigger for considering the launch of the process. This was also proposed from a user/customer perspective that if the process launches and the ICCM is unable to move forward with nomination review, it could cause public dissatisfaction.

In April 2022, the Department of Health advised that the HOC had not been fully deactivated, however, members of the staff that would serve on the technical team had been deactivated. Over the summer of 2022, several members of the ICCM, technical staff, and administrative staff working with ICCM turned over which further put a hold on the process. The current plan is to discuss launching of the process in early 2023.

Update on ICCM Website

The ICCM currently maintains a website hosted on the Agency of Natural Resources' website. Relevant information about the ICCM and its work on 10 V.S.A. § 6633 and Executive Order No. 02-19 can be found at:

<http://anr.vermont.gov/about/special-topics/chemical-management-committee>

Over the next several months, the Agency of Natural Resources plans to review and update the website to ensure that (1) all applicable documents are uploaded and (2) content is up to date.

II. Summary of Chemical Use in the State Based on Reported Chemical Inventories

Chemical Use According to the Tier II Database

The ICCM utilizes the Tier II reporting database for purposes of summarizing chemical use in the State, Though the Tier II database does not include a list of all chemicals used or managed in the State, it represents the most comprehensive database containing information on chemical use required to be reported in Vermont.

Tier II reports are required by the Environmental Protection Agency (EPA) under the Emergency Planning and Community Right-to-Know Act (EPCRA), which Vermont adopted in 20 V.S.A. § 31. The Tier II reports capture information about the types, quantities, and locations of hazardous chemicals stored at facilities in the State. The reporting thresholds include substances which are highly explosive regardless of any amount and petroleum (fuel) products in quantities of 10,000 lbs. or more. Vermont's Tier II reporting also requires reporting of all other chemicals in quantities of 100 lbs. or more, which is not required by, and is therefore more stringent than, EPA requirements. Tier II reporting is a retrospective summary of chemical use information for the previous year. Reporting is required annually and is due by March 1 of each year.

During the last reporting period from January 1, 2021 to December 31, 2021, 2,664 facilities in Vermont reported under Tier II. This is a 1.4% decrease from the 2,707 facilities that submitted Tier II reports in 2019 as summarized in the ICCM December 15, 2020 report.

2022 Updates to the Tier II Database

The Vermont State Emergency Response Commission (SERC) requires facilities to submit Tier II reports by using the Environmental Protection Agency (EPA) Tier2Submit software program.¹ The report must be submitted in a specific format and include a Safety Data Sheet (SDS) for each reported hazardous material the first time it is submitted. The report is submitted to the SERC, Local Emergency Planning Committee (LEPC), and local responding fire departments. Tier II information collected is shared with the LEPC so it can assist local response agencies with emergency planning.

The SERC Tier II Submit Portal was launched in December 2021 for the 2021 submission period. This portal now allows the submitter to track their submission and invoicing fees. It also allows

¹ The EPA provides this software application at no charge. The Tier2Submit software can be downloaded at <https://www.epa.gov/epcra/tier2-submit-software>.

organizations to have their annual submission on file to help address issues around personnel changes within a company. The new portal makes it easy to pull the previous year's reports as well.

In August 2022, a new Tier II GIS Dashboard launched for emergency responders and planners. This Dashboard will have the most recent Tier II Reports available to emergency responders and emergency planners. The Dashboard will be enhanced over the coming years with critical infrastructure information, which will give emergency responders information about sensitive locations in and around Tier II locations.

Updates to the Local Emergency Planning Committees

On July 1, 2021, Vermont consolidated 13 separate Local Emergency Planning Committees (LEPCs) to one statewide LEPC to carry out the requirements of the Emergency Planning and Community Right-To-Know Act (EPCRA). The statewide LEPC will focus on identification of hazardous materials that pose a risk and evaluate the available resources for preparing and responding to a potential natural or manmade disaster that could result in the release of hazardous chemicals.²

VOSHA

The Vermont Occupational Safety and Health Administration (VOSHA) is charged with the regulation and enforcement of workplace health and safety standards in the State. This includes the Hazard Communication (HAZCOM) standard which lists employer obligations regarding safe chemical use in the workplace. During fiscal year 2021 (October 2020 to September 2021), the HAZCOM standard was nationally the fourth most frequently cited OSHA regulatory subpart.³ Regular noncompliance with the HAZCOM standard is also identified among national data from fiscal years 2019 and 2020.^{4, 5} While Vermont-specific HAZCOM citation data from fiscal year 2021 has not been tabulated and analyzed against other VOSHA regulations, the Occupational Safety and Health Administration's (OSHA) frequently cited standard search

² More on LEPCs can be found here: 20 V.S.A. § 32. Local emergency planning committees; creation; duties - <https://legislature.vermont.gov/statutes/section/20/001/00032>

³ Top 10 Most Frequently Cited Standards. Occupational Safety and Health Administration. <https://www.osha.gov/top10citedstandards>. Accessed October 5, 2022.

⁴ OSHA Most Frequently Cited Serious Violations General Industry FY2020. Occupational Safety and Health Administration. https://www.osha.gov/sites/default/files/MFC_General_Industry_FY20.pdf. Accessed October 6, 2022

⁵ OSHA Most Frequently Cited Serious Violations General Industry FY2019. Occupational Safety and Health Administration. https://www.osha.gov/sites/default/files/training-library_MFC_General_Industry_FY19.pdf. Accessed October 6, 2022

identifies multiple inspections which resulted in non-compliance with the HAZCOM standard in the State.⁶

III. Summary of Identified Risks to Human Health and the Environment from Reported Chemical Inventories

In 2018, the ICCM members and Agency technical staff reviewed the list of 719 chemicals reported under Tier II. Chemicals were categorized for their potential to present a risk to human health and the environment in a chemical inventory spreadsheet that was provided as a part of the ICCM's December 14, 2018 Report. A link to the spreadsheet can be found in Appendix D of this Report. The categorization from 2018 is still an accurate opinion of the risk posed by these chemicals, and given the challenges associated with the COVID-19 pandemic, the ICCM continues to work from that list. As discussed above, since the 2018 ICCM report, the ICCM has worked on the process by which chemicals can be nominated for review by the ICCM. While these nominations can come from any Agency or the public, the ICCM agreed to review trichloroethylene as the first chemical. Trichloroethylene is a chemical of concern to the Agencies that categorized the Tier II chemicals. The ICCM will continue to consider review of chemicals of concern for State Agencies.

IV. Summary of Any Changes Under Federal Statute or Rule Affecting the Regulation of Chemicals in the State

The purpose of this section is to provide insight into the relationship between state and federal chemical requirements, highlight recent federal changes in chemical regulation that have occurred since the December 15, 2020 Report, and make recommendations for future regulatory efforts based on these changes and their potential impacts on Vermont.

ICCM December 14, 2018 Report

Section V(A) of the 2018 Report addresses the federal regulatory chemical landscape, delineates laws and regulations that govern specific chemicals and their uses, remediation activities and management of chemical pathways and releases, and research and monitoring of chemical exposures. Section V(B) of the 2018 Report also discusses how federal requirements governing chemical use and management can interact with or otherwise impact states' authority to implement their own requirements. The Section V of the 2018 Report may be referenced for additional background on federal chemical laws and their potential effects on state authorities to regulate chemicals.

⁶ Frequently Cited OSHA Standards. Occupational Safety and Health Administration. <https://www.osha.gov/pls/imis/citedstandard.html>. Accessed October 6, 2022

ICCM December 15, 2020 Report

Section V of the 2020 Report discusses several major changes in chemical regulation following the 2018 Report with a particular emphasis on the Toxic Substances Control Act (TSCA). Section V(A) of the 2020 Report highlights changes with direct impacts on Vermont's ability to regulate chemicals and chemical related risks. This section also recounts the history, changes, and potential preemptive impacts of TSCA. Section V(B) discusses federal changes with indirect impacts on Vermont and focuses on recent federal actions and initiatives concerning PFAS. Section V of the 2020 Report may also be referenced for additional background on TSCA and federal changes in chemical regulation with direct and indirect impacts on the regulation of chemicals in Vermont from December 2018 - December 2020.

The 2020 Report also provided recommendations for Vermont and the ICCM in responding to federal changes. The report recommends providing comment on proposed federal actions to regulate chemicals, gathering information and tracking EPA's developments in addressing PFAS, and tracking proposed and final actions under TSCA.

Scope

This section raises several major federal changes in chemical regulation that have occurred since the 2020 Report, with particular focus on final rules, proposed rules, and notices pursuant to TSCA and developments related to PFAS regulation. This section is organized as follows:

- **Section A** provides a brief overview of the relationship between federal laws and regulations on state authorities to regulate chemicals and includes recent changes to TSCA and other federal laws addressing chemical regulation.
- **Section B** focuses on the federal actions and ongoing efforts related to PFAS regulation.
- **Section C** makes recommendations for legislative, regulatory, or other actions that may be appropriate in light of the federal changes in chemical regulation discussed in Sections A and B.

Section A: Federal Laws and Regulations' Impact on State Regulatory Authority & Recent Changes in Federal Chemical Requirements

Federal Laws and Regulations, State Authority, and Preemption⁷

Generally, states may adopt laws and promulgate regulations under state-specific authority, or "police powers," which are rights and powers not specifically delegated to the United States federal government. These generally include laws that establish and enforce public health, safety, and welfare of the public. Rights and powers that are delegated to the federal government may also be further delegated to states in order to administer certain federal requirements or

⁷ These topics are discussed at length in the 2018 and 2020 Reports as so are only briefly addressed here.

regulatory programs, a process referred to as cooperative federalism. In certain circumstances, states that have been delegated authority by the federal government may also expand on the federal program by adopting additional regulatory requirements that are more stringent or protective in scope. The standards, however, must be “no less stringent” than the federal regulatory requirements. The delineation between authority delegated to the federal government and a state’s police power or authority delegated through cooperative federalism can become murky when federal and state laws intersect or overlap.

Where a state’s law or regulation conflicts or is inconsistent with a federal law, the state law or regulation may be challenged as preempted by the federal authority. Preemption can be express, implied, or “conflict”, meaning that it is impossible to comply with both state and federal authorities at the same time. Preemption can ultimately restrict a state’s ability to adopt laws and regulations that are inconsistent with federal authority.

TSCA and Preemption

As discussed in the 2018 and 2020 Reports, because the 2016 Lautenberg Amendments to TSCA created mandatory requirements for EPA to evaluate existing chemicals for regulation, EPA’s actions can preempt state authority to regulate that chemical. Under TSCA, if preemption applies to a state action, the preemptive effect is limited to the scope of federal review of a chemical. As noted in the 2020 Report, a “state restriction will be preempted if it intends to address the same hazards, exposures, risks, and uses or conditions of use of a chemical reviewed by EPA.”⁸

TSCA also specifically provides for “pause preemption,” which is a period of time during which states are prohibited from adopting new restrictions while EPA is conducting the risk evaluation and determining whether the chemical poses an unreasonable risk to human health or the environment. Once EPA publishes the results of the Risk Evaluation or reaches the statutory deadline for the evaluation, the state is no longer subject to pause preemption. Pause preemption is limited to specific circumstances.⁹ These exceptions include the following:

⁸ The 2020 Report also clarifies what regulations are not subject to preemption as including: “(1) requirements pertaining to air, water, waste, and related activities (such as environmental media standards); (2) state actions on chemicals outside of this scope, such as requirements for information or reporting obligations, labeling, recordkeeping, etc.; (3) states laws in place before August 31, 2003, and future regulations adopted under those Laws; and (4) state and local chemical restrictions (i.e., actions taken pursuant to state authority) in place before April 22, 2016.” See Dec. 15, 2020 Report, Sec. V(A), pg. 12.

⁹ States may also request a waiver permitting the state to take new action to restrict a chemical currently in the risk evaluation stage with the EPA.

- Pause preemption is applicable with respect to a chemical substance that are a “high-priority substance designated under [TSCA § 6(b)(1)(B)(i)],” while “low priority” designations are exempt.¹⁰
- New restrictions are not preempted if they address chemicals, risks, or hazards that are outside of the scope of EPA’s review.
- Existing state laws in place during the period of EPA’s risk evaluation are not preempted.
- Pause preemption does not apply to reviews of chemicals for which EPA grants a manufacturer requested risk evaluation.
- Pause preemption does not apply to the first 10 chemicals to be selected for Risk Evaluation by EPA.
- Pause preemption does not apply to EPA risk management actions pertaining to persistent, bioaccumulative, and toxic chemicals (PBTs).

Once a Risk Evaluation is completed, the EPA must determine whether the chemical poses an “unreasonable risk” to human health or the environment. Once this determination is made, a state is preempted from adopting similar restrictions as “permanent preemption.”¹¹

Table 1: Federal Changes with Impacts to State Regulation

The table below addresses major federal changes to chemical regulation through final rules, proposed rules, and notices. The information is current as of October 27, 2022. This information is intended to provide a summary of each change, links to additional information on the requirement(s), and information on the type of impact the change already has or is likely to have in the future.

For federal changes in Table 1, the column entitled “Impacts to State Regulation” identifies potential impacts of the federal changes to state regulation through federal preemption.

TABLE 1 FEDERAL CHANGES WITH IMPACTS TO STATE REGULATION			
EPA Final Rules			
Date & Authority	Change	Summary	State Impact
1/6/2021	PBT Chemical: ¹² 2,4,6-tris(tert-butyl)phenol (2,4,6-	Prohibits the distribution in commerce of 2,4,6-TTBP and products containing 2,4,6-TTBP at concentrations above 0.3% (i.e., present as a	Current pause preemption

¹⁰ TSCA §18(b)(1); see also <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frequent-questions-frank-r-lautenberg-chemical-safety>.

¹¹ Depending upon EPA’s determination, the start date of permanent preemption is different.

¹² On July 29, 2019, EPA published a proposed rule to address five persistent, bioaccumulative, and toxic (PBT) chemicals. See 84 FR 36728.

<p>TSCA §§6(h), 6(a)</p>	<p>TTBP); Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h)¹³</p> <p>Effective Date: 2/5/2021; for purposes of judicial review and 40 CFR 23.5 this rule is promulgated at 1 p.m. on 1/21/2021. Citation: 86 FR 866, 40 CFR 751 https://www.federalregister.gov/documents/2021/01/06/2020-28690/246-tristert-butylphenol-246-ttbp-regulation-of-persistent-bioaccumulative-and-toxic-chemicals-under</p>	<p>functional additive instead of as impurity) in any container with a volume of less than 35 gallons for any use, beginning on January 6, 2026. The purpose of this rule is to effectively prevent the use of 2,4,6-TTBP as a fuel additive or fuel injector cleaner by consumers and small commercial operations.</p> <p>Prohibits the processing and distribution in commerce of 2,4,6-TTBP, and products containing 2,4,6-TTBP at concentrations above 0.3%, for use as an oil or lubricant additive, regardless of container size, beginning on January 6, 2026.</p> <p>Entities/products subject to the rule include:</p> <ul style="list-style-type: none"> - Petroleum Refineries; - Petrochemical Manufacturing; - All Other Basic Organic Chemical Manufacturing; - Polish and Other Sanitation Good Manufacturing; - All Other Miscellaneous Chemical Product and Preparation Manufacturing; - Lawn and Garden Tractor and Home Lawn and Garden Equipment Manufacturing; - Aircraft Manufacturing; - Motor Vehicle Supplies and New Parts Merchant Wholesalers; - Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals); - Farm Supplies Merchant Wholesalers; Boat Dealers; - Automotive Parts and Accessories Stores; - Gasoline Stations with Convenience Stores; - Other Gasoline Stations; - General Merchandise Stores; - Aircraft Maintenance and Repair Services; 	<p>Future permanent preemption</p>
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¹³ 2,4,6-TBP represents one of five persistent, bioaccumulative, and toxic (PBT) chemicals identified by the EPA pursuant to §6(h). The other chemicals include Decabromodiphenyl ether; phenol, isopropylated phosphate (3:1), also known as tris(4-isopropylphenyl) phosphate; 2,4,6-tris(tert-butyl)phenol; hexachlorobutadiene; and pentachlorothiophenol. EPA chose to adopt separate final rules for each of the five chemicals that would restrict or prohibit manufacture (including import), processing, and distribution in commerce for many uses, impose recordkeeping requirements, and additional downstream notification requirements. See 84 FR 36728; see also 86 FR 866 (addressing 2,4,6-TTBP); 86 FR 894 (addressing PIP (3:1)); 86 FR 922 (addressing HCBP); 86 FR 880 (addressing decaBDE); 86 FR 911 (addressing PCTP).

		<ul style="list-style-type: none"> - Marinas; and - General Automotive Repairs. <p>Beginning on January 6, 2026, affected persons are required to maintain, for three years from the date the record is generated, ordinary business records (including name of purchaser and container sizes) related to compliance with these restrictions.</p>	
1/6/2021 TSCA §§6(h), 6(a)	<p>PBT Chemical: Phenol, Isopropylated Phosphate (3:1) (PIP 3:1); Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h)¹⁴</p> <p>Effective Date: 2/5/2021; for purposes of judicial review and 40 CFR 23.5 this rule is promulgated at 1 p.m. on 1/21/2021. Citation: 86 FR 894, 40 CFR 751 https://www.federalregister.gov/documents/2021/01/06/2020-28692/phenol-isopropylated-phosphate-31-pip-31-regulation-of-persistent-bioaccumulative-and-toxic</p>	<p>Prohibits the processing and distribution of PIP (3:1) and PIP (3:1)-containing products, with specified exclusions, and prohibits the release of PIP (3:1) to water during manufacturing, processing, and distribution.</p> <p>Requires commercial users to follow existing regulations and best practices to prevent the release to water of PIP (3:1) and products containing PIP (3:1) during use.</p> <p>Entities/products subject to the rule include: manufacturers, processors, distributors, or users of PIP (3:1), especially flame retardants in plastics or functional fluids in aircraft and industrial machinery, such as:</p> <ul style="list-style-type: none"> - Petroleum Refineries; - Petroleum Lubricating Oil and Grease Manufacturing; - Paint and Coating Manufacturing; - All Other Basic Organic Chemical Manufacturing; - Plastics Material and Resin Manufacturing; - Adhesive Manufacturing; - Polish and Other Sanitation Good Manufacturing; - All Other Miscellaneous Chemical Product and Preparation Manufacturing; - Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing; - Other Communications Equipment Manufacturing; - Automobile Manufacturing; 	<p>Current pause preemption Future permanent preemption</p>

¹⁴ The Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h); Phenol, Isopropylated Phosphate (3:1); Compliance Date was extended twice, on 9/12/2021 and 3/8/2022. See 86 FR 51823, 86 FR 12875, respectively.

		<ul style="list-style-type: none"> - Other Motor Vehicle Parts Manufacturing; - Automobile and Other Motor Vehicle Merchant Wholesalers; - Other Chemical and Allied Products Merchant Wholesalers; - New Car Dealers; and - Research and Development in the Physical, Engineering, and Life Sciences. <p>This rule also (1) prohibits releases to water from manufacture, processing, distribution in commerce, and commercial uses that are permitted to occur; (2) requires persons manufacturing, processing and distributing PIP (3:1) to notify customers of these prohibitions; and (3) requires persons manufacturing, processing, and distributing PIP (3:1) to maintain ordinary business records for three years that include a statement that the PIP (3:1) or PIP (3:1) containing products are in compliance with 40 CFR 751.407(a).</p>	
1/6/2021 TSCA §§6(h), 6(a)	<p>PBT Chemical: Hexachlorobutadiene (HCBD); Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h)</p> <p>Effective Date: 2/5/2021; for purposes of judicial review and 40 CFR 23.5 this rule is promulgated at 1 p.m. on 1/21/2021. Citation: 86 FR 922, 40 CFR 751 https://www.federalregister.gov/documents/2021/01/06/2020-28693/hexachlorobutadiene-hcbd-</p>	<p>Prohibits all manufacturing (including import), processing, and distribution in commerce of HCBD and HCBD-containing products or articles after March 8, 2021, except for the unintentional production of HCBD as a byproduct during the production of chlorinated solvents and the processing and distribution of the byproduct for burning as a waste fuel.</p> <p>Entities/products subject to the rule include:</p> <ul style="list-style-type: none"> - Petroleum Lubricating Oil and Grease Manufacturing; - Other Basic Inorganic Chemical Manufacturing; - All Other Basic Organic Chemical Manufacturing; - Plastics Material and Resin Manufacturing; - All Other Miscellaneous Chemical Product and Preparation Manufacturing; - All Other Plastics Product Manufacturing; - All Other Rubber Product Manufacturing; - Cement Manufacturing; - Hazardous Waste Treatment and Disposal; - Hazardous Waste Collection; 	Current pause preemption Future permanent preemption

	<p>regulation-of-persistent-bioaccumulative-and-toxic-chemicals-under-tsca</p>	<ul style="list-style-type: none"> - Solid Waste Combustors and Incinerators; - Other Chemical and Allied Products Merchant Wholesalers; - Crude Petroleum Extraction; - Facilities Support Services; - All Other Miscellaneous Chemical Product and Preparation Manufacturing. <p>This rule also requires, after March 8, 2021, persons manufacturing, processing, and distributing HCBD or HCBD-containing products to maintain ordinary business records related to compliance with these prohibitions and restrictions for three years.</p>	
<p>1/6/2021 TSCA §§6(h), 6(a)</p>	<p>PBT Chemical: Decabromodiphenyl Ether (DecaBDE); Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h)</p> <p>Effective Date: 2/5/2021; for purposes of judicial review and 40 CFR 23.5 this rule is promulgated at 1 p.m. on 1/21/2021. Citation: 86 FR 880, 40 CFR 751 https://www.federalregister.gov/documents/2021/01/06/2020-28686/decabromodiphenyl-ether-decabde-regulation-of-persistent-bioaccumulative-and-toxic-chemicals-under</p>	<p>Prohibits, with limited exceptions, all manufacture (including import), processing, and distribution in commerce of decaBDE, or decaBDE-containing products.</p> <p>Entities/products subject to the rule include: persons engaged in manufacture (including import), process, distribute in commerce, or use decabromodiphenyl ether (decaBDE) and decaBDE-containing products and articles, especially wire and cable rubber casings, textiles, electronic equipment casings, building and construction materials, and imported articles such as aerospace and automotive parts.</p> <p>This rule also requires, with limited exceptions, that persons manufacturing, processing, and distributing decaBDE or decaBDE-containing products to maintain ordinary business records related compliance including the name of the purchaser and listed products or articles.</p>	<p>Current pause preemption Future permanent preemption</p>

<p>1/6/2021</p> <p>TSCA §§6(h), 6(a)</p>	<p>PBT Chemical: Pentachlorothiophenol (PCTP); Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h)</p> <p>Effective Date: 2/5/2021; for purposes of judicial review and 40 CFR 23.5 this rule is promulgated at 1 p.m. on 1/21/2021. Citation: 86 FR 911, 40 CFR 751 https://www.federalregister.gov/documents/2021/01/06/2020-28689/pentachlorothiophenol-pctp-regulation-of-persistent-bioaccumulative-and-toxic-chemicals-under-tsca</p>	<p>Prohibits all manufacturing (including import), processing, and distribution in commerce of PCTP and PCTP-containing products, such as rubber products, or articles for any use, unless PCTP concentrations are at or below 1% by weight.</p> <p>Entities/products subject to the rule include:</p> <ul style="list-style-type: none"> - Sporting and Athletic Goods Manufacturing; - Sporting and Recreational Goods and Supplies Merchant Wholesale; - Sporting Goods Stores; and - All Other Rubber Product Manufacturing. <p>This rule also requires, after March 8, 2021, persons manufacturing, processing, and distributing PCTP or PCTP-containing products to maintain ordinary business records related to compliance with these prohibitions and restrictions for three years.</p>	<p>Current pause preemption Future permanent preemption</p>
<p>1/7/2021</p> <p>TSCA §401,402</p>	<p>Review of Dust-Lead Post Abatement Clearance Levels</p> <p>Effective Date: 3/8/2021 Citation: 86 FR 983, 40 CFR 745 https://www.federalregister.gov/documents/2021/01/07/2020-28565/review-of-dust-lead-post-abatement-clearance-levels</p>	<p>Lowers the 2001 dust-lead clearance levels for the amount of lead in dust that can remain in dust on floors and window sills after lead removal/abatement activities.</p> <p>New clearance levels are: 10 micrograms (µg) of lead in dust per square foot (ft²) for floor dust and 100 µg/ft² for window sill dust.</p>	<p>These changes result in stricter dust-lead standards in Vermont.</p>

<p>11/8/2021</p> <p>TSCA §8(b)(10)(d)</p> <p>APA §553</p>	<p>Response to Vacatur of Certain Provisions of the Mercury Inventory Reporting Rule</p> <p>Effective Date: 12/8/2021</p> <p>Citation: 86 FR 61708, 40 CFR 713</p> <p>https://www.federalregister.gov/documents/2021/11/08/2021-24209/response-to-vacatur-of-certain-provisions-of-the-mercury-inventory-reporting-rule</p>	<p>Revises the mercury inventory reporting rule¹⁵ associated with persons who must report data to the Agency's mercury inventory established under TSCA.</p> <p>More specifically, persons who only import pre-assembled products that contain a mercury-added component are now subject to reporting requirements pursuant to 40 CFR 713.7(b).</p>	
<p>7/5/2022</p> <p>TSCA §5(a)(2)</p>	<p>Significant New Uses of Chemical Substances; Updates to the Hazard Communication Program and Regulatory Framework; Minor Amendments to Reporting Requirements for Premanufacture Notices</p> <p>Effective Date: 9/6/2022</p> <p>Citation: 87 FR 39756, 40 CFR 720-723</p> <p>https://www.federalregister.gov/documents/2022/07/05/2022-13324/significant-new-uses-of-</p>	<p>Revises SNUR requirements to align with the Occupational Safety and Health Administration's respiratory protection requirements and hazard communication standard.</p> <p>Revisions addressing SNUR issues raised through public comment include:</p> <ul style="list-style-type: none"> - Consideration of a hierarchy of controls before using personal protective equipment to control exposures. - Clarifies the meaning of certain uses under 40 CFR 721.80(j). - Allows for removal in wastewater treatment when computing estimated surface water concentrations according to 40 CFR 721.91. - Revises the <i>bona fide</i> procedure in 40 CFR 721.11 to include coverage of situations where the significant new use terms are confidential. <p>Includes minor changes to reporting requirements for premanufacture notices (PMNs) and other TSCA section 5 notices.</p>	<p>Informational</p>

¹⁵ Reporting Requirements for TSCA Mercury Inventory: Mercury, 15 U.S.C. 2607(b)(10)(D) (requiring reporting from persons who manufacture (including import) mercury or mercury-added products, or otherwise intentionally use mercury in a manufacturing process).

	chemical-substances-updates-to-the-hazard-communication-program-and		
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EPA Proposed Rules			
Date & Authority	Change	Summary	State Impact
4/12/2022 TSCA §6(a)	Asbestos Part 1: Chrysotile Asbestos; Regulation of Certain Conditions of Use Under Section 6(a) of the Toxic Substances Control Act (TSCA) Citation: 87 FR 21706 https://www.federalregister.gov/documents/2022/04/12/2022-07601/asbestos-part-1-chrysotile-asbestos-regulation-of-certain-conditions-of-use-under-section-6a-of-the	<p>This proposed rule addresses the unreasonable risk of injury to health it has identified for conditions of use of chrysotile asbestos following completion of the TSCA Risk Evaluation for Asbestos: Part 1.</p> <p>EPA’s risk assessment for Asbestos determined that chrysotile asbestos presents an unreasonable risk for the following conditions of use: (1) processing and industrial use of chrysotile asbestos diaphragms in the chlor-alkali industry and asbestos-containing sheet gaskets in chemical production; (2) industrial use of chrysotile asbestos-containing brake blocks in oil industry; (3) commercial use and disposal of aftermarket automotive chrysotile asbestos-containing brakes/linings, chrysotile asbestos-containing vehicle friction products, asbestos-containing gaskets; and (4) consumer use and disposal of aftermarket automotive chrysotile asbestos-containing brakes/linings and gaskets.</p> <p>Entities/products subject to the rule include:</p> <ul style="list-style-type: none"> - Oil and Gas Extraction - Chemical Manufacturing - Fabricated Metal Product Manufacturing - Transportation Equipment Manufacturing - Gasket, Packing, and Sealing Device Manufacturing - Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers - Motor Vehicle and Parts Dealers - Automotive Repair and Maintenance <p>EPA is currently conducting the TSCA Risk Evaluation for Asbestos Part 2: Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos. EPA intends to include the legacy uses and associated</p>	Future permanent preemption Permanent preemption will apply after Risk Evaluation complete

		disposal of asbestos. Part 2 will also consider Libby Amphibole Asbestos as well as asbestos present as an impurity in talc and other substances.	
5/6/2022 TSCA §8	Asbestos; Reporting and Recordkeeping Requirements Under the Toxic Substances Control Act (TSCA) Citation: 87 FR 27060 https://www.federalregister.gov/documents/2022/05/06/2022-09533/asbestos-reporting-and-recordkeeping-requirements-under-the-toxic-substances-control-act-tsca	This proposed rule revises reporting and recordkeeping requirements for asbestos to require persons that manufactured (including imported) or processed asbestos-containing articles (including as an impurity), within the four years prior to the date of publication of the final rule, to report exposure related information including: (1) quantities of asbestos (including asbestos that is a component of a mixture) and asbestos-containing articles that were manufactured (including imported) or processed, (2) types of use, and (3) employee data. Entities/products subject to the rule include: <ul style="list-style-type: none"> - Oil and Gas Extraction; - Mining (except Oil and Gas); - Chemical Manufacturing; - Nonmetallic Mineral Product Manufacturing - Fabricated Metal Product Manufacturing; - Transportation Equipment Manufacturing; - Gasoline Stations; and - Repair and Maintenance 	Informative: may result in additional information on the use and management of asbestos being reported to EPA and Vermont regulators.
10/22/2021 TSCA §6(e)(1)(A)	Alternate PCB Extraction Methods and Amendments to PCB Cleanup and Disposal Regulations Citation: 86 FR 58730 https://www.federalregister.gov/documents/2021/10/22/2021-19305/alternate-pcb-extraction-methods-and-amendments-to-pcb-cleanup-and-disposal-regulations	This proposed rule proposes to expand the available options for extraction and determinative methods used to characterize and verify the cleanup of polychlorinated biphenyls (PCBs) waste. The proposed changes are expected to result in quicker, more efficient, and less costly cleanups, due to greater flexibility in the cleanup and disposal of PCB waste. Other revisions to the PCB regulations include: <ul style="list-style-type: none"> - amendment of performance-based disposal option for PCB remediation waste; - removal of the provision allowing PCB bulk product waste to be disposed as roadbed material; - addition of more flexible provisions for cleanup and disposal of waste generated by spills that occur during emergency situations (e.g., hurricanes or floods); and 	Informative: may inform state PCB cleanup actions and what methods EPA approves.

		<ul style="list-style-type: none"> - harmonizing the general disposal requirements for PCB remediation waste. <p>Entities/products subject to the rule include: persons that manufacture, process, distribute in commerce, use, or dispose of PCBs.</p>	
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EPA Notices			
Date & Authority	Change	Summary	State Impact
9/6/2022	Revisions to the First 10 High Priority Chemicals (1) Color Index Pigment Violet 29 (PV29); Revision to the Toxic Substances Control Act (TSCA) Risk Determination; Notice of Availability¹⁶ Citation: 87 FR 54491 https://www.federalregister.gov/documents/2022/09/06/2022-19093/colour-index-pigment-violet-29-pv29-revision-to-the-toxic-substances-control-act-tsca-risk	First 10 “High Priority” Chemicals & Final Risk Evaluation Date <ul style="list-style-type: none"> - Asbestos (Dec. 2020) - 1,4-Dioxane (Dec. 2020) - N-Methylpyrrolidone (NMP) (Dec. 2020) - Perchloroethylene (PCE) (Dec. 2020) - Pigment Violet 29 (Jan. 2021) - Trichloroethylene (TCE) (Nov. 2020) - Carbon Tetrachloride (Nov. 2020) - 1-Bromopropane (Aug. 2020) - Cyclic Aliphatic Bromide Cluster (HBCD) (Aug. 2020) - Methylene Chloride (June 2020) 	Future Permanent preemption will apply after Risk Evaluation is complete (either upon issuance of “no unreasonable risk” determination or upon effective date of EPA risk management action).
6/29/2022	(2) Cyclic Aliphatic Bromide Cluster (HBCD); Revision to the Toxic Substances Control Act (TSCA) Risk Determination; Notice of Availability Citation: 87 FR 38747 https://www.federalregister.gov/documents/2022/06/29/2022-13805/cyclic-aliphatic-bromide-cluster-hbcd-revision-to-the-toxic-substances-control-act-tsca-risk		
1/8/2021	(3) 1,4-Dioxane; Final Toxic Substances Control Act (TSCA) Risk Evaluation; Notice of Availability Citation: 86 FR 1495 https://www.federalregister.gov/documents/2021/01/08/2021-00114/14-dioxane-final-toxic-substances-control-act-tsca-risk-evaluation-notice-of-availability		
8/28/2022	(4) Trichloroethylene (TCE); Draft Revision to Toxic Substances Control Act (TSCA) Risk Determination; Notice of Availability and Request for Comment Citation: 87 FR 40520 https://www.federalregister.gov/documents/2022/07/07/2022-14478/trichloroethylene-tce-draft-revision-to-toxic-substances-control-act-tsca-risk-determination-notice		
8/29/2022	(5) Carbon Tetrachloride; Draft Revision to Toxic Substances Control Act (TSCA) Risk	EPA’s risk evaluation considers hazards, exposures, and conditions of use of a chemical, and also considers potentially	

¹⁶ This revision supersedes the condition of use-specific no unreasonable risk determinations in the January 2021 PV29 Risk Evaluation and withdraws the associated TSCA order included in the January 2021 PV29 Risk Evaluation.

7/5/2022	<p>Determination; Notice of Availability and Request for Comment Citation: 87 FR 52766 https://www.federalregister.gov/documents/2022/08/29/2022-18535/carbon-tetrachloride-draft-revision-to-toxic-substances-control-act-tsca-risk-determination-notice</p>	<p>exposed or susceptible subpopulations.</p>	
6/20/2022	<p>(6) Methylene Chloride; Draft Revision to Toxic Substances Control Act (TSCA) Risk Determination; Notice of Availability and Request for Comment Citation: 87 FR 39824 https://www.federalregister.gov/documents/2022/07/05/2022-14163/methylene-chloride-draft-revision-to-toxic-substances-control-act-tsca-risk-determination-notice-of</p>	<p>In these proposed rules, EPA is re-issuing the risk determination for specific chemicals as part of EPA’s plan to revise specific aspects of the first 10 risk evaluations to ensure that the risk evaluations appropriately identify unreasonable risks.</p>	
8/29/2022	<p>(7) Perchloroethylene (PCE); Draft Revision to Toxic Substances Control Act (TSCA) Risk Determination; Notice of Availability and Request for Comment Citation: 87 FR 39085 https://www.federalregister.gov/documents/2022/06/30/2022-14016/perchloroethylene-pce-draft-revision-to-toxic-substances-control-act-tsca-risk-determination-notice</p>	<p>EPA has determined that making an unreasonable risk determination for a chemical as a whole chemical substance, rather than making unreasonable risk determinations separately on each individual condition of use evaluated in the risk evaluation, is the most appropriate approach under the statute and implementing regulations.</p>	
8/29/2022	<p>(8) n-Methylpyrrolidone (NMP); Draft Revision to Toxic Substances Control Act (TSCA) Risk Determination; Notice of Availability and Request for Comment Citation: 87 FR 39511 https://www.federalregister.gov/documents/2022/07/01/2022-14108/n-methylpyrrolidone-nmp-draft-revision-to-toxic-substances-control-act-tsca-risk-determination</p>	<p>EPA has indicated that this new approach applies to PV29, HBCD and 1,4-Dioxane.</p>	
TSCA §6	<p>(9) 1-Bromopropane (1-BP); Draft Revision to Toxic Substances Control Act (TSCA) Risk Determination; Notice of Availability and Request for Comment Citation: 87 FR 43265 https://www.federalregister.gov/documents/2022/07/20/2022-15516/1-bromopropane-1-bp-draft-revision-to-toxic-substances-control-act-tsca-risk-determination-notice-of</p>	<p>EPA is currently revising and reviewing public comments on TCE, Carbon Tetrachloride, Methylene Chloride, PCE, NMP risk determinations and intends to find that each chemical, as a whole chemical substance, presents an unreasonable risk of injury to health when evaluated under its conditions of use.</p>	
8/31/2021 TSCA §6	<p>Di-isodecyl Phthalate (DIDP); Final Scope of the Risk Evaluation To Be Conducted Under the Toxic Substances Control Act (TSCA); Notice of Availability</p>	<p>EPA initially received a manufacturer requested risk evaluation for DIDP and this notice recognizes</p>	<p>Future permanent preemption will apply</p>

	<p>Citation: 87 FR 43265 https://www.federalregister.gov/documents/2021/08/31/2021-18773/di-isodecyl-phthalate-didp-final-scope-of-the-risk-evaluation-to-be-conducted-under-the-toxic</p>	<p>that the final scope of the risk evaluation is available for di-isodecyl phthalate (DIDP) (1,2-benzenedicarboxylic acid, 1,2-diisodecyl ester and 1,2-benzenedicarboxylic acid, di-C9-11-branched alkyl esters, C10-rich.</p> <p>The risk evaluation includes the conditions of use, hazards, exposures, and the potentially exposed or susceptible subpopulations that EPA plans to consider in conducting the risk evaluation for this category of chemical substances.</p>	<p>upon final EPA action.</p> <p>Pause preemption does not apply to manufacturer requested risk evaluations.</p>
8/31/2021 TSCA §6	<p>Di-isononyl Phthalate (DINP); Final Scope of the Risk Evaluation To Be Conducted Under the Toxic Substances Control Act (TSCA); Notice of Availability</p> <p>Citation: 86 FR 48693 https://www.federalregister.gov/documents/2021/08/31/2021-18772/di-isononyl-phthalate-dinp-final-scope-of-the-risk-evaluation-to-be-conducted-under-the-toxic</p>	<p>EPA received a manufacturer request for risk for di-isononyl phthalate (DINP) (1,2-benzene-dicarboxylic acid, 1,2-diisononyl ester, and 1,2-benzenedicarboxylic acid, di-C8-10-branched alkyl esters, C9-rich.</p> <p>EPA is publishing a final scope of the risk evaluation for DINP and will determine whether the chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use.</p>	<p>Future permanent preemption will apply upon final EPA action.</p> <p>Pause preemption does not apply to manufacturer requested risk evaluations.</p>
3/7/2022 TSCA §6(b)(4)(D)	<p>Octamethylcyclotetra-siloxane (D4); Final Scope of the Risk Evaluation To Be Conducted Under the Toxic Substances Control Act (TSCA); Notice of Availability</p> <p>Citation: 87 FR 12696 https://www.federalregister.gov/documents/2022/03/07/2022-04676/octamethylcyclotetra-siloxane-d4-final-scope-of-the-risk-evaluation-to-be-conducted-under-the-toxic</p>	<p>EPA received a manufacturer request for risk evaluation for octamethylcyclotetra-siloxane (D4) (Cyclotetrasiloxane, 2,2,4,4,6,6,8,8-octamethyl.</p> <p>EPA is publishing a final scope of the risk evaluation for D4 and will</p>	<p>Future permanent preemption will apply upon final EPA action.</p> <p>Pause preemption does not</p>

		determine whether the chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use.	apply to manufacturer requested risk evaluations.
6/29/2022 TSCA §6(b)(4)(D)	Asbestos Part 2 Supplemental Evaluation Including Legacy Uses and Associated Disposals of Asbestos; Final Scope of the Risk Evaluation To Be Conducted Under the Toxic Substances Control Act; Notice of Availability Citation: 87 FR 38746 https://www.federalregister.gov/documents/2022/06/29/2022-13852/asbestos-part-2-supplemental-evaluation-including-legacy-uses-and-associated-disposals-of-asbestos	EPA is required to publish a final Part 2 Risk Evaluation for Asbestos on or before December 1, 2024. This notice serves to delineate the scope of the risk assessment for Asbestos Part 2. In Part 2, EPA will evaluate the conditions of use of asbestos (including other types of asbestos fibers in addition to chrysotile) that EPA had excluded from Part 1 as legacy uses and associated disposals, as well as any conditions of use of asbestos-containing talc. The final scope for this chemical substance includes the conditions of use, hazards, exposures, and the potentially exposed or susceptible subpopulations that EPA plans to consider in conducting the risk evaluation for this chemical substance.	Future permanent preemption

Section B: Federal Actions Concerning PFAS Regulation

Emerging Contaminant: PFAS & EPA Regulatory Actions

Per- and Poly-fluoroalkyl substances (PFAS), such as PFOA, PFOS, PFBS, and GenX chemicals, have been manufactured and used since the 1940s for a variety of consumer products and for industrial purposes.¹⁷ These chemicals present significant public health concerns and persist in

¹⁷ See Technical Brief: Per- and Polyfluoroalkyl Substances (PFAS): Incineration to Manage PFAS Waste Streams, environmental Protection Agency (Feb. 2020), available at: https://www.epa.gov/sites/default/files/2019-09/documents/technical_brief_pfes_incineration_ioaa_approved_final_july_2019.pdf.

the environment as a “forever” chemicals.¹⁸ Due to its mobility, PFAS has been found in surface water, groundwater, soil, and air across the United States.

In 2019, EPA generated an Action Plan¹⁹ that outlined a multi-program approach to identifying and addressing current PFAS contamination, preventing future contamination, and communicating with the public about risks posed by these substances. The plan proposed several specific actions, categorized as either “short-term” (generally taking place or will be completed within 2 years) or “long-term” (will be completed in more than 2 years). Since 2019, the EPA has published a more ambitious Strategic Roadmap focused on three central directives: (1) research focused on understanding PFAS exposures and effects, (2) management and regulation targeted at restricting the release of PFAS into the environment, and (3) remediation of PFAS contamination.²⁰

PFOA and PFOS and other Regulated PFAS

PFOA and PFOS are more prevalent in the environment and have historically been used in a wide range of consumer products, for firefighting at airfields, and have other industrial uses. Additionally, both are persistent and mobile in the environment and exposure to these chemicals has been shown to lead to adverse human health effects.

EPA has used multiple federal laws and regulatory mechanisms to regulate PFOA and PFOS including regulating manufacturing and consumer products under TSCA, requiring reporting of releases under CERCLA, aquatic life criteria under the CWA, providing health advisories and monitoring drinking water, testing strategies, and initiating rulemaking efforts under RCRA.²¹

Beginning in 2002, EPA has utilized TSCA §5(a) to finalize multiple Significant New Use Rules (SNURs) covering a variety of PFAS in order to limit the production, import, use, and disposal of PFAS. In 2006, the EPA launched a PFOA Stewardship Program under which eight major manufacturers and processors agreed to phase out the use of PFOA and PFOA-related chemicals in their products and emissions from their facilities by 2015. A few years later, EPA published provisional drinking water and health advisories for PFOS and PFOA in 2016.

¹⁸ PFAS Explained, <https://www.epa.gov/pfas/pfas-explained>.

¹⁹ EPA’s Per- and Poly-fluoroalkyl substances (PFAS) Action Plan, Environmental Protection Agency (Feb. 2019), available at:

https://www.epa.gov/sites/default/files/201902/documents/pfas_action_plan_021319_508compliant_1.pdf.

²⁰ PFAS Strategic Roadmap: EPA’s Commitments to Action 2021-2024, Environmental Protection Agency (Oct. 18, 2021), available at: https://www.epa.gov/system/files/documents/2021-10/pfas-roadmap_final-508.pdf

²¹ See EPA Actions to Address PFAS, <https://www.epa.gov/pfas/epa-actions-address-pfas>.

As new health information became available in June 2022, EPA updated the 2016 health advisories. These advisories were based upon new data which revealed that the levels at which negative health effects could occur were much lower than previously understood.²² As a result, EPA issued an updated interim health advisory with levels of 0.004 ppt for PFOA and 0.02 ppt for PFOS, which are standards below the capacity for current analytical methods to ascertain.²³ The EPA Science Advisory Board is currently reviewing the EPA's analyses and therefore these standards may change, but are unlikely to rise to levels greater than the minimum reporting levels.

On August 26, 2022, EPA issued a proposal to designate two of the most prevalent PFAS, PFOA and PFOS, as hazardous substances under CERCLA.²⁴ Additionally, EPA has proposed a rule that expands regulation beyond PFOA and PFOS, by adding five PFAS to be included in the Regional Screening Levels and Regional Remedial Management Levels.²⁵

EPA has also initiated rulemaking under RCRA to propose adding PFOA, PFOS, PFBS, and GenX as hazardous constituents pursuant to 40 CFR part 261 Appendix VIII.²⁶ As hazardous constituents, these chemicals would be subject to corrective action requirements at hazardous waste, treatment, storage, and disposal facilities.

As these regulatory changes develop and EPA finalizes rules for designating PFOA and PFOS as hazardous substances and expands the list of PFAS being regulated, some of EPA's determinations made in this process will take precedence over action taken or to be taken at the state (or local) level. Certain types of actions made by EPA based on its review of chemicals can restrict states from taking any new, similar action to restrict those same chemicals, and in some cases, can block states from enforcing existing laws that conflict with EPA's resulting action on grounds of preemption.

²² See Drinking Water Health Advisories for PFAS Fact Sheet for Public Water Systems, Environmental Protection Agency (Jun. 2022) available at: <https://www.epa.gov/system/files/documents/2022-06/drinking-water-ha-pfas-factsheet-water-system.pdf>.

²³ See Drinking Water Health Advisories for PFOA and PFOS: 2022 Interim Updated PFOA and PFOS Health Advisories, Environmental Protection Agency, <https://www.epa.gov/sdwa/drinking-water-health-advisories-pfoa-and-pfos>.

²⁴ See Table 2 Entry "Designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances."

²⁵ See Regional Screening Levels (RSLs), <https://www.epa.gov/risk/regional-screening-levels-rsls-whats-new>.

²⁶ EPA Response to New Mexico Governor's PFAS Petition October 2021, available at: https://www.epa.gov/system/files/documents/202110/oct_2021_response_to_nm_governor_pfas_petition_corrected.pdf; NM Governor Petition Requesting PFAS as Hazardous Waste under RCRA Subpart C (June 23, 2021), available at: https://www.epa.gov/system/files/documents/2021-10/508compliant_ezd5442262_2021-06-23-governor-letter-to-epa-for-pfas-petition.pdf-incoming-document.pdf.

Table 2: Federal Changes with Impacts to PFAS Regulation

The table below addresses major federal changes to PFAS regulation through final rules, proposed rules, and notices. The information is current as of October 27, 2022. This information is intended to provide a summary of each change, links to additional information on the requirement(s), and information on the type of impact the change already has or is likely to have in the future.

TABLE 2 FEDERAL CHANGES WITH IMPACTS TO PFAS REGULATION			
EPA Final Rule			
Date & Authority	Change	Summary	State Impact
6/3/2021 Updated 7/18/2022 EPCRA §313 PPA §6607 NDAA ²⁷ §7321	<p>Implementing Statutory Addition of Certain Per- and Polyfluoroalkyl Substances (PFAS) to the Toxics Release Inventory Beginning With Reporting Year 2021 and 2022²⁸</p> <p>Effective Date: 8/17/2022 Citation: 86 FR 29698, 40 CFR 372 https://www.federalregister.gov/documents/2022/07/18/2022-15268/implementing-statutory-addition-of-certain-per-and-polyfluoroalkyl-substances-pfas-to-the-toxics</p>	<p>EPA added five per- and polyfluoroalkyl substances (PFAS) to the list of chemicals subject to toxic chemical release reporting under Emergency Planning and Community Right-to-Know Act (EPCRA) §313 list of reportable chemicals, also known as the Toxics Release Inventory (TRI), and the Pollution Prevention Act (PPA).</p> <p>PFAS added to the TRI list and whose identity is not claimed as confidential business information:</p> <ul style="list-style-type: none"> - Perfluorobutane sulfonic acid (375-73-5) - Perfluorobutanesulfonate (45187-15-3) - Potassium perfluorobutane sulfonate (29420-49-3) - 2-Propenoic acid, 2-methyl-, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-heneicosaf luorododecyl ester, polymer with 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl 2-methyl-2-propenoate, methyl 2-methyl-2-propenoate, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-pentacosaf luorotetradecyl 2-methyl-2-propenoate and 3,3,4,4,5,5,6,6,7,7,8,8,8- 	Future permanent preemption

²⁷ National Defense Authorization Act for Fiscal Year 2020 (FY2020 NDAA). Pub. L. 116-92.

²⁸ This rule updated a prior rule published on 6/3/2021 and effective 7/6/2021. See 86 FR 29698. In this earlier version, the EPA added Perfluorooctyl iodide, Potassium perfluorooctanoate, and Silver(I) perfluorooctanoate. See 85 FR 45109 (adding three PFAS to SNUR on July 27, 2020).

		<p>tridecafluorooctyl 2-methyl-2-propenoate (65104-45-2)</p> <ul style="list-style-type: none"> - 2-Propenoic acid, 2-methyl-, hexadecyl ester, polymers with 2-hydroxyethyl methacrylate, gamma-omega-perfluoro-C10-6-alkyl acrylate and stearyl methacrylate (203743-03-7) 	
EPA Proposed Rules			
Date & Authority	Change	Summary	State Impact
9/6/2022 CERCLA	<p>Designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances</p> <p>Citation: 87 FR 54415 https://www.federalregister.gov/documents/2022/09/06/2022-18657/designation-of-perfluorooctanoic-acid-pfoa-and-perfluorooctanesulfonic-acid-pfos-as-cercla-hazardous</p>	<p>EPA is proposing to designate perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), including their salts and structural isomers, as hazardous substances. If finalized, the direct effects of this proposed CERCLA designation would include requiring that any person in charge of a vessel or facility report releases of PFOA and PFOS of one pound or more within a 24-hour period.</p> <p>The rule also requires that when Federal agencies sell or transfer real property they must provide notice of the presence of hazardous substances in certain circumstances as required by CERCLA section 120(h).</p> <p>Entities potentially affected by this action include: (1) PFOA and/or PFOS manufacturers (including importers and importers of articles); (2) PFOA and/or PFOS processors; (3) manufacturers of products containing PFOA and/or PFOS; (4) downstream product manufacturers and users of PFOA and/or PFOS products; and (5) waste management and wastewater treatment facilities.</p> <p>In June 2022, EPA released interim updated health advisories for PFOA and PFOS based on human epidemiology studies in populations exposed to these chemicals.</p>	Future permanent preemption
6/28/2021 TSCA §8(a)(7)	<p>TSCA Section 8(a)(7) Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances</p> <p>Citation: 86 FR 33926 https://www.federalregister.gov/documents/2021/06/28/2021-13180/tsc-section-</p>	<p>This proposed rule would require persons that manufacture (including import) or have manufactured these chemical substances in any year since January 1, 2011, to electronically report information regarding PFAS uses, production volumes, disposal, exposures, and hazards. The manufacture of</p>	Informative: may result in additional information on the use and management of PFAS

	8a7-reporting-and-recordkeeping-requirements-for-perfluoroalkyl-and-polyfluoroalkyl	<p>PFAS as a byproduct is not exempt for the purpose of this proposed rule.</p> <p>Entities/products subject to the rule include:</p> <ul style="list-style-type: none"> - Petroleum and Coal Product Manufacturing; - Chemical Manufacturing; - Unlaminated Plastics Film and Sheet (except Packaging) Manufacturing; - Abrasive Product Manufacturing; - All Other Miscellaneous General Purpose Machinery Manufacturing; - Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing; - Automobile Manufacturing; etal Service Centers and Other Metal Merchant Wholesalers; - Other Chemical and Allied Products Merchant Wholesalers; - Other Gasoline Stations; - Offices of Other Holding Companies; and - Waste Management and Remediation Services. 	being reported to EPA and Vermont regulators.
EPA Notices & Other Materials			
2/2/2022 TSCA	<p>Availability of the Draft IRIS Toxicological Review of Perfluorohexanoic Acid (PFHxA) and Related Salts</p> <p>Citation: 87 FR 5819 https://www.federalregister.gov/documents/2022/02/02/2022-02050/availability-of-the-draft-iris-toxicological-review-of-perfluorohexanoic-acid-pfhxa-and-related</p> <p>IRIS website at https://www.epa.gov/iris/iris-recent-additions Public Docket at http://www.regulations.gov, Docket ID No. EPA-HQ-ORD-2021-0561.</p>	EPA has released an Integrated Risk Information System (IRIS) Toxicological Review of Perfluorodecanoic acid (PFDA; CASRN 335-76-2), perfluorononanoic acid (PFNA; CASRN 375-24-4), perfluorohexanoic acid (PFHxA, CASRN 307-24-4), perfluorohexanesulfonic acid (PFHxS, CASRN 355-46-4), and perfluorobutanoic acid (PFBA, CASRN 375 22 4) and their related salts.	Informational
12/22/2020 TSCA	<p>Interim PFAS Destruction and Disposal Guidance; Notice of Availability for Public Comment</p> <p>Citation: 85 FR 83554 https://www.federalregister.gov/documents/2020/12/22/2020-28376/interim-</p>	<p>EPA has published interim guidance on the destruction and disposal of perfluoroalkyl and polyfluoroalkyl substances (PFAS) and materials containing PFAS.</p> <p>The guidance provides information on technologies that may be feasible and</p>	Informational

	pfas-destruction-and-disposal-guidance-notice-of-availability-for-public-comment	appropriate for the destruction or disposal of PFAS and PFAS-containing materials. It also identifies needed and ongoing research and development activities related to destruction and disposal technologies, which may inform future guidance.	
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Section C: Recommendations for Vermont/ICCM Action in Response to Federal Changes

- Consider commenting on proposed federal actions to regulate chemicals, as appropriate.
- Continue to track PFAS developments through EPA’s strategic roadmap and obtain additional information reporting on PFAS use and management under EPCRA and share with ICCM members and affected stakeholders.
- Track and monitor EPA notices and proposed rulemaking on emerging chemicals and contaminants.
- Track EPA proposed or final actions under TSCA.

HAZCOM

The Occupational Safety and Health Administration (OSHA) released a Notice of Proposed Rulemaking (NPRM) on February 16, 2021 regarding updates to the existing Hazardous Communication (HAZCOM) regulation. These updates will require chemical product classification and labeling to conform to the United Nations' Globally Harmonized System of Classification and Labelling of Chemicals Revision 7 from the currently enforced Revision 3 which has been in place since 2012.²⁹ This update to the standard includes revised criteria for classification of certain health and physical hazards, revised provisions for updating labels, new labeling provisions for small containers, technical amendments related to the contents of safety data sheets (SDSs), and related revisions to definitions of terms used in the standard.³⁰ As listed on OSHA’s 2022 regulatory agenda, these revisions are anticipated to become effective December 2022.³¹

²⁹ Hazard Communication Standard. Federal Register.

<https://www.federalregister.gov/documents/2021/02/16/2020-28987/hazard-communication-standard>. Published February 16, 2021. Accessed October 5, 2022.

³⁰ OSHA’s Proposed Rulemaking to Amend the Hazard Communication Standard. Occupational Safety and Health Administration. <https://www.osha.gov/hazcom/rulemaking>. Accessed October 5, 2022.

³¹ Update to the Hazard Communication Standard. Office of Information and Regulatory Affairs.

<https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202204&RIN=1218-AC93>. Accessed October 5, 2022.

V. Recommended Legislative or Regulatory Action to Reduce Risks to Human Health and the Environment from Regulated or Unregulated Chemicals of Emerging Concern

The Committee determined that its priority would be to make additional progress on the recommendations made in the previous reports and contained within this report. With greater knowledge derived from that implementation process, the departments and agencies will be better equipped with the data necessary to make future recommendations.

Individual departments and agencies will continue to manage the chemical controls under their purview, but successful implementation of existing recommendations will take priority for the ICCM as a whole. The ICCM will also continue work to evaluate potential opportunities to protect public health and the environment as information becomes available through the work of individual departments and agencies, and implementation of the review framework and processes recommended in this, and its previous reports.

VI. Final Thoughts

The ICCM appreciates the opportunity to contribute to the State's chemical management efforts. It is likewise the ICCM's hope that this report provides useful information to further those efforts, and that its findings and recommendations will serve to build upon the collective knowledge base and understanding of chemical use, risks, and management throughout the State. The ICCM sees continual monitoring, review, and assessment of chemical regulation and use, combined with collaboration amongst State Agencies and external stakeholders as a viable and worthy path to pursue. In that way, the goals of increased protection of Vermonters from exposure to unsafe chemicals, better compliance assistance for the regulated community, and improvement of public availability of information, can be realized.

Appendix A – ICCM Members and CAP

The Agency of Natural Resources would like to thank all the members of the ICCM and CAP for their participation, time, and contributions to this initiative.

ICCM Members:

Sarah Owen, Department of Health
VACANT, Agency of Agriculture, Food and Markets
Patrick McLaughlin, Department of Public Safety
Shawn Barth, Department of Labor
VACANT, Agency of Commerce and Community Development
Peter Telep, Agency of Digital Services
Andy Shively and Rosa Mastrocola, Agency of Transportation
John Beling, Agency of Natural Resources (Chair)

Citizen Advisory Panel:

Ian Balcom, Lyndon State College
Rick Bibens, Bibens Ace Hardware
Terese Churchill, EverGreen Environmental Health & Safety
Wolfgang Dostmann, University of Vermont
Jon Groveman, Vermont Natural Resources Council
Deborah Hirtz, University of Vermont
Ruma Kohli, Global Foundries
Bindu Panikkar, University of Vermont
Barb Patterson, Stone Environmental
Adam Rainville, Maple Landmark
Ken Rumelt, Vermont Law School
Jessica Wignall, ICF

The ICCM wishes to thank the following individuals for contributing to the work of the ICCM and the content of this report:

Megan Cousino, Agency of Natural Resources
Jordan Gonda, Agency of Natural Resources
Simonne Valcour, Agency of Natural Resources
Eamon Twohig, Agency of Natural Resources
John Zaikowski, Agency of Natural Resources

Appendix B – ICCM Background

In June 2016, at the direction of the Vermont General Assembly through Act No. 154 of 2016, the Agency of Natural Resources (ANR) convened a working group to develop recommendations related to regulation of chemicals of emerging concern, increasing the State's ability to prevent citizen exposure to harmful chemicals, and increasing public access to chemical information. The Act 154 Working Group's Report, submitted to the General Assembly in January 2017, recommended, among other things, establishment of an interagency committee to improve coordination among involved State regulatory agencies related to chemical management in the State, creation of a central electronic reporting system to assist businesses with compliance and provide access to chemical information, the amendment of existing requirements to ensure state agencies have complete chemical inventory information, and strengthening of the Toxic Use Reduction and Hazardous Waste Reduction Act (TURA).³²

On August 7, 2017, Governor Scott issued Executive Order No. 13-17 (EO), which directed the creation of an Interagency Committee on Chemical Management (ICCM). The ICCM consisted of a representative from the Agency of Natural Resources, Agency of Agriculture, Food, and Markets, Department of Health, Department of Labor, Agency of Commerce and Community Development, and Agency of Digital Services. The ICCM's tasks were to make initial recommendations to the Governor, after establishment and consultation with a citizen advisory panel, as to how the State should establish a centralized or unified electronic reporting system, amend existing recordkeeping and reporting requirements to ensure sufficient chemical inventory reporting, and strengthen TURA. The ICCM also convened a Citizen Advisory Panel (CAP) as directed by the EO to provide input and expertise to the ICCM on the stated tasks. The CAP consisted of a broad range of private, public, and academic organizations and individuals. The EO directed the ICCM to submit its initial recommendations on or before July 1, 2018, with additional reporting on December 15, 2018 and biennially thereafter.

On July 1, 2018, the ICCM delivered its initial report to the Governor as directed by Executive Order No. 13-17. The report recommended how to: (1) create a centralized electronic reporting system, (2) create a review framework for evaluating necessary changes to State chemical reporting and recordkeeping and coordinating chemical management actions across state agencies, and (3) strengthen the Toxics Use Reduction Act (TURA). It then delivered its December 15, 2018 report, which provided summaries of chemical use in the State; a summary of identified risks to human health and the environment from reported chemical inventories; a summary and description of the federal chemical regulatory landscape along with a recommendation that the ICCM monitor federal actions and coordinate with appropriate Vermont Agencies on those actions; and a recommendation that legislative action be considered

³² The complete Act 154 Chemical Use Working Group Report on Toxic Chemical Use in the State of Vermont (2016 Act 154, Section 10), dated January 13, 2017, can be found at ANR's website at the following link: https://anr.vermont.gov/about_us/special-topics/act-154-working-group

to prohibit the sale of consumer products that contain flame retardants banned by other states. The report also recommended a specific process by which the ICCM would, on an ongoing basis, evaluate chemicals or classes of chemicals to determine whether to subject them to additional or new recordkeeping and reporting requirements. The report also served to build upon the work and recommendations found in the July 1, 2018 Report, and included recommendations for the establishment of a more specific process for coordinated State review of the risks to human health and the environment posed by chemicals, classes of chemicals, or groupings of chemicals, including chemicals of emerging concern, that are used or proposed for use in Vermont.³³

Following submission of this report, the Governor issued Executive Order No. 02-19 (EO) which superseded and replaced Executive Order No. 13-17. In it, the EO directed the ICCM to convene a Citizen Advisory Panel (CAP) to provide input and expertise to the ICCM. The EO also established the review process recommended by the ICCM, under which it would review and make recommendations to improve chemical management through changes to chemical recordkeeping, reporting or other requirements, including any legislative or regulatory changes. The EO further directed the ICCM to issue a report and make recommendations to the Governor as to any necessary legislative or regulatory actions to reduce risks to Vermonters from unsafe chemicals on December 15, 2020 and biennially thereafter or as needed based on the work of the Committee. Tasks for that report, identified in EO Section III.D. included (1) a summary of chemical use in the State based on reported chemical inventories; (2) a summary of identified risks to human health and the environment from reported chemical inventories; (3) a summary of any change under federal statute or rule affecting the regulation of chemicals in the State; and (4) recommended legislative or regulatory action to reduce risks to human health and the environment from regulated and unregulated chemicals of emerging concern.³⁴

³³ The complete ICCM Report to the Governor (Executive Order No. 13-17), dated December 14, 2018, can be found at ANR's website at the following link:

https://anr.vermont.gov/sites/anr/files/aboutus/documents/2018_12_14_Final%20ICCM%20Biennial%20Report.pdf

³⁴ 10 V.S.A. §6633 also codifies the EO requirements and directed the addition of a representative of the Agency of Transportation to the ICCM.

Appendix C – ICCM’s Chemical Nomination Review Process

Interagency Committee on Chemical Management Chemical Nomination Review Process

Step 1: The User will complete the nomination form (NForm) via the ANR Online Submission System (System). The System will determine initial completeness:

- If Incomplete – the form is not uploaded, and the System will prompt the user to complete fields.
- If Complete - per N-Form requirements - the System uploads the form to the database.

Step 2: Once a form is successfully completed and uploaded to the internal database, the System will send an automatic email notification with a link to the form (or the database where the form is located) to all ICCM Members for review for administrative completeness. The System will prompt each ICCM Member to approve the submission for review or reject it.

- Unless all ICCM Members vote no, the ICCM will place the Nomination Form onto the next month's agenda.
- If all ICCM Members vote no, the ICCM Members will communicate to the submitter that the form requires more information at the next meeting (10 minute time slot).

Step 3: At its monthly meeting, ICCM Members will discuss and determine if the nomination form moves to Technical Team review.

- If yes, the ICCM will add the nomination form to the public facing website and refer the form to the Technical Team for review. The ICCM will prioritize nominations as necessary so that the Technical Team is reviewing one nomination at a time. The ICCM will publish the prioritization list on the dashboard.
- If no, the lead agency for the chemical prepares and sends a response to the submitter.
- The ICCM will update the ANR Online public facing dashboard to reflect the status of each nomination, and in the case of a rejection, the basis for such rejection.

Step 4: Technical Team Review – The technical team is made up of at least one member from each Department, as described in the statute. The ICCM technical team may invite experts from outside the State Agencies as needed, including but not limited to the following reasons: to understand chemical uses, chemical risk management procedures, alternates availability and assessment status.

- Upon completion of its review, the technical team will generate a report (following the requirements in EO/statute) and submit it to the ICCM.

Step 5: The ICCM members will review the technical team report and either:

- Send the report to the CAP for review and comment; or
- Send the report back to the technical team for revision, or additional information.

Step 6: The CAP will review and provide comments to the ICCM on the technical team report within the timeframe specified by the ICCM.

Step 7: The ICCM will review and consider CAP comments.

Step 8: After CAP comment review, the ICCM will write a Final Report, which will include but is not limited to the technical team report, CAP comments and responses to comments, recommendations, and its decision process, including any dissenting positions. Once finalized, the ICCM will route the Final Report to the applicable Agency(ies). The ICCM will provide assistance to Agency(ies) to support the recommendations as requested.

Step 9: The ICCM will update the System to reflect the status of the nomination.