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EPA Proposed TCE Ban

For decades Trichloroethylene (TCE) has been used as a degreaser in various trades and as a spot cleaner in dry cleaning operations. Since the inception of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, TCE has been a focal point of Superfund cleanup efforts as well, as its misuse and the failure to dispose of it properly has led to hundreds of claims of soil contamination, among other problems. This ban is more focused on the effect of TCE on workers and human health, as opposed to the environment, soil or groundwater. This year, enforcing its new powers under Section 6(a) of the Toxic Substances Control Act (TSCA), the Environmental Protection Agency (EPA) is proposing a ban of certain uses of TCE, specifically focusing on its use as an aerosol degreaser and spot cleaner in dry cleaning operations. In addition, the EPA proposes that any manufacturers, processors, wholesalers, and distributors must disseminate warnings downstream and throughout the chain of distribution of TCE, via Safety Data Sheets. (The EPA also noted that it will issue a separate directive with regard to the ban on the use of TCE for a "vapor degreasing.")

The EPA cites to its authority under TSCA, dating back to its inception in 1976, as well through updates in 2014 and 2016. The EPA notes it undertook a substantial risk assessment regarding the uses and risks of TCE. Based on that effort and available health data, the EPA concluded that TCE represents an unreasonable risk of harm to human health, such that its use may be banned per its authority under TSCA. In particular, the EPA cites to data regarding workers exposed to TCE who have allegedly suffered from many acute and chronic non-cancer ailments, as well as several cancer types. Specifically, the EPA notes that TCE is fat-soluble and easily crosses through membranes such that its ingestion does not limit its exposure or harmful effects to only certain areas. The EPA claims to have reviewed hundreds of toxicological, mechanistic and epidemiological studies to conclude that the harmful effects are substantial and unreasonable in certain uses. Based on studies reviewed, the EPA asserts that TCE has "the potential to induce developmental toxicity, immunotoxicity, kidney toxicity, reproductive and endocrine effects, neurotoxicity, liver toxicity and several forms of cancer. (Ref.1)" TCE has been identified as carcinogenic to humans in prior reports and studies. Based on this risk assessment, and its powers under TSCA, the EPA opted to take this bold step. However, it should be noted that not all uses are banned, as the EPA states it is solely looking to apply this ban to "specific uses that present unreasonable risk to human health", to help curtail or eliminate that risk.

The notice points out that TCE has previously been identified by the EPA under several different Acts, including Safe Drinking Water (probably human carcinogen), Clean Water (toxic pollutant), Clean Air (hazardous air pollutant) and Resource Conservation and Recovery (hazardous waste). CERCLA

designated TCE as a “hazardous substance” decades ago and continues with cleanup efforts involving use of TCE across the nation. Additionally, TCE is listed under Prop. 65 in California as a chemical known to cause cancer and/or birth defects.

One of the biggest questions is whether or not this new proposed ban will affect you and your industry. Of course, drycleaners have already been on high alert for this type of ban and in many instances, have already moved on to other products to accomplish the same spot cleaning benefits. However, there are many other industries that may be affected, directly or indirectly. There are too many areas to cite here, but take a look at the official public notice from the EPA to determine if your specific trade or industry will be directly affected. ([91 Fed. Reg. 91592](#) (Dec. 16, 2016).)

As required by Federal Law, public comment is authorized and welcomed. The deadline for public comment is **February 14, 2017**. As stated in the EPA’s public notice: “Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2016-0163, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn.” With the new administration in power, it remains to be seen whether the EPA will undergo a shift in attention to such matters and whether there is likely to be a more receptive ear to revising such matters going forward.

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