



EPCRA Update: Nonylphenol Ethoxylates Proposed as 313 Toxic Chemical Category

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EPA is proposing to add Nonylphenol Ethoxylates (NPEs) to the list of Toxic Chemicals under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). Comments on the proposal must be received on or before January 17, 2017.

Pursuant to Section 313, a facility manufacturing, processing, or otherwise using a listed Toxic Chemical in excess of certain threshold amounts throughout the calendar year must submit a report on environmental releases and waste management quantities. The facilities also must report pollution prevention and recycling data. The initial list of Toxic Chemicals included 308 identified substances and 20 categories of chemicals.

EPCRA 313(d) authorizes EPA to add or delete chemicals to the Toxic Chemicals list if any one of a list of criteria is met. Chemicals are to be added if the substance is “known to cause or can reasonably be anticipated to cause”:

- Significant adverse acute human health effects;
- Cancer or teratogenic effects or irreversible reproductive dysfunctions, neurological disorders, heritable genetic mutations, or chronic health effects in humans; or
- Significant adverse effect to the environment due to toxicity, persistence in the environment, or bioaccumulation.

EPA proposes to list NPEs because they may accumulate in sediments and because “available experimental data demonstrates [certain NPE chemicals] cause acute and chronic toxicity to aquatic organisms at very low concentrations.” The list of NPE chemicals proposed as Toxic Chemicals are surfactants that have “widespread industrial and commercial use in adhesives, wetting agents, emulsifiers, stabilizers, dispersants, defoamers, cleaners, paints, and coatings.” Accordingly, EPA proposes to list NPEs as a category including thirteen NPEs appearing on the TSCA registry.

Companies using adhesives, surfactants, or emulsifiers may wish to review their Safety Data Sheets for the presence of NPEs. If NPEs are in the products they use, they may wish to submit comments to EPA regarding the listing by the January 17, 2017 deadline.

81 Fed. Reg. 80624 (Nov. 16, 2016).

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