EPA REGULATORY UPDATE

2011 ENVIRONMENTAL, HEALTH & SAFETY INTERNATIONAL COMMUNICATIONS CONFERENCE SEPTEMBER 27, 2011
President issued Executive Order 13563 on 1/21/11

Purpose: improve development of new regulations and review of old regulations

General Principles:
» Propose regulation only when benefits justify costs
» Tailor rules to impose least burden on society
» Select options that maximize net benefits
» Specify performance objectives
» Identify and assess alternative to direct regulation

Retroactive Review
» Agency solicited comments first half of 2011
EPA Final Plan for Periodic Retrospective Reviews of Existing Regulations
  » Published August 2011

**Adopted Four Initiatives:**
  » Electronic Reporting
  » Improved Transparency: increased disclosure of compliance and efficacy
  » Innovative Compliance Approaches: efficient/effective and least-burdensome
  » Systems Approaches/Integrated Problem Solving: regulatory/non-regulatory approaches

**Selected 35 Regulatory Reviews**
  » 16 “early actions”
  » 19 longer terms actions

**Will Undertake Reviews Every Five Years**
“Early Actions”

- Gasoline and diesel regulations: reducing reporting and recordkeeping
- Equipment leak detection and repair: reducing burden
- Regulatory certainty for farmers: working with the U.S. Department of Agriculture (USDA) and states
- Modern science and technology methods in the chemical regulation arena: reducing whole-animal testing, reducing costs and burdens, and improving efficiencies
- Electronic online reporting of health and safety data under the Toxic Substances Control Act (TSCA); Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); and Federal Food, Drug and Cosmetic Act (FFDCA): reducing burden and improving efficiencies
- National Priorities List rules: improving transparency
- Quick changes to some TSCA reporting requirements: reducing burden
- National Pollutant Discharge Elimination System (NPDES): coordinating permit requirements and removing outdated requirements
“Early Actions”

- National primary drinking water regulations – Long Term 2 Enhances Surface Water Treatment: evaluating approaches that may maintain, or provide greater, public health protection
- Combined Sewer Overflows (CSOs) and integrated planning for wet weather infrastructure investments: providing flexibilities
- Vehicle regulations: harmonizing requirements for:
  » Greenhouse gas and fuel economy standards
  » Vehicle emission standards
- Multiple air pollutants: coordinating emission reduction regulations and using innovative technologies
- NSPS reviews and revisions under CAA: setting priorities to ensure updates to outdated technologies
- CAA Title V Permit programs: simplifying and clarifying requirements
- Innovative technology: seeking to spur new markets and utilize technological innovations
- The costs of regulations: improving cost estimates
Longer-Term Actions

- Vehicle fuel vapor recovery systems: eliminating redundancy
- New Source Performance Standards (NSPS) under the CAA for grain elevators, amendments: updating outmoded requirements and relieving burden
- Sanitary Sewer Overflow (SSO) and peak flow wet weather discharges: clarifying permitting requirements
- E-Manifest: reducing burden
- Electronic hazardous waste Site ID form: reducing burden
- Consumer confidence reports for primary drinking water regulations: providing for the open exchange of information
- Reporting requirements under Section 303(d) of the Clean Water Act (CWA): reducing burden
- Export notification for chemicals and pesticides: reducing burden and improving efficiencies
- Water quality trading: improving approaches
- Water quality standard regulations: simplifying and clarifying requirements
Longer-Term Actions

- State Implementation Plan (SIP) process: reducing burden
- National primary drinking water regulations for lead and copper: simplifying and clarifying requirements
- Adjusting threshold planning quantities (TPQs) for solids in solution: reducing burden and relying on scientific objectivity
- Integrated pesticide registration reviews: reducing burden and improving efficiencies
- Certification of pesticide applicators: eliminating uncertainties and improving efficiencies
- Polychlorinated biphenyls (PCB) reforms: improving efficiencies and effectiveness
- Hazardous waste requirements for retail products: clarifying and making the program more effective
- Contaminants under the Safe Drinking Water Act (SDWA): coordinating regulatory requirements
- Section 610 reviews: coordinating requirements
EPA Future Regulatory Reviews

- Review overseen by Regulatory Policy Officer, the Associate Administrator for the Office of Policy.
- EPA intends to conduct reviews every five years and encourages public to identify possible areas for reform at any time.
- EPA will start each review period by soliciting public input.
- EPA to use *Semiannual Regulatory Agenda* and website, to aid the public in tracking reviews.
- EPA will make data and analyses available whenever possible.
- Notice-and-comment opportunities when making modifications to regulations.
EPA Regulatory Review

- EPA Process Going Forward – Four Steps:
  1. Select Rule Nominations: from public and in-house EPA experts
  2. Assess generally whether the executive order is likely to have a bearing on the regulation’s review
  3. Fully analyze each regulation and review the following areas:
     - Benefits justify costs
     - Least burden
     - Net benefits
     - Performance objectives
     - Alternatives in direct regulation
     - Quantified benefits and costs/qualitative values
     - Open exchange of information
     - Coordination, simplification, and harmonization across agencies
     - Innovation
     - Flexibility
     - Scientific and technological objectivity
  4. Make Necessary Modifications
General Support for Retroactive Reviews

Requested review of:

- Allow for electronic recordkeeping and centralized storage
- Harmonization of EPCRA Tier II reporting
- Single-point submission of EPCRA data
- RCRA Electronic Manifesting
Selected Reviews of Potential Interest to EHSCP

- **E-manifesting: reducing burden**
  - EPA wants to host nation-wide online manifest system
  - Still would have option to use paper form
  - Real-time tracking of waste shipments
  - EPA made budget request in FY 2012 to develop system
  - Contingent on congressional approval of EPA’s authority to collect user fees

- **NSPS Reviews and Revisions: Updating Technology**
  - EPA to set priorities for which NSPS to review
  - Criteria for review: meaningful improvement in air quality/public health (based on improvements in technology)
  - Timing: EPA to issue ANPR some time this Fall outlining approach
Selected Reviews of Potential Interest to EHSCP

- **Water Quality Trading**
  - EPA will review the 2003 Water Quality Trading Policy and possibly increase market-based approaches to pollution reduction
  - Considering storm water trading – significant potential for trading allowances
  - Workshop in 2012 to solicit ideas from the public, particularly ways to reduce barriers to trading
Selected Reviews of Potential Interest to EHSCP

- **PCB Reforms**
  - EPA will examine existing PCB guidance and regulations to harmonize regulatory requirements related to harmful PCB uses and PCB cleanup
  - PCB cleanup program may create barriers to timely cleanup of sites contaminated with PCBS -- EPA trying to improve regulations for quicker and more effective cleanup
  - EPA will review no earlier than 2013
Other Upcoming EPA Rulemakings of Interest to EHSCP Members

- **Industrial, Commercial, and Institutional Boilers**
  - EPA finalized rule in March 2011 and simultaneously granted reconsideration
  - EPA stayed rule in May 2011
  - Reconsideration notice expected this Fall
  - Final decision on reconsideration expected next Spring

- **National Ambient Air Quality Standards**
  - 2013 Ozone Review
    - Proposed rule by October 2013
    - Final review by 2014
  - Implementation of 2008 standard
    - 0.075 ppm
    - 52 areas with monitors above; many more areas contributing
    - Finalize designations by mid-2012
    - States then get 3 years to develop SIPS
Other Upcoming EPA Rulemakings of Interest to EHSCP Members

- **National Ambient Air Quality Standards**
  
  » **PM$_{2.5}$:**
  
  - EPA promulgated final particulate matter ("PM") NAAQS in October 2006. These standards maintained the 1997 PM$_{2.5}$ primary and secondary annual standards at 15 micrograms/cubic meter ("ug/m$^3$"), but substantially increased the stringency of the PM 2.5 daily standards.
  - In the same rulemaking, EPA also maintained the "coarse" PM$_{10}$ daily standard at the level previously established (150 ug/m$^3$), but revoked the PM$_{10}$ annual standard.
  - EPA initiated another five-year review of the PM NAAQS almost immediately following finalization of the 2006 standards.
  - EPA expected to propose a revised NAAQS in 2012 and a final rule in 2013.
SO2 and NO2 Secondary NAAQS

- EPA is under consent decree to finalize new secondary standards for sulfur dioxide (SO₂) and nitrogen dioxide (NO₂) by March 2012.
- EPA had considered setting new secondary standards on the basis of: (1) direct effects on vegetation from exposure to gaseous SO₂ and NO₂; and (2) effects from the deposition of oxides of sulfur and nitrogen on sensitive ecosystems and waterbodies (e.g., acid rain, effects on nutrients in soils).
- On August 1st, however, EPA proposed to retain the current SO₂ and NO₂ secondary NAAQS for direct effects on vegetation and set a secondary NAAQS for water and land deposition at the level of the current primary SO₂ and NO₂ standards. Comment period closes Sept. 30th.
- EPA will also undertake new field studies to gather additional data on the protectiveness of current standards and how a new NAAQS measurement – focused on water deposition – could work.
Other Upcoming EPA Rulemakings of Interest to EHSCP Members

- **Greenhouse Gas Regulations**
  - EPA’s suite of GHG rules are being litigated
    - Endangerment finding; Tailpipe Rule; Johnson Memo; Tailoring Rule
  - Decisions likely by next spring

- **GHG NSPS for Utilities**
  - EPA agreed to propose by July 2011 and finalized by May 2012
  - EPA missed initial deadline for powerplant proposal and on September 15th announced it propose new deadline “soon”
  - Likely next year
Other Upcoming EPA Rulemakings of Interest to EHSCP Members

- **In-Use Emissions Testing for Nonroad Diesel Engines**
  - Manufacturer-run, in-use emission testing program for 2013 and beyond
  - Assess in-use compliance with applicable emission standards
  - EPA expects to issue proposal by April 2012

- **Stormwater Regulations**
  - Chesapeake Bay settlement agreement
  - Establish requirements of, at a minimum, managing stormwater discharges from newly developed or re-developed sites
  - NPRM expected by end of 2011
  - Final action September 2012

- **Electronic Reporting of TRI Data**
  - By the end of the year, EPA expected to propose that all TRI data be filed electronically using TRI-MEweb
  - EPA believe such reporting more efficient and improves accuracy
- Questions