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JOB CREATORS, ECONOMIC LEADERS
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Institute of
Scrap Recycling
Industries, Inc.

Environmental Compliance: What You Don't Know Can Hurt You

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Overview

- Today's Focus
- Regulatory Review
- A Closer Look
- Summary

Today's Focus

- Regulatory Levels
 - Federal
 - State
 - Local (Municipal and/or City)
- Federal regulations set minimum requirements for state and local regulations.
- Today's regulatory focus is Federal.

Federal Regulation: Media Plus

- Media
 - Clean Air Act (CAA)
 - Clean Water Act (CWA)
 - Resource Conservation & Recovery Act (RCRA)
- Plus
 - Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or “Superfund”)
 - Toxic Substances Control Act (TSCA)
- Direct or indirect regulation of recycling activities

CAA Regulations

- Title III, Hazardous Air Pollutants (HAP) [40 CFR §63]
 - Secondary Aluminum Production NESHAP [Subpart RRR]
 - Stationary Reciprocating Internal Combustion Engine NESHAP [Subpart ZZZZ]
 - Area EAF Steelmaking NESHAP [Subpart YYYYYY] (indirect)
 - Area Iron & Steel Foundries NESHAP [Subpart ZZZZZ] (indirect)

NESHAP = National Emissions Standards for HAP

CAA Regulations

- Title V, Permits (Major Stationary Sources)
 - Construction
 - Operating
- Title VI, Stratospheric Ozone Protection
 - Prohibition on Venting of Refrigerants (and Substitutes)
 - Recycling of small appliances and MVACs [40 CFR §82 Subpart F]

CWA Regulations

- NPDES Stormwater Permits
 - Federal Multi-Sector General Permit (MSGP)
 - State MSGP or recycling general permits
- Spill Prevention, Control, and Countermeasure (SPCC) Plans [40 CFR §112]

NPDES = National Pollutant Discharge Elimination System

RCRA Regulations

- Solid Waste, Subtitle D
 - Largely not relevant to recycling operations
- Hazardous Waste, Subtitle C
 - Relevant to recycling operations

RCRA Subtitle D Regulations

- Solid waste management
- Landfill requirements and permitting
- *Definition of Solid Waste for Combusted Non-Hazardous Secondary Materials (New, Federal)*
 - *Scrap tires conditionally non-waste fuel*

RCRA Subtitle C Regulations

- Definition of Solid Waste (DSW)
 - Reclaimed Byproducts Excluded
 - Reclaimed “Other” Scrap Metal Not Excluded
- Exclusions from the DSW
 - Recycled Scrap Metal Exclusion
 - Recycled Shredded Circuit Board Exclusion
 - Conditional Used CRT Exclusion

RCRA Subtitle C Regulations

- Definition of Hazardous Waste
 - Recycled Scrap Metal Exempted
 - Scrap Lead-Acid Batteries Being Reclaimed conditionally exempted with minimal requirements
- Standards for Generators, TSDF, Permits
- Universal Waste
- Used Oil Management
- Underground Storage Tanks (USTs)

CERCLA (Superfund) Regulations

- Emergency Planning and Community Right to Know Act (EPCRA)
 - Designation, Reportable Quantities, and Notification [40 CFR §302]
 - Emergency Planning and Notification [40 CFR §355]
 - Hazardous Chemical Reporting: Community Right-to-Know (Tier I/II Inventory Forms) [40 CFR §370]
 - Toxic Chemical Release Reporting: Community Right-to-Know (TRI Reporting) [40 CFR §372]
 - SIC 5093 facilities not subject to TRI Reporting

TSCA Regulations

- Chemical Substances Importing and Exporting [40 CFR §707]
- Polychlorinated Biphenyls [40 CFR §761]
 - Transformers, Capacitors, “PCB Bulk Product Waste”
 - *New clarification that recycling of plastics derived from shredder aggregate may be conducted if certain conditions are met.*
- Chemical Data Reporting (New) [40 CFR §711]
- Significant New Use Rules (Future?) [40 CFR §721]
- Test Rule (Future?) [40 CFR §721]

A Closer Look

- Small Appliance/MVAC Recycling (Old)
- Chemical Data Reporting (New)
- Significant New Use Rules (Likely)

Small Appliance/MVAC Recycling

- Recycling and Emissions Reduction Regulations
 - “Safe Disposal Requirements” for small appliances/MVACs
- Three Choices
 0. Do not accept any small appliances/MVACs
 1. Accept and recover refrigerant
 2. Accept only with prior removal of refrigerant

Small Appliance/MVAC Recycling

- Accept/Recover
 - Use compliant recovery equipment.
 - Register compliant recovery equipment with EPA.
 - “Recover any remaining refrigerant” per standards.
 - Technician certification not required for recycling facility staff.
 - Recovered refrigerant must be taken by an authorized person (e.g., certified technician).
 - Keep records of refrigerant recovery and transfer to authorized person for three years.

Small Appliance/MVAC Recycling

- Accept Only With Prior Removal
 - Documentation of prior removal
 - Verification Statement, or
 - Contract providing for prior removal
 - Supplier notification that all refrigerant must be properly removed prior to delivery
 - Keep verification statements for 3 years.

Small Appliance/MVAC Recycling

- Verification statement
 - Signed by supplier
 - Attesting that “all refrigerant that had not leaked previously has been recovered” per standards
 - Name and address of refrigerant recoverer
 - Date of refrigerant recovery

Small Appliance/MVAC Recycling

- EPA Interpretations from Applicability Index whether these regulations apply to
 1. “receipt of an appliance in which some components of the refrigerant circuit have been removed”
 2. “receipt of portions of the refrigerant circuit (e.g., compressor)”
 3. “receipt of an appliance in which the entire refrigerant circuit has been removed”

A: 1 and 2, Yes; 3, No

Chemical Data Reporting

- Applicable to “manufacture” of chemical substances listed in TSCA Inventory
 - “Manufacture” means create by chemical reaction or import into U.S. customs territory.
- All metals are listed chemical substances.
 - Other substances possibly relevant to recyclers
- Recyclers subject to CDR by import activity, not processing activity
 - Relatively recent applicability to recyclers

Chemical Data Reporting

- Recyclers subject to CDR if 25,000 pounds or more of any listed chemical substance (e.g., iron) is imported to any facility in any calendar year
 - Certain chemical substances fully or partially exempt
 - A listed chemical substance in an “article” exempt
- Exemption from CDR as a “small manufacturer or importer” if either true:
 - < \$40 million company-wide annual sales and no facility imports of listed chemical substances > 100,000 pounds
 - < \$4 million company-wide annual sales

Chemical Data Reporting

- Form U for CDR submitted electronically every 4 years via EPA's Central Data Exchange (CDX) platform
 - 2012 was a reporting year.
 - 2016 is the next reporting year, with 2015 as Principal Year
- Form U to be submitted in 2016 if 25,000-pound threshold is exceeded during 2012, 2013, 2014, or 2015 for any non-article, non-exempt listed chemical substance
- Form U to contain data for 2012, 2013, 2014, and 2015
 - Annual amounts only for 2012, 2013, and 2014
 - Annual amount and processing and use data for 2015
 - Each substance/facility combination to be reported separately

Significant New Use Rules

- A SNUR is intended to restrict the manufacture, import, processing, and/or use of a chemical substance in/for a certain activity/purpose.
- A SNUR could apply to recyclers because of importing and processing of recyclable materials containing a SNUR chemical substance, potentially impeding certain recycling activities.
- A SNUR was proposed for certain brominated flame retardants used in some plastics.
 - A Test Rule was also proposed manufacturers and importers.

Noncompliance: What's at Stake?

- Civil penalties for noncompliance as high as \$37,500 per violation per day
 - Administrative and criminal penalties possible
- Some statutes allow third-party lawsuits.
- Bad for company and industry image and expensive
- Compliance tools and assistance available from ISRI
 - Recycling Industry Operating Standard™ (RIOS™)

Summary

- Regulations related to all media and chemical substances are relevant to recyclers.
- New applicable regulations are possible and likely.
- Noncompliance can have dire consequences.
- Assistance from ISRI is available.

Questions?

Thank You!

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