

Recommended Process for Evaluating Necessary Changes to State Chemical Reporting and Recordkeeping and Coordinating Chemical Management Actions Across State Agencies

This recommendation serves to respond to the below section of EO 13-17, which directs the ICCM to recommend necessary changes to recordkeeping and reporting requirements as well as the general guidance in EO13-17 to recommend regulatory or legislative changes needed to ensure that Vermont is proactively managing chemicals, both those currently regulated and emerging contaminants. In practice, this recommendation also serves as the manner in which proposed changes to reporting and thresholds under the Toxics Use Reduction and Hazardous Waste Reduction Act Program would be evaluated. Finally, the ICCM recommends integrating the coordination of specific chemical management actions to ensure the coordinated management of chemicals across State government:

- (3) Recommend any necessary statutory amendments or regulatory changes to existing State recordkeeping and reporting requirements for chemicals, hazardous materials, and hazardous wastes that are required to facilitate assessment of risks to human health and the environment posed by chemical use in the State. The recommendations shall consider:
 - a. the thresholds or amounts of chemicals used, manufactured, or distributed, and hazardous materials and hazardous wastes generated or managed, in the State that require recordkeeping and reporting;
 - b. the persons or entities using, manufacturing, or distributing chemicals and generating or managing hazardous materials and hazardous wastes that are subject to recordkeeping and reporting requirements; and
 - c. any changes required to streamline and modernize existing recordkeeping and reporting requirements to facilitate compliance by business and other entities.

Reporting and Recordkeeping Change Evaluation Process

In order to maintain dynamic chemical management in Vermont, the ICCM proposes to create a process for the review of current reporting and recordkeeping requirements. This process is intended to align state actions and to ensure the coordination of chemical management across state government. The Toxics Use and Hazardous Waste Use Reduction Act program would also utilize this same review process for evaluation of additions, deletions, or changes to chemicals, lists of chemicals, or thresholds

In the event where it is unclear whether state reporting and recordkeeping requirements are appropriately protecting Vermonters from an unsafe chemical, class of chemicals, or grouping of chemicals, an Agency or Department shall propose that the ICCM review the current state of recordkeeping and reporting requirements in the state and provide the ICCM with any relevant documentation and an agency recommendation.

If the ICCM concurs that a review is needed, the ICCM will task the Technical Team with conducting a review that will look at, among other things, whether such a recordkeeping or a reporting requirement change would be duplicative, whether it would be feasible, whether there are existing federal or Vermont health protective standards, and what actions other states have taken with regard to the subject chemical, class of chemicals, or grouping of chemicals.

Once the review is complete, the Technical Team shall submit a draft report of its recommendations to the ICCM. The recommendation may include regulatory or statutory changes to requirements and/or thresholds as well as education and outreach opportunities to better inform the public about potential risks or targeted sampling that should be done to understand if sensitive receptors may be impacted. The ICCM will then discuss the proposal, provide any feedback, and/or require additional analysis by the Technical Team. Once the ICCM determines the draft report is complete, it will share that draft with the Citizen Advisory Panel (CAP).

The CAP will review and comment on the recommendation. The ICCM shall then determine whether changes to the recommendation are needed based on feedback from the CAP. Once satisfied with the recommendation, the ICCM will vote to move forward with the recommendation.

The follow-up action will depend on the recommendation from the Technical Team, but typically the result would be for either an Agency or Department to initiate their procedures to make changes to recordkeeping or reporting requirements if they can be done administratively. The result may also be coordinated action by multiple Agencies or Departments. It remains the prerogative of any agency to initiate processes outside the scope of the ICCM.

In the event that a statutory change is needed, the State Agency or Department will initiate their own process for making statutory amendments. As needed, the Chair or members of the ICCM will provide testimony to the General Assembly in support of the change.

Targeted Chemical Management Action Coordination

The ICCM shall also – except in the case of an emergency – provide an opportunity for state agencies to discuss actions proposed by member Agencies and Departments to make specific changes to clean up standards, health advisory levels, and PELs (Permissible Exposure Levels), among others as individual changes often have impacts on the required actions of other Agencies and Departments or could aid them in developing appropriate approaches to managing chemicals in line with their statutory jurisdiction.

Therefore, prior to submitting a chemical management action to ICAR in relation to rulemaking or prior to establishing a new health advisory level or other non-regulatory action, ICCM members shall inform the ICCM of their forthcoming actions to ensure coordination across all government entities. The ICCM will not have the authority to approve any action under an individual Agency or Department authority, but it will work to ensure the necessary follow up actions by its members are discussed and coordinated in advance of prospective actions.

Proposed First Round of Reporting and Recordkeeping Evaluations

1. If this proposed structure is adopted, the ICCM shall direct a review of the following chemicals. These chemicals represent clear instances in which it's likely that additional recordkeeping or reporting is needed: **Trichloroethylene (TCE)**:

What is the reason this should go through the ICCM review?

TCE is carcinogenic to humans, as defined by the International Agency for Research on Cancer (IARC). The current VOSHA regulations allow for TCE to be used in the workplace, and the current VOSHA PEL TWA for TCE is 270,000 µg/m³. The VOSHA PEL was established in 1989 and has not been updated based on current science. In 2016 at the request of DEC, the Vermont Department of Health derived a non-residential indoor air screening value for TCE. This value is 0.7 µg/m³. The exposure to TCE is over 385,000 times higher in the workplace than what is considered health protective.

What do we know now about use?

Currently, the State of Vermont is not aware where TCE is being used in a workplace. Additionally, when used in a workplace, employers are required to notify the employees. The workplace does not have to notify the State. TCE can be used for many purposes in the workplace. The limited use of TCE and the higher prevalence of PCE used in dry cleaning has indicated TCE as a biproduct of chemical breakdown. Investigations have found such a correlation of TCE in buildings with vapor intrusion from dry cleaner contamination. Dry cleaning facilities historically used PCE in their process and may have disposed of PCE improperly. The Department of Environmental Conservation did a research project in 2016 to determine locations of current and previous dry cleaners and have those data.

2. **Diisocyanates:**

What is the reason this should go through the ICCM review?

Diisocyanates are a family of chemicals used in some spray foam insulation products. If the products are not properly used and cured, the products can release diisocyanates into the air. Diisocyanates are sensitizers and can create respiratory problems when people are exposed multiple times, at lower doses each time. Both workers and residents who have their homes treated are at risk of exposure to diisocyanates. In extreme cases when spray foam insulation is not applied correctly, residents become sensitized and cannot live in their own homes.

What do we know now about use?

Diisocyanates don't fall under Tier 2 reporting. The State of Vermont is not aware where diisocyanates could be found. There are no record keeping requirements for the use of diisocyanates and when used in a workplace there is no required notification to the employees. There is no required notification to homeowners regarding the potential for exposure to diisocyanates.

3. 1,4-dioxane:

What is the reason this should go through the ICCM review?

1,4-dioxane is a carcinogen. It is an unregulated contaminant, meaning there is no EPA MCL for 1,4-dioxane in water.

What do we know now about use?

The extent of 1,4-dioxane contamination in Vermont is unknown since, in addition to not being required, the standard analytical method used when analyzing other chlorinated solvents does not include 1,4-dioxane. Also, the State does not have a good sense of where 1,4 dioxane is being used or was previously used in Vermont. Several neighboring states have discovered contamination of 1,4-dioxane in groundwater.