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1,4-DIOXANE LISTED AS AN EPA CONTAMINANT

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SUMMARY

On October 28, 2022, the U.S. Environmental Protection Agency (“EPA”) listed 1,4-dioxane on the Fifth Contaminant Candidate List (“CCL 5”). This is an important step to EPA’s potential regulation of 1,4-dioxane under the Safe Drinking Water Act.

Links to the EPA documents highlighting the significance of the CCL 5 designation are available here:

- [CCL 5 Federal Register Notice](#);
- [EPA’s CCL 5 Website](#);
- [EPA’s Press Release](#); and
- [EPA’s Response to Comments for CCL 5](#).

I. Background

The Safe Drinking Water Act mandates that EPA publish a list every five years of unregulated contaminants that may pose concerns for drinking water, known as the CCL 5. The CCL 5 lists contaminants in drinking water that are not currently subject to a national enacted or proposed drinking water regulation, but are candidates for regulation in the near future.

According to EPA, contaminants listed on the CCL must meet the following criteria:

- The contaminant may have an adverse effect on human health;
- The contaminant is known to appear (or probably will appear) in public water systems at levels that jeopardize human health; and

- Regulation of the contaminant could reduce the health risks for persons served by public water systems.

II. Timeline

EPA has completed the public comment period for the CCL 5 on September 17, 2021. EPA received comments supporting the nomination and listing of 1,4-dioxane. For example, commenters cited “the need for updated health assessments, concerns about new or existing health effects, occurrence, and use data, and potential benefits of Federal regulations for states.” Commenters also stated that 1,4-dioxane is “known or anticipated to occur in public water systems.” Several organizations submitted comments arguing that 1,4-dioxane meets the criteria for being listed on the CCL 5.

If EPA makes a determination to regulate 1,4-dioxane pursuant to the Safe Drinking Water Act, EPA has the authority to propose the regulation within 24 months. Then, EPA can take action on a final regulation within 18 months of the proposal, but there is a possible extension of nine additional months.

The public comment period closed in September of 2021, so it has been 15 months since this idea was introduced. As a result, companies should know about this possible development now. Therefore, a regulation, if any, could eventually appear in 2024 or 2025.

III. How does this Affect my Business?

The listing of 1,4-dioxane on CCL 5 may be important to your business, especially if you produce the chemical or operate a public water system. For additional information regarding 1,4-dioxane, refer to [BCLP’s Client Alert](#).

- **Future Determinations.** EPA will gather additional data regarding 1,4-dioxane to make regulatory determinations for at least five contaminants listed in the CCL 5. There is no guarantee that EPA will regulate 1,4-dioxane in the future under the Safe Drinking Water Act.
- **Research and Studies.** Numerous organizations, including EPA, will determine the potential health effects of 1,4-dioxane. Regardless of the outcome, this contaminant will be closely studied.
- **Potential Considerations.** Does your company discharge 1,4-dioxane into drinking water supplies? Does your company have any effluent discharges of 1,4-dioxane into water sources? Does your company send waste that contains 1,4-dioxane into landfills that may ultimately enter into drinking water sources?

IV. Conclusion

The prospect that 1,4-dioxane may be regulated in drinking water is nearing. If you have any questions regarding 1,4-dioxane, please contact Phil Karmel (212-541-2311), John Kindschuh (314-259-2313), or Erin Brooks (314-259-2393).

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- Environment
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