

# U.S. EPA's Addition of 1-BP to CERCLA Hazardous Substance List Likely Precursor to Similar Actions on PFAS

## Publications

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On April 8, 2022, U.S. EPA added the industrial solvent 1-bromopropane (1-BP) to its list of CERCLA hazardous substances; this listing was triggered by U.S. EPA's decision to add 1-BP to the Clean Air Act's list of hazardous air pollutants in January 2022. The addition of 1-BP to the Clean Air Act's list of hazardous air pollutants may have come as a bit of a surprise since U.S. EPA hasn't added a new pollutant to the hazardous air pollutant list since the list was originally promulgated in 1990. However, once on the Clean Air Act list of hazardous air pollutants, the pollutant automatically falls with the CERCLA definition of "hazardous substances". In addition to adding 1-BP to the list of hazardous substances in Table 302.4 in the Code of Federal Regulations, U.S. EPA set a CERCLA reportable quantity for 1-BP at one pound (the CERCLA statutory default).

The manner in which U.S. EPA treats 1-BP at CERCLA sites may be illustrative as to how U.S. EPA will treat PFOS and PFOA, two PFAS compounds that are currently under consideration for listing as CERCLA hazardous substances. Will U.S. EPA add 1-BP to the CERCLA required analyte list at all Superfund sites or will U.S. EPA adopt a more selective approach by relying on Toxics Release Inventory (TRI) data to identify nearby sites or manufacturing facilities that may have used the industrial solvent? The more likely scenario is that U.S. EPA will utilize some screening criteria to determine whether to sample for 1-BP but how wide of a 1-BP net that U.S. EPA decides to cast remains to be seen.

1-BP is also a volatile substance so U.S. EPA could also rely on the new listing to reopen and investigate sites for potential vapor intrusion concerns. However, it is unlikely that a site would be reopened solely on the basis of 1-BP vapor intrusion risks.

We will continue to track how U.S. EPA elects to address 1-BP at Superfund sites in an effort to gain insight as to how U.S. EPA may approach future hazardous substance designations at the *Corporate Environmental Lawyer*.

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