



## VEOLIA NORTH AMERICA - INDUSTRIAL BUSINESS REGULATORY UPDATE - June 2016

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### **HEALTH & SAFETY UPDATES**

No Health and Safety Updates for June 2016

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No Miscellaneous Updates for June 2016

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**A. EPA “Solvents in the Workplace – How to Determine if they are Hazardous Waste” Guidance Document**

On June 16, 2016, the Environmental Protection Agency (EPA) announced the release of a new guidance document titled “Solvents in the Workplace – How to Determine If They Are Hazardous Waste.”

**Background**

In 2013, EPA’s Hazardous Waste Determination Program Evaluation included a recommendation that EPA provide waste specific or industry specific hazardous waste determination guidance. EPA worked with the Arizona Department of Environmental Quality by sponsoring a one-day meeting with several Arizona hazardous waste generators to discuss the information that would be beneficial in assisting generators in making accurate hazardous waste determinations.

**Summary**

EPA’s purpose in creating this guidance document is “to make people who use and discard solvents aware of the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations and assist them in making correct hazardous waste determinations for solvents.” When accessed electronically the guidance document includes links to additional information on EPA’s website. The guide addresses requirements for making hazardous waste determinations for generators of solvent wastes, but does not address the management standards if the solvent is determined to be a hazardous waste. The guidance document also includes information to assist a generator in recycling or reusing their waste solvents.

The guidance document is designed to walk the user through a series of questions and answers to determine if a waste solvent needs to be managed as a hazardous waste.

**Link**

The link below will allow you to view/print EPA’s “Solvents in the Workplace – How to Determine If They Are Hazardous Waste” guidance document.

[https://www.epa.gov/sites/production/files/2016-06/documents/solventdeterminationguidance\\_6\\_16\\_2016.pdf](https://www.epa.gov/sites/production/files/2016-06/documents/solventdeterminationguidance_6_16_2016.pdf)

**B. EPA National Advisory Council for Environmental Policy and Technology (NACEPT) Public Meeting on How EPA could use Citizen Science Effectively**

On June 13 and 14, 2016, the National Advisory Council for Environmental Policy and Technology (NACEPT) held public meetings to discuss how the EPA could use citizen science more effectively.

**Summary**

EPA has asked NACEPT for recommendations on how EPA can make better use of data gathered by the public (citizen science). NACEPT believes due to low-cost sensors, phone apps, and computer technology the role of citizen science can make a larger contribution to EPA’s mission to protect human health and the environment.

A government website, [www.citizenscience.gov](http://www.citizenscience.gov), was launched in September 2015 to promote citizen science in the federal agencies. On April 22, 2016, a “generic approval process” was launched on the website that reduces the time a citizen science project can be approved to weeks from a previous approval time of nine months or more. As of June 2016, 301 citizen science projects have been approved.

The NACEPT committee is working to provide recommendations to EPA on the following topics:

1. How can current citizen science projects be sustained or improved to empower communities, create useful monitoring data, increase temporal and geographical coverage, conduct research, and educate the public on environmental issues;
2. How can EPA invest in citizen science approaches to obtain the greatest gain in data quality, data management, and instrument evaluation; and
3. How can EPA increase the impact of knowledge generated by citizen scientists by keeping local communities informed of emissions in their neighborhoods, support enforcement actions at the local and federal levels, and help the public properly interpret the data gathered by these efforts.

### **Report to EPA**

NACEPT intends to submit their report on Citizen Science to EPA by November 1, 2016.

### **Link**

The link below will allow you to view/print the meeting agenda.

[https://www.epa.gov/sites/production/files/2016-06/documents/nacept\\_final\\_june\\_agenda\\_6-3-2016\\_v6.pdf](https://www.epa.gov/sites/production/files/2016-06/documents/nacept_final_june_agenda_6-3-2016_v6.pdf)

## **C. EPA Hazardous Chemical Reporting: Community Right-to-Know; Revisions to Hazard Categories and Minor Corrections; Final Rule; Technical Amendment**

On June 13, 2016, EPA published a technical amendment (81 FR 38104-38109) to the hazardous chemical reporting regulations due to the changes in the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard (HCS).

### **Background**

Sections 311 and 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA) apply to owners and operator of facilities required to prepare or have a Material Safety Data Sheet (MSDS) for any hazardous chemical defined under OSHA and its regulations. EPCRA Section 311 requires facilities to submit MSDSs of hazardous chemicals or a list of hazardous chemicals grouped into categories of physical and health hazards defined in OSHA's Hazard Communication Standard to the State Emergency Response Commission (SERC), the Local Emergency Planning Committee (LEPC), and the local fire department. Section 312 requires facilities to submit an emergency and hazardous chemical inventory to the SERC, LEPC and local fire department by March 1 annually. There are two tiers of reporting under Section 312, Tier I and Tier II. Tier I reporting only requires general information on hazardous chemicals to be submitted. Tier II reporting requires specific information to be submitted electronically on each hazardous chemical at a facility.

On March 26, 2012, OSHA published the Hazard Communication Standard final rule (77 FR 17574) which included several revisions including the adoption of the Safety Data Sheet to replace the MSDS and revising the hazard categories for hazardous chemicals.

### **Summary**

After publication of OSHA's HCS final rule, EPA received requests to adopt the physical and health hazard classes as they are described in the revised HCS final rule. The adoption of the physical and health hazardous would reduce the burden on companies because they would only need to copy the chemical hazard information from the SDS into the Tier I or Tier II reports and this information could be more readily compared to the hazard information on the SDS and the list of hazardous chemicals on the inventory form.

In this final rule EPA is revising the regulations to use both the MSDS and SDS terms and their acronyms. EPA is also replacing the existing five hazard categories with the hazard classes listed in the revised HCS along with the four hazards that GHS did not address (simple asphyxiant, combustible dust, pyrophoric gas, and hazard not otherwise classified). The table below lists the physical and health hazards that EPA is adopting from the revised HCS.

PHYSICAL HAZARDS	HEALTH HAZARDS
Flammable (gases, aerosols, liquids, or solids)	Carcinogenicity
Gas under Pressure	Acute Toxicity (any route of exposure)
Explosive	Reproductive Toxicity
Self-Heating	Skin Corrosion or Irritation
Pyrophoric (liquid or solid)	Respiratory or Skin Sensitization
Oxidizer (liquid, solid, or gas)	Serious Eye Damage or Eye Irritation)
Organic Peroxide	Specific Target Organ Toxicity
Self-Reactive	Aspiration Hazard
Pyrophoric Gas	Germ Cell Mutagenicity
Corrosive to Metal	Simple Asphyxiant
In Contact With Water Emits Flammable Gas	Hazard Not Otherwise Classified (HNOC)
Combustible Dust	
Hazard Not Otherwise Classified (HNOC)	

EPA will modify the Tier2 Submit software for Section 312 reporting to include the new physical and health hazards along with the four specifically listed hazards.

**Effective and Compliance Dates**

This final rule became effective on the date of publication, June 13, 2016, but the compliance date is delayed until January 1, 2018.

**Link**

The link below will allow you to view/print this final rule.

<https://www.gpo.gov/fdsys/pkg/FR-2016-06-13/pdf/2016-13582.pdf>

**D. EPA Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units; Final Rule**

On June 23, 2016, EPA published a final rule (81 FR 40955-41034) describing the final action on the issues it granted reconsideration for on January 21, 2015 from the “Standards of Performance for New Stationary Sources and Emissions Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units” (CISWI) final rule published on February 7, 2013.

**Summary**

In this final rule EPA is finalizing proposed actions on four topics:

1. Definition of “continuous emission monitoring system (CEMS) during startup and shutdown periods”

EPA is revising the “CEMS data during startup and shutdown” definition to be subcategory-specific. Energy Recovery Units (ERUs) will be required to comply with provisions similar to those in the major source Boiler NESHAP and waste-burning kilns will be required to comply with provisions

similar to those in the Portland Cement NESHAP. For incinerators and small remote incinerators, the proposed definition was finalized (i.e., from a cold start and up to 48 hours for startup and 24 hours or less for shutdown).

2. Particulate Matter (PM) limit for the waste-burning kiln subcategory

The test averages, not the individual test runs, will be used to establish the standards for new and existing waste-burning kilns. Based on this approach, the final PM emission limits for existing kilns is 13.5 mg/dscm and the final PM emission limit for new kilns is 4.9 mg/dscm.

3. Fuel Variability Factor (FVF) for coal-burning energy recovery units (ERUs)

EPA is incorporating a fuel variability factor and adopting as final the emission limits discussed in the proposed rule for cadmium (Cd), hydrogen chloride (HCl), mercury (Hg), lead (Pb), and nitrogen oxides (NOX). The final rule revises the SO<sub>2</sub> limit to 850 parts per million by dry volume (ppmvd).

4. Definition of “kiln.”

This final rule revises the definition of kiln to be consistent with the Portland Cement NESHAP. The terms “in-line raw mill” and “in-line coal mill” have been added to the definition.

In addition, the HCl CEMS requirements for waste-burning kilns not equipped with acid gas wet or dry scrubbers have been revised to be more consistent with more recently promulgated monitoring requirements in the Portland Cement NESHAP. These revisions allow kilns to use CEMS installed and operated according to either Performance Specification 15 or 18 to continuously monitor HCl emissions.

The final rule also includes EPA’s final decision to deny the requests for consideration for all other issues raised in the petitions for reconsideration of the 2013 final rule.

**Effective Dates**

The amendments to 40 CFR 60, Subpart DDDD “Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units” became effective on the date of publication, June 23, 2016.

The amendments to 40 CFR 60, Subpart CCCC “Standards of Performance for Commercial and Industrial Solid Waste Incineration Units” become effective on December 23, 2016.

**Link**

The link below will allow you to view/print this final rule.

<https://www.gpo.gov/fdsys/pkg/FR-2016-06-23/pdf/2016-13687.pdf>

**E. EPA Notice of Extension to Comment Period on the National Pollutant Discharge Elimination System: Applications and Program Updates Proposed Rule**

On June 27, 2016, EPA published an extension of the comment period (81 FR 41507) for the “National Pollutant Discharge Elimination System (NPDES): Applications and Program Updates” proposed rule published on May 18, 2016.

**Summary**

The revisions in the proposed rule would make the regulations consistent with the 1987 CWA Amendments and with judicial decisions. The revisions would also delete regulatory provisions that are

no longer in effect and clarify the level of documentation that permit writers must provide for permitting decisions.

A summary of the proposed rule is included in the May Regulatory Update.

After publishing the proposed rule EPA received requests to extend the comment period. EPA is granting a fifteen day extension of the comment period.

#### **Comments Due**

Following the extension of the comment period, comments must now be received by EPA on or before August 2, 2016.

#### **Link**

The link below will allow you to view/print the extension of the comment period.

<https://www.gpo.gov/fdsys/pkg/FR-2016-06-27/pdf/2016-15134.pdf>

### **F. EPA Frank R. Lautenberg Chemical Safety for the 21<sup>st</sup> Century Act: Signed into Law**

On June 22, 2016, President Obama signed into law the Frank R. Lautenberg Chemical Safety for the 21<sup>st</sup> Act. The goal of this Act is to reform the Toxic Substances Control Act (TSCA).

#### **Background**

The Toxic Substances Control Act was initially passed in 1976. The goal of TSCA was to keep dangerous chemicals off the market. However, the initial TSCA law has fallen well short of this goal. Forty years after TSCA was enacted there are tens of thousands of chemicals on the market that have never been evaluated for safety because TSCA didn't require the evaluation of the chemicals.

#### **Summary**

The revised TSCA will require EPA to evaluate existing chemicals and includes clear and enforceable deadlines. EPA will be required to assess at least 20 chemicals at a time. Also, EPA will evaluate a chemical's safety purely based on the health risks it poses – including vulnerable groups like children and the elderly, and to workers who use chemicals daily as part of their jobs – and then take steps to eliminate unreasonable risks that have been identified.

On June 29, 2016, EPA published the First Year Implementation Plan for the Frank Lautenberg Chemical Safety Act. Some highlights of the implementation plan include:

1. Beginning immediately, review and make an affirmative determination on all pre-manufacture notices (PMNs) and significant new uses (SNUNs) before manufacturing can commence.
2. Publish a list of 10 Work Plan chemicals and formally initiate risk evaluations on those chemicals. Publish the list by mid-December 2016 and publish a scope of each assessment by mid-June 2017.
3. Publish a prioritization process, risk evaluation process, fees, and inventory proposed rule by mid-December 2016 and final rule by mid-June 2017.
4. Establish a Science Advisory Committee on Chemicals by mid-December 2016.

#### **Links**

The link below will allow you to view/print the Frank R. Lautenberg Chemical Safety for the 21<sup>st</sup> Century Act.

<https://www.epa.gov/sites/production/files/2016-06/documents/bills-114hr2576eah.pdf>

The link below will allow you to view/print the First Year Implementation Plan.

[https://www.epa.gov/sites/production/files/2016-06/documents/tsca21\\_implementation\\_plan\\_6\\_28.pdf](https://www.epa.gov/sites/production/files/2016-06/documents/tsca21_implementation_plan_6_28.pdf)

**G. EPA Removal of Title V Emergency Affirmative Defense Provisions from State Operating Permit Programs and Federal Operating Program; Proposed Rule**

On June 14, 2016, EPA published a proposed rule (81 FR 38645-38655) that would remove the affirmative defense provisions for emergencies found in the regulations for state and federal Title V operating permit programs.

**Summary**

These provisions establish an affirmative defense that sources can assert in civil enforcement cases when non-compliance with certain emission limitations in operations occurs because of qualifying “emergency” circumstances.

In this rule, EPA is proposing to remove the emergency affirmative defense provisions in 40 CFR 70.6(g) and 71.6(g) because they are inconsistent with EPA’s current interpretation of the CAA’s enforcement structure and recent court decisions from the D.C. Circuit Court of Appeals. Since the court decision, EPA has been removing affirmative defense language from its regulations, particularly for the emissions of toxic pollutants. EPA has also ordered 36 states to update their implementation plans to remove affirmative defense provisions.

**Comments Due**

Comments on this proposed rule must be submitted to EPA by August 15, 2016.

**Link**

The link below will allow you to view/print this proposed rule.

<https://www.gpo.gov/fdsys/pkg/FR-2016-06-14/pdf/2016-14104.pdf>

**H. DOT/PHMSA Hazardous Materials: Miscellaneous Amendments (RRR); Final Rule**

On June 2, 2016, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) published a final rule (81 FR 35483-35546) amending the Hazardous Materials Regulations (HMR) to make miscellaneous amendments in order to update and clarify existing regulatory requirements.

**Summary**

These amendments are designed to promote safer transportation practices, address petitions for rulemaking, facilitate international commerce, make editorial corrections, and to simplify the regulations. The following summary describes the changes that have a direct impact on Veolia operations:

1. Removal of Packing Group for Organic Peroxides, Self-Reactive Substances and Explosives

For consistency with international regulations, PHMSA is amending the HMR by removing the PG II designation in Column 5 of the 49 CFR 172.101 Hazardous Materials Table (HMT) for all organic peroxides (Division 5.2), self-reactive substances (Division 4.1), and explosives (Class 1) proper



shipping names. Although 49 CFR 172.202(a)(4) currently excepts organic peroxides, self-reactive substances and explosives from the requirement to provide a PG as part of the required description on the shipping papers, the presence of the PG II designation in Column 5 of the HMT creates confusion. The provisions in 49 CFR 173 for these materials indicate the level of performance required for the packagings.

2. Emergency Response Telephone Number

PHMSA is amending 49 CFR 172.604(a) to prohibit the use of alpha-numeric telephone numbers and to require a numeric format for the presentation of emergency response telephone numbers in association with a shipping paper.

3. Packaging Requirements for Nitric Acid

In response to a petition submitted by UPS along with comments to the NPRM submitted by Veolia, PHMSA is amending 49 CFR 173.158(e) to require that when nitric acid in a concentration of less than 90% is placed in glass inner packagings to be packaged in wooden or fiberboard outer packaging, that the glass inner packagings must be packed in tightly-closed, non-reactive intermediate packaging cushioned with a non-reactive absorbent material.

4. Testing Requirements for Pressure Relief Devices (PRDs) on Cargo Tanks

The Hazardous Material Regulations (HMR) are being amended by adding a new section 49 CFR 180.407(j) containing the PRD test requirements. This new paragraph clarifies requirements for opening and reseating pressures when beginning the tests and also enhances the enforcement of these requirements by creating consistency in the testing requirements for cargo tank PRDs of the same design.

5. Corrosive liquids, flammable, n.o.s., PG II – Now Authorized to be Shipped as Limited Quantity

Column 8A of the HMT is revised for the entry: UN2920, Corrosive liquids, flammable, n.o.s., PG II to include exception “154.” This change will authorize the use of the limited quantity exception for materials shipped under this shipping description.

6. Oxidizing solid, corrosive, n.o.s., PG II – Now Authorized to be Shipped as Limited Quantity

PHMSA is revising column 8A of the HMT for the entry: UN3085, Oxidizing solid, corrosive, n.o.s., PG II to include exception “152.” This change will authorize the use of the limited quantity exception for materials shipped under this shipping description.

7. Reassignment of Special Provisions for Trinitrophenol Shipping Names

The special provisions assignments are being revised for the shipping names: UN3362, Trinitrophenol (picric acid), wetted, *with not less than 10 percent water by mass* and UN1344, Trinitrophenol, wetted, *with not less than 30 percent water by mass*. The current special provisions which outline the requirements for the transport of these materials as Division 4.1 when assigned were switched. This final rule corrects this error by assigning the special provisions in the proper manner – SP 162 to UN1344 and SP 23 to UN3364 which applies the 500 gram limit per package to only the UN3364 entry.

8. Hazard Labels with a Dotted or Solid Line Outer Border – Approved for use on Backgrounds of Contrasting or Non-Contrasting Color

The regulations previously prescribed requirements that labels be printed or affixed to a background of contrasting color, or they must have a dotted or solid line outer border. In this final rule, PHMSA is amending 49 CFR 172.406(d) by expressly authorizing the use of hazard labels



described in 49 CFR 172, Subpart E with a dotted or solid line outer border on a background of either contrasting or non-contrasting color.

9. Revised Size Requirements for IBCs that are Labeled Instead of Placarded in Accordance with 49 CFR 172.514(c)(4)

PHMSA is amending the HMR to clarify that an IBC that is labeled instead of placarded, the marking size requirement for both the proper shipping name and identification number may be in accordance with the non-bulk marking size requirements in 49 CFR 172.301(a)(1).

10. New Registration Requirement for Shippers of Combustible Liquid in Bulk Quantities

A new requirement, 49 CFR 173.150(f)(3)(xi) is being adopted that states that the registration requirements in 49 CFR 107, Subpart G are applicable to offerors and transporters of combustible liquids in bulk packagings.

11. New Provisions for the Transportation of Damaged Wet Electric Storage Batteries

PHMSA is adopting guidance previously issued in a letter of interpretation (Ref. No. 06-0031) pertaining to the shipment of damaged wet cell batteries. A new paragraph 49 CFR 173.159(k) is being adopted to address the need for provisions that allow shippers to prepare for transport and offer into transportation damaged wet electric storage batteries. This paragraph will permit the transportation, by highway or rail (cargo vessel is NOT authorized), of damaged wet electric storage batteries packed in non-bulk packaging under the following conditions:

- a. Draining the battery fluid to eliminate the potential for leakage during transportation;
- b. Individually pack the battery in a leakproof intermediate package with sufficient compatible absorbent material capable of absorbing the release of any electrolyte and place the intermediate packaging in a leakproof outer packaging that conforms to the general packaging requirements of subpart B of this part;
- c. Pack the battery in a salvage packaging in accordance with the provisions of 49 CFR 173.3(c);  
or
- d. When packaged with other batteries or materials (e.g., on pallets or non-skid rails) and secured to prevent movement during transport, pack the battery in a leakproof packaging to prevent leakage of battery fluid from the packaging under conditions normally incident to transportation.

12. Shipment of Air Bag Inflators, Air Bag Modules and Seat-Belt Pretensioners Corrected to Include Cargo Vessel

In the HM-254 final rule published on July 30, 2013, PHMSA adopted the provisions of DOT-SP 12332 into the HMR under 49 CFR 173.166(e)(6). This SP excepted UN3268, Class 9 air bag inflators, air bag modules, or seat-belt pretensioners, that have been removed from or were intended to be used in a motor vehicle and those devices meet the requirements for use in the US and are being transported to recycling or waste disposal facilities, from the requirement to provide the EX number on the shipping paper. When adopted in HM-254, PHMSA included a provision limiting the use of this exemption for domestic highway transportation only. DOT-SP 12332 specifically permitted transport by cargo vessel as an authorized mode of transportation. In this final rule, PHMSA is correcting paragraph (e)(6) to authorized the transportation of these devices to include shipment by cargo vessel.

13. Revisions to the Organic Peroxide Packing Method Table

The Organic Packing Method Table in 49 CFR 173.225 is amended to add a reference to note 1 for OP2, which states that if two values are given, the first applies to the maximum net mass per inner packaging and the second to the maximum net mass of the complete package. The maximum

quantity for solids and combination packagings (liquid and solid) for OP4 was revised from “5” to “5/25” kg.

#### 14. Clarification to Aerosols Shipped for Recycling or Disposal

In the HM-233A final rule published on May 14, 2010, PHMSA incorporated the provisions of special permit 12842 into the HMR under 49 CFR 173.306(k). This section provided relief from the 66 pound gross weight limitation when transporting aerosols in limited quantities by motor vehicle to a recycling or disposal facility. Under the special permit, these shipments were also excepted from the marking, labeling, specification packaging, shipping paper requirements (unless they were considered a hazardous waste or hazardous substance), without being reclassified as an ORM-D material, all of which was not specifically stated when adopted into the HMR.

In this final rule, PHMSA is amending 49 CFR 173.306(k) to clarify that aerosols shipped for recycling or disposal by motor vehicle, containing a limited quantity under the specific conditions provided in 49 CFR 173.306(k), are excepted from the labeling, specification packaging, shipping paper requirements (unless the material meets the definition of a hazardous substance or hazardous waste) and the 30 kg (66 lb) gross weight limitation. Aerosols meeting the limited quantity requirements of 49 CFR 173.306(k) must be marked with the limited quantity mark in accordance with 49 CFR 172.315(b). In addition, discussion provided in the preamble to the final rule indicates that marking the package with the statement, “INSIDE CONTAINERS COMPLY WITH PRESCRIBED REGULATIONS” is no longer required.

#### **Effective Date**

This final rule became effective on July 5, 2016.

#### **Link**

The link below will allow you to view/print this final rule.

<https://www.gpo.gov/fdsys/pkg/FR-2016-06-02/pdf/2016-12034.pdf>

### **I. DOT/FMCSA Driving of Commercial Motor Vehicles: Use of Seat Belts; Final Rule**

On June 7, 2016, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a final rule (81 FR 36474-36479) that requires passengers in property-carrying commercial motor vehicles (CMVs) to use the seat belt assembly whenever the vehicles are operated on public roads in interstate commerce.

#### **Summary**

Under this final rule, the requirements of 49 CFR 392.16 are revised to include requirements for seat belt usage by passengers in property-carrying CMVs and to place direct responsibilities on both the driver and motor carrier to ensure seat belts are used by all occupants.

49 CFR 392.16 has been revised to read:

- (a) *Drivers*. No driver shall operate a property-carrying commercial motor vehicle, and a motor carrier shall not require or permit a driver of a property-carrying commercial motor vehicle, that has a seat belt assembly installed at the driver’s seat unless the driver is properly restrained by the seat belt assembly.
- (b) *Passengers*. No driver shall operate a property-carrying commercial motor vehicle, and a motor carrier shall not require or permit a driver to operate a property carrying commercial

motor vehicle, that has seat belt assemblies installed at the seats for other occupants of the vehicle unless all occupants are properly restrained by such seat belt assemblies.

**Effective Date**

This final rule will become effective on August 8, 2016.

**Petitions for Reconsideration**

Petitions for reconsideration of this final rule were required to be submitted to FMCSA by July 7, 2016.

**Link**

The link below will allow you to view/print this final rule.

<https://www.gpo.gov/fdsys/pkg/FR-2016-06-07/pdf/2016-13099.pdf>

**J. DOT/FMCSA Incorporation by Reference; North American Standard Out-of-Service Criteria; Hazardous Materials Safety Permits**

On June 17, 2016, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a final rule (81 FR 39587-39590) updating the current incorporation by reference of the Commercial Vehicle Safety Alliance’s (CVSA) “North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR 173.403.”

**Summary**

This rulemaking updates an incorporation by reference found at 49 CFR 385.4 and referenced at 49 CFR 385.415(b)(1). The rules currently reference the April 1, 2015 edition of the out-of-service criteria. This final rule amends the regulations by incorporating the April 1, 2016 edition of the out-of-service criteria.

**Effective Date**

This final rule became effective on the date of publication, June 17, 2016.

**Link**

The link below will allow you to view/print this final rule.

<https://www.gpo.gov/fdsys/pkg/FR-2016-06-17/pdf/2016-14245.pdf>

**K. DOT/PHMSA Hazardous Materials: Miscellaneous Petitions for Rulemaking (RRR); Notice of Proposed Rulemaking**

On June 30, 2016, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) published a notice of proposed rulemaking (81 FR 42609-42625) that would amend the Hazardous Materials Regulations (HMR) in response to petitions for rulemaking submitted by shippers, carriers, manufacturers, and industry representatives.

## Summary

PHMSA states that these proposed revisions are intended to reduce regulatory burdens while maintaining or enhancing the existing level of safety. Following is a brief summary of the proposed regulatory changes.

1. Allow the use of electronic manifests.
2. Revise approved testing methods for aerosols.
3. Revise a table related to cargo tank specifications.
4. Update the IBR citation for chlorine tank cars.
5. Address inconsistencies between international and domestic labels.
6. Revise the vessel requirement to notify the Captain of the Port (COTP) of the presence of limited quantities of hazardous materials.
7. Revise testing requirements for packages to allow liquids to be used in place of solid materials.
8. Add a shipping description for roadway striping vehicles.
9. Extend the service life of tank cars authorized under HM-246 to the full service life of other tank cars authorized under 49 CFR 215.203 of the Federal Railroad Administration (FRA) regulations.
10. Permit the use of pallets made from non-wood materials for limited quantities.
11. Revise requirements for when emergency numbers are required for excepted quantities.
12. Change units for limited quantities of ethyl alcohol to the International System of Units.
13. Propose changes concerning valve requirements for cylinders as outlined in “CGA V-9-2012, Compressed Gas Association Standard for Compressed Gas Cylinder Valves, Seventh Edition.”
14. Incorporate CGA standard “CGA C-7-2014, Guide to Classification and Labeling of Compressed Gases, Tenth Edition.”
15. Remove requirement for the marking of the service pressure on DOT 8 and DOT 8L cylinders.
16. Revise recordkeeping requirements for certain cargo tanks certified in accordance with the ASME Code.
17. Revise the printing tolerances for label and placard sizes.
18. Incorporate Department of Defense (DoD) explosives manual into 49 CFR 171.7.
19. Amend the HMR to acknowledge that the marked date of manufacture on a composite Intermediate Bulk Container (IBC) may differ from the marked date of manufacture on the inner receptacle of that IBC.
20. Revise the basis weight tolerance provided in 49 CFR 178.516(b)(7) from +/- 5 percent to +/-10 percent from the nominal basis weight reported in the initial design qualification test report for 4G boxes.

## Comments Due

Comments on this notice of proposed rulemaking must be submitted to PHMSA by August 29, 2016.

## Link

The link below will allow you to view/print this notice of proposed rulemaking.

<https://www.gpo.gov/fdsys/pkg/FR-2016-06-30/pdf/2016-15303.pdf>

## L. DOT/FMCSA/PHMSA – Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015; Interim Final Rules

In June, FMCSA and PHMSA published interim final rules (81 FR 41453-41465 and 42266-42268) revising their civil penalties as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act). The 2015 Act requires these agencies to update their civil penalties to reflected statutorily mandated ranges as adjusted for inflation.

**Effective Dates**

The civil penalty adjustments will become effective on August 1, 2016.

**Links**

The link below will allow you to view the FMCSA interim final rule.

<https://www.gpo.gov/fdsys/pkg/FR-2016-06-27/pdf/2016-14973.pdf>

The link below will allow you to view/print the PHMSA interim final rule.

<https://www.gpo.gov/fdsys/pkg/FR-2016-06-29/pdf/2016-15404.pdf>