



## VEOLIA NORTH AMERICA - INDUSTRIAL BUSINESS REGULATORY UPDATE - August 2017

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No Miscellaneous Updates for August 2017

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**A. EPA AES Filing Compliance Date for Hazardous Waste Exports; Notice of Announcement of Compliance Date**

On August 29, 2017, the Environmental Protection Agency (EPA) published an announcement (82 FR 41015-41016) that the Automated Export System (AES) filing compliance date for export shipments of hazardous waste is December 31, 2017.

**Background**

On November 28, 2016, EPA published a final rule (81 FR 85696) revising the Resource Conservation and Recovery Act (RCRA) regulations for the import and export of hazardous wastes, including, universal wastes, spent lead acid batteries, and cathode ray tubes. The revisions included a transition period to convert from a paper process for export shipments at ports to an electronic process which fulfills Executive Order 13659. Executive Order 13659 requires agencies to implement processes and procedures by December 31, 2016 to utilize the International Trade Data System (ITDS) and supporting systems (AES) as the primary means for receiving the data and documentation required for the release of imported cargo and the clearance of export cargo.

**Summary**

The November 2016 final rule included revisions that allowed for the use of electronic processes in AES in place of paper processes at the port or border crossing that are required to clear export shipments for departure. The final rule also allowed exporters to choose whether to follow the existing paper process or the new electronic procedure at the border during an initial transition period until the “AES filing date” was published in the Federal Register.

This notice fulfills EPA’s requirement to publish the AES filing date, December 31, 2017, after which exporters or their authorized agents will no longer be able to use the paper process, and will have to file the required EPA data in the AES.

**Compliance Date**

The compliance date is December 31, 2017.

**Link**

<https://www.gpo.gov/fdsys/pkg/FR-2017-08-29/pdf/2017-18285.pdf>

**B. EPA Methylene Chloride in Furniture Refinishing; Workshop; Notice of Public Meeting**

On August 30, 2017, EPA published a notice of a public meeting (82 FR 41256-41258) that will be held on September 12, 2017 to discuss the use of methylene chloride in furniture refinishing.

**Summary**

On January 19, 2017, EPA published a proposed rule (82 FR 7464) that would prohibit the manufacture (including import), processing, and distribution in commerce of methylene chloride in consumer paint and coating removal products and most types of commercial paint and coating removal products, except for commercial furniture refinishing.

The goal of the workshop is to facilitate an exchange of information on the existing use and work practices, needs, preferences, and expertise of craftspeople and the availability and effectiveness of paint and coating removal processes. The workshop will include presentations by subject matter experts, with sessions focused on current use practices, the availability of safer alternatives in furniture refinishing, and worker protection measures.

### **Public Meeting Date and Location**

The public meeting will be held on September 12, 2017 from 9:00 AM to 4:00 PM at EPA Region 1 Headquarters in Boston, MA.

### **Comments Due**

Written comments may be submitted to Docket ID Number EPA-HQ-OPPT-2017-139 until November 12, 2017.

### **Link**

<https://www.gpo.gov/fdsys/pkg/FR-2017-08-30/pdf/2017-18420.pdf>

## **C. EPA National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations; Proposed Rule**

On August 7, 2017, EPA published a proposed rule (82 FR 36713-36719) that would amend the monitoring requirements for pressure relief devices (PRDs) on containers in the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Off-Site Waste and Recovery Operations (OSWRO).

### **Background**

On March 18, 2015, EPA published a final rule (80 FR 14248) amending the OSWRO NESHAP. One of the revisions included in the final rule was for the monitoring of PRDs. The final rule did not distinguish between PRDs on stationary process equipment and those on containers, so the monitoring requirements applied to all PRDs. The final rule requires a monitoring system capable of:

1. Identifying a pressure release;
2. Recording the time and duration of each pressure release; and
3. Immediately notifying operators that a pressure release is occurring.

The American Chemical Council (ACC) and Eastman Chemical Company (Eastman) filed a petition for reconsideration regarding the monitoring of PRDs on containers on May 18, 2015. The petition stated that, because containers are frequently moved around a facility and are received from many different off-site locations, it would be difficult, or impossible, to design and implement a monitoring system for containers that would meet the requirements of the final rule.

### **Summary**

After a review of information provided by industry, EPA has determined that PRD inspection and monitoring requirements in the Container NESHAP that are already incorporated in the container requirements of the OSWRO NESHAP are effective and sufficient and that there is a low potential for emissions from containers at OSWRO facilities.

Therefore, EPA is proposing that PRDs on OSWRO containers will not be subject to the monitoring requirements of 40 CFR 63.691(c)(3)(i).

EPA is soliciting comments on whether to impose more frequent inspections for any filled or partially-filled OSWRO container that remains on-site for more than 60 days.

### **Comments Due**

Comments on these proposed revisions must be submitted to EPA on or before September 21, 2017.

**Link**

<https://www.gpo.gov/fdsys/pkg/FR-2017-08-07/pdf/2017-16494.pdf>

**D. EPA Community Right-To-Know; Adopting 2017 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting; Direct Final and Proposed Rules**

On August 17, 2017, EPA published a direct final rule (82 FR 39038-39044) and a proposed rule (82 FR 39101-39102) updating the list of North American Industry Classification System (NAICS) codes subject to the Toxics Release Inventory (TRI).

**Summary**

In response to the Office of Management on Budgets (OMB's) revisions to the NAICS codes which became effective on January 1, 2017, EPA is amending 40 CFR Part 372 to include 2017 NAICS codes for TRI reporting. Due to these revisions, some facilities will need to modify their reporting NAICS codes as outlined in the table below.

The TRI reporting requirements remain unchanged.

<b>2012 NAICS Code</b>	<b>2012 NAICS and U.S. Description</b>	<b>2017 NAICS Code</b>	<b>2017 NAICS and U.S. Description</b>
333911	Pump and Pumping Equipment Manufacturing	333914	Measuring, Dispensing, and Other Pumping Equipment Manufacturing
333913	Measuring and Dispensing Pump Manufacturing	333914	Measuring, Dispensing, and Other Pumping Equipment Manufacturing
335221	Household Cooking Appliance Manufacturing	335220	Major Household Appliance Manufacturing
335222	Household Refrigerator and Home Freezer Manufacturing	335220	Major Household Appliance Manufacturing
335224	Household Laundry Equipment Manufacturing	335220	Major Household Appliance Manufacturing
335228	Other Major Household Appliance Manufacturing	335220	Major Household Appliance Manufacturing
512220	Integrated Record Production/Distribution	512250	Record Production and Distribution
541712	Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology)	541713	Research and Development in Nanotechnology
541712	Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology)	541715	Research and Development in the Physical, Engineering and Life Sciences (except Nanotechnology and Biotechnology)
212231	Lead Ore and Zinc Ore Mining	212230	Copper, Nickel, Lead, and Zinc Mining
212234	Copper Ore and Nickel Ore Mining	212230	Copper, Nickel, Lead, and Zinc Mining

### Effective Date

This direct final rule will become effective on November 15, 2017, unless EPA receives adverse written comment by September 18, 2017.

### Links

The link below will allow you to view the crosswalk tables between all 2012 and 2017 NAICS codes.

<http://www.census.gov/epcd/www/naics.html>

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

<https://www.gpo.gov/fdsys/pkg/FR-2017-08-17/pdf/2017-17413.pdf>

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

<https://www.gpo.gov/fdsys/pkg/FR-2017-08-17/pdf/2017-17412.pdf>

## E. **Canada Proposed Cross-Border Movement of Hazardous Waste and Hazardous Recyclable Materials Regulations; Proposed Rule**

On August 23, 2017, Environment and Climate Change Canada (ECCC) published a discussion document titled, “Proposed Cross-Border Movement of Hazardous Waste and Hazardous Recyclable Materials Regulations.”

### Summary

ECCC is developing the Cross-Border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations (the proposed Regulations) to update and consolidate three regulations: the Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations, the Interprovincial Movement of Hazardous Waste Regulations and the PCB Waste Export Regulations.

In 2016, there were over 35,000 international movements of hazardous waste and hazardous recyclable materials to and from Canada. These movements included 410,194 tonnes of hazardous waste and hazardous recyclable material exported from Canada, 383,741 tonnes imported into Canada, and 48,423 tonnes that transited through Canada. More the 98% of these movements were between Canada and the United States.

A key aspect of the controls for international movements is that a shipment of hazardous waste or hazardous recyclable material cannot take place before the importing country has consented to it. A notification provides information on the exporter, the carriers, the importer, and the importing facility, and describes the hazardous waste or hazardous recyclable material and the disposal or recycling operation that will take place. This information allows the importing jurisdiction to make an informed decision on whether or not to consent to the import.

The proposed amendments to the regulations include:

1. The structure of the proposed regulations;
2. The notification, permitting, and tracking of international shipments;
3. Revisions to definitions and exclusions;
4. The export of wastes and recyclable materials containing PCBs;
5. The international movement of electrical and electronic equipment destined for disposal or recycling; and
6. Movements between provinces and territories.

One proposed revision that could significantly impact Veolia is included in paragraphs 1(2)(a) and 2(2)(a) of the WIHWHRMR which excludes small quantities of waste and recyclable material from the definitions of “hazardous waste” and “hazardous recyclable material.” For mercury waste, the small quantity exclusion is 50 ml or less. Given the high toxicity of mercury at even low quantities, ECCC proposes to remove this exclusion for waste or material containing mercury. Any waste or material containing any amount of mercury that meets the definitions of “hazardous waste” or “hazardous recyclable material” would be subject to the proposed regulations for both international and interprovincial movements. Examples of mercury wastes impacted would be fluorescent lamps, dental amalgam, and mercury switches.

In addition, ECCC is interested in regulating electrical and electronic equipment as hazardous waste or hazardous recyclable material. However, it would exempt electrical and electronic equipment that is exported to an OECD member country for base and precious metal recovery.

Finally, ECCC is proposing revisions that would consider all batteries shipped internationally (chargeable and rechargeable) to be hazardous recyclable materials subject to regulation.

#### **Comments Due**

Comments on this proposed rule must be submitted to ECCC by October 6, 2017.

#### **Link**

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

<http://ec.gc.ca/gdd-mw/3946A1C6-4D1C-4137-B19F-7C0AE3B575DB/Disc%20Paper%20X-Border%202017%20July%2024%20EN.pdf>

#### **F. DOT/FMCSA Commercial Driver’s License Standards: Regulatory Guidance Concerning the Issuance of Commercial Learner’s Permit’s; Regulatory Guidance**

On August 3, 2017, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published regulatory guidance (82 FR 36101) clarifying that State Driver Licensing Agencies (SDLAs) may agree to facilitate the commercial learner’s permit (CLP) application process and administer the commercial driver’s license (CDL) general knowledge test to individuals who are not domiciled in their State.

#### **Summary**

This new guidance clarifies that SDLAs may accept applications for CLPs and administer the general knowledge test to individuals taking commercial motor vehicle driver training in that State, but who are not domiciled there, provided that: The SDLA administering the general knowledge test transmits the test results directly, securely, and electronically to the applicant’s State of domicile; and the State of domicile agrees to accept the test results and issue the CLP.

#### **Expiration Date for the Regulatory Guidance**

This regulatory guidance expires no later than August 2, 2022. At that time, FMCSA will consider whether the guidance should be withdrawn, reissued for another period of up to five years, or incorporated into the safety regulations.

#### **Link**

The link below will allow you to view/print this regulatory guidance.

<https://www.gpo.gov/fdsys/pkg/FR-2017-08-03/pdf/2017-16338.pdf>

**G. DOT/FMCSA/FRA Evaluation of Safety Sensitive Personnel for Moderate-to-Severe Obstructive Sleep Apnea; Withdrawal of Advance Notice of Proposed Rulemaking**

On August 8, 2017, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) and Federal Railroad Administration (FRA) published a withdrawal of the March 10, 2016, advance notice of proposed rulemaking (ANPRM) concerning the prevalence of moderate-to-severe obstructive sleep apnea (OSA) among individuals occupying safety sensitive positions in highway and rail transportation, and its potential consequences for the safety of highway and rail transportation (82 FR 37038-37039).

**Summary**

OSA remains an on-going concern for the FMCSA and FRA and the motor carrier and railroad industries because it can cause unintended sleep episodes and resulting deficits in attention, concentration, situational awareness, and memory, thus reducing the capacity to safely respond to hazards when performing safety sensitive duties. The FMCSA and FRA received valuable information in response to the ANPRM and a series of public listening sessions in May 2016. The Agencies believe that current safety programs and FRA's rulemaking addressing fatigue risk management are the appropriate avenues to address OSA.

**Medical Examiners**

For Medical Examiners, FMCSA will consider updating its January 2015 "Bulletin to Medical Examiners and Training Organizations Regarding Obstructive Sleep Apnea" regarding the physical qualifications standard and related advisory criteria concerning respiratory dysfunction, specifically, how the standard applies to drivers who may have OSA. FMCSA will use the updated August 2016 Medical Review Board recommendations as a basis for updating the bulletin. In scenarios where medical examiners may inappropriately screen and refer drivers for diagnostic testing based on single criteria, the MRB's 2016 recommendations provide objective criteria for identifying drivers who may be at greater risk for OSA. The purpose of any action updating the bulletin is to ensure that medical examiners fully understand their role in screening drivers for OSA, identifying drivers at the greatest risk of having OSA, and refer only those individuals to a sleep specialist for testing. There are no FMCSA rules or other regulatory guidance with guidelines for screening, diagnosis, and treatment of OSA in CMV drivers. Medical certification determinations for such drivers are made by the examiners based on the examiners medical judgment rather than a Federal regulation or requirement.

**Motor Carriers and Drivers**

For motor carriers and drivers, FMCSA will continue to recommend that drivers and their employers use the North American Fatigue Management Program (NAFMP). The NAFMP is a voluntary, fully interactive web-based educational and training program developed to provide both truck and bus commercial vehicle drivers and carriers and others in the supply chain with an awareness of the factors contributing to fatigue and its impact on performance. Guidance on health and wellness time management, vehicle technologies and scheduling best-practices provide effective mitigation strategies to address fatigue while maintaining a healthy and productive work/life balance. Module 8 of the program, Driver Sleep Disorders Management, includes an extensive discussion of OSA.

**Effective Date**

The ANPRM was effectively withdrawn on August 8, 2017.

## Links

Below is a link to the North American Fatigue Management Program.

<http://www.nafmp.org/index.php?land=en>

The NAFMP training materials may be downloaded from the following link.

<http://www.nafmp.org/index.php?option=comFcontent&view=article&id=14:downloads&catid=26&lang=en&Itemid=115>

The link below will allow you to view the withdrawal of the ANPRM

<https://www.gpo.gov/fdsys/pkg/FR-2017-08-08/pdf/2017-16451.pdf>