

Veolia North America - Industrial Business Regulatory Update - February 2020

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No Miscellaneous Updates for February, 2020.

A. Accidental Release Reporting

Agency

Chemical Safety and Hazard Investigation Board (CSB)

Dates

Published Date: 02/21/2020

Effective Date: 03/23/2020

Summary

On February 21, 2020, the Environmental Protection Agency (EPA) published a final rule requiring the reporting of certain accidental releases to the Chemical Safety and Hazard Investigation Board (CSB). The purpose of this reporting regulation is to enable the CSB, which was established by the Clean Air Act Amendments of 1990, to more quickly determine which incidents it should investigate.

This regulation requires reporting of any accidental release (any amount) from a stationary source that results in a fatality, inpatient hospitalization of any person or results in property damage of more than \$1 million.

1. If a report has been submitted to the National Response Center (NRC), submit the NRC report identification number to the Chemical Safety and Hazard Investigation Board (CSB) within 30 minutes of submitting the report to the NRC, or
2. If a report has not been submitted to the NRC, a report must be submitted directly to the CSB within eight hours of the accidental release by email to: report@csb.gov, or by telephone at 202-261-7600.

This reporting is in addition to any other required reporting such as per EPCRA and CERCLA regulations.

Definitions

Accidental release means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

Ambient air means any portion of the atmosphere inside or outside a stationary source.

Extremely hazardous substance means any substance which may cause death, serious injury, or substantial property damage, including but not limited to any "regulated substance" at or below any threshold quantity set by the Environmental protection Agency (EPA) Administrator under 42 U.S.C. 7412(r)(5).

General public means any person except for:

1. Workers, employees, or contractors working for (or on behalf of) the owner or operator of a stationary source from which an accidental release has occurred; and
2. Any person acting in the capacity of an emergency responder to an accidental release from a stationary source.

Inpatient hospitalization means a formal admission to the inpatient service of a hospital or clinic for care.

Owner or operator means any person or entity who owns, leases, operates, controls, or supervises a stationary source.

Property damage means damage to or the destruction of tangible public or private property, including loss of use of that property.

Regulated substance means any substance listed pursuant to authority of 42 U.S.C. 7412(r)(3).

Serious injury means any injury or illness that results in death or inpatient hospitalization.

Stationary source means any buildings, structures, equipment, installations, or substance-emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur.

Substantial property damage means estimated property damage at or outside the stationary source equal to or greater than \$1,000,000.

Reporting an Accidental Release

The owner or operator of a stationary source must report any accidental release resulting in a fatality, serious injury, or substantial property damage by either submitting a report to the National Response Center (NRC) with a follow-up notification to CSB of the NRC identification number within 30 minutes or by submitting a report directly to the CSB within eight hours of the accidental release. The report to CSB may be made by email to report@csb.gov, or by telephone at 202-261-7600.

The following information is required in the report to CSB:

- The name of, and contact information for, the owner/operator.
- The name of, and contact information for, the person making the report.
- The location information and facility identifier.
- The approximate time of the accidental release.
- A brief description of the accidental release.
- An indication whether one of more of the following has occurred:
 - Fire
 - Explosion
 - Death
 - Serious injury, or
 - Property damage
- The name of the material(s) involved in the accidental release, the Chemical Abstract Service (CAS) number(s), or other appropriate identifiers.
- The amount of the release, if known.
- The number of serious injuries, if known.
- Estimated property damage at or outside the stationary source.
- Whether the accidental release has resulted in an evacuation order impacting members of the general public and others, and, if known:
 - The number of people evacuated.
 - Approximate radius of the evacuation zone.
 - The type of person subject to the evacuation order (i.e. employees, members of the general public, or both).

An owner or operator of a stationary source may revise and/or update information reported to the NRC or CSB by sending a notification, via email or regular mail, with revisions within 30 days following the submission of a report to the NRC or CSB. An

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owner or operator may also submit a revised report to the CSB within 60 additional days if the submitter explains why the revised report could not have been submitted within the first 30 days.

Any person who violates this regulation by failing to report an accidental release covered by this regulation will be forwarded to the Administrator of the EPA for appropriate enforcement action which may include administrative penalties, civil action, or criminal action.

The compliance date of this regulation is March 23, 2020.

Reference/Link

The link below will allow you to view/print this Final Rule.

<https://www.govinfo.gov/content/pkg/FR-2020-02-21/pdf/2020-02418.pdf>

B. EPA Meets President Trump's Deadline, Makes Agency Guidance Available to the Public

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 02/28/2020

Summary

The U.S. Environmental Protection Agency (EPA) has created a new guidance portal that provides public access to agency guidance documents as well as links to useful website pages. This new searchable database will facilitate in finding and following agency guidance. Guidance documents are a useful tool in having a further understanding of government regulations.

For additional information and to access the portal, visit: <https://www.epa.gov/guidance>

Reference/Link

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

<https://www.epa.gov/newsreleases/epa-meets-president-trumps-deadline-makes-agency-guidance-available-public>

C. Electronic Manifest System (“e-Manifest”) Advisory Board; Notice of Public Meeting

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 02/20/2020

Comments Due: 03/31/2020

Meeting Dates: 04/14/2020 through 04/17/2020 (9:00 a.m. to 5:00 p.m. EDT)

Summary

The Electronic Manifest System Advisory Board will host a public meeting on April 14-16, 2020, from approximately 9:00 a.m. to 5:00 p.m. EDT. The meeting will be held at the Environmental Protection Agency Conference Center, Lobby Level, One Potomac Yard (South Bldg.), 2777 S Crystal Dr., Arlington, VA 22202.

The theme of this meeting is “Reengineering Electronic Signatures for Generators and Transporters to Increase Adoption of Electronic Manifests.”

EPA is considering the the following three methods for generator and transporter electronic signatures:

1. Site Manager Directed Process - Signer Uses Provided Link

This method would require at least one person (per respective generator and transporter) to become registered in EPA’s RCRAInfo system as a “Site Manager.” Under this method, the Site Manager would identify/confirm/update the specific personnel (e.g., employee on the loading dock, driver) on the electronic manifest who will have firsthand knowledge of the manifest shipment, and who will be responsible for electronically signing the generator certification or transporter acknowledgment of receipt by identifying/confirming/updating the name and either a phone number or email address associated with that name. The system would then send a link to that phone number/email of the individual employee, who could then simply click a link to electronically sign the electronic manifest.

2. Site Manager and Preparer Process - Username and Password Signature

This method would require at least one person to become registered in EA’s RCRAInfor system as a “Site Manager” for their respective sites, and have all other personnel become registered in the same way as “Preparers” are registered. These personnel would receive a user name and password using the current registration process and would then request access to their site(s), as appropriate, but would not need to undergo further identity proofing. Generator and transporter personnel that are registered could then log in with their username/password and could create and edit electronic manifests for their sites. Electronic signatures under this method for generators and transporters would consist of, after logging into their account, clicking a button to electronically sign.

3. Digitized Pad Signature Capture

The final method would be for generators and transporters to use digitized signature pads which have been approved by EPA under its CROMERR program. This method would require generators and transporters to possess units that allow them to capture a physical signature electronically, for example, using a stylus.

Tom Baker, VNA EHS&T Vice President is a Board Member on the Advisory Board.

This meeting may be a webcast. Please refer to the e-Manifest website at www.epa.gov/e-manifest for information on how to access the webcast. Please note that the webcast is a supplementary public service provided only for convenience. If difficulties arise resulting in webcasting outages, the meeting will continue as planned.

You may obtain electronic copies of the meeting agenda and other related documents that might be available at <http://www.regulations.gov> and the eManifest Advisory Board website at <https://www.epa.gov/e-manifest/hazardous-waste-electronic-manifest-system-e-manifest-advisory-board>. The meeting minutes will be posted on the e-Manifest Advisory Board website approximately 90 days after the meeting.

Reference/Link

The first link below will allow you to view/print this notice of public meeting and the second is the meeting website.

<https://www.govinfo.gov/content/pkg/FR-2020-02-20/pdf/2020-03402.pdf>

<https://www.epa.gov/e-manifest/hazardous-waste-electronic-manifest-system-advisory-board-meeting-reengineering>

D. Revisions to the Petition Provisions of the Title V Permitting Program

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 02/05/2020

Effective Date: 04/06/2022

Summary

The Environmental Protection Agency (EPA) has finalized revisions to the Title V permitting regulations. This was done in order to streamline and clarify processes related to the submitting and reviewing of Title V petitions. Title V of the Clean Air Act (CAA) establishes an operating permit program. Title V permits are a requirement for any major source. A major source has actual or potential emissions at or above 100 tons/year for any "air pollutant."

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Major source thresholds for “hazardous air pollutants” (HAP) are 10 tons/year for a single HAP or 25 tons/year for any combination of HAPs. This includes municipal waste combustors, medical waste incinerators, glass manufacturing, chemical manufacturing facilities, hazardous waste combustors and other facilities.

This final rule implements changes in three key areas:

- Providing direction as to how petitions should be submitted to the EPA.
- Requiring mandatory content and format for Title V petitions.
- Requiring permitting authorities to respond in writing to significant comments received (when applicable) during the public comment period for draft Title V permits, and to provide that response in the form of a response to comments document with the proposed Title V permit to the EPA for the agency’s 45-day review period.

The EPA is establishing an electronic submittal system as the preferred method of submittal. The information on how to access and use the system is available at the Title V petitions website: <http://www.epa.gov/title-v-operatingpermits/title-v-petitions>.

The other two acceptable methods of submitting a Title V petition is email (titlevpetitions@epa.gov) or mail to the physical address:

“U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, Operating Permits Group Leader, 109 T.W. Alexander Dr. (C504–05), Research Triangle Park, NC 27711”

The email address may also be used to ask questions regarding technical difficulties when trying to submit a petition through the electronic submittal system.

Additionally, EPA is finalizing its proposal to incorporate certain content and format requirements. The required petition format must follow the same order and include the same content as detailed below:

- Identification of the proposed permit that the petition is based upon. This includes the permit number, version number, or any other information by which the permit can be readily identified. The petition must specify if the relevant permit action is an initial issuance, renewal, or modification/revision, including minor modifications/revisions.
- Identification of petition claims. All issues raised in the petition as a grounds for an objection must be based on a claim that the permit, permit record, or permit process is not in compliance with the applicable requirements under the Act or part 70. These claims must be in the body of the petitions or in an attachment with a citation to that attachment in the body. For each claim raised, the petition must identify the following:
 - The specific grounds for an objection.
 - The applicable requirements that are not met.
 - An explanation of how the term or condition in the proposed permit is not adequate to comply with the corresponding requirement under the CAA or part 70.
 - The petition must specifically identify the required public participation procedure that was not provided, if that is the claim.
 - Identification of where the issue in the claim was raised during the public comment period.
 - The petition must identify where the permitting authority responded to the public comment and explain how the permitting authority’s response to the comment is inadequate or missing.

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Lastly, the EPA is requiring permitting authorities to prepare a written response to significant comments (RTC.) These responses often are prepared and collected together in one RTC document. It is the responsibility of the permitting authority to determine, in the first instance, if a comment submitted during the public comment period on a draft permit is significant. The statement of basis and the written RTC must be accessible during the EPA's 45-day review period. This will improve the efficiency of the agency's review.

This final rule directly affects anyone who may submit a title V petition on a proposed title V permit.

Reference/Link

The link below will allow you to view/print this Final Rule.

<https://www.govinfo.gov/content/pkg/FR-2020-02-05/pdf/2020-01099.pdf>

E. **California's Department of Toxic Substances Control Seeks First Hazardous Waste Fee Changes Since 1995**

Agency

Department of Toxic Substances Control (DTSC)

Dates

Published Date: 02/05/2020

Effective Date: 04/06/2022

Summary

In an effort to improve California's hazardous waste oversight the Department of Toxic Substances Control (DTSC) has submitted a budget change proposal. The budget request is for \$3 million from the General Fund annually for two years as well as 15 permanent positions and statutory changes to establish the Board of Environmental Safety within the DTSC.

The primary tasks of the board will be to set and review fees, hear permit appeals and provide strategic guidance to the department director. Additionally the proposal requests Trailer Bill Language to (1) revise the Environmental Fee rates and the hazardous waste fee rates and structure; and (2) authorize the Board to set future fee rates, based on appropriations by the Legislature, under a capped fee-setting authority.

The DTSC has a goal of having needed statutory reforms in place by July 1, 2020. In the proposal the DTSC states that an average of 125 contaminated sites are cleaned up each year, however, there are over 150,000 orphan sites that require cleanup. In order to meet all of the department's goals and all aspects of their mission, the DTSC believes fiscal stability is required.

The department wishes to establish fees that can be adjusted over time to reflect the changing needs of the department and are based on a “polluter pays” principle. Additionally, the department wishes to have financial assurance to ensure sufficient resources are in place to restore sites “post closure” to avoid the use of public funds. Appropriate levels of funding are also necessary to make progress on the cleanup of priority orphan sites.

The DTSC’s enforcement program has implemented initiatives, including:

- The Enforcement in Vulnerable Communities Initiative, which has increased the inspection rate for facilities in vulnerable communities each year.
- Reduced the amount of time to assess and approve an administrative penalty from 259 to 52 days.
- Developed a comprehensive Inspector Training Program.
- Increased the administrative and civil penalties from a maximum of \$25,000 per violation per day to a maximum of \$70,000 per violation per day.
- Increased the percentage of cases that are referred for enforcement.

Currently, the DTSC’s funding comes from The Hazardous Waste Control Account (HWCA) and The Toxic Substances Control Account (TSCA). In order to achieve the department’s goals they have introduced a fiscal reform package.

This fiscal reform package will include fee authority, which gives the department the authority for ongoing fee setting. The package will also include a HWCA restructuring in order to distribute the cost of managing hazardous waste and support the polluter pays principle. The TSCA Environmental Fee will be continued while providing capped fee-setting authority to the Board of Environmental Safety. Lastly, there will need to be General Fund bridge funding as additional revenues will not be generated until 2022.

Reference/Link

The first link below will allow you to view/print this budget change proposal.

<https://aboutblaw.com/OBX>

F. EPA Releases PFAS Action Plan: Program Update

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 02/06/2020

Summary

The U.S. Environmental Protection Agency (EPA) has released a Program Update for the PFAS Action Plan. This Program Update is a summary of the recent accomplishments of the PFAS Action Plan. The goal of this action plan is to help states and local communities address per- and polyfluoroalkyl substances (PFAS) and protect public health.

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PFAS are a large group of man-made chemicals that have been in use for consumer products and industrial processes since the 1940s. These chemicals are used to make water and stain repellent materials, as well as other commonly used consumer products.

Part of the EPA's PFAS Action Plan includes efforts to expand drinking water test methods under the Safe Drinking Water Act (SDWA.) The EPA announced in December 2019, a new validated method for testing additional PFAS in drinking water "Drinking Water Method 533." This is designed to complement other actions the agency has taken under the Action Plan. This method allows government and private laboratories to effectively measure more PFAS chemicals in drinking water than was possible before. This method focuses on PFAS with carbon chain lengths of 4 to 12, and complements EPA Method 537.1.

As part of the EPA's commitment to the Safe Drinking Water Act (SDWA) the EPA is determining whether the contaminant has adverse effects on the public health, if the contamination will occur at a high enough frequency and level to be of public health concern, and how the contaminants should be regulated.

The EPA has supported its federal, state, local, and tribal partners by providing assistance in efforts to identify exposures, develop methods to measure PFAS in the environment, and support cleanup efforts where PFAS chemicals have been identified as a risk to public health. EPA is currently providing cleanup assistance to more than 30 states and the District of Columbia to address PFAS contamination. This includes a groundwater guidance document for federal clean up programs, using a screening level of 40 parts per trillion (ppt) to determine if PFOA and/or PFOS is present and may warrant further attention. The current Lifetime Drinking Water Health Advisory level of 70 ppt is the preliminary remediation goal (PRG) for contaminated groundwater. Further, the agency has continued moving forward with the regulatory process for proposing to designate PFOA and PFOS as hazardous substances under CERCLA. The EPA has also issued for public comment on SW-846 Method 8327, a multi-lab validated method that is used to conduct assessments and develop remediation treatment technologies and disposal practices for non-potable water. Lastly, the agency is performing treatment and disposal research projects.

The EPA has utilized the Toxic Release Inventory (TRI) and the Toxic Substances Control Act (TSCA) in order to further ensure safety and understanding of PFAS in commerce. This includes imposing restrictions on these substances, and requiring companies to provide data on chemical properties, toxicity, and other health effects information. The EPA has added certain PFAS chemicals to the TRI.

Some of the EPA's key research accomplishments include PFAS in agriculture and rural communities, analytical methods research and development (R&D), and toxicity and effects R&D. Additionally, the EPA has focused on giving technical support to multiple states on PFAS contamination and treatment. The agency also provided funding to universities as well as state departments for research and data acquisition. Lastly, the EPA has made risk communications a priority for the agency.

Over the next year, the agency plans to make progress on addressing PFAS under the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act, the Resource Conservation and Recovery Act, and the Toxic Substances Control Act. Additional research will be made in order to protect public health and the environment.

The agency is also committed to increasing transparency with the public.

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Reference/Link

The link below will allow you to view/print the February 2020 Action Plan Update.

https://www.epa.gov/sites/production/files/2020-01/documents/pfas_action_plan_feb_2020.pdf

G. Response Levels Lowered for State Water Systems as PFAS Investigation Continues

Agency

California Water Boards (CWB)

Dates

Published Date: 02/06/2020

Summary

The California State Water Resources Control Board has announced it will reduce the response levels of perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) in drinking water. The new response levels (RLs) are 10 parts per trillion (ppt) for PFOA and 40 ppt for PFOS. Previously, the RL was 70 ppt for the total concentration of the two contaminants combined. If a response level is exceeded the water system is required to take the water source out of service, provide treatment, or notify their customers in writing.

So far, nearly half of the states have written their own guidance, regulations, or legislation that addresses drinking water contaminated with PFAS and PFOA. Michigan is taking an especially active approach on the issue. Michigan completed the first state wide test of drinking water sources and began cleanup at 76 contaminated sites. The state is working on creating enforceable limits for seven PFAS in drinking water, and is now taking public input on a draft rule.

[This interactive map can be used as a tool to track state progress.](#) It is recommended to use this map as a reference, for any specific guidance you should look at the state department website.

This link will allow you to see the list of the 160 PFAS that were added by the NDAA:

https://www.epa.gov/sites/production/files/2020-01/documents/tri_non-cbi_pfas_list_1_16_20_20-6.pdf

Reference/Link

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

https://www.waterboards.ca.gov/press_room/press_releases/2020/pr02062020_pfoa_pfos_response_levels.pdf

H. **John Busterud to become EPA Region 9 Administrator in place of Michael Stoker**

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 02/11/2020

Summary

Andrew Wheeler announced on February 11, 2020 that John Busterud will become the Region 9 Administrator. Busterud was appointed after Michael Stoker left the agency earlier this month. EPA Region 9 is located in San Francisco and serves Arizona, California, Hawaii, Nevada, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Guam, Marshall Islands, Republic of Palau, and 148 Tribes.

Reference/Link

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

<https://www.epa.gov/newsreleases/epa-announces-appointment-john-busterud-region-9-administrator>

I. **Extension of Compliance Date for Entry-Level Driver Training**

Agency

Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA)

Dates

Published Date: 02/04/2020

Extension of Compliance Date: 02/07/2022

Summary

FMCSA extends the compliance date for the 2016 final rule, "Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators" (81 FR 88732, December 8, 2016), from February 7, 2020, to February 7, 2022. The two-year extension applies to all requirements established by the Entry-Level Driver Training (ELDT) final rule. This extension is necessary so that FMCSA can complete the Information Technology (IT) infrastructure to support the Training Provider Registry (TPR), which will allow training providers to self-certify, request listing on the TPR, and upload the driver-specific ELDT completion information to the TPR. Completion of the TPR technology platform is also necessary before driver-specific ELDT completion information can be transmitted from the TPR to the (State Driver Licensing Agencies (SDLAs.) This delay also provides SDLAs time to make changes, as necessary, to their IT systems and internal procedures to allow them to receive the driver ELDT completion information transmitted from the TPR.

Reference/Link

The link below will allow you to view/print this Final Rule.

<https://www.govinfo.gov/content/pkg/FR-2020-02-04/pdf/2020-01548.pdf>

J. Fees for the Unified Carrier Registration Plan and Agreement

Agency

Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA)

Dates

Published Date: 02/13/2020

Effective Date: 02/13/2020

Summary

This rule establishes reductions in the annual registration fees the States collect from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration (UCR) Plan and Agreement for the registration years beginning in 2020. For the 2020 registration year, the fees will be reduced by 14.45 percent below the 2018 registration fee level to ensure that fee revenues collected do not exceed the statutory maximum, and to account for the excess funds held in the depository.

Reference/Link

The link below will allow you to view/print this Final Rule.

<https://www.govinfo.gov/content/pkg/FR-2020-02-13/pdf/2020-01761.pdf>