

Veolia North America - Industrial Business Regulatory Update - June 2020

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There are no Health & Safety Updates for June 2020.

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- H. [DOJ/DEA; Listing of Ethylone in Schedule I of Controlled Substances and Assignment of an Administration Controlled Substances Code Number; Final Rule](#)
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A. Implementing Statutory Addition of Certain Per- and Polyfluoroalkyl Substances; Toxic Chemical Release Reporting; Final Rule

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 6/22/2020

Effective Date: 6/22/2020

Summary

The Environmental Protection Agency (EPA) is adding 172 per- and polyfluoroalkyl substances (PFAS) to the list of toxic chemicals subject to reporting under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and section 6607 of the Pollution Prevention Act (PPA). In January, the Environmental Protection Agency (EPA) announced that the EPA would revise the EPCRA Section 313 list of reportable chemicals in the Code of Federal Regulations to include the 160 PFAS added by the National Defense Authorization Act (NDAA). This was included in the January 2020 Veolia Regulatory Update.

Following a review of the NDAA list, which featured 160 chemicals, and in response to public comments, the EPA has found that 12 of these chemicals do not meet the structural definitions provided by 40 CFR 721.10536 and has added 24 that do meet those definitions. These 24 additional PFAS were included on this updated list because (1) their structure meets the PFAS category definition provided by 40 CFR 721.10536 or (2) although the name of the PFAS does not indicate a specific chain length, its chain length could fit within a definition provided by 40 CFR 721.10536.

The EPA has set a manufacture, processing, and otherwise use reporting threshold of 100 pounds for each of the PFAS on the list and a de minimis concentration percentage of <0.1% for PFOA's and 1% for PFAS

This rule is effective immediately as this action is being taken to conform the regulations to a Congressional legislative mandate and therefore notice and comment are unnecessary

The 172 non-confidential business information (CBI) PFAS are reportable for the 2020 reporting year (i.e., reports due July 1, 2021). Please use the link in the Reference/Link section to see the full list of chemicals.

Reference/Link

The link below will allow you to view/print this final rule and view the full list of chemicals being added.

<https://www.govinfo.gov/content/pkg/FR-2020-06-22/pdf/2020-10990.pdf>

B. National Compliance Initiative Focus on RCRA Air Emissions; Environmental Alert

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 6/16/2020

Summary

The Environmental Protection Agency (EPA) has published an alert to provide information on frequently cited compliance issues associated with air emissions from hazardous waste units, recent enforcement case settlements, EPA inspection approaches, facility best practices, as well as the importance of carefully considering both the Resource Conservation and Recovery Act (RCRA) and Clean Air Act (CAA) requirements when addressing organic air emissions.

The following are the compliance issues that were identified in the alert:

- Monitoring for Releases - The EPA has found that many facilities are not properly monitoring certain process vents, equipment, tanks, containers, and surface impoundments. Monitoring violations may arise when instrument calibration is faulty or incomplete or when the required monitoring is not performed properly. In order for the facility to comply with the regulations the facility must be actively looking for emissions.
- Exempt Equipment Under the RCRA Air Regulations: Careful Consideration of Regulatory Criteria is Critical - The EPA found that facilities have had errors in correctly applying the criteria to determine whether their equipment meets any of the exemptions.
- Organic Air Emission Releases from Pressure Relief Valves and Tank Closure Devices - The EPA identifies failures to maintain properly functioning pressure relief valves and tank closure devices. Inspectors have found noncompliance where pressure relief valves or conservation vents are stuck open and defects on tanks where tank-closure devices are not maintained, or are left open. Facilities must review the tank design operating pressure and the waste vapor pressure managed in the tank, inspectors have found pressure relief valves set incorrectly and manway hatches left unsecured.

The EPA suggests that understanding the EPA's approach to RCRA air inspections can be helpful to those working to maintain compliance with the regulations. Some common elements in inspections include:

- Real-time monitoring for leaks using PIDs and FIDs to perform Method 21 monitoring, as well as using Forward Looking Infrared (FLIR) cameras to identify releases to the environment;
- Process-based inspections and sampling of waste to review and determine which process vents, equipment, tanks, containers, or surface impoundments may be

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subject to regulation, and ensuring that all subject equipment is included in a facility's RCRA air program; and

- Conducting thorough record reviews to ensure a facility is meeting requirements for equipment identification, location, tagging, leak detection monitoring, calibration of instrumentation, and leak repair timeframes, among other documentation requirements.

The alert also includes the following best practices recommendations:

- Proactive replacement of aging equipment
- Initiating a program which encapsulates the facility Subpart BB requirements with useful best practices into one document
- Appropriate implementation of the Subpart BB Less Than 300-hour Exemption

Reference/Link

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

<https://www.epa.gov/sites/production/files/2020-06/documents/ncircraairenfallert060320.pdf>

C. **Affirming National Leadership Role, New Jersey Publishes Formal Stringent Drinking Water Standards for PFOA and PFOS; Rule Adoption**

Agency

New Jersey Department of Environmental Protection (NJDEP)

Dates

Published Date: 6/01/2020

Summary

The New Jersey Department of Environmental Protection (NJDEP) has published its adoption of stringent, health-based drinking water standards for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS). The NJDEP has established maximum contaminant levels of 14 parts per trillion for PFOA and 13 parts per trillion for PFOS.

This standard can be found in the NJ - New Jersey Administrative Code, TITLE 7. ENVIRONMENTAL PROTECTION, CHAPTER 10. SAFE DRINKING WATER ACT, SUBCHAPTER 5. STATE PRIMARY DRINKING WATER REGULATIONS under § 7:10-5.2 Discretionary changes to National Regulations.

These adopted standards are based, in part, on recommendations made by the New Jersey Drinking Water Quality Institute. Last year, New Jersey became the first state to issue a statewide directive ordering companies to address contamination caused by the use and

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discharge of these chemicals. The companies named in the directive are DuPont, Chemours, 3M, and Solvay Polymers.

Reference/Link

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

https://www.nj.gov/dep/newsrel/2020/20_0025.htm

D. North Carolina adopts Management Standards for Hazardous Waste Pharmaceuticals; Notice

Agency

North Carolina Department of Environmental Quality (NCDEQ), Environmental Protection Agency

Dates

Published Date: 6/30/2020

Effective Date: 07/01/2020

Summary

The Environmental Protection Agency (EPA) adopted the Management Standards for Hazardous Waste Pharmaceuticals on August 21, 2019. Two parts of this federal rule were effective in North Carolina immediately. These two parts are:

1. The sewer prohibition (described at 40 CFR 266.505) prohibits healthcare facilities and reverse distributors from sewer disposing hazardous waste pharmaceuticals.
2. The amendment to the P075 nicotine listing (40 CFR 261.33) which removed FDA regulated nicotine replacements therapies (specifically nicotine gums, patches and lozenges) from the P075 hazardous waste listing. This part of the rule applies to any site and is not specific only to healthcare facilities and reverse distributors.

The remaining aspects of this federal rule must be adopted on a state by state basis.

North Carolina has now fully adopted the Management Standards for Hazardous Waste Pharmaceuticals. As a result of this adoption all of the other federal regulation provisions (including but not limited to 40 CFR 266 subpart P- Hazardous Waste Pharmaceuticals) are effective in North Carolina on July 1, 2020.

Reference/Link

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

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<https://files.nc.gov/ncdeq/Waste%20Management/DWM/HW/Guidance%20Document%20table%20documents/2019/HW-Pharmaceuticals-Applicability-and-Counting.pdf>

E. FMCSA; Hours of Service of Drivers; Final Rule

Agency

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

Dates

Published Date: 6/01/2020

Effective Date: 09/29/2020

Summary

In this final rule, FMCSA revises the hours of service (HOS) regulations to provide greater flexibility for drivers subject to those rules without adversely affecting safety.

None of the provisions in this final rule will increase the maximum allowable driving time but may result in changes to the number of hours driven, or hours worked during a given work shift. The flexibilities in this final rule are intended to allow drivers to shift their drive and work time to mitigate the impacts of certain variables (e.g., weather, traffic, detention times, etc.) and to take breaks without penalty when they need rest. FMCSA does not anticipate that any of these time shifts will negatively impact drivers' health.

Changes adopted in this final rule include the following:

Short Haul Operations

In this final rule, FMCSA extends the maximum allowable workday for 100 air-mile radius short-haul drivers from 12 to 14 hours and extends the existing distance restriction from 100 air-miles to 150 air-miles to be consistent with the distance limitation for short-haul drivers that are not required to possess a commercial driver's license.

Drivers and carriers using the short-haul exception are not required to use a RODS or ELD or take a 30-minute break.

HOS Provision	Existing Requirement	Revised Requirement (Beginning Sept.29, 2020)	Impact
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Short-Haul 395.1(e)(1)	Drivers using the short-haul (100 air-mile radius) exception may not be on-duty more than 12 hours	Extends the maximum duty period allowed under the short-haul exception from 12 hours to 14 hours. Extends the maximum radius of the short-haul exception from 100 to 150 air-miles.	Increases the number of drivers able to take advantage of the short-haul (150 air-mile) exception. Potentially shifts work and drive time from long-haul to short-haul exception.
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Adverse Driving Conditions

FMCSA modifies the definition of adverse driving conditions so that the adverse driving conditions exception may be applied based on the driver's (in addition to the dispatcher's) knowledge of the conditions after being dispatched, and extends the driving window during which the current exception for extended driving time may be used by up to 2 hours for truck operations under §§395.3(a)(2).

Adverse driving conditions means snow, ice, sleet, fog, or other adverse weather conditions or unusual road or traffic conditions that were not known, or could not reasonably be known, to a driver immediately prior to beginning the duty day or immediately before beginning driving after a qualifying rest break or sleeper berth period, or to a motor carrier immediately prior to dispatching the driver.

HOS Provision	Existing Requirement	Revised Requirement (Beginning Sept.29, 2020)	Impact
Adverse Driving Conditions	A driver may drive and be permitted or required to drive a CMV for not more than 2 additional hours beyond the maximum time allowed. However, this does not currently extend the maximum “driving windows.”	Allows a driver to extend the maximum 14-hour driving window by up to 2 hours during adverse driving conditions.	Increases the use of the adverse driving condition provision. Allows driving later in the workday, potentially shifting forward the hours driven and VMT travelled. Allows drivers time to park and wait out the adverse driving condition or to drive slowly through it. This has the potential to decrease crash risk relative to current requirements, assuming

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			drivers now drive through adverse driving conditions.
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30 Minute Rest Break

The FMCSA has modified §395.3(a)(3)(ii) to require a 30-minute break after 8 hours of driving time (instead of on-duty time) and allows an on-duty/not driving period to qualify as the required break.

HOS Provision	Existing Requirement	Revised Requirement (Beginning Sept.29, 2020)	Impact
30 minute break	If more than 8 consecutive hours have passed since the last off-duty (or sleeper berth) period of at least half an hour, a driver must take an off-duty break of at least 30 minutes before driving	Requires a 30-minute break only when a driver has <u>driven</u> for a period of 8 hours without at least a 30-minute interruption. If required, the break may be satisfied by any <u>non-driving</u> period of 30 minutes, <i>i.e.</i> on-duty, off-duty, or sleeper berth time	Increases the on-duty/non-driving time by up-to 30 minutes, or allow drivers to reach their destination earlier. No anticipated fatigue effect because drivers continue to be constrained by the 11-hour driving limit and would continue to receive on-duty/non-driving breaks from the driving task.

Sleeper Berth

FMCSA has modified the sleeper berth exception to allow a driver to meet the 10-hour minimum off-duty requirement by spending at least 7, rather than at least 8 hours of that

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period in the berth and a minimum off-duty period of at least 2 hours spent inside or outside of the berth, provided the two periods total at least 10 hours, and that neither qualifying period counts against the 14-hour driving window.

HOS Provision	Existing Requirement	Revised Requirement (Beginning Sept.29, 2020)	Impact
Split-Sleeper berth	A driver can use the sleeper berth to get the “equivalent of at least 10 consecutive hours off-duty.” To do this, the driver must spend at least 8 consecutive hours (but less than 10 consecutive hours) in the sleeper berth. This rest period does not count as part of the 14-hour limit. A second, separate rest period must be at least 2 (but less than 10) consecutive hours long. This period may be spent in the sleeper berth, off-duty, or sleeper berth and off-duty combined. It does count as part of the maximum 14-hour driving window	Modifies the sleeper berth requirements to allow drivers to take their required 10 hours off-duty in two periods, provided one off-duty period (whether in or out of the sleeper berth) is at least 2 hours long and the other involves at least 7 consecutive hours spent in the sleeper berth. Neither period counts against the maximum 14-hour driving window	Allow one hour to be shifted from the longer rest period to the shorter rest period. Potentially increase the use of sleeper berths because drivers using a berth have additional hours to complete 11 hours of driving (by virtue of excluding the shorter rest period from the calculation of the 14-hour driving window). No anticipated negative effect on fatigue because aggregate drive limits and off-duty time remains unchanged.

Not Adopted

FMCSA did not adopt the proposal to allow a single off-duty period of up to 3 hours to be excluded from the 14-hour driving window.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2020-06-01/pdf/2020-11469.pdf>

F. EXTENSION OF EXPANDED EMERGENCY DECLARATION No. 2020-002 UNDER 49 CFR § 390.25; Extension of Expanded Emergency Declaration

Agency

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

Dates

Published Date: 6/08/2020

Effective Until: 07/14/2020

Summary

Due to the ongoing national emergency conditions that created a need for immediate transportation of essential supplies, equipment and persons related to COVID-19, FMCSA has extended and modified the relief provided under Emergency Declaration No. 2020-002 until July 14, 2020.

Under the emergency declaration, eligible motor carriers and drivers providing direct assistance in support of relief efforts related to the COVID-19 outbreak are not required to comply with Parts 390 through 399 of the Federal Motor Carrier Safety Regulations.

Direct assistance means transportation and other relief services provided by a motor carrier or its drivers related to the immediate restoration of essential services (such as medical care) or essential supplies related to COVID-19 during the emergency and is now limited to only (1) livestock and livestock feed, (2) medical supplies and equipment related to the testing, diagnosis and treatment of COVID-19; and (3) supplies and equipment necessary for community safety, sanitation and prevention of community transmission of COVID-19 such as masks, gloves, hand sanitizer, soap and disinfectants.

Direct assistance does not include routine commercial deliveries, including mixed loads with a nominal quantity of qualifying emergency relief added to obtain the benefits of the emergency declaration. Direct assistance ends when a driver or CMV is used in interstate commerce to transport cargo or provide services that are not in support of emergency relief efforts or when the motor carrier dispatches a driver or CMV to another location to begin operations in commerce.

Due to the modification of the exemption, the following items or personnel are no longer eligible for the emergency exemption as of the end of the day on June 14, 2020:

- Food, paper products, and other groceries for emergency restocking of distribution centers or stores;
- Fuel;
- Liquefied gases to be used in refrigeration or cooling systems;
- Equipment, supplies and persons necessary to establish and manage temporary housing, quarantine, and isolation facilities related to COVID-19;
- Persons designated by federal, state or local authorities for medical, isolation or quarantine purposes; and

- Persons necessary to provide other medical or emergency services.

Veolia drivers must not utilize relief from compliance with the FMCSA or USDOT hazardous materials regulations that is provided through a federal emergency declaration without first

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obtaining approval from Jennifer Fletcher, VNA Senior Manager, Transportation Compliance and Tom Baker, VNA VP, EHS&T.

Reference/Link

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

<https://www.fmcsa.dot.gov/emergency/extension-and-modification-expanded-emergency-declaration-no-2020-002-under-49-cfr-ss>

G. Waiver for expired driver licenses and medical cards extended until September 30, 2020; Notice of Enforcement Policy

Agency

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

Dates

Published Date: 6/15/2020

Effective Date: 03/24/2020

Effective Until: 09/30/2020

Summary

FMCSA has extended relief for expired CDL permit, CDL and non-CDL driver licenses and medical certifications until September 30, 2020.

This Notice of Enforcement Policy applies to all CLP holders, CDL holders, and non-CDL drivers whose licenses were issued for less than the maximum period established by 49 CFR 383.25 and 383.73 and was valid on February 29, 2020 and expired on or after March 1, 2020. FMCSA will exercise its enforcement discretion to not take enforcement action for the following:

1. 49 CFR 383.23(a)(2) – a CLP or CDL holder operating a CMV with an expired license, but only if the CLP or CDL was valid on February 29, 2020, and expired on or after March 1, 2020.
2. 49 CFR 383.37(a) – a motor carrier that allows a CLP or CDL driver to operate a CMV during a period in which the driver does not have a current CLP or CDL, but only if the CLP or CDL was valid on February 29, 2020, and expired on or after March 1, 2020.
3. 49 CFR 391.11(b)(5) – a CMV driver (i.e., CLP, CDL, or non-CDL license holder) or motor carrier that allows a CMV driver to operate a CMV during a period in which the driver's operator license has expired, but only if the driver's license was valid on February 29, 2020, and expired on or after March 1, 2020, and the driver is otherwise qualified to drive under 49 CFR 391.11.

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4. 49 CFR 391.45(b) – a CMV driver or motor carrier that allows a CMV driver to operate a CMV during a period in which the driver does not have the current medical certificate and any required medical variance as required by 49 CFR 391.45(b), but only if the driver has evidence of a medical certification and any required medical variance that was valid on February 29, 2020 and expired on or after March 1, 2020.

In accordance with 49 CFR 383.23(a)(1) and 391.41(a)(1)(i), FMCSA also continues to recognize the validity of commercial driver's licenses issued by Canadian Provinces.

Reference/Link

The link below will allow you to view/print this notice of enforcement policy.

https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-06/Enforcement_Notice_on_Expiring_CDs%20Reissued_V_4%20Final.pdf

H. Listing of Ethylone in Schedule I of Controlled Substances and Assignment of an Administration Controlled Substances Code Number; Final Rule

Agency

Drug Enforcement Administration (DEA), Department of Justice (DOJ)

Dates

Published Date: 6/08/2020

Effective Date: 06/08/2020

Summary

The Drug Enforcement Agency (DEA) is establishing a specific listing and administration controlled substances code number for ethylone (also known as 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)propan-1-one; 3,4- methylenedioxy-N-ethylcathinone; bkMDEA; MDEC) in schedule I of the Controlled Substances Act (CSA).

This is a final rule and is effective on June 8, 2020, the date that it was published in the federal register.

Ethylone is a chemical substance that is structurally related to butylone. Butylone is a hallucinogenic substance and is in schedule I of the CSA. Butylone and ethylone have the same molecular formula, core structure and have the same functionality groups. Ethylone is already controlled domestically in schedule I of the CSA as a positional isomer to butylone. This final rule has the effect of establishing a specific listing for ethylone in schedule i of the CSA. This rule is a technical amendment and therefore it is "insignificant in nature and impact,

and inconsequential to the industry and the public.” Therefore, publishing a notice of proposed rulemaking and soliciting public comment are unnecessary.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2020-06-08/pdf/2020-10295.pdf>

I. **Schedules of Controlled Substances: Temporary Placement of Isotonitazene in Schedule I; Proposed Amendment**

Agency

Drug Enforcement Administration (DEA), Department of Justice (DOJ)

Dates

Published Date: 6/18/2020

Effective Date: 06/18/2020

Summary

The Acting Administrator of the Drug Enforcement Administration (DEA) is issuing this notice of intent to publish a temporary order to schedule N,Ndiethyl-2-(2-(4 isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1- amine (commonly known as isotonitazene), including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible, in schedule I of the Controlled Substances Act.

The Attorney General has found that this action is necessary to avoid an imminent hazard to public safety. A substance may be temporarily scheduled if it meets specific requirements and is not listed in any other schedule under section 202 of the Controlled Substances Act (CSA). This temporary placement is for a duration of two years with a possible extension of one additional year pending completion of the permanent scheduling process.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2020-06-18/pdf/2020-12304.pdf>