

Veolia North America - Industrial Business Regulatory Update - November 2020

ENVIRONMENTAL UPDATES

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- B. [NYSDEC; Governor Cuomo Signs Legislation Banning Incineration of Firefighting Foam Containing PFAs in Certain New York Cities; Press Release](#)

TRANSPORTATION UPDATES

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HEALTH & SAFETY UPDATES

No Health & Safety Updates for November 2020

MISCELLANEOUS UPDATES

No Miscellaneous Updates for November 2020

**A. Title 18. Environmental Quality Chapter 8. Department of Environmental Quality
Hazardous Waste Management; Notice of Final Rulemaking**

Agency

Arizona Department of Environmental Quality (ADEQ)

Dates

Published Date: 09/21/2020

Effective Date: 07/01/2020

Summary

The Arizona Department of Environmental Quality (ADEQ) has adopted several changes to the state's hazardous waste (HW) rules in order to incorporate certain changes in federal regulations.

The following is a list of each EPA rule that ADEQ adopted. These rules became effective on July 1, 2020 in Arizona.

- Revisions to the Definition of Solid Waste, 73 FR 64667, October 30, 2008.
- Definition of Solid Waste, 80 FR 1693, January 13, 2015.
- Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule, 83 FR 24664, May 30, 2018.
- Safe Management of Recalled Airbags, 83 FR 61552, November 30, 2018.
- Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine, 84 FR 5816, February 22, 2019.
- Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations, 84 FR 67202, December 9, 2019.
- Address Change for Waste Import-Export Submittals from the Office of Federal Activities to the Office of Resource Conservation and Recovery, 83 FR 38263, August 6, 2018.

Reference/Link

The link below will allow you to view/print this Notice of Final Rulemaking.

https://static.azdeq.gov/wpd/rule/hazwaste_nfrm.pdf

B. Governor Cuomo Signs Legislation Banning Incineration of Firefighting Foam Containing PFAs in Certain New York Cities; Press Release

Agency

New York State Department of Environmental Conservation (NYSDEC)

Dates

Published Date: 11/23/2020

Effective Date: 11/23/2020

Summary

Governor Andrew Cuomo signed legislation (S.7880-B/A.9952-B) banning the incineration of Aqueous Film Forming Foam (AFFF), typically used for firefighting, containing perfluoroalkyl and polyfluoroalkyl substances, the emerging contaminants known as PFAS, in select New York cities. Under this new law, the incineration of these foams is prohibited in Environmental Justice areas by the New York State Department of Environmental Conservation (NYSDEC) where the population is between 16,000 and 17,000 residents.

This legislation was passed in response to concerns raised by residents in the City of Cohoes after foam containing PFAS was disposed of at the Norlite facility in Cohoes, NY. Cuomo stated "While this measure will ban incineration of firefighting foam containing these compounds in cities like Cohoes, our work is not over. We remain fully committed to this effort and will continue to advance comprehensive, statewide measures which protect all New Yorkers and our environment from emerging contaminants."

In July, NYSDEC announced a comprehensive soil and water sampling initiative to help determine if contaminants are present in the environment surrounding the Norlite facility. During the sampling initiative, in coordination with the DOH, DEC is collecting soil and water samples from upwind, downwind, and background locations to study the potential aerial deposition of contaminants like metals and PFAS.

Reference/Link

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

<https://www.governor.ny.gov/news/governor-cuomo-signs-legislation-banning-incineration-firefighting-foam-containing-pfas-certain>

**C. Washington's Meal and Rest Break Rules for Drivers of Commercial Motor Vehicles;
Petition for Determination of Preemption**

Agency

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

Dates

Published Date: 11/17/2020

Effective Date: 11/17/2020

Summary

The Federal Motor Carrier Safety Administration (FMCSA) has granted a petition submitted by Washington Trucking Associations (WTA) on April 8, 2019 to preempt the State of Washington's Meal and Rest Break rules (MRB rules). Federal law provides for preemption of State laws on commercial motor vehicle safety that are in addition to or more stringent than Federal regulations if they (1) have no safety benefit; (2) are incompatible with Federal regulations; or (3) would cause an unreasonable burden on interstate commerce.

The FMCSA has determined that Washington's MRB rules are laws on commercial motor vehicle (CMV) safety, that they are more stringent than the Agency's HOS regulations, that they have no safety benefits that extend beyond those that the Federal Motor Carrier Safety Regulations (FMCSRs) already provide, that they are incompatible with the Federal HOS regulations, and that they cause an unreasonable burden on interstate commerce.

As a result of this determination, the Washington MRB rules are preempted.

Reference/Link

The link below will allow you to view/print this Petition for Determination of Preemption.

<https://www.govinfo.gov/content/pkg/FR-2020-11-17/pdf/2020-25155.pdf>

D. Hazardous Materials: Adoption of Miscellaneous Petitions To Reduce Regulatory Burdens; Final Rule (HM-219C)

Agency

Pipeline and Hazardous Materials Safety Administration (PHMSA)

Dates

Published Date: 11/25/2020

Effective Date: 12/28/2020

Summary

The Pipeline and Hazardous Materials Safety Administration (PHMSA) is amending the Hazardous Materials Regulations in response to 24 petitions for rulemaking submitted by the regulated community between February 2015 and March 2018. This final rule updates, clarifies, or provides relief from various regulatory requirements without adversely affecting safety.

PHMSA also, as of the effective date of this final rule, withdraws its September 28, 2017 enforcement discretion regarding the phase-out of mobile refrigeration systems.

In this final rule, PHMSA is:

- Allowing all waste materials to be managed in accordance with the lab pack exception and associated paragraphs in § 173.12 irrespective of whether they meet the definition of a hazardous waste per Environmental Protection Agency (EPA) regulations implementing the Resource Conservation and Recovery Act (RCRA).
- Revising § 173.31 to prohibit the use of tank cars with shells or heads constructed of non-normalized steel in the transportation of poison-by-inhalation hazard (PIH) materials by rail after December 31, 2020.
- Harmonizing availability of limited quantity shipping exceptions for more than 100 entries for corrosive materials in the Hazardous Materials Table (HMT, § 172.101).
- Revising § 172.302(b)(2) to allow a minimum height of 12 mm (0.47 inches) for a proper shipping name marked on a portable tank with a capacity of less than 3,785 L (1,000 gallons).
- Revising § 173.28(c)(1)(i) to allow for regulatory flexibility for cleaning metal drums for reuse and clarifying the existing cleaning standard.
- Revising § 173.5(b) to allow for the continued use of portable and mobile refrigerator systems placed into service prior to 1991 that are rated to a minimum service pressure of 250 pounds per square inch (psig).
- Incorporating by reference updated editions of multiple Compressed Gas Association (CGA) publications into § 171.7.
- Removing the reference to special provision 103 in § 172.101 from Column (7) for four HMT entries.

The information contained herein is provided by Veolia North America for general informational purposes only. This information should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you should have any questions, please contact Kevin McGrath, Director, Environment at kevin.mcgrath@veolia.com.

- Removing the words “manufactured before September 1, 1995” from § 180.417(a)(3) to allow for an alternative report for cargo tanks manufactured after September 1, 1995.
- Revising the basis weight tolerance provided in § 178.521 from ±5 percent to ±10 percent from the nominal basis weight reported in the initial design qualification test report for paper shipping sacks.
- Revising § 173.308(d)(3) to harmonize with the International Maritime Dangerous Goods (IMDG) Code by removing the requirement for a closed transport container to have the warning mark “WARNING—MAY CONTAIN EXPLOSIVE MIXTURES WITH AIR—KEEP IGNITION SOURCES AWAY WHEN OPENING” when transporting lighters.
- Revising §§ 173.244(a)(2) and 173.314(c) to make the “interim” rail tank car specifications the “final” specifications for the transportation of PIH materials.
- Revising § 173.31 to prohibit the use of certain rail tank cars for the transportation of PIH materials after December 31, 2027.
- Incorporating by reference the 2017 edition of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (BPVC) Sections II (Parts A and B), V, VIII (Division 1), and IX into § 171.7.
- Revising §§ 171.23, 173.302, and 173.304 to permit the import of filled pi-marked foreign pressure receptacles for intermediate storage, transport to point of use, discharge, and export as well as the import of certain pi-marked foreign pressure receptacles for filling, intermediate storage, and export.
- Revising § 172.101(c) to clarify that the word “stabilized” must be included as part of the proper shipping name when stabilization is required for transportation.
- Revising § 171.7(r) to update the address of the Institute of Makers of Explosives (IME) and to incorporate by reference the Association of Energy Service Companies (AESC)/IME Jet Perforating Gun (JPG) Standard, also known as the “Guide to Obtaining DOT Approval of Jet Perforating Guns using AESC/IME Perforating Gun Specifications,” Ver. 02, dated September 1, 2017.
- Incorporating by reference the January 1, 2018, edition of the American Pyrotechnics Association (APA) Standard 87-1 A, B, C, “Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics,” replacing the December 1, 2001 edition into § 171.7.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2020-11-25/pdf/2020-23712.pdf>