

Veolia North America - Industrial Business

July, 2022

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No Miscellaneous Updates for June 2022

A. Implementing Statutory Addition of Certain Per- and Polyfluoroalkyl Substances (PFAS) to the Toxics Release Inventory Beginning With Reporting Years 2021 and 2022; Final Rule

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 07/18/2022

Effective Date: 08/17/2022

Summary

The Environmental Protection Agency (EPA) is updating the list of chemicals subject to toxic chemical release reporting under the Emergency Planning and Community Right-to-Know Act (EPCRA) and the Pollution Prevention Act (PPA).

The list is being updated to include the following five per- and polyfluoroalkyl substances (PFAS):

- Perfluorobutane sulfonic acid
- Perfluorobutanesulfonate
- Potassium perfluorobutane sulfonate
- 2-Propenoic acid, 2-methyl-, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-heneicosafuorododecyl ester, polymer with 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl 2-methyl-2-propenoate, methyl 2-methyl-2-propenoate, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-pentacosafuorotetradecyl 2-methyl-2-propenoate and 3,3,4,4,5,5,6,6,7,7,8,8,8-tridecafluorooctyl 2-methyl-2-propenoate
- 2-Propenoic acid, 2-methyl-, hexadecyl ester, polymers with 2-hydroxyethyl methacrylate, gamma-omega-perfluoro-C10-6-alkyl acrylate and stearyl methacrylate

The fourth chemical listed above was already included in the TRI reporting requirements effective 1/1/21. For this one chemical this rule was finalized to meet statutory requirements. The five chemicals will need to be reported for the Reporting Year 2022 on the TRI report that must be submitted by July 1, 2023.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2022-07-18/pdf/2022-15268.pdf>

B. Open Burning and Open Detonation (OB/OD) of Waste Explosives Under the Resource Conservation and Recovery Act (RCRA); Memorandum

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 06/07/2022

Summary

The Environmental Protection Agency (EPA) has published a memorandum to provide guidance and communicate existing requirements to EPA Regions, states and territories for permitting open burning/open detonation (OB/OD) units under the Resource Conservation and Recovery Act (RCRA). In 1987, EPA finalized permitting standards for hazardous waste management units that were not already covered in the regulations, including OB/OD facilities in 40 CFR Part 264, Subpart X - Miscellaneous Units. Open burning of hazardous waste, including open detonation, is currently prohibited under RCRA, except for the open burning and detonation of waste explosives, as defined in 40 CFR 265.382, which cannot safely be disposed of through other modes of treatment.

It is important to note that under the existing requirements, OB/OD facilities must evaluate, and re-evaluate, whether safe alternative technologies are available to treat their waste explosives. Where safe alternatives are available, facilities must use those alternatives in lieu of OB/OD.

The memorandum recognizes the potential for exposure and contaminants through inhalation from plumes of smoke migrating into communities and ingestion from contaminants deposited onto soil and leached into groundwater used for irrigation and drinking water. Additionally, the memorandum explains that many communities that are near operating OB/OD units are communities with environmental justice concerns. As a result, it is critical for these facilities to engage with the community so that the concerns of the community can be addressed during the permitting process.

Any permits issued to OB/OD facilities are required to include conditions that protect the health of communities, such as protective distance requirements, limits on duration and timing of OB/OD events, monitoring of environmental media, engineering controls to reduce off-site impacts to communities, and noise and vibration thresholds. Lastly, permits must include periodic re-evaluation to determine whether other safe modes of treatment have been developed.

EPA recommends that Regional, state, and territorial permitting authorities, when reviewing applications for initial or renewal permits for OB/OD units, should do the following:

- Alternative Technology Evaluations and Waste Characterization
 - Require information to identify and describe the pre-treatment or pre-processing steps that may be needed to enable use of an alternative

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- technology and how the alternative technology will capture, control, and monitor emissions and releases to the environment.
- Require detailed waste characterization information that (1) confirms the waste has potential to detonate and is characteristic for reactivity/explosivity (D003) (2) ensures potential contaminants of concern are identified and (3) enables an evaluation of safe alternative technologies.
 - Establish permit conditions/schedules requiring periodic alternative technology evaluations for waste explosives treated by OB/OD.
 - Limiting Treatment by OB/OD
 - Continue to prohibit treatment of chemical weapons by OB/OD.
 - In general, prohibit OB/OD for the following wastes:
 - Wastes for which OB/OD can be ineffective and/or disperses explosive residue and contaminants, rather than destroying them, e.g., white phosphorous (WP) and depleted uranium (DU).
 - Combustible wastes that are contaminated or potentially contaminated with explosives (e.g., solvents and other liquids; wood pallets; paper; personal protective equipment; cardboard; plastic items including plastic liners, mops, gloves). Safe alternative technologies (e.g., incineration, burn chambers) are available to treat these types of wastes.
 - Bulky and non-combustible items contaminated or potentially contaminated by explosives (e.g., tanks, containers, pipes, demolition and construction debris, soils, concrete, masonry). These wastes can be safely treated through alternative technologies, including chemical, steam or high-pressure washout, heat, or composting.
 - Small arms ammunition (less than .50 caliber). There are safe alternative technologies (e.g., incineration, burn chambers, popping furnaces) available to treat these types of wastes.
 - Work with owners and operators of OB/OD units to minimize waste generation and reduce wastes being open burned/open detonated by taking the following actions:
 - Reduce the amount of material contaminated with explosives.
 - Store waste if alternative technology is unavailable due to maintenance.
 - Treat wastes via non-thermal methods.
 - Reduce the permitted amount/volume of waste that can be treated in the OB/OD unit until the alternative technology is in operation.
 - Engineering Controls
 - Evaluate permit applications for OB/OD units to ensure engineering controls are in place to prevent/minimize contamination with the environment.
 - Monitoring and Recording
 - Establish monitoring procedures that determine when treatment may be performed. These procedures should take into account elements such as wind direction, noise levels, ground vibration, groundwater and air monitoring.
 - Community Engagement
 - Develop a public participation and public notification plan.

Reference/Link

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

<https://rcrapublic.epa.gov/files/14946.pdf>

C. Revisions and Confidentiality Determinations for Data Elements Under the Greenhouse Gas Reporting Rule; Extension of Comment Period

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 07/19/2022

Comments Due: 10/06/2022

Summary

On June 21, 2022, the Environmental Protection Agency (EPA) published a proposed rule titled "Revisions and Confidentiality Determinations for Data Elements Under the Greenhouse Gas Reporting Rule" (87 FR 36920). A summary of this proposed rule is included in the June 2022 Veolia Regulatory Update.

The EPA is extending the comment period for this proposed rule to October 6, 2022.

Reference/Link

The link below will allow you to view/print this Extension of the Comment Period.

<https://www.govinfo.gov/content/pkg/FR-2022-07-19/pdf/2022-15402.pdf>

D. H.R. 7900, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2023; Bill

Agency

House of Representatives (House)

Dates

Published Date: 06/28/2022

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Summary

As of July 14, 2022, the FY 23 National Defense Authorization Act (HR 7900) was passed by the House. This would require the Department of Defense (DoD) to meet the more stringent standards (between State and Federal) when cleaning up contaminated PFAS sites. It would define “covered PFAS substances” as PFNA, PFOA, PFHxA, PFOS, PFHxS, PFBS, PFHpA, PFDA, and fluorotelomer sulfonamide betaine.

Additionally, this would expand a study to determine potential contamination to more DoD sites and would include exposure assessments. This bill pushes for non-incineration destruction technologies to be used, but does not ban incineration as a destruction technology. The non-incineration methods must modify the characteristics of the original compound to make it no longer classified as a hazardous waste and can be disposed of as non-hazardous. Additionally, it requires a briefing by DoD to the House Committee on Armed Services by December 1, 2022 on the progress for implementing on-site PFAS destruction technologies not requiring incineration.

The report is to include:

- A list of the technologies that meet the criteria;
- Which technologies have or are undergoing testing by the Environmental Security Technology Certification Program;
- The results of any such testing; and
- Guidance and best practices on preferred methods for PFAS investigation derived wastes.

The DoD must provide a briefing to the House Committee on Armed Services on the guidance and best practices document by January 15, 2023.

This briefing document will include a discussion on the efforts of the PFAS task force to standardize military best practices for PFAS destruction and contracting for remediation services for PFAS contaminants.

This has been passed by the congress and still needs to pass the senate before being sent to the president for signature, but it provides insight into what conditions may be required to manage PFAS for the military in 2023.

Reference/Link

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

<https://www.congress.gov/committee-print/117th-congress/house-committee-print/47884>

E. Community Right-To-Know; Adopting 2022 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting; Proposed Rule

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 07/22/2022

Comments Due: 09/20/2022

Summary

The Environmental Protection Agency (EPA) is proposing to update the list of North American Industry Classification System (NAICS) codes subject to reporting under the Toxics Release Inventory (TRI) to reflect the Office of Management and Budget (OMB) 2022 NAICS code revision.

The OMB updates the NAICS codes every five years. The current NAICS codes are from 2017 and the proposed codes will be implemented for TRI Reporting Year 2022, which are due July 1, 2023.

The actual data required by a TRI form will not change as a result of this rulemaking, nor will the rule affect the universe of TRI reporting facilities that are required to submit reports to the Agency under the Emergency Planning and Community Right-to-Know Act (EPCRA).

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2022-07-22/pdf/2022-15287.pdf>

F. Hazardous Materials: Harmonization With International Standards; Final Rule

Agency

Pipeline and Hazardous Materials Safety Administration (PHMSA)

Dates

Published Date: 07/26/2022

Effective Date: 08/25/2022

Summary

On July 26, 2022, PHMSA issued final rule HM-215P adopting revisions to the Hazardous Materials Regulations (HMR) to maintain alignment with international standards including changes to proper shipping names, hazard classes, packing groups, special provisions and packaging authorizations.

Highlights of the changes to the HMR include:

New and Revised Shipping Names

- UN0511, Detonators, electronic programmable for blasting
- UN0512, Detonators, electronic programmable for blasting
- UN0513, Detonators, electronic programmable for blasting
- UN3549, Medical Waste, Category A, Affecting Humans, solid or Medical Waste, Category A, Affecting Animals only, solid
- UN3363, Dangerous Goods in Articles or Dangerous Goods in Machinery or Dangerous Goods in Apparatus.
- UN2522, 2-Dimethylaminoethyl methacrylate
- UN3171, Battery-powered vehicle or Battery-powered equipment

Packing Group Revisions

Removal of PG II from UN3291, Regulated medical waste, n.o.s. or Clinical waste, unspecified, n.o.s. or (BIO) Medical waste, n.o.s. or Biomedical waste, n.o.s., or Medical Waste n.o.s.

Although the packing group is removed from the shipping name, the material must continue to be packed in PG II rated containers.

Label Codes

Label codes have been added to the Hazardous Materials Table for the following shipping names:

- UN3537, Articles containing flammable gas, n.o.s.

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- UN3538, Articles containing non-flammable, non-toxic gas, n.o.s.
- UN3539, Articles containing toxic gas, n.o.s.
- UN3540, Articles containing flammable liquid, n.o.s.
- UN3541, Articles containing flammable solid, n.o.s.
- UN3542, Articles containing a substance liable to spontaneous combustion, n.o.s.
- UN3543, Articles containing a substance which in contact with water emits flammable gases, n.o.s.
- UN3544, Articles containing oxidizing substance, n.o.s.
- UN3545, Articles containing organic peroxide, n.o.s.
- UN3546, Articles containing toxic substance, n.o.s.
- UN3547, Articles containing corrosive substance, n.o.s.
- UN3548, Articles containing miscellaneous dangerous goods, n.o.s.

New and Revised Special Provisions

47 - Applicable to non regulated solids containing flammable liquids. Revised to clarify small inner packaging.

134 - Applicable to Vehicles powered by wet batteries, sodium batteries, lithium metal batteries or lithium ion batteries, and equipment powered by wet batteries or sodium batteries that are transported with the batteries installed. This special provision was revised to clarify its use in connection with lithium batteries installed in cargo transport units.

360 - Revised to instruct that vehicles only powered by lithium batteries must be assigned the identification number UN3171.

387 - PHMSA is assigning this special provision to entry UN2522, 2-Dimethylaminoethylmethacrylate and provides additional instructions for hazardous materials stabilized by chemical or temperature controls to ensure a level of stabilization prior to transportation is sufficient to prevent the material from dangerous polymerization.

430 - New special provisions assigned to the new HMT entry "UN3549, Medical Waste, Category A, Affecting Humans, solid or Medical Waste, Category A, Affecting Animals only, solid". PHMSA is adding Special Provision 430 to stipulate that only solid medical waste of Category A, which is being transported for disposal, may be described using this entry.

441 - New special provision assigned to UN3077, Environmentally hazardous substance, solid, n.o.s. and UN3082, Environmentally hazardous substance, liquid, n.o.s. to provide flexibility for marine pollutants by removing the requirement to supplement the proper shipping name associated with UN3077 and UN3082 with a technical name. §172.203(l)(1) is also being revised to address relief from listing the marine pollutant as a technical name in

association with the proper shipping name. Only generic shipping names or those with “n.o.s.” are required to list the marine pollutant as a constituent in the shipping name.

Revisions to Shipping Papers for Vessel Shipments

Indication of Flashpoint for Flammable Liquids - PHMSA is clarifying that the documentation of the flashpoint on shipping papers, as required in §172.203(i)(2), is only required for liquid hazardous materials that have a primary or subsidiary hazard of Class 3 and a flashpoint of 60 °C or below (in °C closed-cup (c.c.)).

New Shipping Paper Marking Requirement for Lithium Batteries Transported for Disposal By Vessel - PHMSA is adding new paragraph §172.203(i)(4), that requires shipments of lithium batteries that are offered into transportation by vessel for purposes of disposal or recycling or offered under the damaged or defective provisions in §173.185(f), to indicate on shipping papers one of the following disclaimers, as appropriate: “DAMAGED/DEFECTIVE,” “LITHIUM BATTERIES FOR DISPOSAL,” or “LITHIUM BATTERIES FOR RECYCLING.”

Marking Requirements for Non-Bulk Packages

§172.301 has been revised to clarify that the shipping name and UN number marking may be reduced on packages with 5 kilograms or less net mass. This editorial revision is intended to reduce confusion over the application of the exception at §172.301(a)(1) in that for solid materials, the quantity limit is based on the net amount of solid material and not the capacity of the packaging the material is placed in.

Marking Requirements for Limited Quantities Shipped by Air

PHMSA is adding a new paragraph, §172.315(b)(3) to require that—for air transport—the entire limited quantity mark must appear on one side of the package and must not be folded over the side of the package.

For Veolia, this change would most commonly impact limited quantities of hazardous materials samples shipped by air.

Hazardous Materials in Equipment In Use or Intended For Use During Transport

PHMSA is adopting new section §173.14 applicable to lithium batteries in equipment that are attached to or contained in packagings, large packagings, intermediate bulk containers (IBCs), or cargo transport units as equipment in use or intended for use during transport, such as data loggers. The purpose of this section is to except the lithium batteries from the HMR requirements as long as they meet certain conditions: (1) The equipment must be in use or intended for use during transportation; (2) The hazardous materials (e.g., lithium batteries, fuel cell cartridges) must meet the applicable construction and test requirements specified in this subchapter; (3) The equipment must be capable of withstanding the shocks and loadings normally encountered during transport and must be safe for use in the

environments to which it may be exposed; and (4) When offered for transport by vessel, the requirements in §176.76(a)(9) of this subchapter apply.

This exception would apply to batteries used to power the thermometers on the cold boxes when transporting temperature sensitive materials that require monitoring while in transit.

Revised Description of the Term “Detonators”

PHMSA is amending the description of the term “detonators” in §173.59 to include a reference to electronic programmable detonators and added a separate term and description for “Detonators, electronic programmable for blasting.” These changes correspond to the addition of the UN0511, UN0512, and UN0513 (Detonators, electronic programmable for blasting) to the HMT.

Division 6.2 Infectious Substances - Revised Definitions

§173.134(a)(1), (a)(1)(i), and (a)(5) are revised by including UN3549, , Medical Waste, Category A, Affecting Humans, solid or Medical Waste, Category A, Affecting Animals only, solid among the list of UN numbers to use for description of an infectious substance. These revisions are consistent with the addition of this new hazardous materials description to the Hazardous Materials Table (HMT). Additionally, PHMSA removes the term rickettsiae from the list of types of microorganisms in paragraph (a)(1).

Alternative Closures For Inner Packages Containing Pyrophoric Liquid or Solid Material

PHMSA revises the requirements of §173.181 and §173.187 for closures of inner packagings for liquid or solid pyrophoric materials to specify that they may have alternative closures that are physically held in place by any means capable of preventing back-off or loosening during transportation.

Lithium Battery Mark - Revised Minimum Size Requirements For Smaller Cells or Batteries

PHMSA is revising the minimum size of the lithium battery mark from 120 millimeters (mm) wide by 110 mm high to 100 mm by 100 mm. This reduction in size requirements for this mark is consistent with the existing minimum size requirements for the limited quantity and excepted quantity marks in the HMR. In addition, the minimum size of the lithium battery mark for packages too small to display the revised 100 mm by 100 mm dimensions, is revised from 105 mm wide by 74 mm high to 100 mm wide by 70 mm high.

Dangerous Goods in Articles

PHMSA revises the provisions in §173.222 to reflect the addition of dangerous goods in articles to the current HMT entry for “UN3363, Dangerous Goods in Machinery or Dangerous Goods in Apparatus”. These revisions are intended to provide flexibility in the choice of the most appropriate modifier to be selected as a proper shipping name (e.g., article, machinery, or apparatus). This flexibility in selecting the most appropriate description of the hazardous material helps ensure appropriate packaging selection and hazard communication, thus enhancing safety.

Revisions to the Organic Peroxide Tables

In this final rule, PHMSA is updating the Organic Peroxide Table in §173.225(c) to revise the entry “Di-(4-tert-butylcyclohexyl) peroxydicarbonate [as a paste],” by (1) changing the classification of the material as “UN3116, Organic peroxide type D, solid, temperature controlled” to “UN3118, Organic peroxide type E, solid, temperature controlled”; and (2) changing the packing method from OP7 to OP8.

PHMSA is also revising the Organic Peroxide IBC Table in paragraph (e) by adding new entries for “tert-Amyl peroxyvalate, not more than 42% as a stable dispersion in water” and “tert-Butyl peroxyvalate, not more than 42% in a diluent type A” and identifying it as “UN3119, Organic peroxide type F, liquid, temperature controlled.”

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2022-07-26/pdf/2022-15358.pdf>