

Veolia North America - Industrial Business

August, 2023

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A. National Enforcement and Compliance Document: U.S. Environmental Protection Agency Announces Initiatives for Years 2024-2027; Notice

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 08/17/2023

Summary

The Environmental Protection Agency (EPA) has selected six priority areas as National Enforcement and Compliance Initiatives (NECIs) for Fiscal Years 2024-2027. These six NECIs address environmental and public health challenges. All of the initiatives incorporate environmental justice considerations to ensure that the benefits of our Nation's environmental laws can be shared by everyone living in the United States.. The initiatives are as follows:

1. Mitigating Climate Change (new)
2. Addressing Exposure to PFAS (new)
3. Protecting Communities from Coal Ash Contamination (new)
4. Reducing Air Toxics in Overburdened Communities (modified)
5. Increasing Compliance with Drinking Water Standards (continued)
6. Chemical Accident Risk Reduction (continued)

To see the EPA webpage on National Enforcement and Compliance Initiatives please click the following link:

<https://www.epa.gov/enforcement/national-enforcement-and-compliance-initiatives>

Reference/Link

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

<https://www.epa.gov/system/files/documents/2023-08/fy2024-27necis.pdf>

B. Hazardous Waste Generator Improvements Rule, the Hazardous Waste Pharmaceuticals Rule, and the Definition of Solid Waste Rule; Technical Corrections

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 08/09/2023

Comments Due: 10/10/2023

Effective Date: 12/07/2023

Summary

The Environmental Protection Agency (EPA) has published a direct final rule to make a number of technical corrections or clarify several parts of the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. These include regulations that were promulgated in the Hazardous Waste Generator Improvements rule, the Hazardous Waste Pharmaceuticals rule, and the Definition of Solid Waste rule. The Final Rule also includes Corrections to 40 CFR Part 261 Identification and Listing of Hazardous Waste. This direct final rule updates the hazardous secondary material export requirements in § 261.4(a)(25) to be consistent with other RCRA export requirements.

The corrections to the regulations include typographical errors, missed citation updates and changed terminology as well as rewording of regulations. The corrections also include changes to the regulations to clarify certain topics that have been questioned in the past. The rewording of the regulation re-enforces guidance that has been previously published or stated in the preamble of the rules at the time they were promulgated.

This rule is effective on December 7, 2023 unless EPA receives adverse comment by October 10, 2023 in which case a withdrawal in the Federal Register would be published to inform of the specific paragraph or amendment where the correction or clarification will not take effect.

Reference/Link

The link below will allow you to view/print the Technical Corrections.

<https://www.govinfo.gov/content/pkg/FR-2023-08-09/pdf/2023-14731.pdf>

C. Used Drum Management and Reconditioning Advance Notice of Proposed Rulemaking; Advanced Notice of Proposed Rulemaking

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 08/11/2023

Comments Due: 11/22/2023

Summary

The Environmental Protection Agency (EPA) has published an Advanced Notice of Proposed Rulemaking (ANPRM) and is soliciting information and requesting comments that would aid in ensuring the proper management of used industrial containers that once held hazardous chemicals or hazardous waste. This ANPRM may impact owners and operators of drum reconditioning facilities, communities where these facilities or operations exist, container transporters, used drum generators, chemical manufacturers, waste or hazardous waste generators, industrial facilities, and environmental action organizations.

Existing RCRA regulations, specifically the empty container provision (40 CFR 261.7) exempts from regulation hazardous waste residues that remain in a drum or other container as long as the following two conditions are met:

1. All wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating, AND
2. no more than 2.5 centimeters (one inch) of residue remains or no more than 3% by weight remains if the container is less than or equal to 119 gallons or no more than 0.3% by weight remains if the container is more than 119 gallons.

A drum or other container that meets the above two conditions is referred to as “RCRA Empty.” The EPA has found that drum reconditioners inadvertently receive containers that are not RCRA Empty. This creates a potentially significant risk to the workers and the environment. Additionally, even if receiving only RCRA empty containers, because of the large volume of residues, drum reconditioners are still potentially receiving and managing significant quantities of hazardous waste residues without being subject to RCRA hazardous waste regulations. In addition to RCRA, drum reconditioners may be subject to certain regulations under the Clean Air Act (CAA) and Clean Water Act (CWA).

The EPA is requesting comments to explore the potential regulatory and/or non-regulatory options for dealing with the issues at used drum generators, transporters, and reconditioners. The EPA is specifically looking to address the following issues:

- Risks posed by contamination from residues remaining in RCRA empty and non-RCRA empty containers.
- Non-RCRA empty drums being sent to drum reconditioners.
- Risk of fires/explosions from incompatible, reactive, or ignitable residues.
- Stockpiling and eventual abandonment of drums.
- Emissions from drum furnaces.
- Environmental releases to soil, groundwater and surface water from contaminants in mismanaged wastewaters.
- Lack of regulatory oversight and public participation.
- Risk from contaminated scrap metal and plastic when recycled or land disposed.

The ANPRM includes and explains potential future regulatory action that will address the above issues.

The public comment period was scheduled to end on September 25, 2023. However, the EPA has received several requests for additional time to develop and submit comments on the

ANPRM. In response to the requests for additional time, the EPA is extending the comment period through November 22, 2023.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2023-08-11/pdf/2023-16752.pdf>

D. **Alternate PCB Extraction Methods and Amendments to PCB Cleanup and Disposal Regulations; Final Rule**

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 08/29/2023

Summary

The Environmental Protection Agency (EPA) published a final rule allowing alternative extraction and determinative methods for polychlorinated biphenyls (PCBs). These changes are expected to reduce the amount of solvent used in the extraction process.

In addition, the final rule includes amendments to the disposal options for PCB remediation waste, including removal of the provisions to allow PCB waste to be disposed of as roadbed materials. The final rule also adds flexibility for cleanup and disposal of wastes that are generated during emergency situations, and harmonizing the general disposal requirements for PCB remediation waste. The rule will become effective on February 26, 2024.

EPA is adding the following extraction methods from SW-846, Test Methods for Evaluating Solid Waste, to the PCB regulations in 40 CFR part 761 for use on solid matrices:

- Method 3541 (Automated Soxhlet Extraction),
- Method 3545A (Pressurized Fluid Extraction), and
- Method 3546 (Microwave Extraction).

EPA is also adding the following extraction methods from SW-846, Test Methods for Evaluating Solid Waste, to the PCB regulations in 40 CFR part 761 for use on aqueous matrices:

- Method 3510C (Separatory Funnel Liquid-Liquid Extraction),
- Method 3520C (Continuous Liquid-Liquid Extraction), and
- Method 3535A (SolidPhase Extraction).

Additionally the EPA is making the following changes:

- Updating Method 3550B (Ultrasonic Extraction) and limiting the use of it to wipe samples only.

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 or Nick Fiori, EHS Manager at Nicholas.fiori@veolia.com.

- Revising Available Determinative Methods for PCB by adding Method 8082A (Polychlorinated Biphenyls (PCBs) By Gas Chromatography)
- Revising Performance-Based Disposal Under § 761.61(b) to include provisions for performance based cleanup such as applicability, cleanup levels, verification sampling, and recordkeeping and notification requirements.
 - The EPA is proposing amendments to the performance based clean up standards to one which does not require prior EPA approval and thus remains an expedient option for those entities removing PCB remediation waste from the site. EPA is establishing the following cleanup levels directly in § 761.61(b):
 - ≤1 ppm for bulk PCB remediation waste and porous surfaces;
 - the concentrations specified in § 761.79(b)(1) and (2) for liquids; and
 - the concentrations specified in § 761.79(b)(3) for nonporous surfaces. See § 761.61(b)(1)(ii).
- Removing Regulatory Provision Allowing Disposal of PCB Bulk Product Waste as Roadbed
- Allowing individuals to request a waiver from specific requirements of §§ 761.60, 761.61, 761.62, and 761.65, when necessitated by an emergency situation.
- Harmonizing General Disposal Requirements for PCB Remediation Waste - EPA is amending § 761.50(b)(3)(ii) to remove a phrase that was added erroneously in 1998, which could imply that waste with <50 parts per million (ppm) PCBs that meets the definition of PCB remediation waste in § 761.3 is not regulated for cleanup and/or disposal.
- Making several supplemental amendments to improve implementation of existing requirements, clarify regulatory ambiguity, and correct technical errors in the PCB regulations.

The final rule finalizes the following changes related to PCB manifests:

- Removing the provision at § 761.180(b)(3)(ii) to no longer require the manifest tracking number be included on the PCB annual reports for disposal and commercial storage facilities since manifests can be found in e-Manifest. The EPA believes this change will reduce the burden on reporting facilities and simplify the reporting process.
- Changing the categories of PCB waste in § 761.207(a), as specified by the generator on the manifest, to align with the categories of PCB waste in § 761.180(b)(3)(iii)-(vi), as specified by the commercial storer or disposer in the annual report. The rule is also adding a sixth category “Others.” Harmonizing these PCB waste categories streamlines recordkeeping for commercial storers and disposers, while imposing negligible burden on the generators.
- EPA is also removing references to instructions in the appendix of 40 CFR part 262 because these instructions were removed from the regulations and are instead available on EPA’s website.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2023-08-29/pdf/2023-17708.pdf>

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E. Hazardous Materials: Frequently Asked Questions—Incident Reporting; Notice

Agency

Pipeline and Hazardous Materials Safety Administration (PHMSA)

Dates

Published Date: 08/18/2023

Summary

On March 22, 2022, PHMSA announced an initiative to convert historical letters of interpretation (LOI) applicable to the Hazardous Materials Regulations that have been issued to specific stakeholders into broadly applicable frequently asked questions (FAQ). On December 9, 2022, PHMSA finalized the first set of FAQs and announced the topic for the next FAQ. This notice contains the second set of FAQs. FAQs are not substantive rules and do not create legally enforceable rights, assign duties, or impose new obligations not otherwise contained in the existing regulations and standards. Instead, FAQs are intended as an aid to demonstrate compliance with the relevant regulations. An individual who can demonstrate compliance with an FAQ is likely to be able to demonstrate compliance with the relevant regulations. If a different course of action is taken by an individual, the individual must be able to demonstrate that its conduct is in accordance with the regulations. In this notice PHMSA is announcing the addition of 18 questions related to incident reporting (49 CFR 171.15, 171.16) to the FAQ. Please refer to the federal register for a complete list of the 18 questions.

Future FAQ Topics

With the completion of this set of FAQs specific to incident reporting, PHMSA will begin consideration for its next set of FAQs based on public input received. As such, PHMSA will continue concurrent work on future FAQ notices and subsequent topics may include FAQs pertaining to classification, hazard communication, hazardous substances, hazardous wastes, modal-specific requirements, or packaging. Finally, PHMSA will consider comments and concerns received before finalizing the above FAQs on the website.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2023-08-18/pdf/2023-17752.pdf>

F. Safety Fitness Determinations; Advanced Notice of Proposed Rulemaking

Agency

Federal Motor Carrier Safety Administration (FMCSA)

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 or Nick Fiori, EHS Manager at Nicholas.fiori@veolia.com.

Dates

Published Date: 08/29/2023

Comments Due: 10/30/2023

Summary

The Federal Motor Carrier Safety Administration (FMCSA) has published an Advanced Notice of Proposed Rulemaking (ANPRM) seeking input regarding new methodologies that would determine when a motor carrier is not fit to operate CMVs in or affecting interstate commerce. The intended effect of this action is to more effectively use FMCSA data and resources to identify unfit motor carriers and to remove them from the Nation's roadways.

The FMCSA is requesting comments for this Proposed Rulemaking and will be accepting comments until 10/30/2023.

Reference/Link

The link below will allow you to view/print the Advanced Notice of Proposed Rulemaking.

<https://www.govinfo.gov/content/pkg/FR-2023-08-29/pdf/2023-18494.pdf>

G. 310 CMR 7.41: Large Entity Reporting Requirement; Final Regulation

Agency

Massachusetts Department of Environmental Protection (Mass DEP)

Dates

Published Date: 09/01/2023

Summary

The Massachusetts Department of Environmental Protection (Mass DEP) adopted a new regulation 310 CMR 7.41: Large Entity Reporting Requirement that became effective on September 1, 2023, which requires large entities (fleet owners, businesses, government agencies, municipalities, brokers, etc.) to submit a one-time report on medium- and heavy-duty (MHD) vehicles greater than 8,500 lbs. operated or dispatched in Massachusetts. Specific information that must be reported includes vehicle type and usage characteristics.

This report will help MassDEP assess the best way to develop electric vehicle charging infrastructure and programs to support and accelerate the MHD zero emission vehicle market in Massachusetts.

Entities must submit the report to MassDEP by 5:00 PM on Friday, March 1, 2024. To determine whether an entity is required to report, follow the instructions provided in the link below:

<https://www.mass.gov/how-to/large-entity-reporting-requirement>

Reference/Link

The link below will allow you to view/print the Final Regulation.

<https://www.mass.gov/doc/310-cmr-741-large-entity-reporting-requirement/download>

H. **Schedules of Controlled Substances: Placement of Metonitazene in Schedule I; Final Amendment, Final Order**

Agency

Drug Enforcement Agency (DEA)

Dates

Published Date: 08/18/2023

Effective Date: 09/18/2023

Summary

The Drug Enforcement Agency (DEA) is permanently placing N,N-diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1Hbenzimidazol-1-yl)ethan-1-amine (metonitazene), 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 within the specific chemical designation, in schedule I of the Controlled Substances Act.

On April 12, 2022, DEA issued a temporary scheduling order, placing metonitazene (N,N-diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1Hbenzimidazol-1-yl)ethan-1-amine), along with six other substances,¹ in schedule I of the Controlled Substances Act (CSA). 87 FR 21556. This action imposes regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, import, export, engage in research or conduct instructional activities with, or possess), or propose to handle metonitazene.

Metonitazene will be permanently subject to the CSA's schedule I regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture of, distribution of, importation of, exportation of, engagement in research or conduct of instructional activities with, and possession of, schedule I controlled substances, including the following:

1. Registration
2. Disposal of Stocks
3. Security
4. Labeling and Packaging
5. Quota
6. Inventory
7. Records and Reports
8. Order Forms
9. Importation and Exportation
10. Liability

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2023-08-18/pdf/2023-17778.pdf>