

Veolia North America

Regulatory Update - May 2024



ENVIRONMENTAL UPDATES

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TRANSPORTATION UPDATES

No Transportation Updates for May 2024

HEALTH & SAFETY UPDATES

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MISCELLANEOUS UPDATES

No Miscellaneous Updates for May 2024

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A. Designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances; Final Rule

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 05/08/2024

Effective Date: 07/08/2024

Summary

The Environmental Protection Agency (EPA) has published a final rule which designates two per- and polyfluoroalkyl substances (PFAS)—perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), including their salts and structural isomers—as hazardous substances. EPA states that adding these substances to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) hazardous substance list will allow EPA to ensure the timely cleanup of contaminated sites and hold polluters accountable for contamination they caused (i.e., the “Polluter Pays” principle). Designation of these substances as hazardous substances allows EPA to utilize all of CERCLA’s authorities, which EPA believes will allow them to address more sites, take earlier action, and to expedite eventual cleanup. Although not specifically stated in the final rule, the EPA will likely add PFAS and PFOA to their list of chemicals that must be tested for in hazardous waste closure plans.

Facilities must report releases of hazardous substances at or above the reportable quantity (RQ) within a 24- hour period to the National Response Center (NRC). For PFOA and PFOS, a default reportable quantity (RQ) of one pound is assigned to these substances pursuant to CERCLA section 102(b). Additionally, EPCRA section 304 requires facility owners or operators to immediately notify their community emergency coordinator for the local emergency planning committee (LEPC) (or Tribal emergency planning committee (TEPC)), if established, for any area likely to be affected by the release and to notify the State Emergency Response Commission (SERC) (or Tribal Emergency Response Commission (TERC)) of any State or Tribal region likely to be affected by the release of these substances.

The agency has determined that these substances may present a substantial danger to the public health or welfare or the environment when released and therefore meets the statutory designation criteria. The EPA conducted a totality of the circumstances analysis which identified and weighed the advantages and disadvantages of designation relative to CERCLA’s purpose alongside the formal benefit cost analysis, including quantitative and qualitative benefits and costs. This analysis confirmed EPA’s conclusion that designation is warranted because the advantages of designation outweigh the disadvantages

There are currently about 800 CERCLA hazardous substances. In addition, there are approximately 1,500 known radionuclides, approximately 760 of which are listed individually. The CERCLA list of hazardous substances can be found at [40 CFR part 302.4](#) in Table 302.4 “List of Hazardous Substances and Reportable Quantities”.

This final rule is effective on July 8, 2024.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2024-05-08/pdf/2024-08547.pdf>

B. Implementing Statutory Addition of Certain Per- and Polyfluoroalkyl Substances (PFAS) to the Toxics Release Inventory Beginning With Reporting Year 2024

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 05/17/2024

Effective Date: 06/17/2024

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). Specifically, this action updates the regulations to identify seven per- and polyfluoroalkyl substances (PFAS) that must be reported pursuant to the National Defense Authorization Act for Fiscal Year 2020 (FY2020 NDAA) enacted on December 20, 2019. These chemicals will need to be reported on the FY 2024 Toxic Release Inventory (TRI) report, due July 1, 2025.

The seven PFAS being added to the list of chemicals subject to toxic chemical release reporting include the following:

1. Perfluorohexanoic acid (PFHxA) (CAS #: 307–24–4)
2. Perfluoropropanoic acid (PFPrA) (CAS #: 422–64–0)
3. Sodium perfluorohexanoate (CAS #: 2923–26–4)
4. Ammonium perfluorohexanoate (CAS #: 21615–47–4)
5. 1,1,1-Trifluoro-N-[(trifluoromethyl)sulfonyl] methanesulfonamide (TFSI) (CAS #: 82113–65–3)
6. Lithium bis[(trifluoromethyl)sulfonyl] azanide (CAS #: 90076–65–6)
7. Betaines, dimethyl(.gamma.-.omega.-perfluoro-.gamma.-hydro-C8-18-alkyl) (CAS #: 2816091–53–7)

This final rule is effective June 17, 2024

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Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2024-05-17/pdf/2024-10568.pdf>

C. **Methylene Chloride; Regulation Under the Toxic Substances Control Act (TSCA); Final Rule**

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 05/08/2024

Effective Date: 07/08/2024

Summary

The Environmental Protection Agency (EPA) has published a final rule that prohibits all consumer and most commercial and industrial uses of methylene chloride under the Toxic Substances Control Act (TSCA). This rule was implemented to address the unreasonable risk of injury to health presented by methylene chloride.

EPA's final rule will prevent consumer access to the chemical. The final rule also restricts the industrial and commercial use of the chemical except for refinishing wooden pieces which are of artistic, cultural, or historic value. The final rule includes a five year delay on the requirement for this specific use and includes interim requirements for exposure controls, based on best practices described by furniture refinishers. This time-limited exemption is for a critical or essential use of methylene chloride for which no technically and economically feasible safer alternative is available.

TSCA section 6(g) allows EPA to grant an exemption from a requirement of a TSCA section 6(a) rule for a specific condition of use of a chemical substance or mixture, if the EPA Administrator finds that: the specific condition of use is a critical or essential use for which no technically and economically feasible safer alternative is available; compliance with the requirement, as applied with respect to the specific condition of use, would significantly disrupt the national economy, national security, or critical infrastructure; or the specific condition of use of the chemical substance or mixture, as compared to reasonably available alternatives, provides a substantial benefit to health, the environment, or public safety. The EPA is requiring that users receiving an exemption under TSCA section 6(g), as outlined in Unit IV.E., comply with the Workplace Chemical Protection Program (WCPP). EPA is finalizing the WCPP for the following conditions of use:

- domestic manufacturing;
- import;
- processing as a reactant; processing for incorporation into a formulation, mixture, or reaction product;

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- processing in repackaging; processing in recycling; industrial and commercial use as a laboratory chemical;
- industrial and commercial use as a paint and coating remover from safety critical, corrosion-sensitive components of aircraft and spacecraft;
- industrial or commercial use as a bonding agent for solvent welding; industrial and commercial use as a processing aid;
- industrial and commercial use for plastic and rubber products manufacturing;
- industrial and commercial use as a solvent that becomes part of a formulation or mixture, where that formulation or mixture will be used inside a manufacturing process, and the solvent (methylene chloride) will be reclaimed;
- and disposal.

This final rule is effective on July 8, 2024.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2024-05-08/pdf/2024-09606.pdf>

D. Revisions to Standards for the Open Burning/Open Detonation of Waste Explosives; Extension of Comment Period

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 05/16/2024

Comments Due: 06/20/2024

Summary

The Environmental Protection Agency (EPA) is extending the comment period for the proposed rule entitled “Revisions to Standards for the Open Burning/Open Detonation of Waste Explosives” by 31 days to June 20, 2024.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2024-05-16/pdf/2024-10777.pdf>

E. Hazard Communication Standard; Final Rule

Agency

Occupational Safety and Health Administration (OSHA)

Dates

Published Date: 05/20/2024

Effective Date: 07/19/2024

Summary

The Occupational Safety and Health Administration (OSHA) published a final rule to update the Hazard Communication Standards. This action improves the quality of information on labels and safety data sheets. This is being done in order to better protect workers.

The updated standard will require labels on small packaging to be more comprehensive and readable. The final rule includes a provision allowing companies to provide reduced information where it is not feasible to present the full required set of label information on certain small containers.

The final rule addressed a concern among chemical manufacturers that employees at distributor warehouses would be required to break down existing packaging, put new labels on all of the containers, and then re-package the product—activities that can pose serious safety risks and that such employees are not qualified to conduct. Under the final rule, manufacturers must only provide the updated label for each individual container with each shipment once the product reaches its customer. Warehousing operation employees do not have to open sealed pallets and boxes of containers to relabel them or repackage the product in pre printed bags.

The final rule harmonizes labeling regulations between OSHA and Department of Transportation (DOT) following the DOT updating its regulations to indicate that it does not consider the HCS pictogram to conflict or cause confusion with the DOT pictogram for the same identified hazard.

The final rule makes changes to help ensure trade secrets no longer prevent workers and first responders from receiving critical hazard information on safety data sheets. The final rule will require manufacturers to disclose the concentration range in which the secret concentration falls, drawn from a specified list of narrow ranges currently used.

The final rule also includes a clearer hazard classification process, updated physical hazard classes for explosives, aerosols and chemicals under pressure. Additionally, the final rule updates precautionary statements on how to safely handle, store and dispose of hazardous chemicals.

This final rule is aligned primarily with the seventh revision of the United Nations' Globally Harmonized System of Classification and Labeling of Chemicals.

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The final rule allows extended compliance dates:

- The final rule extends the compliance dates for chemical substances to January 19, 2026.
 - For substances, employers must update any alternative workplace labeling, update the hazard communication program, and provide any additional employee training no later than July 20, 2026.
- The compliance date for mixtures is extended to July 19, 2027.
 - For mixtures, employers must update any alternative workplace labeling, update the hazard communication program, and provide any additional employee training no later than January 19, 2028.
- The rule also specifies that between May 20, 2024, and the rule's effective dates, chemical manufacturers, importers, distributors, and employers may comply with either this section or § 1910.1200 revised as of July 1, 2023, or both during the transition period.

This final rule is effective July 19, 2024 unless a group falls into one of the groups that were permitted additional time.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2024-05-20/pdf/2024-08568.pdf>