

Regulatory Updates
Compiled for the Pine Chemicals Association
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Work Injuries Tied to Heat Are Vastly Undercounted, Study Finds - New data summarized in a New York Times story on July 15, 2021 underline how heat waves can hurt people, especially the poorest workers, in unexpected ways. “Hotter days don’t just mean more cases of heat stroke, but also injuries from falling, being struck by vehicles or mishandling machinery, the data show, leading to an additional 20,000 workplace injuries each year in California alone. The data suggest that heat increases workplace injuries by making it harder to concentrate.” Click [here](#) for the full article. (The New York Times, Christopher Flavelle, 7/15/2021 and updated 7/17/2021.)

OSHA Updated COVID-19 Guidance for Non-Healthcare Workers - This guidance was updated on August 13, 2021 and is intended to help employers and workers not covered by the OSHA’s COVID-19 Emergency Temporary Standard (ETS) for healthcare, helping them identify COVID-19 exposure risks to workers who are unvaccinated or otherwise at risk even if they are fully vaccinated (e.g., if they are immunocompromised). Click [here](#) for the guidance document. Summary of changes August 13, 2021:

- Update to reflect the [July 27, 2021 Centers for Disease Control and Prevention \(CDC\) mask and testing recommendations for fully vaccinated people](#)
- Reorganize Appendix recommendations for Manufacturing, Meat and Poultry Processing, Seafood Processing, and Agricultural Processing Industries
- Add links to guidance with the most up-to-date content

(OSHA website.)

Summary of OSHA VPP and Other Cooperative Programs - This webinar by the OSHA Defense Report examined the basics of VPP (Voluntary Protection Program), and discussed possible changes to participation and the impact on employers. Topics include an overview of VPP, the pros and cons, how to get in and remain in VPP, and STAR and other cooperative programs. Click [here](#) for details.

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Rule Revision Related to Dispersants Used in Major Oil Spills - The EPA is amending the requirements in Subpart J of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) that govern the use of dispersants, other chemicals and other spill mitigating substances when responding to oil discharges into waters of the United States. Specifically, this action establishes monitoring requirements for dispersant use in response to major oil discharges and/or certain dispersant use situations in the navigable waters of the United States. A major oil spill is defined as greater than 100,000 US gallons in a 24-hour period. This final rule is effective on January 24, 2022. Click [here](#) for the *Federal Register* entry. (86 FR 40,234.)

Waters of the United States to be Redefined – “At the end of July, the Environmental Protection Agency (EPA) announced that the Biden administration will begin working to create a ‘durable definition’ of Waters of the United States (WOTUS). EPA and U.S. Army Corps of Engineers (USACE) have announced that they ‘are committed to developing a reasonable, effective, and durable definition of WOTUS that protects public health, the environment, and downstream communities while supporting economic opportunity, agriculture, and other industries.’ . . . The agencies will use the pre-Obama WOTUS rule as a starting point for crafting the new definition; they will also take a page from the Trump Administration’s playbook in using a two-step approach for the upcoming rulemaking process.

This two-pronged rulemaking process will first restore the old pre-2015 rule--which frankly seems to be the only rule that can be used without engendering significant litigation--and then create a revised definition of WOTUS. At the same time, EPA and USACE announced they will provide various opportunities for public input. These will take the form of both public meetings, community roundtables and invitation for written comments. . . The agencies have also reserved September 2, 2021 from 2-4 p.m. Eastern for an additional meeting that will be added in case all speaking slots are filled in earlier meetings. . .

There is also information provided concerning how to submit written comments, and EPA is planning a series of ten regional roundtables this fall and winter which will be announced at a later date.” (Lexology, Nossaman LLP - Mary Lynn K. Coffee, 8/5/2021.)

Brazil – Renewable Energy Policy and Regulation - This article reviews the government policy and regulatory framework for renewable energy in Brazil, including recent developments. Click [here](#) for the article from Lexology, Veirano Advogados - Tiago Kümmel Figueiró, et al., 8/11/2021.

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PHMSA Proposes Hazardous Materials Regulation Harmonization - “On August 10, 2021, [US DOT PHMSA proposed changes](#) to the 49 CFR Hazardous Materials Regulations (HMR) that will harmonize domestic hazmat shipping requirements with evolving international standards. PHMSA’s [Pipeline and Hazardous Materials Safety Administration] periodic harmonization rulemakings are significant, bringing changes for proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. PHMSA is also proposing to amend the HMR to ‘allow for better alignment with Transport Canada’s Transportation of Dangerous Goods Regulations.’ DOT will accept public comments on the proposed rule until October 12, 2021. Docket numbers in use for this proposal are PHMSA-2019-0030 (HM-215P) or RIN 2137-AF46. Two unique goals [are] COVID-19 and Lithium Batteries. Every two years, US DOT harmonizes the HMR with international requirements like the *UN Model Regulations*, ICAO’s *Technical Instructions (TI)*, and the *IMDG Code*. These periodic updates provide clarity and consistency for international hazardous materials shippers. For this particular harmonization effort, PHMSA has two additional goals. PHMSA aims to:

- ...facilitate the safe transportation of critical vaccines and other medical materials associated with response to the coronavirus disease 2019 (COVID-19) public health emergency; and
- Align HMR requirements with anticipated increases in the volume of lithium batteries transported in interstate commerce from the electrification of transportation and other economic sectors.

As part of this effort, PHMSA proposes to except from certain regulations the lithium batteries in equipment attached to packagings as equipment for use during transport, like data loggers, including those used in association with shipments of COVID-19 pharmaceuticals (e.g., vaccines).” (Lion Technology, Inc., Roger Marks, 8/10/2021.)

Revised Version of US DOT's Hazardous Materials Markings, Labeling, and Placarding Guide, is Now Available Online – Click [here](#) for DOT Chart 17. “Revisions to the chart include the removal of the obsolete hazmat markings and labels.

- The ‘old’ lithium battery handling marking or ‘handling label’ for *excepted* lithium batteries was removed from the Chart. It was [replaced by a new lithium battery marking](#) as of January 1, 2019.
- DOT removed the [ORM-D marking](#) for hazmat consumer commodities, which is phased out of use in ground transportation as of January 1, 2021.
- An outdated version of the DOT Class 9 (Miscellaneous) hazard label that featured a dividing line was removed from the Chart.

The symbols indicating an IBC is designed for stacking or not designed for stacking (See 49 CFR 178.703(b)(7)) were removed from the chart but remain applicable. DOT Chart 17 also

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illustrates three options for displaying UN identification numbers on bulk packagings or vehicles: On an orange panel, in the middle of a placard, or in the middle of a white placard-like device. DOT released the previous version of the chart, [Chart 16](#), in October 2017.” (Lion Technology, Inc., Roseanne Bottone, 8/16/2021.)

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Send your suggestions and comments to joel@pinechemicals.org.