



## VEOLIA NORTH AMERICA - INDUSTRIAL BUSINESS REGULATORY UPDATE - July 2018

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**A. EPA Electronic-Manifest System: Update**

In July 2018, the Environmental Protection Agency's (EPA) electronic-manifest (e-Manifest) system was in operation for the full month.

**Summary**

The majority of shipments of hazardous waste continued to be completed using a paper manifest. The data upload for paper manifests did not occur in July as EPA worked with the Office of the Inspector General to resolve the submittal of data for the 56 P and U listed hazardous wastes that are identified as Chemicals of Interest (COI) by the Department of Homeland Security (DHS). EPA expects to resolve this issue by convincing the Office of the Inspector General that the hazardous wastes associated with the 56 COI are not a significant concern and that ALL manifests and data will be allowed to be uploaded to the e-Manifest system.

EPA changed the address for the submittal of paper manifests. Paper manifests should be mailed to:

EPA e-Manifest PPC  
14295 Park Meadow Drive – 5<sup>th</sup> Floor  
Chantilly, VA 20151

EPA also hosted two live e-Manifest Question and Answer Demonstrations on July 17 and 24, 2018.

The e-Manifest Frequently Asked Questions (FAQ) document was updated and re-posted on the e-Manifest website on July 19, 2018.

**Links**

The link below provides access to EPA's e-Manifest Monthly Update Webpage.

<https://www.epa.gov/e-manifest/monthly-webinars-about-hazardous-waste-electronic-manifest-e-manifest>

The link below will allow you to view EPA's e-Manifest Frequently Asked Questions webpage.

<https://www.epa.gov/e-manifest/frequent-questions-about-e-manifest>

**B. EPA Release of SW-846 Update VI**

On July 12, 2018, EPA announced the release of SW-846 Update VI, Phase II.

**Summary**

This update includes revisions to Methods 8260D and 8270E which are used to determine volatile organic compounds (VOCs) and semi-volatile organic compounds (SVOCs) in a variety of matrices by gas chromatography with a mass spectrometer detector (GC/MS). A MS, interfaced to the GC, allows the identification of target analytes by comparing mass spectra and retention times with known standards. Quantitation is accomplished by comparing the response of a major (quantitation) ion relative to an internal standard using an appropriate calibration curve.

The method revisions include the option to use hydrogen as a carrier gas, the use of advanced measurement techniques (e.g., selected ion monitoring, chemical ionization, and tandem mass spectrometry) and updated language for lower limit quantitation and method blanks. Also, the tuning requirements were updated to harmonize them with other EPA program methods.

**Effective Date**

These revisions became effective on July 12, 2018.

**Link**

The link below will allow you to view EPA's SW-846 Update Webpage.

<https://www.epa.gov/hw-sw846/sw-846-update-vi-announcements>

**C. DOT/FMCSA Withdrawal of Proposed Enhancements to the Safety Measurement System; Notice**

On July 16, 2018, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a notice withdrawing proposed enhancements to the Safety Measurement System (83 FR 32949-32950).

**Summary**

On June 29, 2015 and October 5, 2016, FMCSA proposed enhancements to FMCSA's Safety Measurement System (SMS) and published a preview version of the changes. However, the Fixing America's Surface Transportation Act (FAST Act) required the National Research Council of the National Academy of Sciences (NAS) to conduct a study of FMCSA's Compliance, Safety, Accountability (CSA) program and the SMS. NAS published their report titled, "Improving Motor Carrier Safety Measurement" on June 27, 2017. This notice announces that FMCSA will not complete the enhancements previously proposed and the preview is removed from the SMS website.

**June 2015 Notice**

On June 29, 2015, FMCSA proposed SMS enhancements (80 FR 37037) and requested initial comments in advance of providing motor carriers with a preview of how their safety performance data would be presented on the SMS website.

The proposed changes included:

1. Changing some of the SMS Intervention Thresholds to better reflect the Behavior Analysis and Safety Improvement Categories' (BASIC's) correlation to crash risk.
2. Two Changes to the Hazardous Materials (HM) Compliance BASIC:
  - a. Segmenting the HM Compliance BASIC by Cargo Tank (CT) and non-CT carriers; and
  - b. Releasing motor carrier percentile rankings under the HM Compliance BASIC to the public.
3. Reclassifying violations for operating while Out of Service (OOS) under the Unsafe Driving BASIC rather than the BASIC of the underlying OOS violation.
4. Increasing the maximum Vehicle Miles Traveled used in the Utilization Factor to more accurately reflect the operations of high-utilization carriers.

**October 2016 Notice**

The October 5, 2016, Federal Register notice (81 FR 69185) announced a preview of proposed enhancements to the SMS website, responded to comments to the June 2015 Federal Register notice, and advised of additional enhancements.

As a result, the preview reflected six potential changes to the SMS methodology for calculation percentiles.

1. SMS Intervention Thresholds were adjusted to better reflect correlation to crash risk.
2. Changes to the HM Compliance BASIC to segment by CT and non-CT carriers and to post motor carrier percentile rankings under the HM Compliance BASIC to the public.
3. Reclassifying violations for operating while OOS under the Unsafe Driving BASIC rather than the BASIC of the underlying OOS violation.
4. Increasing the maximum vehicle miles traveled used in the Utilization Factor to more accurately reflect the operations of high-utilization carriers.
5. Increasing the minimum number of crashes in the Crash Indicator BASIC from two to three.
6. Assigning BASIC percentiles only to carriers that have had an inspection with a violation in the past year.

### **FAST Act Correlation Study**

Section 5221 of the FAST Act, titled “Correlation Study,” required FMCSA to commission the NAS to conduct a study of FMCSA’s CSA program and the SMS.

On June 27, 2017, NAS published the report titled “Improving Motor Carrier Safety Measurement.” In preparing the report, NAS collected and analyzed all the quantitative data available to FMCSA in its databases, which contain information on the safety of commercial motor carriers and drivers subject to the Federal Motor Carrier Safety Regulations and the HM Regulations. In addition, NAS held three public meetings to engage stakeholders from the truck and bus industry, safety advocates, researchers, and other government organizations. FMCSA accepted the NAS report’s recommendations, including the recommendation to develop a new statistical model to support the SMS, and is working to implement the recommended changes.

### **SMS Preview Site**

As a result of the ongoing implementation of the NAS recommendations, FMCSA removed the preview from the SMS website and will not be proceeding with the proposed changes at this time.

### **Link**

The link below will allow you to view/print the notice of the withdrawal of the proposed enhancements to the SMS.

<https://www.federalregister.gov/documents/2018/07/16/2018-15109/withdrawal-of-proposed-enhancements-to-the-safety-measurement-system>

## **D. OSHA Tracking of Workplace Injuries and Illnesses; Proposed Rule**

On July 30, 2018, the Occupational Safety and Health Administration (OSHA) published a proposed rule (83 FR 36494-36507) that would amend OSHA’s recordkeeping regulations by rescinding the requirement for establishments with 250 or more employees to electronically submit information from OSHA forms 300 and 301.

### **Background**

29 CFR 1904 requires employers with more than 10 employees to collect information on occupational injuries and illnesses. The information for each recordable injury and illness must be recorded on an OSHA Form 300, the “Log of Work-Related Injuries and Illnesses,” or an equivalent form. Employers must also prepare a Form 301, “Injury and Illness Incident Report” or equivalent. At the end of each year, employers are required to prepare a summary report of all injuries and illnesses on the OSHA Form 300A, the “Summary of Work-Related Injuries and Illnesses,” and post the form in a visible location in the workplace.

On May 12, 2016, OSHA published a final rule (81 FR 29623) revising the injury and illness recordkeeping regulation by requiring companies with 250 or more employees to electronically submit information from the OSHA Forms 300, 300A, and 301 to OSHA annually. Select companies with more than 20 employees but less than 250 employees were also required to electronically submit information from the OSHA Form 300A to OSHA.

### Summary

In this proposed rule, OSHA is amending the recordkeeping regulations to protect sensitive worker information from potential disclosure under the Freedom of Information Act. Subsequently, OSHA has preliminarily determined that the risk of disclosure of this information, the costs to OSHA of collecting and using the information, and the reporting burden on employers are unjustified given the uncertain benefits of collecting the information. Therefore, OSHA is proposing to rescind the requirement for establishments with 250 or more employees to electronically submit information from OSHA Forms 300 and 301 and OSHA will not enforce the electronic reporting requirements.

### Comments Due

OSHA is requesting comments from the public on the benefits and disadvantages of removing the requirement for employers with 250 or more employees to submit the data from OSHA Forms 300 and 301 to OSHA electronically on an annual basis, including the usefulness of the data for enforcement targeting, the burden on employers for submitting the data, and the risks this collection poses to worker privacy.

Comments must be submitted to OSHA by September 28, 2018.

### Link

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

<https://www.federalregister.gov/documents/2018/07/30/2018-16059/tracking-of-workplace-injuries-and-illnesses>

## E. **OSHA Revising the Beryllium Standard for General Industry; Final Rule, Withdrawal of Proposed Rule and Confirmation of Effective Date**

On July 3, 2018, OSHA published a final rule (83 FR 31045-31046) and a withdrawal of a proposed rule (83 FR 31086-31087) confirming the effective date of the direct final rule published on May 7, 2018 (83 FR 19936) adopting a number of clarifying amendments to the beryllium standard for general industry.

### Summary

In the May 7, 2018 direct final rule OSHA stated that if significant adverse comments were not received by June 6, 2018 the direct final rule would become effective on July 6, 2018. OSHA did not receive any significant adverse comments therefore OSHA is publishing this final rule to confirm the effective date of July 6, 2018. Some of the amendments included in the direct final rule are:

1. Amends the definition of Beryllium Work Area to “(1) Containing a process or operation that can release beryllium and involves materials that contain at least 0.1% beryllium by weight; and (2) where employees are, or can reasonably be expected to be exposed to airborne beryllium at any level or where there is the potential for dermal contact with beryllium.”
2. Amends the definition of beryllium-contaminated or contaminated with beryllium to “Contaminated with dust, fumes, mists, or solutions containing beryllium in concentrations greater than or equal to 0.1 percent by weight.”

3. Amends the definition of emergency to “Any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment, which may or does result in an uncontrolled and unintended release of airborne beryllium that presents a significant hazard.”
4. Clarifies that the disposal and recycling requirements apply to “Materials that contain beryllium in concentrations 0.1 percent by weight or more or are contaminated with beryllium.”

**Effective Date**

The direct final rule published on May 7, 2018 became effective on July 6, 2018.

**Link**

The link below will allow you to view/print the final rule confirming the effective date.

<https://www.federalregister.gov/documents/2018/07/03/2018-14274/revising-the-beryllium-standard-for-general-industry>

The link below will allow you to view/print the withdrawal of the May 7, 2018 proposed rule.

<https://www.federalregister.gov/documents/2018/07/03/2018-14275/revising-the-beryllium-standard-for-general-industry>

**F. DOJ/DEA Schedules of Controlled Substances: Temporary Placement of NM2201, 5F-AB-PINACA, 4-CN-CUMYL-BUTINACA, MMB-CHIMACA and 5F-CUMYL-P7AICA Into Schedule I; Temporary Scheduling Order**

On July 10, 2018, the Department of Justice, Drug Enforcement Administration (DEA) published a temporary scheduling order (83 FR 31877-31883) placing the synthetic cannabinoids, Naphthalen-1-yl 1-(5-fluoropentyl)-1*H*-indole-3-carboxylate (trivial names: NM2201; CBL2201); *N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1*H*-indazole-3-carboxamide (trivial name: 5F-AB-PINACA); 1-(4-cyanobutyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide (trivial names: 4-CN-CUMYL-BUTINACA; 4-cyano-CUMYL-BUTINACA; 4-CN-CUMYL-BINACA; CUMYL-4CN-BINACA; SGT-78); methyl 2-(1-(cyclohexylmethyl)-1*H*-indole-3-carboxamido)-3-methylbutanoate (trivial names: MMB-CHMICA, AMB-CHMICA); and 1-(5-fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-pyrrolo[2,3-*b*]pyridine-3-carboxamide (trivial name: 5F-CUMYL-P7AICA), and their optical, positional, and geometric isomers, salts, and salts of isomers into Schedule I of the Controlled Substances Act (CSA).

**Summary**

In a letter dated March 27, 2018, the Assistant Secretary determined that these five synthetic cannabinoids should be regulated under Schedule I of the CSA. Available data and information indicate that these synthetic cannabinoids have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Therefore, the Acting Administrator finds it necessary to temporarily place these five synthetic cannabinoids, their optical, positional, and geometric isomers, salts, and salts of isomers into Schedule I of the CSA.

**Effective Date**

This temporary scheduling order became effective on the date of publication, July 10, 2018.

**Link**

The link below will allow you to view/print this temporary scheduling order.

<https://www.federalregister.gov/documents/2018/07/10/2018-14718/schedules-of-controlled-substances-temporary-placement-of-nm2201-5f-ab-pinaca-4-cn-cumyl-butinaca>