VEOLIA NORTH AMERICA - INDUSTRIAL BUSINESS REGULATORY UPDATE - June 2018

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A. EPA Electronic-Manifest System: Update

On June 30, 2018, the Environmental Protection Agency's (EPA) launched the electronic manifest (e-Manifest).

e-Manifest Webinar Educational Blitz Series

During the month of June EPA Headquarters' e-Manifest Team hosted a series of webinars in preparation for the June 30, 2018 launch of e-Manifest. The webinars hosted by EPA were titled:

1. How to Register to Become an e-Manifest System User
2. What Generators Need to Know
3. What Transporters Need to Know
4. What Receiving Facilities Need to Know
5. General e-Manifest Monthly Update

The slides for these webinars are available on EPA's e-Manifest webpage.

On June 28, 2018, EPA announced that Manifests that contain P and U-listed hazardous waste codes associated with the Department of Homeland Security's chemicals of interest (COI) must be submitted as a paper manifest. The manifest data must not be submitted electronically.

In June, EPA's e-Manifest development team continued to make updates to the Schema and associated files for the e-Manifest system. These updates are available in GitHub.

Effective Date

EPA's e-Manifest program became effective on June 30, 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/print the slides from EPA's e-Manifest Webinar Educational Blitz Series.

https://www.epa.gov/e-manifest/slides-june-e-manifest-webinar-educational-blitz-series

B. EPA Mercury; Reporting Requirements for the TSCA Mercury Inventory; Final Rule

On June 27, 2018, EPA published a final rule (83 FR 30054-30077) establishing reporting requirements for the development of a national mercury inventory.

Background

This final rule was issued by EPA under the Toxic Substances Control Act (TSCA) section 8(b)(10) establishing reporting requirements to assist EPA in the preparation of statutorily-required inventory of mercury supply, use, and trade in the United States. This final rule will also support future triennial publications of the mercury inventory by establishing reporting requirements and an electronic application and database to collect, store, and analyze information provided by respondents. This final rule will allow EPA to "identify any manufacturing processes or products that intentionally add mercury,

and…recommend actions, including proposed revisions of Federal law, or regulations, to achieve further reductions in mercury use."

Summary

The reporting requirements in this final rule apply to persons who manufacture (including importing) mercury or mercury-added products, or otherwise intentionally use mercury in a manufacturing process. The term "mercury" in this final rule includes elemental mercury and mercury compounds. Therefore, any drug, cosmetic, or device which contains mercury is included in the reporting requirements of this final rule.

Some of the requirements included in this final rule are:

1. Mercury Handled as Waste, Including Elemental Mercury Destined for Long-Term Storage

   Elemental mercury waste, whether generated from mining or another process that is being stored (or accumulated on-site and destined for storage) for eventual transfer to the Department of Energy (DOE) long-term storage facility is not subject to the reporting requirements because it is a waste. However, any person manufacturing elemental mercury, including recovery from waste or as a byproduct from mining or any other activity, and has not made the decision to store it for transfer to the DOE storage facility or to otherwise manage the mercury as a waste, MUST report that mercury.

2. Reporting Requirements Do Not Apply To

   a. Persons who do not manufacture, import or otherwise intentionally use mercury-containing waste;
   b. Persons who only generate, handle, or manage mercury-containing waste;
   c. Persons who only manufacture mercury as an impurity; and
   d. Persons engaged in activities involving mercury not with the purpose of obtaining an immediate or eventual commercial advantage.

Reporting Requirements

Mercury Reporting Requirements

Persons Who Must Report	Reporting Requirements
Persons who manufacture (including importing) mercury, except as provided in the category below	- Amount of mercury manufactured (lbs.) - Amount of mercury imported (lbs.) - Country(ies) of origin for imported mercury - Amount of mercury exported (lbs.) - Countries of destination for exported mercury - Amount of mercury stored (lbs.) - Amount of mercury distributed in commerce (lbs.) - NAICS code(s) for mercury distributed in commerce - Specific mercury compound(s) from pre-selected list (if applicable)
Persons who manufacture (including Import) mercury in amounts greater than or equal to 2,500 pounds for elemental mercury or greater than or equal to 25,000 pounds for mercury compounds for a specific reporting year (i.e., current CDR Reporters)	- Country(ies) of origin for imported mercury - Country(ies) of destination for exported mercury - Amount of mercury stored (lbs.) - Amount of mercury distributed in commerce (lbs.) - NAICS code(s) for mercury distributed in commerce

Mercury Added Products Reporting Requirements

Persons Who Must Report	Reporting Requirements
Persons who manufacture (including importing) mercury-added products, except a product that contains a component that is a mercury-added product, or as provided in the category below	- Amount of mercury in manufactured products (lbs.) - Amount of mercury in imported products (lbs.) - Country(ies) of origin for imported products - Amount of mercury in exported products (lbs.) - Country(ies) of destination for exported products - Amount of mercury in products distributed in commerce (lbs.) - NAICS code(s) for products distributed in commerce - Specific product category(ies) and subcategory(ies) from pre-selected list (if applicable)
Persons who manufacture (including importing) mercury-added products, except a product that contains a component that is a mercury-added product, who currently report to IMERC	All of the reporting requirements above except: - Amount of mercury in products distributed in commerce (lbs.)

Otherwise Intentional Use of Mercury in a Manufacturing Process Reporting Requirements

Persons Who Must Report	Applicable Reporting Requirements
Persons who otherwise intentionally use mercury in a manufacturing process, other than the manufacture of a mercury compound or a mercury-added product	- Amount of mercury intentionally used (lbs.) in pre-selected list of manufacturing processes - Amount of mercury stored (lbs.) - Country(ies) of destination for exported final product(s) - NAICS code(s) for mercury in final product(s) distributed in commerce - Specific manufacturing process from pre-selected list (if applicable) - Specific use of mercury in manufacturing process from pre-selected list (if applicable)

Effective Date

This final rule will become effective on August 27, 2018.

Link

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

https://www.federalregister.gov/documents/2018/06/27/2018-13834/mercury-reporting-requirements-for-the-tsca-mercury-inventory

C. EPA Addition of Nonylphenol Ethoxylates Category; Community Right-to-Know Toxic Chemical Release Reporting; Final Rule

On June 12, 2018, EPA published a final rule (83 FR 27291-27296) adding a nonylphenol ethoxylates (NPEs) category to the list of toxic chemicals subject to reporting under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and section 6607 of the Pollution Prevention Act (PPA).

Summary

On November 16, 2016, EPA published a proposed rule (81 FR 80624) to add short-chain NPEs to the EPCRA section 313 toxic chemical list because they are highly toxic to aquatic organisms with toxicity values well below 1 mg/L. EPA received six comments on the proposed rule. After consideration of the comments EPA has determined that NPEs meet the listing criteria under EPRA section 313(d)(2)(C). Therefore, in this final rule EPA is adding an NPEs category to the EPCRA Section 313 list of toxic chemicals.

The Nonylphenol Ethoxylates (NPE) category will include the following chemicals:

- 7311-27-5; Ethanol, 2-[2-[2-[2-(4-nonylphenoxy)ethoxy]ethoxy]ethoxy]-
- 9016-45-9; Poly(oxy-1,2-ethanediyl),α-(nonylphenol)-ω-hydroxy-
- 20427-84-3; Ethanol, 2-[2-(4-nonylphenoxy)ethoxy]-
- 26027-38-3; Poly(oxy-1,2-ethanediyl), α-(4-nonylphenyl-ω-hydroxy-
- 26571-11-9; 3,6,9,12,15,18,21,24-Octaoxahexacosan-1-ol, 26-(nonylphenoxy)-
- 27176-93-8; Ethanol, 2-[2-(nonylphenoxy)ethoxy]-
- 27177-05-5; 3,6,9,12,15,18,21-Heptaoxatricosan-1-ol, 23-(nonylphenoxy)-
- 27177-08-8; 3,6,9,12,15,18,21,24,27-Nonaoxanonacosan-1-ol, 29-(nonylphenoxy)-
- 27986-36-3; Ethanol, 2-(nonylphenoxy)-
- 37205-87-1; Poly(oxy-1,2-ethanediyl), α-(isononylphenyl)-ω-hydroxy-
- 51938-25-1; Poly(oxy-1,2-ethanediyl, α-(2-nonylphenyl)-ω-hydroxy-
- 68412-54-4; Poly(oxy-1,2-ethanediyl), α-(nonylphenyl)-ω-hydroxy-, branched
- 127087-87-0; Poly(oxy-1,2-ethanediyl), α-(4-nonylphenyl)-ω-hydroxy-, branched

This final rule requires facilities that manufacture, process, or otherwise use any of these listed chemicals above threshold quantities to complete and submit the Toxics Release Inventory Form A or R.

Effective Date

This final rule will become effective on November 30, 2018 and will apply to reporting year 2019 with TRI reports due on July 1, 2020.

D. California Increase of the Maximum Daily Penalty for Improper Hazardous Waste Management; Final Rule

On July 5, 2018, the California Department of Toxic Substances Control (DTSC) finalized an emergency rule (22 CCR 66272.62) increasing the maximum daily penalty for hazardous waste violations from $25,000 to $70,000 “for each separate violation or, for continuing violations, for each day that the violation continues.”

Summary

Assembly Bill 245 was passed on October 5, 2017 increasing the penalties, but the increased penalty fees could not be assessed until the California hazardous waste regulations (22 CCR) were amended. The July 5, 2018 revision to the maximum daily penalty fees in the “Determination of Initial Penalty Matrix” finalizes the changes to the hazardous waste regulations allowing the increased penalties to be imposed.

Effective Date

The maximum penalty increase became effective on July 5, 2018.

Link

The link below will allow you to view/print Assembly Bill 245.

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB245

E. EPA Clean Water Act Hazardous Substances Spill Prevention; Proposed Action

On June 25, 2018, EPA published a proposed action (83 FR 29499-29520) stating that EPA does not intend to establish any new requirements under the Clean Water Act (CWA) to prevent discharges of oil and hazardous substances from onshore and offshore facilities, and to contain discharges that may occur.

Summary

On July 21, 2015, EPA was sued for failing to comply with the alleged duty to issue regulations to prevent and contain CWA hazardous substance discharges. On February 16, 2016, the United States District Court for the Southern District of New York entered a Consent Decree between EPA and the litigants that required EPA to sign a notice of proposed rulemaking pertaining to the issuance of hazardous substance regulations, and to take final action after notice and comment on the proposed rulemaking.

Based on EPA's analysis of the frequency and impacts of reported CWA hazardous substances discharges and the existing framework of EPA regulatory requirements, EPA is NOT proposing any additional regulatory requirements at this time. This proposed action was published to comply with the Consent Decree and to provide an opportunity for public notice and comment on the proposed no action.

Comments Due

Comments on this proposed action must be received by EPA on or before August 24, 2018.

Link

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

https://www.federalregister.gov/documents/2018/06/25/2018-13470/clean-water-act-hazardous-substances-spill-prevention

F. DOT/FMCSA Extension of Compliance Dates for Medical Examiner's Certification Integration; Interim Final Rule

On June 21, 2018, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published an interim final rule (83 FR 28774-28783) delaying the compliance date for several provisions in the Medical Examiner's Certification Integration final rule (80 FR 22790) from June 22, 2018 to June 22, 2021.

Background

The FMCSA has determined that it will not be able to electronically transmit Medical Examiner Certification (MEC) information from the National Registry to the State Driver's Licensing Agencies (SDLAs) by June 22, 2018. Further, the SDLAs will not be able to electronically receive the MEC information from the National Registry for posting to the Commercial Driver's License Information System (CDLIS) driver record, as intended by the Medical Examiner's Certification Integration final rule.

Although FMCSA has initiated the IT development work to enhance the National Registry to enable the Agency to electronically transmit MEC information and medical variances to the States, along with the programming code the States would need to implement changes to their IT systems to receive the data, none of this work will be completed in time to meet the June 22, 2018 compliance date. Because of this, neither FMCSA nor the stakeholders would be able to rely on the CDLIS driver record as official proof of medical certification, unless drivers continue to provide the original paper MEC to the SDLAs, as is currently being conducted. All of the functions regarding the electronic transmission of data that were to be implemented on June 22, 2018, are dependent upon the development and implementation of the IT infrastructure that will not be available on June 22, 2018. Therefore, FMCSA decided to extend the compliance date to June 22, 2021, to ensure that the SDLAs have sufficient time once the final specifications are released to make the necessary IT programming changes.

Summary

The compliance date in today's rule remains as June 22, 2018, for the requirement for Medical Examiner's (MEs) to report the results of all commercial motor vehicle (CMV) driver physical examinations performed (including the results of examinations where the driver was found not to be qualified) to FMCSA by midnight (local time) of the next calendar date following the examination.

The interim final rule established for most provisions in the 2015 final rule a new compliance date of June 22, 2021. The delayed compliance date requires the following requirements to be in place until June 21, 2021:

1. Certified MEs must continue issuing MECs to qualified CLP/CDL applicants/holders;
2. CLP/CDL applicants/holders must continue ensuring that the SDLA receives a copy of their MEC;
3. Motor carriers must continue verifying that drivers were certified by an ME listed on the National Registry; and
4. SCLAs must continue processing paper copies of MECs they receive from CLP/CDL applicants/holders.

The interim final rule postpones the following requirements until June 22, 2021:

1. FMCSA to electronically transmit from the National Registry to the SDLAs, driver identification information, examination results, and restriction information from examinations performed for holders of CLPs or CDLs (interstate and intrastate);
2. FMCSA to electronically transmit to the SDLAs medical variance information for all CMV drivers;
3. SDLAs to post on the CDLIS driver record and driver identification, examination results,, and restriction information received electronically from FMCSA; and
4. Motor carriers to no longer be required to verify that CLP/CDL drivers were certified by a certified ME listed on the National Registry.

Effective Date

This interim final rule became effective on the date of publication, June 21, 2018.

Link

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

https://www.federalregister.gov/documents/2018/06/21/2018-13314/extension-of-compliance-dates-for-medical-examiners-certification-integration

G. DOT/FMCSA ELDT; Commercial Driver's License Upgrade from Class B to Class A; Notice of Proposed Rulemaking

On June 29, 2018, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a notice of proposed rulemaking (83 FR 30668-30681) that would amend the entry-level driver training (ELDT) regulations by adopting a new Class A theory instruction to reduce the training time and costs incurred by Class B Commercial driver's license (CDL) holders upgrading to a Class A CDL.

Summary

In this notice of proposed rulemaking (NPRM), FMCSA proposes to amend the ELDT regulations published on December 8, 2016, titled "Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators" by adopting a new Class A theory instruction upgrade curriculum. This NPRM does not propose any changes to behind-the-wheel (BTW) training requirements set forth in the ELDT final rule. This proposal would be a deregulatory action as defined by Executive Order (E.O.) 13771, "Reducing Regulations and Controlling Regulatory Costs."

The ELDT final rule required the same level of theory training for individuals obtaining a CDL for the first time as those who already hold a Class B CDL and are upgrading to a Class A CDL. FMCSA believes that this approach imposes an unnecessary regulatory burden because due to prior training or experience in the CMV industry, Class B CDL holders do not require the same level of theory training as individuals who have never held a CDL. Therefore, FMCSA proposes to remove the following instructional units currently included in Section A.1.5, "Non-Driving Activities," of the Theory Instruction portion of the Class A CDL Training Curriculum as set forth in 49 CFR 380, Appendix A for Class B CDL holders upgrading to a Class A CDL.

1. Handling and Documenting Cargo
2. Environmental Compliance Issues
3. Post-Crash Procedures
4. External Communications
5. Whistleblower/Coercion
6. Trip Planning
7. Drugs/Alcohol
8. Medical Requirements

Comments Due

Comments on this notice of proposed rulemaking must be received by FMCSA by August 28, 2018.

Link

The link below will allow you to view/print this notice of proposed rulemaking.

https://www.federalregister.gov/documents/2018/06/29/2018-13871/eldt-commercial-drivers-license-upgrade-from-class-b-to-class-a

H. DOT/FMCSA Hours of Service of Drivers of Commercial Motor Vehicles: Regulatory Guidance Concerning the Use of a Commercial Motor Vehicle for Personal Conveyance

On June 7, 2018, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published regulatory guidance (83 FR 26377-26380) finalizing revisions to regulatory guidance regarding driving a commercial motor vehicle (CMV) for personal use while off-duty.

Summary

On December 19, 2017, FMCSA proposed revisions to the regulatory guidance concerning driving a CMV for personal use while off-duty, referred to as "personal conveyance." As a result of comments received in response to the proposed revisions, FMCSA is issuing this revised guidance which applies to all CMV drivers required to record their hours of service (HOS) that are permitted by their carrier to use the vehicle for personal use.

New Guidance Language

FMCSA replaces Question 26 as noted below. In accordance with the requirements of the FAST Act the guidance will be posted on FMCSA's website, http://www.fmcsa.dot.gov and expires no later than June 7, 2023. FMCSA will then consider whether the guidance should be withdrawn, reissued for another period of up to five years, or incorporated into the safety regulations.

FMCSA updates guidance for 49 CFR 395.8 Driver's Record of Duty Status to read as follows:

Question 26: Under what circumstances may a driver operate a commercial motor vehicle (CMV) as a personal conveyance?

Guidance: A driver may record time operating a CMV for personal conveyance (i.e., for personal use or reasons) as off-duty only when the driver is relieved from work and all responsibility for performing work by the motor carrier. The CMV may be used for personal conveyance even if it is laden, since the load is not being transported for the commercial benefit of the carrier at that time. Personal conveyance does not reduce a driver's or motor carrier's responsibility to operate a CMV safely. Motor carriers can establish personal conveyance limitations either within the scope of, or more restrictive than, this guidance, such as banning the use of a CMV for personal conveyance purposes, imposing a distance limitation on personal conveyance, or prohibiting personal conveyance while the CMV is laden.

(a) Examples of appropriate uses of a CMV while off-duty for personal conveyance include, but are not limited to:
   1. Time spent traveling from a driver's en route lodging (such as a motel or truck stop) to restaurants and entertainment facilities.
   2. Commuting between the driver's terminal and his or her residence, between trailer-drop lots and the driver's residence, and between work sites and his or her residence. In these scenarios, the commuting distance combined with the release from work and start to work times must allow the driver enough time to obtain the required restorative rest as to ensure the driver is not fatigued.
   3. Time spent traveling to a nearby, reasonable, safe location to obtain required rest after loading or unloading. The time driving under personal conveyance must allow the driver adequate time to obtain the required rest in accordance with minimum off-duty periods under 49 CFR 395.3(a)(1) (property-carrying vehicles) or 395.5(a) (passenger-carrying vehicles) before returning to on-duty driving, and the rest location must be the first such location reasonably available.
   4. Moving a CMV at the request of a safety official during the driver's off-duty time.
   5. Time spent traveling in a motorcoach without passengers to en route lodging (such as motel or truck stop), or to restaurants and entertainment facilities and back to the lodging. In this scenario, the driver of the motorcoach can claim personal conveyance provided the driver is off-duty. Other off-duty drivers may be on board the vehicle, and are not considered passengers.
   6. Time spent transporting personal property while off-duty.
   7. Authorized use of a CMV to travel home after working at an offsite location.

(b) Examples of uses of a CMV that would **not** qualify as personal conveyance include, but are not limited to the following:

1. The movement of a CMV in order to enhance the operational readiness of a motor carrier. For example, bypassing available resting locations in order to get closer to the next loading or unloading point or other scheduled motor carrier destination.
2. After delivering a towed unit, and towing unit no longer meets the definition of a CMV, the driver returns to the point of origin under the direction of the motor carrier to pick up another towed unit.
3. Continuation of a CMV trip in interstate commerce in order to fulfill a business purpose, including bobtailing or operating with an empty trailer in order to retrieve another load or repositioning a CMV (tractor or trailer) at the direction of the motor carrier.
4. Time spent driving a passenger-carrying CMV while passenger(s) are on board. Off-duty drivers are not considered passengers when traveling to a common destination of their own choice within the scope of this guidance.
5. Time spent transporting a CMV to a facility to have vehicle maintenance performed.
6. After being placed out of service for exceeding the maximum periods permitted under 49 CFR 395, time spent driving to a location to obtain required rest, unless so directed by an enforcement officer at the scene.
7. Time spent traveling to a motor carrier's terminal after loading or unloading from a shipper or a receiver.
8. Time spent operating a motorcoach when luggage is stowed, the passengers have disembarked and the driver has been directed to deliver the luggage.

Effective Date

This guidance became effective on June 7, 2018, and expires on June 7, 2023.

Link

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

https://www.federalregister.gov/documents/2018/06/07/2018-12256/hours-of-service-of-drivers-of-commercial-motor-vehicles-regulatory-guidance-concerning-the-use-of-a

I. OSHA Limited Extension of Select Compliance Dates for Occupational Exposure to Beryllium in General Industry; Proposed Rule

On June 1, 2018, the Occupational Safety and Health Administration (OSHA) published a proposed rule (83 FR 25536-25543) that would extend the compliance date for certain requirements of the general industry beryllium standard nine months, to December 12, 2018.

Summary

OSHA is planning to propose revisions to the beryllium standard in accordance with a settlement agreement with stakeholders dated April 24, 2018. The rulemaking would affect the following provisions in the general industry beryllium standard:

1. Berrylium work areas
2. Regulated work areas
3. Methods of compliance
4. Personal protective clothing and equipment
5. Hygiene areas and practices
6. Housekeeping
7. Communication of hazards
8. Recordkeeping

This proposed rule would **NOT** extend the compliance date for the following provisions:

1. Permissible Exposure Levels
2. Exposure assessment
3. Respiratory protection
4. Medical surveillance
5. Medical removal protection provisions
6. Provisions where OSHA has established compliance dates in 2019 and 2020

Comments Due

Comments must be postmarked on or before July 2, 2018.

Link

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

https://www.federalregister.gov/documents/2018/06/01/2018-11643/limited-extension-of-select-compliance-dates-for-occupational-exposure-to-beryllium-in-general

J. DHS TWIC – Reader Requirements; Delay of Effective Date; Notice of Proposed Rulemaking

On June 22, 2018, the Department of Homeland Security, Coast Guard (Coast Guard) published a proposed rule (83 FR 29067-29081) that would delay the effective date for certain facilities affected by the "Transportation Worker Identification Credential (TWIC) – Reader Requirements" final rule published on August 23, 2016.

Summary

In this notice of proposed rulemaking the Coast Guard proposes delaying the implementation of the TWIC Reader final rule for 3 years for two types of facilities:

1. Facilities that handle certain dangerous cargoes (CDCs) in bulk, but do not transfer CDCs to or from a vessel, and
2. Facilities that receive vessels carrying bulk CDC but, during the vessel-to-facility interface, do not transfer bulk CDC to or from the vessel.

The Coast Guard is proposing the delay in the implementation of the TWIC Reader final rule for these facilities in order to conduct an evaluation of whether the electronic TWIC requirements are necessary for all of some of these facilities. Specifically, the Coast Guard would analyze whether the facilities could be divided into more specific asset categories for the implementation of the electronic TWIC inspection requirement while also allowing the Coast Guard to determine factors such as: the quantity of bulk CDC handled or stored, the location within the facility where the CDC is handled or stored, the population density or critical infrastructure in and around the facility. The existing security measures would also be analyzed to determine the necessity of implementing the electronic TWIC requirements.

Comments Due

Comments on this notice of proposed rulemaking must be received by the Coast Guard on or before July 23, 2018.

Link

The link below will allow you to view/print this notice of proposed rulemaking.

https://www.federalregister.gov/documents/2018/06/22/2018-13345/twic-reader-requirements-delay-of-effective-date