



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

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

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In August 2018, the Environmental Protection Agency's (EPA) made several revisions to the electronic-manifest (e-Manifest) system.

### Summary

The Office of the Inspector General after a full consideration of all relevant factors for the e-manifest system agreed to modify the system to accept all manifests, including manifests that include one or more of the 56 listed waste codes associated with the U.S. Department of Homeland Security Chemicals of Interest (COI). On August 6, 2018, the e-Manifest system was revised to accept all manifests. EPA will continue to withhold from public disclosure manifest information related to the 56 hazardous waste codes.

Additional modifications included:

1. For paper Rejections: "Transporter Still On Site" was changed to "Full Rejection on the Original Manifest"
2. Added Full Electronic and hybrid rejections onto a new manifest.
3. Added a Delete button to the "Upload Paper Manifest" screens
4. Added "Searching by Manifest ID" into the user interface.

### 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 Transition from National Enforcement Initiatives to National Compliance Initiatives; Susan Bodine Memo**

On August 21, 2018, Susan Bodine, EPA Assistant Administrator for the Office of Enforcement and Compliance Assurance (OECA), issued a memo to Regional Administrators outlining her plan to transition the OECA's focus from enforcement to compliance.

### Summary

The 2018-2022 Strategic Plan focuses on increasing the environmental compliance rate and shortening the time between the identification of a violation and the correction of the violation. EPA will also transition the National Enforcement Initiatives (NEIs) into National Compliance Initiatives (NCIs). To implement this transition EPA is: (1) modifying the selection criteria for the FY 2020-2023 NCI cycle to better align with the Strategic Plan measures and priorities; (2) engaging more fully with states and tribes in the selection and development of the initiatives; (3) enhancing EPA's use of the full range of compliance assurance tools in an NCI; and (4) extending the priorities cycle to four years to better align with the National Program Guide cycle.

The FY 2019 NEIs/NCIs are:

1. Keeping Industrial Pollutants Out of the Nation's Waters
2. Preventing Animal Waste from Contaminating Surface and Ground Water
3. Keeping Raw sewage and Contaminated Stormwater Out of Our Nation's Waters

4. Reducing Air Pollution from the Largest Sources
5. Reducing Risks of Accidental Releases at Industrial and Chemical Facilities
6. Cutting Hazardous Air Pollutants (HAPs)
7. Ensuring Energy Extraction Activities Comply with Environmental Laws
8. Reducing Toxic Air Emissions from Hazardous Waste Facilities

**Link**

The link below will allow you to view/print the Susan Bodine memo.

<https://www.epa.gov/sites/production/files/2018-08/documents/transitionfromneitonci082118.pdf>

**C. EPA Address Change for Waste Import-Export Submittals from the Office of Federal activities to the Office of Resource Conservation and Recovery; Final Rule**

On August 6, 2018, EPA published a final rule (83 FR 38262-39263) changing the address where paper documents concerning the importation and exportation of hazardous wastes and conditionally excluded cathode ray tubes must be mailed.

**Summary**

On April 29, 2018, the hazardous waste import-export functions were moved from the Office of Federal Activities' International Compliance Assurance Division in the Office of Enforcement and Compliance Assurance to the International Branch in the Office of Resource Conservation and Recovery's Materials Recovery and Waste Management Division in the Office of Land and Emergency Management. The final rule changes the addresses for U.S. postal service delivery and courier hand delivery of submittals listed in 40 CFR 261.39(a)(5)(xi), 40 CFR 261.41(a)(2), and 40 CFR 262.82(e).

**New Addresses**

The address for mail using the U.S. Postal Service is:

Office of Land and Emergency Management  
Office of Resource Conservation and Recovery  
Materials Recovery and Waste Management Division  
International Branch (Mail Code 2255A)  
Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

The address for hand-delivery or courier service is:

Office of Land and Emergency Management  
Office of Resource Conservation and Recovery  
Materials Recovery and Waste Management Division  
International Branch (Mail Code 2255A)  
Environmental Protection Agency  
William Jefferson Clinton South Building, Room 6144  
1200 Pennsylvania Avenue NW  
Washington, DC 20004

**Effective Date**

These address changes became effective on the date of publication, August 6, 2018.

## Link

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

<https://www.federalregister.gov/documents/2018/08/06/2018-16774/address-change-for-waste-import-export-submittals-from-the-office-of-federal-activities-to-the>

## D. DOT/FMCSA Hours of Service of Drivers; Advance Notice of Proposed Rulemaking

On August 23, 2018, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published an advance notice of proposed rulemaking (83 FR 42631-42635) seeking public comment on proposed changes to the Hours of Service regulations.

### Summary

In response to requests from Congress and the public to revise certain Hours of Service (HOS) provisions, FMCSA is seeking public input in four specific areas in which FMCSA is considering changes:

1. The short-haul HOS limit;
2. The HOS exception for adverse driving conditions;
3. The 30-minute rest break provision; and
4. The sleeper berth rule to allow drivers to split their required time in the sleeper berth.

In addition, FMCSA seeks public comment on petitions for rulemaking from the Owner-Operator Independent Drivers Association (OOIDA) and TruckerNation.org (TruckerNation).

### OOIDA Petition for Rulemaking

On February 13, 2018, OOIDA petitioned FMCSA to amend the HOS rules to allow drivers to take a rest break once per 14-hour duty period for up to three consecutive hours if the driver is off-duty. The rest break would effectively stop the 14-hour duty clock. It would also extend to the 17<sup>th</sup> hour after coming on duty (instead of the current 14<sup>th</sup> hour) the latest time a driver could drive after coming on duty. However, drivers would still be limited to 11 hours of driving time and required to have at least 10 consecutive hours off duty before the start of the next work shift. OOIDA's petition also requests that FMCSA eliminate the 30-minute rest break requirement because it requires drivers to stop when they do not feel tired.

### TruckerNation Petition for Rulemaking

On May 10, 2018, TruckerNation petitioned FMCSA to revise the prohibition against driving after the 14<sup>th</sup> hour of the beginning of the work shift. As an alternative, the organization requested that FMCSA prohibit driving after the driver has accumulated 14-hours of on-duty time. TruckerNation requested that FMCSA allow drivers to use multiple off-duty periods of three hours or longer in lieu of having 10 consecutive hours off-duty, and eliminate the 30 minute rest break requirement.

### Comments Requested

FMCSA specifically seeks comments and data from the public in response to this advance notice of proposed rulemaking (ANPRM). The comments must be specific to the enumerated list of issues below:

1. Short-Haul Operations (100 Mile Radius Exception Drivers)

- a. Do you have any data to show that extending the 12-hour period for the short-haul exception to the RODS/ELD requirements to 14 hours would change the safety performance of carriers using the short-haul provision?
  - b. How specifically would a 14-hour period change your driver or carrier operations as compared to 12 hours?
  - c. What would the incremental change be for your operations/business if the exemption was changed to 14 hours? For example, would your operations expand or would your drivers/carriers move from non-exempt status to exempt status. What would be the economic impacts of that incremental change?
2. Adverse Driving Conditions
- a. Is there adequate flexibility in the existing adverse driving conditions exception?
  - b. How often do you currently utilize the adverse driving conditions exception?
  - c. What are the economic impacts of the current exception on your driver or carrier operation?
  - d. Should the definition of adverse driving conditions be changed?
  - e. Should the adverse driving exception apply to the 14-hour work day window, not just the 11-hour driving limit?
  - f. How would the above changes affect the economic costs and benefits, and the impacts on safety and fatigue of the adverse driving conditions exception?
3. 30-Minute Break
- a. If the 30-minute rest break rule did not exist, would drivers obtain adequate rest breaks throughout a daily driving period to relieve fatigue?
  - b. Are there alternatives to the 30-minute rest break that would provide additional flexibility to drivers while achieving the safety benefits goal of the current 30-minute break?
  - c. If a rest break is retained, should it be taken off-duty or on-duty while the driver is not driving?
  - d. How does the 30-minute rest break impact the efficiency of operations from a driver's or a carrier's perspective?
  - e. How would your suggestions impact the costs and benefits of the 30-minute break?
4. Split-Sleeper Berth
- a. FMCSA has announced a proposed flexible sleeper berth pilot program. Beyond the information that will be collected in the pilot program, do you have any information that would support changing the current requirements?
  - b. Are there alternatives that would make the sleeper berth options more effective or less costly?
  - c. How often do you use the sleeper berth option currently; how would this change with your suggested regulatory alternatives?
  - d. What cost impacts and safety benefits would result from different split sleeper berth options?
5. OOIDA Petition
- a. What specifically would change about your driver/carrier operations by extending the 14-hour driving window?
  - b. Is there a likely increase in safety risk from extending the 14-hour driving window? For example, would altering the current rule allowing 14 hours on duty and 10 hours off duty interfere with drivers' circadian rhythm? Could driver health be affected?
  - c. Would a potential increase in safety risk be lessened by the requirement that all the additional time beyond 14 hours must be off-duty time?
  - d. Would allowing OOIDA's request for an extended break during the work day improve safety by allowing drivers to increase the total amount of off-duty time during and immediately following the work from 10 hours and 30 minutes to 13 hours, without reducing the maximum driving time available within the 14-hour window?

- e. Are there other flexibilities or other non-safety benefits that could be realized if the 14-hour window is extended?
6. TruckerNation Petition
- a. Is there a likely increase in safety risk from eliminating the consecutive 14-hour driving window? For example, would the absence of a limit on the length of the work shift – the time between the driver coming on duty after accumulating the minimum of 10 hours off-duty and the driver being prohibited from driving – combined with splitting the required 10 consecutive hours off-duty into a number of segments, interfere with the drivers' circadian rhythm? Could driver health be affected? Please provide data on the costs and benefits of this approach.
  - b. Are there other flexibilities or other non-safety benefits that could be realized if the 14-hour window is eliminated?

#### **Comments Due**

Comments on this ANPRM must be received by FMCSA on or before September 24, 2018.

#### **Link**

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

<https://www.federalregister.gov/documents/2018/08/23/2018-18379/hours-of-service-of-drivers>

#### **E. DOT/FMCSA National Hazardous Materials Route Registry; Revisions to the Listing of Designated and Restricted Routes for Hazardous Materials; Notice**

On August 9, 2018, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a notice (83 FR 39500-39504) revising the National Hazardous Materials Route Registry (NHMRR) reported to FMCSA as of March 31, 2018.

#### **Summary**

This notice provides revisions to the NHMRR, reported to FMCSA from August 8, 2016 through March 31, 2018. The revisions to the NHMRR listings in this notice supersede and replace corresponding NHMRR listings published in the April 29, 2015 notice and corresponding revisions to the NHMRR listings published in the August 8, 2016 notice. Transporters should continue to refer to the April 29, 2015 notice for additional background information on the NHMRR and the August 8, 2016 notice for the procedures for State and Tribal government routing agencies to update their Route Registry listings and contact information.

#### **Applicability Date**

The revisions in this notice became applicable on the date of publication, August 9, 2018.

#### **Links**

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

<https://www.federalregister.gov/documents/2018/08/09/2018-17060/national-hazardous-materials-route-registry>

The link below will provide access to the full current NHMRR for each state.

<https://www.fmcsa.dot.gov/regulations/hazardous-materials/national-hazardous-materials-route-registry>

**F. DOT/FMCSA Fees for the Unified Carrier Registration Plan and Agreement; Notice of Proposed Rulemaking**

On August 21, 2018, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a notice of proposed rulemaking (83 FR 42244-42251) that would reduce the annual registration fees States collect from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration (UCR) Plan and Agreement for the 2019, 2020, and subsequent registration years.

**Summary**

The proposed fees for the 2019 registration year would be reduced below the 2017 registration fee level (the current fee level) by approximately 17.59 percent to ensure that fee revenues do not exceed the statutory maximum, and to account for the excess funds held in the depository. The proposed fees for the 2020 registration would be reduced below the current level by approximately 9.5 percent. The reduction of the current 2019 registration year fees (finalized on January 5, 2018) would range from approximately \$10 to \$9,530 per entity, depending on the number of vehicles owned or operated by the affected entities. The reduction in fees for subsequent registration years would range from approximately \$4 to \$3,565 per entity.

**International Impacts**

Motor carriers and other entities involved in interstate and foreign transportation in the United States that do not have a principal office in the United States, are subject to the fees for the UCR Plan. They are required to designate a participating State as a base State and pay the appropriate fees to the State (49 CFR 14504a(a)(2)(B)(ii) and (f)(4)).

**49 CFR 367.50 Fees Under the Unified Carrier Registration Plan and Agreement for Registration Year 2019**

In the NPRM, FMCSA proposes that the provisions of 49 CFR 367.50 (which were adopted in the January 5, 2018 final rule) would be revised to establish new reduced fees applicable only to registration year 2019. A new 49 CFR 367.50 would establish the proposed fees for registration year 2020, which would remain in effect for subsequent registration years unless revised in the future.

Fee Under the Unified Carrier Registration Plan and Agreement for Registration Year 2019

Bracket	Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	Fee per entity for broker or leasing company
B1	0-2	\$63	\$63
B2	3-5	\$187	
B3	6-20	\$372	
B4	21-100	\$1,299	
B5	101-1,000	\$6,190	
B6	1,001 and above	\$60,441	

Fees Under the Unified Carrier Registration Plan and Agreement for Registration Year 2020 and Each Subsequent Registration Year Thereafter

Bracket	Number of commercial	Fee per entity for	Fee per entity for
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	motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder	exempt or non-exempt motor carrier, motor private carrier or freight forwarder	broker or leasing company
B1	0-2	\$69	\$69
B2	3-5	\$206	
B3	6-20	\$409	
B4	21-100	\$1,427	
B5	101-1,000	\$6,800	
B6	1,000 and above	\$66,406	

**Comments Due**

Comments on these proposed fees must be submitted to FMCSA on or before August 31, 2018.

**Link**

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

<https://www.federalregister.gov/documents/2018/08/21/2018-17976/fees-for-the-unified-carrier-registration-plan-and-agreement>

**G. OSHA Limited Extension of Select Compliance Dates for Occupational Exposure to Beryllium in General Industry; Final Rule**

On August 9, 2018, the Occupational Safety and Health Administration (OSHA) published a final rule (83 FR 39351-39360) extending the compliance date for select requirements of the general industry beryllium standard to December 12, 2018.

**Summary**

This final rule extends the compliance date to December 12, 2018 for the following provisions of the beryllium rule for general industry:

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

This final rule does not affect the new permissible exposure limits (PELs), exposure assessment, respiratory protection, medical surveillance or medical removal, change rooms and showers, or engineering control requirements.

**Effective Date**

This final rule became effective August 9, 2018.

**Compliance Date**



Following this extension the new compliance date for the select provisions is December 12, 2018.

**Link**

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

<https://www.federalregister.gov/documents/2018/08/09/2018-17106/limited-extension-of-select-compliance-dates-for-occupational-exposure-to-beryllium-in-general>

**H. CDC/USDA Federal Select Agent Program Policy Statement; Inactivation Certificate**

On August 3, 2018, the Centers for Disease Control (CDC) published a Federal Select Agent Program (FSAP) Policy Statement regarding Inactivation Certificates.

**Summary**

The Federal Select Agent Program is a collaboration between the CDC, Division of Select Agents and Toxins and the Animal Plant Health Inspection Service, Agriculture Select Agent Services to regulate the possession, use, and transfer of biological agents and toxins listed in 7 CFR 331, 9 CFR 121, and 42 CFR 73 (select agents and toxins).

The select agent and toxin regulations allow a select agent or toxin to be excluded from the requirements of the regulations if it has been subjected to a validated inactivation procedure that is confirmed through a viability testing protocol. Section 17(a)(8) of the select agent and toxin regulations requires that a certificate be created to document the inactivation or removal process.

This FSAP policy documents that the certificate must be signed by the appropriate Principal Investigator, or designee, before the “inactivated material” is removed from a registered space or the biocontainment level required for that material.

**Effective Date**

This policy statement became effective on August 3, 2018.

**Link**

The link below will allow you to view/print the FSAP Policy Statement: Inactivation Certificate

[https://www.selectagents.gov/policystatement\\_certificate.html](https://www.selectagents.gov/policystatement_certificate.html)

**I. DOJ/DEA Schedules of Controlled Substances: Temporary Placement of *N*-Ethylpentylone in Schedule I; Temporary Scheduling Order**

On August 31, 2018, the Department of Justice, Drug Enforcement Administration (DEA) published a Temporary Scheduling Order (83 FR 44474-44478) to place the synthetic cathinone, 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one (*N*-ethylpentylone or ephylone) and its optical, positional, and geometric isomers, salts, and salts of isomers in Schedule I of the controlled substances act (CSA).

**Summary**

*N*-Ethylpentylone is a synthetic cathinone with a history and pattern of abuse that is similar to MDMA, methamphetamine, or cocaine, and has been marketed as a replacement for these substances. Based on the review of available data and information, DEA has determined that the uncontrolled manufacture, distribution, importation, exportation, possession, and/or abuse of *N*-Ethylpentylone poses an imminent hazard to public safety and that there are no currently accepted medical uses for this substance in the United States. Therefore, the Acting Administrator finds it necessary to temporarily place *N*-Ethylpentylone and its 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, August 31, 2018.

**Link**

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

<https://www.federalregister.gov/documents/2018/08/31/2018-18988/schedules-of-controlled-substances-temporary-placement-of-n>