

Veolia North America - Industrial Business

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A. Implementing Climate Resilience in Hazardous Waste Permitting Under the Resource Conservation and Recovery Act (RCRA); Memorandum

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 12/12/2023

Summary

The Environmental Protection Agency (EPA) issued a memorandum to provide guidance to EPA Regions, states, and territories on when and how to consider potential adverse climate change impacts in the hazardous waste permitting process under the Resource Conservation and Recovery Act (RCRA).

Climate Change could result in the following adverse impacts which may impact treatment, storage, and disposal facilities (TSDFs):

- Frequency and intensity of extreme weather events
- Changing wind patterns
- Temperature fluctuations
- Increased precipitation
- Sea level rise
- Storm surges
- Inland and coastal flooding
- Bank and shoreline erosion
- Changes in groundwater levels and direction of flow
- Drought
- Increased risk of wildfires
- Permafrost thaw

The memorandum identifies authorities, provides interpretations of relevant RCRA provisions, and recommends approaches to ensure that controls will provide long-term effectiveness through resilience to adverse climate change impacts into the future. The memorandum states that EPA expects EPA Regional offices, authorized states and territories to consider the potential for adverse climate change impacts during the permitting process and to include conditions in the permit to ensure that facility operations will be in compliance and protective in the face of such impacts.

The memorandum states that climate vulnerability screening tools and assessment methodologies are currently under development. One screening tool has been released in RCRAInfo for sea level rise projections at RCRA facilities (<https://rcrapublic.epa.gov/rcra-public-web/action/posts/5>). Additionally, the memorandum identifies the Superfund Climate Resilience website (<https://www.epa.gov/superfund/superfund-climate-resilience>) which provides an overview of climate-related initiatives within the Superfund program, with information about strategies that can be used to evaluate and strengthen climate resilience at Superfund sites.

Reference/Link

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

https://www.epa.gov/system/files/documents/2023-12/implementing_climate_resilience_in_hazardous_waste_permitting.pdf

B. Hazardous Waste Generator Improvements Rule, the Hazardous Waste Pharmaceuticals Rule, and the Definition of Solid Waste Rule; Technical Corrections

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 12/06/2023

Effective Date: 12/07/2023

Summary

On August 9, 2023, the Environmental Protection Agency (EPA) published amendments to specific provisions in the Hazardous Waste Generator Improvements Rule, the Hazardous Waste Pharmaceuticals Rule, and the Definition of Solid Waste Rule. Following the publication, the EPA received adverse comments on eight amendments and as a result are withdrawing the following eight provisions:

1. Section 261.4(e)(1) introductory text related to sample waste generated or collected for the purpose of conducting treatability studies.
2. Section 262.11(d) introductory text related to identifying hazardous characteristics for listed hazardous wastes when the characteristic is already addressed by the listing.
3. Section 262.11(g) related to identifying hazardous characteristics for listed hazardous wastes when the characteristic is already addressed by the listing.
4. Section 262.16(b)(1) related to the accumulation limit for small quantity generators generating acute hazardous waste.
5. Section 262.17(a)(8)(i) introductory text related to LQG closure notification when closing a waste accumulation unit but not the whole facility.
6. Section 262.17(a)(8)(i)(A) related to LQG closure notification when closing a waste accumulation unit but not the whole facility.
7. Section 262.232(b)(6)(iv) related to adding "RCRA-" to the term "designated facility" to match the language of parallel provisions in this section.
8. Section 266.508(a)(2)(ii) related to allowing applicable EPA hazardous waste numbers (also known as waste codes) in addition to the required PHARMS code in item 13 of the hazardous waste manifest for shipments of hazardous waste pharmaceuticals from a healthcare facility subject to 40 CFR part 266 subpart P. EPA is also withdrawing language from this provision that allows the use of PHRM in lieu of PHARMS in item 13 of the hazardous waste manifest.

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All other amendments in the August 9, 2023 direct final rule went into effect on the effective date (December 7, 2023)

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2023-12-06/pdf/2023-26750.pdf>

C. Inventory of Mercury Supply, Use, and Trade in the United States 2023 report; Report

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 12/26/2023

Summary

The Environmental Protection Agency (EPA) announced the availability of the 2023 mercury inventory report. The report summarizes information on mercury supply, use, and trade in the United States that is required to be reported to EPA by rule directly from mercury manufacturers, importers, and processors.

The Toxic Substances Control Act (TSCA) directs the EPA to carry out and publish in the Federal Register every three years an inventory of mercury supply, use, and trade in the United States. TSCA defines “mercury” as “elemental mercury” or “a mercury compound.”

Reference/Link

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

https://www.epa.gov/system/files/documents/2023-12/2023-mercury-inventory-report_final.pdf

D. Revisions to Civil Penalty Amounts, 2024; Final Rule

Agency

Department of Transportation (DOT)

Dates

Published Date: 12/28/2023

Effective Date: 12/28/2023

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Summary

The Department of Transportation has published a final rule that provides the statutorily prescribed 2024 adjustment to civil penalty amounts that may be imposed for violations of certain DOT regulations.

In 2016, OST and DOT's operating administrations with civil monetary penalties promulgated the "catch up" IFR required by the 2015 Act. All DOT operating administrations have already finalized their "catch up" IFRs, and this rule makes the annual adjustment required by the 2015 Act.

The Department emphasizes that this rule adjusts penalties prospectively, and therefore the penalty adjustments made by this rule will apply only to violations that take place after this rule becomes effective. This rule also does not change previously assessed or enforced penalties that DOT is actively collecting or has collected.

FMCSA's civil penalties affected by this rule are all located in appendices A and B to 49 CFR part 386. Note that the civil penalties for violations of Appendix A IV (h) and (j) were incorrectly stated in the regulatory text of the 2023 update as \$31,536 rather than \$28,304 (88 FR 1114, 1130; Jan. 6, 2023), though these penalties were correctly stated in the preamble as updated from \$26,269 as \$28,304 (Id. at 1117). These errors have been corrected in this 2024 update. In addition, the civil penalties for violations of Appendix B (i)(1) and (2) were incorrectly stated in the regulatory text of the 2023 update as \$6,247 rather than \$6,441 (Id. at 1131), though these penalties were correctly stated in the preamble as updated from \$5,978 to \$6,441 (Id. at 1119). These errors have also been corrected in this 2024 update.

Please see the Final Rule, which is linked below for the chart which shows the new penalty amounts.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2023-12-28/pdf/2023-28066.pdf>

E. DOJ; Commerce in Explosives; 2023 Annual List of Explosive Materials; Notice of List of Explosive Materials

Agency

Department of Justice (DOJ)

Dates

Published Date: 12/22/2023

Effective Date: 12/22/2023

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Summary

The Department of Justice (DOJ) published the 2023 List of Explosive Materials, as required by law. The only change to the 2023 list is the addition of “pyrotechnic stars.” These materials are “pyrotechnic compositions” and have long been covered under that term. ATF is adding “pyrotechnic stars” for clarity.

The list became effective December 22, 2023. Please see the link below for the full list.

Reference/Link

The link below will allow you to view/print the notice of list of explosive materials.

<https://www.govinfo.gov/content/pkg/FR-2023-12-22/pdf/2023-28253.pdf>

F. **Schedules of Controlled Substances: Placement of Nine Specific Fentanyl-Related Substances in Schedule I; Final Rule**

Agency

Drug Enforcement Administration (DEA)

Dates

Published Date: 12/07/2023

Effective Date: 12/07/2023

Summary

The Drug Enforcement Administration has placed nine fentanyl related substances, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers, and salts is possible, in schedule I of the Controlled Substances Act. Prior to this final rule these nine fentanyl-related substances were listed in schedule I pursuant to a temporary scheduling order. This action makes permanent the imposition of the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, import, export, engage in research, conduct instructional activities or chemical analysis with, or possess), or propose to handle these nine specific fentanyl-related controlled substances.

The nine fentanyl-related controlled substances are as follows:

1. meta-fluorofentanyl (N-(3- fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide) (CSCN: 9857)
2. meta-fluoroisobutyryl fentanyl (N- (3-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide) (CSCN: 9858)
3. para-methoxyfuranyl fentanyl (N- (4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)furan-2- carboxamide) (CSCN: 9859)

4. 3-furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-3-carboxamide) (CSCN: 9860)
5. 2',5'-dimethoxyfentanyl (N-(1-(2,5-dimethoxyphenethyl)piperidin-4-yl)-N-phenylpropionamide) (CSCN: 9861)
6. isovaleryl fentanyl (3-methyl-N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide) (CSCN: 9862)
7. ortho-fluorofuranyl fentanyl (N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide) (CSCN: 9863)
8. alpha'-methyl butyryl fentanyl (2-methyl-N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide) (CSCN: 9864)
9. para-methylcyclopropyl fentanyl (N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)cyclopropanecarboxamide) (CSCN: 9865)

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2023-12-07/pdf/2023-26694.pdf>

G. Schedules of Controlled Substances: Temporary Placement of MDMB-4en-PINACA, 4F-MDMB-BUTICA, ADB-4en-PINACA, CUMYL-PEGACLONE, 5F-EDMB-PICA, and MMB-FUBICA into Schedule I; Temporary Scheduling Order

Agency

Drug Enforcement Administration (DEA)

Dates

Published Date: 12/12/2023

Temporary Placement Expiration: 12/12/2025

Summary

The Drug Enforcement Administration (DEA) has issued a temporary order to schedule six synthetic cannabinoids and their optical and geometric isomers, salts, and salts of isomers, whenever the existence of such isomers and salts is possible, in schedule I under the Controlled Substances Act.

As a result of this order, the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis with, or possess) or propose to handle these six specified controlled substances.

The six substances are as follows:

1. Methyl 3,3-dimethyl-2-(1-(pent-4-en-1-yl)-1H-indazole-3-carboxamido)butanoate (Other name: MDMB-4en-PINACA) (CSCN: 7090)

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2. Methyl 2-[[1-(4-fluorobutyl)indole-3-carbonyl]amino]-3,3-dimethylbutanoate (Other names: 4F-MDMB-BUTICA; 4F-MDMB-BICA) (CSCN: 7091)
3. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(pent-4-en-1-yl)-1Hindazole-3-carboxamide (Other name: ADB-4en-PINACA) (CSCN: 7092)
4. 5-Pentyl-2-(2-phenylpropan-2-yl)pyrido[4,3-b]indol-1-one (Other name: CUMYL-PEGACLONE; SGT-151) (CSCN: 7093)
5. Ethyl 2-[[1-(5-fluoropentyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate (Other names: 5F-EDMB-PICA; 5F-EDMB-2201) (CSCN: 7094)
6. Methyl 2-(1-(4-fluorobenzyl)-1Hindole-3-carboxamido)-3-methyl butanoate (Other name: MMB-FUBICA) (CSCN: 7095)

Reference/Link

The link below will allow you to view/print the Temporary amendment; temporary scheduling order.

<https://www.govinfo.gov/content/pkg/FR-2023-12-12/pdf/2023-27243.pdf>

H. Specific Listing for Three Currently Controlled Schedule I Substances; Final Rule

Agency

Drug Enforcement Administration (DEA)

Dates

Published Date: 12/13/2023

Effective Date: 12/13/2023

Summary

The Drug Enforcement Administration (DEA) established a specific listing and DEA Controlled Substances Code Number (drug code) for the following three substances:

- N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-butyl-1Hindazole-3-carboxamide (also known as ADB-BUTINACA); (CSCN: 7027)
- 4-methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one (also known as a-PiHP or alpha-PiHP); (CSCN: 7551)
- 2-(methylamino)-1-(3-methylphenyl)propan-1-one (also known as 3-MMC or 3-methylmethcathinone) in schedule I of the Controlled Substances Act (CSA) (CSCN: 1259)

Although ADB-BUTINACA, a-PiHP, and 3-MMC are not specifically listed in schedule I of the CSA with their own unique drug codes, they are schedule I controlled substances in the United States because they are positional isomers of AB-PINACA (controlled January 30, 2015), a-PHP (controlled July 18, 2019), and mephedrone (controlled as a hallucinogen July 9, 2012), respectively, each of which are schedule I hallucinogens. Therefore, DEA is amending the schedule I hallucinogenic substances list in its regulations to separately include ADB-BUTINACA, a-PiHP, and 3-MMC.

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This Final Rule became effective on December 13, 2023.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2023-12-13/pdf/2023-27292.pdf>