Veolia North America - Industrial Business

January, 2024

ENVIRONMENTAL UPDATES

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No Health and Safety Updates for January 2024

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F. HHS; Possession, Use, and Transfer of Select Agents and Toxins; Biennial Review of the List of Select Agents and Toxins; Notice of Proposed Rulemaking

G. APHIS; Agricultural Bioterrorism Protection Act of 2002; Biennial Review and Republication of the Select Agent and Toxin List; Proposed Rule

A. Per- and Poly-Fluoroalkyl Chemical Substances Designated as Inactive on the TSCA Inventory; Significant New Use Rule; Final Rule

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 01/11/2024
Effective Date: 01/25/2024

Summary

The Environmental Protection Agency (EPA) finalized a rule that prevents companies from starting or resuming the manufacture or processing of 329 per- and poly-fluoroalkyl substances (PFAS) that have not been made or used for many years without a complete EPA review and risk determination.

The final rule applies to all PFAS that are designated as "inactive" on the TSCA Inventory and which are not already subject to a SNUR. The rule is aligned with reporting requirements for the Active-Inactive rule, which designated these "inactive" chemicals.

If a company wants to use any of these 329 chemicals, they are required to notify EPA at least 90 days before commencing any manufacture (including import) or processing of those 329 PFAS. The Agency would then be required to conduct a robust review of health and safety information under the modernized 2016 law to determine if the new use may present unreasonable risk to human health or the environment and put any necessary restrictions in place before the use could restart. Any new uses of PFAS would be considered under EPA's framework for evaluating new PFAS and new uses of PFAS, announced in June 2023.

Please click the following link to download the List of Select Chemicals Subject to the Final Significant New Use Rule Per- and Poly-fluoroalkyl Chemical Substances Designated as Inactive on the TSCA Inventory:
https://www.regulations.gov/document/EPA-HQ-OPPT-2022-0867-0029

Reference/Link

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

https://www.govinfo.gov/content/pkg/FR-2024-01-11/pdf/2024-00412.pdf

B. The Backlog of Containerized Hazardous Waste Needing Incineration; Webpage

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 01/11/2024

Summary

On January 11, 2024, EPA published a new webpage to discuss the Hazardous Waste Incinerator Backlog of Containerized Hazardous Waste that is impacting the industry. The webpage discusses options generators have including making a request to extend the storage time that is allowed for Hazardous Waste at their site.

The webpage includes a link to a memorandum that was previously published in August, 2021 as well as a reference to the applicable regulations. The webpage also includes a "Frequent Questions and Answers" section that generators, transporters and Treatment, Storage, and Disposal Facilities (TSDFs) can use as a reference.

Reference/Link

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

https://www.epa.gov/hw/backlog-containerized-hazardous-waste-needing-incineration

C. Clarifying the Scope of "Applicable Requirements" Under State Operating Permit Programs and the Federal Operating Permit Program; Proposed Rule

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 01/09/2024
Comments Due: 03/11/2024

Summary

The Environmental Protection Agency (EPA) has published a proposed rule that would update its Title V operating permit program regulations to more clearly reflect the EPA's existing interpretations and policies concerning when and whether "applicable requirements" established in other Clean Air Act (CAA or the Act) programs should be reviewed, modified, and/or implemented through the Title V operating permits program.

This action clarifies the limited situations in which requirements under the New Source Review (NSR) preconstruction permitting program would be reviewed using the EPA's unique Title V oversight authorities. This action is being done to better codify EPA's current views regarding which NSR decisions would require review. Provided a source obtains an NSR permit under EPA-approved (or EPA-promulgated) Title I rules, with public notice and the opportunity for comment and judicial review, such NSR permit establishes the NSR-related ''applicable requirements'' of the SIP (or FIP) for purposes of Title V. As with ''applicable requirements'' established under other CAA authorities (e.g., NSPS, NESHAP), the EPA would not revisit those NSR decisions through the Title V process. The preamble explores the situations in which NSR-related applicable requirements of the SIP (or FIP) would effectively be established through the NSR process, as well as situations in which the Title V process could be used to further address or define those requirements.

This action clarifies that requirements related to an owner or operator's general duty to prevent accidental releases of hazardous substances are not "applicable requirements" for Title V purposes and are not implemented through Title V.

Reference/Link

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

https://www.govinfo.gov/content/pkg/FR-2024-01-09/pdf/2023-27759.pdf

D. Fees for the Unified Carrier Registration Plan and Agreement; NPRM

Agency

Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT)

Dates

Published Date: 01/09/2024
Comments Due: 02/08/2024

Summary

FMCSA proposes amendments to its regulations governing the annual registration fees that participating 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 2025 registration year and subsequent registration years. The fees for the 2025 registration year would be increased above the fees for the 2024 registration year by an average of 25.0 percent overall, with varying increases between $9 and $9,000 per entity, depending on the applicable fee bracket. The proposal is based upon a recommendation from the UCR Plan.

Purpose and Summary of the Regulatory Action

Under 49 U.S.C. 14504a, the UCR Plan and the 41 States participating in the UCR Agreement collect fees from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies. The UCR Plan and Agreement are administered by a 15-member board of directors (UCR Plan Board), which is comprised of 14 members appointed from the participating States and the industry, and the Deputy Administrator of FMCSA, who is a statutory member. Revenues collected are allocated to the participating States and the UCR Plan.

In accordance with 49 U.S.C. 14504a(d)(7) and (f)(1)(E)(ii), the UCR Plan provides fee adjustment recommendations to the Secretary when revenue collections result in a shortfall or surplus from the amount authorized by statute. If the required payments to the States and the cost of administering the UCR Plan exceed the amount in the depository, the UCR Plan must collect additional fees in subsequent years to cover the shortfall. If there are excess funds after payments to the States and for administrative costs, they are retained in the UCR Plan's depository, and fees in subsequent fee years must be reduced as required by 49 U.S.C. 14504a(h)(4). These two distinct statutory provisions are recognized in the fee adjustment recommended by the UCR Plan and proposed in this NPRM, to increase by an average of 25.0 percent the annual registration fees established pursuant to the UCR Agreement for the 2025 registration year and subsequent years.

Discussion of Proposed Rulemaking

This NPRM proposes to increase fees by an average of 25.0 percent for the 2025 registration year, compared to the fees for 2024. The proposed increase for each fee bracket is shown in the following table:

Table 2—UCR Plan Fees Proposed Increase From 2024 to 2025

Bracket	Number of CMVs	2024	2025	Difference
1	*0-2	$37	$46	$9
2	3-5	$111	$138	$27
3	6-20	$221	$276	$55
4	21-100	$769	$963	$194
5	101-1000	$3,670	$4,592	$922
6	1001+	$35,836	$44,836	$9,000

* Also applies to brokers and leasing companies.

This upward fee adjustment, which follows significant fee reductions, had been anticipated and was discussed in the previous rulemaking addressing fee adjustments for the 2024 registration year.

The UCR Plan modified its methodology for developing the recommendation from its most recent recommendations, as the previous methodology using average collections was determined by the UCR Plan to result in an over-collection of fees. The UCR Plan's recommendation now uses the minimum of the historical monthly collections for the same time periods in each of the prior 3-year periods to determine projected collections, which the UCR Plan believes will yield a more accurate result. This change in the methodology is explained more fully in the UCR Plan's recommendation, which is available in the docket for this rulemaking.

Section-by-Section Analysis

FMCSA proposes to revise 49 CFR 367.40 (which was adopted in the 2023 final rule) so that the fees apply to registration year 2024 only. A new § 367.50 proposes to establish new increased fees applicable beginning in registration year 2025, based on the recommendation submitted by the UCR Plan in its September 2023 Fee Recommendation. The fees in proposed new § 367.50 would remain in effect for subsequent registration years after 2025 unless revised by a future rulemaking. FMCSA also proposes to remove 49 CFR 367.20, which set the fees for 2020, 2021 and 2022, as those fee amounts will not be necessary.

Reference/Link

The link below will allow you to view/print the Notice of Proposed Rulemaking (NPRM).

https://www.govinfo.gov/content/pkg/FR-2024-01-09/pdf/2024-00262.pdf

E. Controlled Substance Destruction Alternatives to Incineration; Extension of Comment Period

Agency

Drug Enforcement Administration (DEA)

Dates

Published Date: 01/03/2024
Comments Extended to: 04/01/2024

Summary

The Drug Enforcement Administration (DEA) published an advance notice of proposed rulemaking entitled “Controlled Substance Destruction Alternatives to Incineration” in the Federal Register on October 31, 2023. This topic was included in the October 2023 Regulatory Update.

DEA is extending the comment period on that advance notice until April 1, 2024.

Reference/Link

The link below will allow you to view/print the Extension of Comment Period.

https://www.govinfo.gov/content/pkg/FR-2024-01-03/pdf/2023-28964.pdf

F. Possession, Use, and Transfer of Select Agents and Toxins; Biennial Review of the List of Select Agents and Toxins; Notice of Proposed Rulemaking

Agency

Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

Dates

Published Date: 01/30/2024
Comments Due: 04/01/2024

Summary

In accordance with the Public Health Service Act, the Department of Health and Human Services (HHS) Centers for Disease Control and Prevention (CDC) reviewed the HHS list of select agents and toxins with the potential to pose a severe threat to public health and safety.

HHS/CDC proposes to amend the list by taking the following actions:

1. removing three biological agents (Brucella abortus, Brucella melitensis, and Brucella suis),
2. raising exclusion amounts for conotoxin,
3. renaming Ebola virus to the Genus Ebolavirus
4. designating Nipah virus as a Tier 1 select agent, and
5. removing the designation of Tier 1 status from Botulinum neurotoxin producing species of Clostridium.

Reference/Link

The link below will allow you to view/print the Notice of Proposed Rulemaking.

https://www.govinfo.gov/content/pkg/FR-2024-01-30/pdf/2024-01513.pdf

G. Agricultural Bioterrorism Protection Act of 2002; Biennial Review and Republication of the Select Agent and Toxin List; Proposed Rule

Agency

Animal and Plant Health Inspection Service (APHIS)

Dates

Published Date: 01/30/2024
Comments Due: 04/01/2024

Summary

Animal and Plant Health Inspection Service (APHIS) is proposing to amend and republish the list of select agents and toxins that have the potential to pose a severe threat to animal or plant health, or to animal or plant products. This Act requires the biennial review and republication of the list of select agents and toxins and the revision of the list as necessary. This action would implement findings from the biennial review for the list.

Proposed changes to the list of select agents include the following:

- Removing three biological agents from the list of Overlap Select Agents and Toxins
  - Brucella abortus
  - Brucella melitensis
  - Brucella suis
- Removing one biological agent from the list of USDA Veterinary Services Select Agents and Toxins
  - African horse sickness fever
- Removing one biological agent from the list of USDA Plant Protection and Quarantine Select Agents and Toxins
  - Peronosclerospora philippinensis (also known as Peronosclerospora sacchari)
- Renaming:
  - Ebola virus to the genus Ebolavirus
  - Monkeypox virus to Mpox virus (clade I)
  - SARS coronavirus (SARS-CoV) to Severe acute respiratory syndrome coronavirus (SARS-CoV)
- Designating Nipah virus as a Tier 1 select agent
- Removing the Tier 1 designation for botulinum neurotoxin producing species of Clostridium

It is also being proposed to increase the exclusion amount for Conotoxins (Short, paralytic alpha conotoxins containing the following amino acid sequence X1CCX2PACGX3X4X5X6CX7) from 100 mg to 200 mg.

The following codification and clarification of definitions and policies are being considered:

- Codifying existing policy regarding the definition of “conclusion of patient care”
- Codifying existing policy regarding when animals naturally infected with select agents are excluded from the requirements of the regulations
- Codifying existing policy regarding the role of the Responsible Official (RO) and Alternate Responsible Official (ARO) as it relates to multiple entities

- Codifying existing policy regarding the items that each entity's annual internal inspections must address
- Codifying existing policy regarding validated inactivation procedures and defining related terms
- Clarifying definitions of theft, loss, and release of a select agent or toxin
- Clarifying that APHIS/CDC Forms 2, 3, and 4 and amendments can be submitted via the program's electronic information system, eFSAP, and there is no requirement for entities to retain a separate copy
- Clarifying that registered entities are required to meet all of the regulatory requirements for those select agents and toxins listed on the individual or entity's certificate of registration regardless of whether the select agent or toxin is in the actual possession of the individual or entity and without regard to the amount of toxin possessed
- Clarifying security enhancements regarding screening visitors for those entities possessing Tier 1 select agents and toxins
- Clarifying that a receiving entity must amend their certificate of registration and receive approval to possess the products of a restricted experiment
- Clarifying the records provisions to ensure accurate, current inventory is maintained for each select agent held in long-term storage and all toxins to more clearly specify the requirements and aid in compliance

The Proposed Rule is considering the addition of the following new regulatory requirements:

- Proposing a new APHIS/CDC Form 6 for the discovery of select agents/toxins
- Proposing that an entity's effluent decontamination system (EDS) must be addressed in its biosafety, security, and incident response plans
- Proposing to require facility verification every 12 months for registered entities that maintain BSL-3/ABSL-3 labs
- Proposing to add to the training section a requirement for unapproved individuals whose responsibilities routinely place them in close proximity to laboratory facilities and those individuals who perform administrative or oversight functions

Comments for this proposed rule are due on or before April 1, 2024.

Reference/Link

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

https://www.govinfo.gov/content/pkg/FR-2024-01-30/pdf/2024-01501.pdf