

REGULATORY UPDATE – January 2012

ENVIRONMENTAL UPDATES

- A. [EPA Toxics Release Inventory \(TRI\) Application and Reporting Materials Available for 2011 Reporting Year](#)
- B. [EPA Fall 2011 Semi-Annual Regulatory Agenda; Notice](#)
- C. [New York Ban on Disposal of Electronic Waste](#)

TRANSPORTATION UPDATES

- D. [DOT/FMCSA Harmonizing Schedule I Drug Requirements; Final Rule](#)
- E. [DOT/PHMSA Clarification and Further Guidance on the Fireworks Approvals Policy; Clarification](#)
- F. [DOT Fall 2011 Semi-Annual Regulatory Agenda; Notice](#)

HEALTH & SAFETY UPDATES

- G. [Washington DOL Adopts Hazardous Drug Rule](#)
- H. [OSHA Fall 2011 Semi-Annual Regulatory Agenda; Notice](#)

A. EPA Toxics Release Inventory (TRI) Application and Reporting Materials Available for 2011 Reporting Year

In January, 2012, the Environmental Protection Agency (EPA) announced that the Toxics Release Inventory (TRI) reporting materials for the 2011 reporting year were available on EPA's TRI website.

Summary

The materials available on the TRI website include:

1. The 2011 Reporting year version of TRI-MEweb. TRI-MEweb is a web-based application that allows facilities to file a paperless TRI report. It is EPA's preferred method for submitting TRI reports and requires no downloads or software installs.
2. Reporting forms and instructions.
3. The TRI Chemical List. For the 2011 reporting year, EPA has reinstated the reporting requirements for hydrogen sulfide and added 16 new chemicals to the TRI list of reportable chemicals.
4. A Threshold Screening Tool which uses a step-by-step questionnaire to assist in determining whether facility meets or exceeds reporting threshold for individual chemicals.

TRI Reporting Deadline

The TRI Reports for the 2011 reporting year must be submitted to EPA on or before July 1, 2012.

Link

The TRI Report Materials can be accessed on the following link.

<http://www.epa.gov/tri/>

B. EPA Fall 2011 Semi-Annual Regulatory Agenda; Notice

On January 20, 2012, EPA published the Fall 2011 Semi-Annual Regulatory Agenda.

Summary

EPA publishes a semi-annual regulatory agenda twice per year. The semi-annual regulatory agenda describes a broad universe of regulatory activities that are under development or review. The Fall 2011 Semi-Annual Regulatory Agenda includes the following topics:

Solid Waste and Emergency Response – Final Rule Stage
1. Modifications to RCRA Rules Associated with Solvent Contaminated Industrial Wipes
2. Hazardous Waste Technical Corrections and Clarifications Rule

3. Emergency Planning and Community Right-to-Know: Modification to the Threshold Planning Quantity Methodology for the Extremely Hazardous Substances that are Solids in Solution
4. Hazardous Chemical Reporting; Community Right-to-Know: Revisions to the Emergency and Hazardous Chemical Inventory Forms (Tier I and II)
Solid Waste and Emergency Response – Proposed Rule Stage
1. Revisions to the Export Requirements of the Cathode Ray Tube (CRT) Rule
Solid Waste and Emergency Response – Long-Term Actions
1. RCRA Smarter Waste Reporting
2. Hazardous Waste Manifest Revisions – Standards and Procedures for Electronic Manifests
3. Revisions to Land Disposal Restrictions Treatment Standards and Amendments to Recycling Requirements for Spent Petroleum Refining Hydrotreating and Hydrorefining Catalysts
4. Management Standards for Hazardous Waste Pharmaceuticals
5. Hazardous Waste Management Systems: Identification and Listing of Hazardous Waste: Carbon Dioxide (CO2) Streams in Geological Sequestration Activities

Link

The link below will allow you to view/print the Fall 2011 Semi-Annual Regulatory Agenda.

<http://resources.regulations.gov/public/component/main?main=UnifiedAgenda>

C. New York Ban on Disposal of Electronic Waste

On January 1, 2012, a ban on the disposal of electronic wastes at solid and hazardous waste management facilities in the State of New York took effect. Private and public waste haulers in New York State are no longer allowed to dispose electronic wastes in landfills. Haulers are only allowed to collect computers, televisions and other electronic wastes if they are destined for recycling or reuse facilities. Haulers must also provide customers with written information regarding the options for recycling unwanted electronic equipment.

Effective Date

The ban on waste haulers disposing of electronic wastes in landfills and for solid and hazardous waste management facilities to accept electronic wastes became effective on January 1, 2012.

Link

The link below will allow you to view/print the New York Electronic Equipment Recycling and Reuse Act.

http://www.campaignforrecycling.org/states/new_york/ewaste

D. DOT/FMCSA Harmonizing Schedule I Drug Requirements; Final Rule

On January 30, 2012, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a final rule (77 FR 4479-4491) amending the physical qualifications for drivers and the instructions for the medical examination report to clarify that drivers may not use Schedule I drugs and be qualified to driver a commercial motor vehicle (CMV) under any circumstances.

Summary

The use of drugs by a CMV driver is included in several sections of the Federal Motor Carrier Safety Regulations (49 CFR 382.213, 391.41(b)(12), 391.43(f), and 392.4), in DOT-wide drug regulations in part 40, and in the Drug Enforcement Agency (DEA) regulations. This final rule includes three changes to the FMCSA regulations to remove perceived inconsistencies between these regulations. The three amendments are:

1. Amend the physical qualifications for CMV drivers to clarify that the use of Schedule I drugs is prohibited under any circumstances. The Instructions to the Medical Examiner have been revised to read “If a driver uses an amphetamine, a narcotic or any other habit-forming drug, it may be cause for the driver to be found medically unqualified. If a driver uses a Schedule I drug or substance, it will be cause for the driver to be found medical ly unqualified.”
2. Requires that drivers who refuse to submit to pre-employment and return-to-duty tests be subject to the same referral, evaluation, and treatment steps that are required after refusing other types of tests.
3. Replaces the term “actual knowledge” with “knowledge” in the regulations addressing employers’ knowledge of positive test results.

Effective Date

This final rule will become effective on February 29, 2012.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2012-01-30/pdf/2012-1905.pdf>

E. DOT/PHMSA Clarification and Further Guidance on the Fireworks Approvals Policy; Clarification

On January 5, 2012, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) published a clarification (77 FR 429-431) providing guidance on the agencies policy that it will only accept fireworks approvals applications from fireworks manufacturers or their designated agents and grant approvals only to manufacturers of fireworks devices.

Summary

PHMSA is issuing clarification and further guidance on PHMSA's Office of Hazardous Materials Safety (OHMS), Clarification of the Fireworks Approval Policy published on June 29, 2011 (Docket No. PHMSA-2010-0353; Notice 10-9). This document addresses questions related to the following.

EX Classification Approvals with Expiration Dates

After June 29, 2011, only a manufacturer that holds a valid EX classification approval may reapply to have the EX number renewed.

All EX approvals with expiration dates held by non-manufacturers will expire as follows:

1. Fireworks EX approvals expiring January 1, 2012 through December 31, 2012 will expire 2 years from the date indicated in the approval. For example: A fireworks EX approval expiring on January 1, 2012 will be extended until January 1, 2014. A revised EX classification approval will be automatically sent to the approval holder with the new expiration date. After December 31, 2014, only the manufacturer or its designated agent may submit the application for renewal, certification statements, and all supporting documentation to PHMSA.
2. Fireworks EX classification approvals expiring January 1, 2013 through December 31, 2015 will expire on the date noted in the EX approval and will not be extended. Only the manufacturer or its designated agent may submit the application for renewal, certification statements, and all supporting documentation to PHMSA. For example: A fireworks EX approval expiring on March 22, 2014 will expire on March 22, 2014.
3. All fireworks EX approvals with expiration dates will expire by the end of 2015.

Requests to Add Additional Item Names to Existing EX Classification Approvals

Only a manufacturer or its designated agent may submit a request after June 29, 2011 to add an additional item name to an existing EX approval. If anyone other than the manufacturer or its designated agent holds an existing EX classification approval and it is desired to add additional items to that approval, then the manufacturer or its designated agent must submit the EX classification approval as a new application.

Firework Applications Denied Before June 29, 2011

Firework applications resubmitted after June 29, 2011 by any person, company, or entity other than the manufacturer or its designated agent that were previously denied will not be accepted unless those applications are submitted by the manufacturer or its designated agent as the applicant. The manufacturer is required to submit the application for renewal, certification statements, and all supporting documentation to PHMSA.

Non-Transferability of EX Approvals

EX approvals are non-transferrable. EX approvals cannot be acquired in connection with any sale of assets, sale of business, acquisition or merger. PHMSA may find a company in violation of the HMR should a manufacturer attempt to use an EX approval issued by PHMSA to another company for manufacturing of the device. The manufacturer or its designated agent must submit an application for a new approval. If approved, PHMSA will issue a new EX approval to the manufacturer specified in the application.

Effective Date

This clarification became effective on the date of publication, January 5, 2012.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2012-01-05/pdf/2011-33853.pdf>

F. DOT Fall 2011 Semi-Annual Regulatory Agenda; Notice

On January 20, 2012, the Department of Transportation (DOT) published the Fall 2011 Semi-Annual Regulatory Agenda.

Summary

DOT publishes a semi-annual regulatory agenda twice per year. The semi-annual regulatory agenda describes a broad universe of regulatory activities that are under development or review. The Fall 2011 Semi-Annual Regulatory Agenda includes the following topics:

Pipeline and Hazardous Materials Safety Administration – Final Rule Stage
1. Hazardous Materials: Bulk Loading and Unloading Operations
2. Hazardous Materials: Safety Requirements for External Product Piping on Cargo Tanks Transporting Flammable Liquids (Wetlines)
3. Hazardous Materials: Highway-Rail Grade Crossing; Safe Clearance
4. Hazardous Materials: Combination Packages Containing Liquids Intended for Transport by Aircraft
Pipeline and Hazardous Materials Safety Administration – Proposed Rule Stage
1. Hazardous Materials: Revisions to Requirements for the Transportation of Lithium Batteries
2. Hazardous Materials: Incorporation of Certain Special Permits and Competent Authorities into the HMR (RRR)
3. Hazardous Materials: Compatibility with the Regulations of the International Atomic Energy Agency (IAEA)
4. Hazardous Materials: Miscellaneous Amendments

Link

The link below will allow you to view/print the Fall 2011 Semi-Annual Regulatory Agenda.

<http://www.reginfo.gov/public/do/eAgendaMain>

G. Washington DOL Adopts Hazardous Drug Rule

On January 3, 2012, the Washington Department of Labor and Industries (L&I) adopted a Hazardous Drugs Rule, to protect healthcare workers from exposure to chemotherapy and other hazardous drugs.

Summary

The Hazardous Drugs Rule was adopted in response to the 2011 Washington Legislature passing Senate Bill 5594, requiring the Department of Labor and Industries to establish regulations to protect workers who handle chemotherapy and other hazardous drugs. The bill requires L&I to adopt rules that are consistent with, but do not exceed, provisions in the 2004 National Institute of Occupational Safety and Health (NIOSH) Alert on preventing occupational exposures to antineoplastic and other health care drugs in occupational settings.

Effective Date

The Hazardous Drugs Rule will be phased in beginning on January 1, 2013.

Link

The link below will allow you to view the Washington Department of L&I's Hazardous Drugs webpage.

<http://www.lni.wa.gov/Safety/Topics/AtoZ/HazardousDrugs/>

H. OSHA Fall 2011 Semi-Annual Regulatory Agenda; Notice

On January 20, 2012, the Occupational Safety and Health Administration (OSHA) published the Fall 2011 Semi-Annual Regulatory Agenda.

Summary

OSHA publishes a semi-annual regulatory agenda twice per year. The semi-annual regulatory agenda describes a broad universe of regulatory activities that are under development or review. The Fall 2011 Semi-Annual Regulatory Agenda includes the following topics:

Occupational Safety and Health Administration – Final Rule Stage
1. Hazard Communication
2. Walking Working Surfaces and Personal Fall Protection Systems (Slips, Trips, and Fall Protection)
Occupational Safety and Health Administration – Proposed Rule Stage
1. Occupational Exposure to Crystalline Silica
2. Improve Tracking of Workplace Injuries and Illnesses
3. Occupational Injury and Illness Recording and Reporting Requirements – NAICS Update and Reporting Revisions
4. Updating OSHA Standards Based on National Consensus Standards – Acetylene
5. Updating OSHA Standards Based on National Consensus Standards – Personal Protective Equipment (Head Protection)
Occupational Safety and Health Administration – Long Term Action
1. Bloodborne Pathogens
2. Infectious Diseases
3. Injury and Illness Prevention Program
4. Standards Improvement Project IV
5. Review/Lookback of OSHA Chemical Standards

Link

The link below will allow you to view/print the Fall 2011 Semi-Annual Regulatory Agenda.

<http://www.reginfo.gov/public/do/eAgendaMain>