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**A. EPA PCBs Bulk Product v. Remediation Waste; Request for Public Comment**

On February 29, 2012, the Environmental Protection Agency (EPA) published a request for comments (77 FR 12293-12295) on a proposed reinterpretation of its position regarding the polychlorinated biphenyl (PCB) disposal regulations for PCB contaminated building materials.

**Background**

Waste derived from caulk or paint containing PCBs at a concentration of 50 parts per million (ppm) or greater is defined in 40 CFR 761.3 as a PCB bulk product waste. However, building materials that come into contact with these caulks and paints are considered remediation wastes. PCB remediation waste is defined as “waste containing PCBs as a result of a spill, release, or other unauthorized disposal...” and the leaching of PCBs from caulk or paint is considered a release of PCBs. This interpretation places more stringent disposal requirements on PCB-contaminated building materials than on the products that were originally manufactured with PCBs (caulk or paint containing PCBs).

**Summary**

EPA is proposing to reinterpret the status of PCB-contaminated building materials. The proposed revisions would allow building material “coated or serviced” with PCB bulk product waste (e.g., caulk, paint, mastic, sealant) at the time of disposal to be managed as a bulk product waste, even if the PCBs have migrated from the bulk product waste into the substrate. However, if the PCB bulk product waste (e.g., caulk, paint, mastic, sealant) has been separated and removed from the building material and the PCBs have migrated to the building materials, the PCB contaminated building materials would be regulated as a PCB remediation waste.

EPA is seeking comment on this proposed reinterpretation which they believe will maintain the existing environmental and human health protections while removing unnecessary disposal burdens and speed up the remediation of contaminated schools and public buildings.

**Comments Due**

Comments on this proposed reinterpretation must be submitted to EPA by March 30, 2012.

**Link**

The link below will allow you to view/print this request for comments.

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-29/pdf/2012-4860.pdf>

**B. EPA Designation of Hazardous Substances; Designation, Reportable Quantities, and Notification; Direct Final and Proposed Rules**

On February 22, 2012, EPA published a direct final rule (77 FR 10387-10390) and a proposed rule (77 FR 10450-10451) to reinstate the maximum observed constituent concentrations for several listed hazardous wastes that were inadvertently removed from the regulations in a November 8, 2000 final rule.

**Background**

In a November 8, 2000 final rule (Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; CERCLA Hazardous Substance Designation and Reportable Quantities; Final Rule) EPA inadvertently removed the maximum observed constituent concentrations for the listed hazardous wastes K169, K170, K171, and K172.

**Summary**

This direct final rule reinstates the maximum observed constituent concentrations for listed hazardous wastes K169, K170, K171, and K172 to the table in 40 CFR 302.6(b)(1)(iii). The maximum observed constituent concentrations are included in 40 CFR 302.6 to allow generators, transporters, and disposal facilities to calculate reportable quantities using the mixture rule. The maximum observed constituent table in 40 CFR 302.6 lists concentrations for individual constituents in the listed waste codes that generators, transporters, and disposal facilities can assume to be present in the listed waste.

Waste	Constituent	Max ppm
K169	Benzene	220.0
K170	Benzene	1.2
	Benze (a) pyrene	230.0
	Dibenz (a,h) anthracene	49.0
	Benzo (a) anthracene	390.0
	Benzo (b) fluoranthene	110.0
	Benzo (k) fluoranthene	110.0
	3-Methylchloanthrene	27.0
	7, 12-Dimethylbenz (a) anthracene	1,200.0
	K171	Benzene
Arsenic		1,600.0
K172	Benzene	100.0
	Arsenic	730.0

**Effective Date**

This direct final rule will become effective on April 23, 2012, unless EPA receives adverse written comments by March 23, 2012.

**Links**

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

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-22/pdf/2012-4060.pdf>

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

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-22/pdf/2012-4059.pdf>

**C. Puerto Rico Electronic Recycling and Disposal Act**

On January 18, 2012, the Puerto Rico Electronic Recycling and Disposal Act (Law 18-2012) was signed into law. This law is designed to reduce sources of electronic waste and guarantee the proper storage and disposal of electronic wastes.

**Summary**

This law prohibits the disposal of electronic equipment in a municipal landfill or any place other than an authorized collection center. Under this new law electronic wastes will be regulated as special wastes and include: cell phones, televisions, cathode ray tubes, monitors, computers and accessory equipment, security cameras, printers, cartridges, video game systems, GPS units, amplifiers, routers, and watches.

Companies with 11 or more employees are required to develop a recycling, reuse, and reconstruction program for all electronic equipment used in their operations and submit an annual report to the Solid Waste Management Authority (SWMA) demonstrating compliance with the law.

The Environmental Quality Board (EQB) must promulgate regulations for the management, disposal, reutilization, and recycling of electronic equipment by May 16, 2012 and electronic wastes must be disposed of in government-designated collections centers within 18 months.

**Link**

The link below will allow you to view/print law 18-2012, but it is in Spanish.

<http://www.oslpr.org/2009-2012/leyes/pdf/ley-18-17-Ene-2012.pdf>

**D. DOT/PHMSA Clarification on the Division 1.1 Fireworks Approvals Policy; Clarification**

On February 21, 2012, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) published a clarification (77 FR 9865-9867) of the Division 1.1 Fireworks Approvals Policy.

### **Summary**

On September 27, 2011, PHMSA published the initial Notice No. 11-6 clarifying its policy, consistent with the Hazardous Materials Regulations (HMR) that all Division 1.1 fireworks must undergo examination by a DOT-approved explosives examination laboratory or be issued an approval for the explosive by the competent authority of a foreign government acknowledged by PHMSA's Associate Administrator.

In this clarification, PHMSA is responding to comments received as a result of the initial notice and is restating its policy clarification on the fireworks approval program. Based on these comments PHMSA will no longer accept Division 1.1 fireworks approval applications submitted under the APA Standard 87-1. PHMSA has decided that APA Standard 87-1 does not provide the testing and criteria required to determine when a device ceases to be a Division 1.1 firework device and becomes forbidden from transportation. Testing Division 1.1 fireworks devices as prescribed in the HMR will ensure that Division 1.1 fireworks meet the established criteria for their assigned classification, thereby minimizing the potential shipment of incorrectly classified or forbidden fireworks. Division 1.1 fireworks must be examined and assigned a recommended shipping description, division, and compatibility group by a DOT-approved explosives test laboratory, or issued an approval for the explosives by the competent authority of a foreign government acknowledged by PHMSA's Associate Administrator. PHMSA will evaluate the applications for approval without testing on a case-by-case basis under 49 CFR 173.56(i).

### **Effective Date**

This policy clarification became effective on the date of publication, February 21, 2012.

### **Link**

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

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-21/pdf/2012-3894.pdf>

## **E. DOT/FMCSA Harmonizing Schedule I Drug Requirements; Final Rule Correction**

On February 22, 2012, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a correction (77 FR 10391-10400) to reverse several changes that were inadvertently made to the Medical Examination Report due to a printing error.

### **Summary**

FMCSA's recent rule harmonizing Schedule I drug requirements included several changes to the Instructions to the Medical Examination Report for Commercial Driver Fitness Determination, Form 649-F (6045). Although no changes were to be made to the form itself, due to a printing error, several changes were inadvertently made. The corrections to the form and the corrected form are included in this final rule.

**Link**

The link below will allow you to view/print the correction to the final rule and the corrected Medical Examiners Report Form.

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-22/pdf/2012-3978.pdf>

**F. DOT/PHMSA Hazardous Materials: Special Permit and Approval Applicant Fitness Determinations; Notice of Public Meeting**

On February 2, 2012, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) published a notice of a public meeting (77 FR 5305-5306) to discuss Special Permit and Approval applicant approval determinations.

**Background**

PHMSA issues DOT special permits and approvals under 49 CFR Parts 100-185. A Special Permit is a document that authorizes a person to perform a function that is not otherwise permitted under the Hazardous Materials Regulations (HMR). PHMSA may grant a special permit if they find that the applicant is fit to conduct the activity authorized by the special permit. An Approval is a written consent, including a competent authority approval, to perform a function that requires prior consent under the HMR. PHMSA must find the applicant fit to conduct the activity authorized by the approval.

**Summary**

PHMSA is considering revising the fitness determination criteria to improve the application process while maintaining the safety focus of the review. PHMSA is holding a public meeting to provide interested persons with an opportunity to submit oral comments and participate in discussions concerning the criteria used when determining an applicant's minimum level of fitness. Specifically, PHMSA is seeking comments on the use of DOT's Hazmat Intelligence Portal (HIP) data, the potential use of alternative sources of fitness data, and other information that should be considered during the fitness review process.

**Public Meeting Location and Date**

The public meeting was held at the US DOT Headquarters, West Building, 1200 New Jersey Avenue SE, Washington, DC 20590 from 1:00 PM to 4:00 PM on February 29, 2012.

**Link**

The link below will allow you to view/print the notice of the public meeting.

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-02/pdf/2012-2305.pdf>

**G. DOT/FMCSA Electronic On-Board Recorders and Hours of Service Supporting Documents; Notice of Intent and Public Listening Sessions**

On February 13, 2012, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a notice of intent (77 FR 7562-7564) to proceed with the Electronic On-Board Recorders and Hours of Service Supporting Documents rulemaking (EOBR2) by preparing a Supplemental Notice of Proposed Rulemaking. FMCSA also published a notice of a public listening session (77 FR 12231-12233) to discuss this topic which will be held on March 23, 2012.

**Background**

On April 5, 2010, FMCSA published a final rule that provided new technical requirements for EOBRs. The Owner-Operator Independent Drivers Association (OOIDA) challenged the final rule in the United States Court of Appeals. OOIDA raised several concerns relating to EOBRs and their potential use for driver harassment. On August 26, 2011, the Court vacated the entire final rule because FMCSA failed to address the issue of driver harassment, including how EOBRs could potentially be used to harass drivers and ways to ensure that EOBRs are not used to harass drivers. In addition, the Court stated that FMCSA had not estimated the safety benefits of EOBRs and how EOBRs increased compliance.

On February 1, 2011, FMCSA published a notice of proposed rulemaking (76 FR 5537) that proposed to expand the scope of EOBR use to a broader population of motor carriers (EOBR 2), EOBR 2 proposed that within 3 years of the effective date of the final rule, all motor carriers currently required to maintain records of duty status for hours of service recordkeeping would be required to use EOBRs.

**Summary**

In this publication FMCSA is declaring its intent to proceed with the EOBR 2 rulemaking. Because the EOBR 2 rule relied on the technical specifications included in EOBR 1, which has been vacated by the Court, FMCSA must propose and seek comment on new technical standards before any final rule can be issued. FMCSA is developing a Supplemental Notice of Proposed Rulemaking to propose technical standards for EOBR 2, address driver harassment issues, propose requirements for retaining hours of service supporting documents, and provide clarification and request further comments on several of the proposals. In addition, FMCSA will hold public listening sessions; work with the Motor Carrier Safety Advisory Committee; and use driver, carrier, and vendor surveys to obtain stakeholder information on driver harassment.

**Public Listening Session**

The first public listening session will be conducted on March 23, 2012, at the Mid-America Trucking Show in Louisville, KY. The hours of the listening session will be 10:00 AM – 12:00 PM and 2:00 PM to 4:00 PM.

**Links**

The link below will allow you to view/print the notice of intent to proceed with EOBR 2.

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-13/pdf/2012-3265.pdf>

The link below will allow you to view/print the notice of the public listening session.

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-29/pdf/2012-4876.pdf>

**H. California CAL/OSHA Launches Confined Special Emphasis Initiative and Hazard Alert**

On February 8, 2012, the California Department of Industrial Relations' Division of Occupational Safety and Health (Cal/OSHA) announced a statewide Confined Space Special Emphasis Initiative (IR #2012-05) on preventing worker deaths and injuries in confined spaces. Cal/OSHA also issued a Confined Space Hazard Alert to assist employers and employees in identifying confined space situations and the controls required for entering a confined space.

The goals of the Confined Space Emphasis Initiative are:

1. Increase the confined space hazard awareness of employees and employers.
2. Provide resources, on-line materials, training, and consultation on confined spaces.
3. Increase enforcement efforts to ensure all employers have adequate confined space programs and training at workplaces.

**Links**

The link below will allow you to view/print the announcement of the Confined Space Emphasis Program.

<http://www.dir.ca.gov/DIRNews/2012/IR2012-05.html>

The link below will allow you to view/print the Confined Space Hazard Alert.

[http://www.dir.ca.gov/dosh/dosh\\_publications/ConfinedSpaceHazardAlert.pdf](http://www.dir.ca.gov/dosh/dosh_publications/ConfinedSpaceHazardAlert.pdf)

**I. OSHA Announces the Release of New Videos on the Proper Use of Respirators**

On January 31, 2012, the Occupational Safety and Health Administration (OSHA) announced the availability of 17 videos on the proper use of respirators in the workplace. These are short videos, nine in English and eight in Spanish. The topics of the videos include: OSHA's Respiratory Standard, respirator use, training, and fit-testing. The videos can be streamed or downloaded from OSHA's website.



### **Link**

The link below will provide access to OSHA's Respiratory Protection webpage that includes additional information on the Respiratory Protection Standard and a link to the videos.

<http://www.osha.gov/SLTC/respiratoryprotection/index.html>

### **J. NRC Low-Level Radioactive Waste Management Issues; Public Meeting and Request for Comments**

On February 22, 2012, the Nuclear Regulatory Commission (NRC) published a notice of a public meeting (77 FR 10401-10403) to discuss possible revisions for the management of commercial low-level radioactive waste (LLW).

### **Summary**

On December 27, 1982, the NRC published a final rule (10 CFR Part 61) regulating near-surface LLW disposal technology, including shallow-land burial, engineered land disposal methods such as below-ground vaults, earth mounded bunkers, and augured holes. The regulations also include requirements for site selection, disposal facility design and operation, minimum waste form requirements, and disposal facility closure for the disposal of commercial LLW.

The NRC issued a Staff Requirements Memorandum (SRM) on March 18, 2009, directing the NRC staff to begin work on revisions to 10 CFR Part 61 to include requirements for a site-specific analysis for the disposal of large quantities of depleted uranium (DU). A second SRM added blended LLW streams to the revisions NRC wanted to add to the 10 CFR Part 61 amendments. Finally, on January 19, 2012, the NRC added additional items to the amendments. These additional items include:

1. Allowing licensees the flexibility to use ICRP dose methodologies in a site-specific performance assessment for the disposal of all radioactive wastes.
2. Develop a two tiered approach that establishes a compliance period that covers the reasonably foreseeable future and a longer period.
3. Flexibility for disposal facilities to establish site-specific waste acceptance criteria based on the results of the site's performance assessment and intruder assessment.
4. A compatibility category for the elements of the revised rule that establish the requirements for site-specific performance assessments and the development of the site-specific waste acceptance criteria that ensures alignment between the States and Federal government regarding safety fundamentals.

The NRC is scheduling a series of three public meetings in March, May, and July 2012 on the proposed revisions to 10 CFR Part 61 to receive feedback from stakeholders and other interested parties on the proposed revisions.

**Public Meeting Date and Location**

The first public meeting was held on March 2, 2012 in Phoenix, AZ.

**Link**

The link below will allow you to view/print the Notice of Public Meeting

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-22/pdf/2012-4090.pdf>