

REGULATORY UPDATE – June 2012

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A. EPA Activities to Promote Environmental Justice in the Permit Application Process; Notice of Availability of Proposed Regional Actions to Promote Public Participation in the Permitting Process and Draft Best Practices for Permit Applicants Seeking EPA-Issued Permits; Request for Comments

On June 26, 2012, the Environmental Protection Agency (EPA) published a notice (77 FR 38051-38060) announcing the availability of proposed regional actions to promote public participation in the permitting process and draft best practices for permit applicants seeking EPA-issued permits and seeking public comment on these actions.

Summary

In 2011, EPA published Plan Environmental Justice (EJ) 2014, the Agency's strategy for advancing environmental justice. The Plan has three objectives:

1. Protect health and the environment in overburdened communities;
2. Empower communities to take action to improve their health and environment; and
3. Establish partnerships with local, state, tribal, and federal governments and organizations to achieve healthy and sustainable communities.

In this notice, EPA has compiled a draft list of activities and best practices which they obtained from several sources. EPA surveyed their regional offices, conducted numerous listening sessions, conference calls, and meetings with environmental justice stakeholders, members of the business community, state, local, and tribal governments, and non-governmental organizations.

This notice also describes the general expectations for EPA regional office plans and presents the framework and specific activities intended to enhance public participation. Each EPA regional office will be required to develop a regional implementation plan following the agency guidelines.

Solicitation of Comments

EPA is seeking comment on the draft list of activities and best practices included in this notice. Some of the questions EPA is seeking comments on are included below:

1. What criteria should EPA regional offices use to prioritize permits for enhanced outreach?
2. Has EPA identified the appropriate activities that regional offices can take to promote greater involvement?
3. What lessons have you learned that can be applied to improve the agency wide guidelines and/or regional implementation plans?
4. What different or additional activities could permit applicants employ in the permit process?
5. How can EPA ensure that communities are aware of the opportunity to have a dialogue with permit applicants ?

Comments Due

Comments on this notice must be received by EPA on or before August 27, 2012.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2012-06-26/pdf/2012-15605.pdf>

Impact on Veolia Environmental Services

This notice shows EPA's continued interest in including environmental justice activities in the permitting process. The notice has no direct impact on VES operations and the activities and best practices included in the notice are already in place at VES facilities.

B. EPA National Uniform Emission Standards for Storage Vessel and Transfer Operations, Equipment Leaks, and Closed Vent Systems and Control Devices; and Revisions to the National Uniform Emission Standards General Provisions; Extension of Public Comment Period

On June 18, 2012, EPA published an extension of the comment period (77 FR 36248-36249) for the National Uniform Emission Standards for Storage Vessels and Transfer Operations, Equipment Leaks, and Closed Vent Systems and Control Devices proposed rule published on March 26, 2012.

Summary

The proposed Uniform Standards would be referenced in future revisions to new source performance standards and national emission standards for hazardous air pollutants for individual source categories that are part of the chemical manufacturing and refining industries. The Uniform Standards would apply to industries that have storage vessels and transfer operations, equipment leaks, or control devices used to control process vents from reactors, distillation units, and other operations, as well as from emissions from storage vessels, transfer operations, and equipment leaks that are routed to control devices. EPA believes that the proposed Uniform Standards would ensure consistency and streamline recordkeeping and reporting requirements for the regulated facilities and the Uniform Standards would be referenced when revisions are made to the new source performance standards and national emission standards for hazardous air pollutants for other sources.

EPA received requests to extend the comment period from the American Petroleum Institute (API) and the American Chemistry Council (ACC). In this publication EPA is granting a 90 day extension of the comment period.

Comments Due

The 90-day extension of the comment period extends the due date for comments to September 24, 2012.

Link

The link below will allow you to view/print the notice of the extension of the comment period.

<http://www.gpo.gov/fdsys/pkg/FR-2012-06-18/pdf/2012-14784.pdf>

Impact on Veolia Environmental Services

The extension of the comment period for this proposed rule has no impact on VES operations because we do not intend to submit comments to EPA. The proposed rule would have a positive impact on VES facilities by creating a uniform set of performance standards for all storage vessels, equipment leaks, closed vent systems, and control devices in the federal regulations.

C. Canada Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations; Final Rule

On May 23, 2012, Environment Canada published a final rule amending the Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations (EIHWRMR) to correct minor clarity issues and inconsistencies that were identified in the 2005 final rule.

Summary

The EIHWRMR regulations were amended to provide clarity and remove inconsistencies and to better align the English and French versions of the regulations. Some of these amendments are listed below:

1. Modify the English version of clause 16(o)(ii)(A) by replacing “contact person” with “contact person for that facility.” This change adds clarity and ensures consistency with the French wording “personne-ressource de celle-ci.”
2. Revises paragraph 8(b) by adding “if applicable” before “the electronic address and facsimile number.” This change takes into account the fact that a regulatee may not have access to an electronic address and/or a facsimile number.
3. Align the French and English versions of items 1 through 5 of Part I of schedule 4.
4. Amend several paragraphs by replacing “require” with “ask for” to allow provincial authorities to obtain a copy of the movement document, if they wish to receive one.

Effective Date

These amendments became effective on the date of publication, May 23, 2012.

Link

The link below will allow you to view/print the amendments to the EIHWRMR regulations.

<http://www.gazette.gc.ca/rp-pr/p2/2012/2012-05-23/html/sor-dors99-eng.html>

Impact on Veolia Environmental Services

These amendments to the Canadian export and import of hazardous wastes and materials will have minimal impact on VES operations because the changes are limited to clarifications of the regulations and removing inconsistencies between the English and French versions of the regulations.

D. Rhode Island Enacts Paint Stewardship Program

On June 27, 2012, Rhode Island Governor Lincoln Chafee signed the Paint Stewardship Law mandating that paint companies be responsible for collecting, recycling, and reusing unused latex and oil-based paint products from households and painting contractors. The law requires the creation of a statewide paint stewardship program to be managed by a stewardship organization that will be funded by a surcharge on retail paint products. The funds will be used for paint collection, reuse, recycling, and disposal activities. The stewardship organization must be formed by March 1, 2014 and beginning in 2015, the organization must submit annual reports to the state on the program.

Link

The link below will allow you to view/print the News Release for the Paint Stewardship Program.

<http://www.dem.ri.gov/news/2012/pr/0627121.htm>

Impact on Veolia Environmental Services

The establishment of a paint stewardship program in Rhode Island has minimal impact on VES operations. This is the 4th State to implement a paint stewardship program which shows the continuing trend of States enacting stewardship programs for products.

E. DOT/FMCSA Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report for Intermodal Equipment; Final Rule

On June 12, 2012, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a final rule (77 FR 34846-34853) eliminating the requirement for drivers operating intermodal equipment (IME) to submit - and intermodal equipment providers (IEPS) to retain - driver-vehicle inspection reports (DVIRs) when the driver has neither found nor been made aware of any defects in the IME.

Summary

The purpose of this rule is to eliminate the reporting requirement for Driver-Vehicle Inspection Reports (DVIRs) for intermodal equipment (IME), if the driver has neither found nor has been made aware of any defects in the IME. The rule also eliminates the recordkeeping requirement for intermodal equipment providers (IEPs) to retain DVIRs that do not indicate IME defects. This rule does not change the driver's obligation to assess the condition of the IME at the end of a workday to determine whether the IME has defects or deficiencies that could affect operational safety. Although FMCSA is removing the requirement to complete a DVIR if the driver finds no defects in the IME and none have been reported to the driver, he or she must still inspect the IME to make this determination.

This final rule was published in response to a joint petition for rulemaking from the Ocean Carrier Equipment Management Association (OCEMA) and the Institute of International Container Lessors (IICL).

Effective Date

This final rule became effective on the date of publication, June 12, 2012.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2012-06-12/pdf/2012-14215.pdf>

Impact on Veolia Environmental Services

This final rule will have minimal impact on VES operations because we do not own any intermodal equipment. This final rule only applies to drivers operating intermodal equipment. Drivers operating regular CMVs are still required to complete DVIRs as currently required.

F. DHS/TSA Exemption from Transportation Worker Identification Credential (TWIC) Expiration Provisions for Certain Individuals Who Hold a Valid TWIC; Notice of Exemption

On June 19, 2012, the Department of Homeland Security, Transportation Security Administration (TSA) published a notice of exemption (77 FR 36406-36408) granting a temporary exemption for certain Transportation Worker Identification Credential (TWIC) regulations regarding card expiration and replacement requirements.

Summary

This exemption applies to U.S. nationals (U.S. citizens and non-citizen nationals of the U.S.) who hold a valid TWIC expiring on or before December 31, 2014. This exemption permits eligible

TWIC holders to obtain a replacement card that extends the expiration date of their current security threat assessment and TWIC by three years. Due to the fact that card readers are not yet required by regulation or in widespread use, TSA believes the burden associated with the full renewal requirements is not currently justified. The exemption permits eligible individuals to pay lower fees, reduce trips to an enrollment center, and avoid providing new biometric and biographic enrollment information when they request the card.

Eligibility

Individuals are eligible to apply for the three-year TWIC if they are U.S. nationals and hold a valid TWIC that expires on or before December 31, 2014. Individuals eligible for the three-year TWIC may choose to obtain a five-year TWIC under the current process. All other individuals who are not eligible for the three-year TWIC must obtain or renew a TWIC through the standard renewal process and obtain a five-year TWIC.

Procedures

To receive a three-year TWIC, eligible individuals must:

1. Call the TWIC Help Desk (888-347-8942) and order a three-year TWIC.
2. Pay the \$60 card replacement fee.
3. For individuals who became a U.S. national after enrolling for the original five-year TWIC, provide proof of U.S. national status.
4. Visit an enrollment center and present government-issued photo identification to activate and pick up the new TWIC.
5. Comply with all non-exempt requirements of 40 CFR Part 1572 including requirements to report disqualifying arrests, convictions, or unlawful immigration status.

Effective Date

This exemption will become effective on August 30, 2012.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2012-06-19/pdf/2012-15027.pdf>

Impact on Veolia Environmental Services

VES drivers holding a valid TWIC that expires on or before December 31, 2014, will be allowed to pay a lower fee and avoid providing new biometric and biographic information when obtaining a three year extension of their TWIC.

G. DHS/TSA Provisions for Fees Related to Hazardous Materials Endorsements and Transportation Worker Identification Credentials; Notice of Proposed Rulemaking

On June 13, 2012, the Department of Homeland Security, Transportation Security Administration (TSA) published a notice of proposed rulemaking (77 FR 35343-35349) that would allow any revisions to the Transportation Worker Identification Credentials fee schedules to be published in the Federal Register.

Summary

TSA has a statutory requirement to sustain the Hazardous Materials Endorsements (HMEs) and Transportation Worker Identification Credentials (TWICs) programs through user fees. Currently, TSA is at risk of having to suspend issuance of credentials to meet HME or TWIC program requirements or decreasing services until a rule change is completed to reflect any changes in fee amounts. To address this issue, TSA is proposing to revise the existing regulations to ensure that TSA can continue to fund these programs on an ongoing basis, provide notice to affected stakeholders of any revisions to the fees, and meet contractual obligations with its vendors. TSA is proposing to amend 49 CFR 1572.403(a), the collection of HME fees, and 49 CFR 1572.501(b), the collection of TWIC fees, to remove references to specific fee amounts. In the future, any revisions to fee schedules would be published in the Federal Register.

Comments Due

Comments on this notice of proposed rulemaking must be submitted to TSA by July 30, 2012.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2012-06-13/pdf/2012-14426.pdf>

Impact on Veolia Environmental Services

This notice of proposed rulemaking could impact the fees paid by VES drivers when obtaining a TWIC by easing the requirements for TSA to increase fees.

H. OSHA Updating OSHA Standards Based on National Consensus Standards; Head Protection; Direct Final Rule and Notice of Proposed Rulemaking

On June 22, 2012, the Occupational Safety and Health Administration (OSHA) published a direct final rule (77 FR 37587-37600) and a notice of proposed rulemaking (77 FR 37617-37630) to revise the personal protective equipment (PPE) sections of the general industry, shipyard employment, longshoring, and marine terminals standards regarding requirements for head protection.

Summary

OSHA's general industry standards, 29 CFR 1910.135, contain design requirements for head protection. Shipyard employment (29 CFR 1915, Subpart I), marine terminals (29 CFR 1917, Subpart E), longshoring (29 CFR 1918, Subpart J), and construction (29 CFR 1926, Subpart E) have similar requirements. These rules require that the specified head protection comply with national consensus standards incorporated by reference into the OSHA standards unless the employer demonstrates that non-specified head-protection equipment is at least as effective in protecting workers.

On September 9, 2009, OSHA published a final rule (74 FR 46350) "Updating OSHA Standards Based on National Consensus Standards; Personal Protective Equipment." However, the 2009 edition of the American National Standards Institute (ANSI) for industrial head protection (ANSI Z89.1) was not included in this final rule.

This direct final rule updates the references in all of the regulations cited above to the 2009 edition of ANSI Z89.1, industrial head protection, while also removing all references to outdated ANSI industrial head protection standards.

Effective Date

This direct final rule will become effective on September 20, 2012, unless OSHA receives adverse written comments by July 23, 2012.

Links

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

<http://www.gpo.gov/fdsys/pkg/FR-2012-06-22/pdf/2012-15030.pdf>

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

<http://www.gpo.gov/fdsys/pkg/FR-2012-06-22/pdf/2012-15031.pdf>

Impact on Veolia Environmental Services

This direct final rule would have no impact on VES operations because our PPE requirements for head protection currently follow the 2009 edition of the ANSI Z89.1 standard.

I. OSHA Establishing Indicators to Determine Whether State Plan Operations are at Least as Effective as Federal OSHA: Stakeholder Meeting; Extension of Comment Period

On June 19, 2012, the Occupational Safety and Health Administration (OSHA) published an extension of the comment period (77 FR 36579-36580) for the notice and request for comment on

Establishing Indicators to Determine whether State Plan Operations are At Least as Effective as Federal OSHA.

Summary

On May 29, 2012, OSHA published a notice of public meeting and request for comment in an effort to receive feedback from the public on how to define and measure the effectiveness of State Plans and to develop a revised monitoring system to ensure consistency and effectiveness across the State Plans. The public meeting was held on June 25, 2012 and the extension of the comment period allowed commenters the opportunity to review the proposed measures and questions discussed in the public meeting prior to submitting comments.

A summary of the May 29, 2012 notice of public meeting and request for comments is included in the May 2012 Regulatory Update.

Comments Due

Following this extension, comments must now be submitted to OSHA on or before July 6, 2012.

Link

The link below will allow you to view/print the notice of the extension of the comment period.

<http://www.gpo.gov/fdsys/pkg/FR-2012-06-19/pdf/2012-14900.pdf>

Impact on Veolia Environmental Services

The extension of the comment period will have no impact on VES because we never intended to submit comments and the effectiveness rating of State Safety and Health Plans has minimal impact on VES operations.

J. NRC Revision of Fee Schedules; Fee Recovery for Fiscal Year 2012; Final Rule

On June 15, 2012, the Nuclear Regulatory Commission (NRC) published a final rule (77 FR 35809-35836) amending the licensing, inspection, and annual fees charged to applicants and licensees.

Summary

The Omnibus Budget Reconciliation Act of 1990 requires the NRC to recover approximately 90 percent of its budget through fees. In order to meet the 90 percent recovery requirement for fiscal year 2012, NRC is increasing the licensing, inspection, and annual fees charged to applicants and licensees. The fees did not increase for waste disposal and processing. Following are the fees for waste disposal and processing.

Type of Fee	Fee
Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	\$8,400
Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	\$4,900

Effective Date

These fees will become effective on August 14, 2012.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2012-06-15/pdf/2012-14589.pdf>

Impact on Veolia Environmental Services

This final rule does not increase the fees for waste disposal and processing operations, so there is no impact on VES operations.

K. DOE Notice of Intent to Prepare a Supplemental Environmental Impact Statement for the Long-Term Management and Storage of Elemental Mercury; Notice of Intent

On June 5, 2012, the Department of Energy (DOE) published a notice of intent (77 FR 33204-33205) to analyze additional facilities for the long-term management and storage of elemental mercury.

Background

The Mercury Export Ban Act of 2008 (MEBA) prohibits the sale, distribution, or transfer by Federal agencies of any elemental mercury. The ban also prohibits the export of elemental mercury from the U.S. beginning January 1, 2013. Section 5 of MEBA, *Long-Term Storage*, requires DOE to designate a facility or facilities for the long-term management and storage of elemental mercury generated within the United States. According to MEBA, the long-term storage facility is to be operational by January 1, 2013.

Seven potential long-term storage facilities have been evaluated by DOE. DOE has recently identified two additional locations that they believe should be evaluated as long-term storage facilities. As a result, DOE proposes to analyze these two additional alternate locations.

Comments Due

Comments on this notice of intent were required to be submitted to DOE by July 5, 2012.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2012-06-05/pdf/2012-13614.pdf>

Impact on Veolia Environmental Services

DOE's identification of two additional potential alternate storage locations for elemental mercury does not have a direct impact on VES operations, but it does indicate that DOE will not have a storage facility in place by the January 1, 2013 deadline included in MEBA. VES attended a meeting with EPA in Washington DC in June 2012 to discuss several issues related to the management of recycled mercury in accordance with the MEBA requirements.