

REGULATORY UPDATE – September 2012

ENVIRONMENTAL UPDATES

- A. [EPA Polychlorinated Biphenyls \(PCBs\): Revisions to Manifesting Regulations; Direct Final and Proposed Rules](#)
- B. [Electronic Hazardous Waste Manifest Bill Signed by Congress and Senate; Sent to President](#)
- C. [EPA Electronic Waste Recycling Challenge for Manufacturers and Retailers](#)
- D. [General Services Administration to Propose Rule Requiring Government Electronic Waste to be Managed by Certified Recyclers](#)
- E. [EPA New Region 6 Administrator Introduced](#)
- F. [California Proposed Emergency Ruling on Disposal of CRTs and CRT Glass](#)

TRANSPORTATION UPDATES

- G. [DOT/NHTSA Civil Penalties; Notice of Proposed Rulemaking](#)

HEALTH & SAFETY UPDATES

No Health and Safety Updates for the Month of September

MISCELLANEOUS UPDATES

- H. [DHHS/CDC Multi-Agency Informational Meeting Concerning Compliance with the Federal Select Agent Program; Public Webcast](#)
- I. [DOJ/ATF Commerce in Explosives; List of Explosive Materials \(2012R-10T\); Notice of List of Explosive Materials](#)

A. EPA Polychlorinated Biphenyls (PCBs): Revisions to Manifesting Regulations; Direct Final and Proposed Rules

On September 6, 2012, the Environmental Protection Agency (EPA) published a direct final rule (77 FR 54818-54835) and a proposed rule (77 FR 54863-54864) to update and clarify several sections of the Polychlorinated Biphenyl (PCB) manifesting regulations.

Background

The Polychlorinated Biphenyl (PCB) manifesting regulations under the Toxic Substances Control Act (TSCA) utilize the Resource Conservation and Recovery Act (RCRA) Uniform Hazardous Waste Manifest. The RCRA hazardous waste manifesting regulations were amended with the promulgation of the Uniform Hazardous Waste Manifest regulations on March 4, 2005. However, corresponding changes to the PCB manifesting regulations never occurred. The updates and clarifications in this final rule are intended to match, as much as possible, the manifesting requirements for PCBs under TSCA to the manifesting requirements for hazardous wastes under RCRA.

Summary

Following are the amendments impacting PCB waste management manifesting requirements:

1. Written Record of Shipment Delivery Confirmations

40 CFR 761.208(a)(4) contains a requirement that the generator must retain a written record of all telephone or other confirmations that must be included in the annual document log when an independent transporter is employed to transport the PCB waste to a commercial storage or disposal facility. EPA believes that this requirement is no longer necessary to ensure compliance with exception reporting. Therefore, the language in 40 CFR 761.208(a)(4) will be removed from the regulations along with the requirement to maintain these verifications in the annual document (40 CFR 761.180(a)(2)(viii)).

2. Submitting Unmanifested Waste Reports to EPA

The current PCB manifesting regulations, 40 CFR 761.211(c), contain language stating that unmanifested waste reports will be submitted to both the Regional Administration for the Region in which the commercial storage or disposal facility is located and the Regional Administrator for the Region in which the PCB waste originated. In comparison, the RCRA hazardous waste manifesting regulations, 40 CFR 264.76(a), only require the unmanifested waste report to be sent to the Regional Administrator for the Region where the RCRA hazardous waste storage or disposal facility is located. EPA believes that it is sufficient to only send the unmanifested PCB waste report to the Regional Administrator for the Region in which the commercial PCB storage or disposal facility is located and the direct final rule has been amended to include this amendment.

3. Due Date for Submitting Exception Reports

The PCB manifesting regulations, 40 CFR 761.215(b), require an exception report to be submitted to EPA no later than 45 days from the date the generator should have received a copy of the manifest signed by the destination facility documenting that the waste had been received. The RCRA hazardous waste management regulations, however, do not specify a timeframe, 40 CFR 262.42(a)(2). The direct final rule will retain the 45-day deadline for submitting an exception report, but has recodified the regulation in 40 CFR 761.217(a)(2).

The remaining changes in the direct final rule are limited to eliminating certain non-substantial or duplicative requirements and renumbering the regulations in 40 CFR 761.

Effective Date

The direct final rule will become effective on December 5, 2012, unless EPA receives adverse comments by November 5, 2012.

Links

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

<http://www.gpo.gov/fdsys/pkg/FR-2012-09-06/pdf/2012-21674.pdf>

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

<http://www.gpo.gov/fdsys/pkg/FR-2012-09-06/pdf/2012-21675.pdf>

B. Electronic Hazardous Waste Manifest Bill Signed by Congress and Senate; Sent to President

On September 25, 2012, the Hazardous Waste Electronic Manifest Establishment Act (S. 710) was sent to President Obama. This legislation will establish an electronic system to track hazardous waste shipments and replace the current system requiring hazardous waste handlers to file multiple paper copies of hazardous waste manifests. After the Bill is signed into law by the President EPA will need to complete a rulemaking for the electronic waste manifest system. However, EPA has stated that the proposed regulations have already been drafted. When the rulemaking has been completed, a contractor must be hired to develop the software and set up the system. This entire process could take up to three years to implement.

Link

The link below will allow you to view/print the Hazardous Waste Electronic Manifest Establishment Act (S. 710) that was sent to the President.

<http://www.gpo.gov/fdsys/pkg/BILLS-112s710enr/pdf/BILLS-112s710enr.pdf>

C. EPA Electronic Waste Recycling Challenge for Manufacturers and Retailers

On September 20, 2012, EPA announced the Sustainable Materials Management (SSM) Electronics Challenge, a voluntary program that encourages electronics manufacturers and retailers to increase the amount of used electronic devices collected and recycled.

Companies that join the challenge commit to send the used electronic devices to third-party certified refurbishers and recyclers. A certified recycler is defined as a recycling company certified under EPA's Responsible Recycling (R2) Practices or the Basel Action Networks E-Stewards Program.

Electronic manufacturers and retailers are allowed to join the challenge at one of three levels; gold, silver, or bronze. Gold participants pledge to send 95 to 100 percent of used electronics to certified recyclers, silver participants pledge to send between 50 and 95 percent, and bronze participants pledge to send up to 50 percent.

Some of the Electronic manufacturers and retailers that have pledged to participate include Best Buy, LG Electronics, Panasonic, Samsung, Sharp, Sprint, and Staples.

Link

The link below will allow you to access EPA's SSM Electronics Challenge website.

<http://www.epa.gov/smm/electronics/index.htm>

D. General Services Administration to Propose Rule Requiring Government Electronic Waste to be Managed by Certified Recyclers

On September 24, 2012, Robert Holcombe, Director of Personal Property Management, in the General Service's Administrations (GSAs) Office of Governmentwide Policy announced at the 2012 GreenGov Symposium that GSA will submit a proposed rule requiring that government electronic waste be sent to certified recyclers or refurbishers. A certified recycler is defined as a recycling company certified under EPA's Responsible Recycling (R2) Practices or the Basel Action Networks E-Stewards Program.

The proposed rule will ban landfilling and incineration of government electronic wastes and prohibit the bulk sale of non-functional federal electronic assets. GSA believes this proposed rule would facilitate the donation of electronic equipment to states and local entities. Functional electronics would be allowed to be sold.

Link

The link below will allow you to access the 2012 GreenGov Symposium website.

<http://www.whitehouse.gov/greengov>

E. EPA New Region 6 Administrator Introduced

On September 24, 2012, EPA Region 6 appointed Ron Curry as Region Six Regional Administrator. Most recently, Mr. Curry worked with the University of New Mexico on the development of their Energy/Water/Environment Nexus program. Prior to that, he served eight years as cabinet secretary of the Environment Department for the State of New Mexico.

Link

The link below will allow you to view/print Mr. Curry's biography.

<http://www.epa.gov/aboutepa/region6ra.html>

F. California Proposed Emergency Ruling on Disposal of CRTs and CRT Glass

On September 25, 2012, the California Department of Toxic Substances Control (DTSC) published a proposed emergency rule that, if passed, will allow used CRTs and CRT glass to be disposed in landfills.

Background

In 2001, the DTSC established regulations for the management of discarded televisions, computer monitors, and other electronic devices. One of the requirements is that CRTs and the glass removed from cathode ray tubes (CRTs) are banned from disposal in landfills. However, since the implementation of these rules, the demand for recycled CRT glass has diminished significantly due to a switch to flat screen video display technologies that do not utilize leaded glass. This has led to large quantities of CRT glass being stored and accumulated throughout California creating the potential for widespread mismanagement of the leaded glass.

Summary

This proposed emergency rule will allow recyclers that are unable to find a market for used CRTs to send them and CRT glass to an appropriate landfill as long as certain conditions are met. If a recycler is unable to find a recycling option for their used CRTs and CRT glass, they may send them to an appropriate landfill for disposal if the following conditions are met:

1. CRT glass must be handled in a manner that is protective of human health and the environment.
2. Funnel glass, which contains high amounts of lead, must be sent to a hazardous waste landfill.
3. Panel glass, which contains lower amounts of lead, may be sent to a solid waste landfill if analysis shows there is no risk of lead leaching out into the environment.

The emergency regulations would remain in effect for two years and require recyclers to document how they recycle and dispose of their CRTs and CRT glass. In addition, recyclers that have stored

CRTs or CRT glass for longer than six months upon the effective date of the emergency regulations will receive an additional six months to send them to an authorized destination.

Link

The link below will allow you to view/print a copy of the proposed emergency regulation.

<http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/upload/Proposed-Text-CRT-Glass-Emergency-Regulation2.pdf>

G. DOT/NHTSA Civil Penalties; Notice of Proposed Rulemaking

On September 7, 2012, the Department of Transportation, National Highway Traffic Safety Administration (NHTSA) published a notice of proposed rulemaking (77 FR 55175-55179) that would increase the maximum civil penalty amounts for violations of motor vehicle safety requirements for the National Traffic and Motor Vehicle Safety Act.

Summary

This notice of proposed rulemaking proposes the following increases in the maximum civil penalties:

1. The maximum civil penalty would be raised from \$6,000 to \$7,000 for single violations of motor vehicle safety requirements in 49 CFR Sections 30112, 30115, 30117 through 30122, 30123(a), 30125(c), 30127, 30141 through 30147, or 49 CFR 578.6(a)(3).
2. The maximum civil penalty under 49 CFR 578.6(a)(2) would be increased from \$16,650,000 to \$17,250,000 for a series of related violations involving school buses, school bus equipment, or the prohibition on school system purchases and leases of 15 passenger vans.
3. The maximum civil penalty for a series of related violations of bumper prohibitions in 49 CFR 578.6(c) would be increased from \$1,145,000 to 1,225,000.
4. The maximum civil penalty for a series of related violations of consumer information provisions for crashworthiness and damage susceptibility would be increased from \$575,000 to \$600,000 in 49 CFR 578.6(a)(d)(1).

Comments Due

Comments on this notice of proposed rulemaking must be submitted to NHTSA on or before October 9, 2012.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2012-09-07/pdf/2012-22043.pdf>

H. DHHS/CDC Multi-Agency Informational Meeting Concerning Compliance with the Federal Select Agent Program; Public Webcast

On September 14, 2012, the Department of Health and Human Services, Centers for Disease Control and Prevention (CDC) published a notice of a public webcast regarding compliance with the Federal Select Agent Program.

Summary

This webcast is an opportunity for interested parties and individuals and entities possessing, using, or transferring biological agents and toxins to obtain specific regulatory guidance and information on standards concerning biosafety, biosecurity, and incident response issues related to the Federal Select Agent Program. During the webcast, CDC, APHIS, and FBI representatives will discuss:

1. Updates on the changes to the select agent regulations,
2. Occupational Health ,
3. Information and Physical Security,
4. Personnel Suitability,
5. FD-161 Form, and
6. Changes to the APHIS/CDC Form 1

A question and answer session will be included after each topic is presented.

Webcast Date and Time

The webcast will held on Friday November 16, 2012 from 9:00 AM to 5:00 PM EST.

Links

Registration instructions can be found at the following link.

<http://www.selectagents.gov>

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

<http://www.gpo.gov/fdsys/pkg/FR-2012-09-14/pdf/2012-22653.pdf>

I. DOJ/ATF Commerce in Explosives; List of Explosive Materials (2012R-10T); Notice of List of Explosive Materials

On September 20, 2012, the Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) published a notice of list of explosive materials (77 FR 58410-58412).

Summary

ATF is required to revise and publish, at least annually, in the Federal Register a list of explosive materials including blasting agents and detonators. The list of explosive materials was last updated on November 17, 2010. There are no changes to the list of explosive materials in this publication.

Effective Date

This List of Explosive Materials became effective on September 20, 2012.

Link

The link below will allow you to view/print the List of Explosive Materials.

<http://www.gpo.gov/fdsys/pkg/FR-2012-09-20/pdf/2012-23241.pdf>