

VEOLIA ES TECHNICAL SOLUTIONS, L.L.C.

REGULATORY UPDATE –April 2013

ENVIRONMENTAL UPDATES

- A. [EPA Polychlorinated Biphenyls \(PCBs\): Recycling Plastics from Shredder Residue; Notice](#)
- B. [EPA Releases “Hazardous Waste Pharmaceuticals Wiki” for the Healthcare Community](#)

TRANSPORTATION UPDATES

- C. [DOT/FMCSA Self Reporting of Out-of-State Convictions; Final Rule](#)
- D. [DOT/PHMSA Hazardous Materials: Revision of Maximum and Minimum Civil Penalties; Final Rule](#)
- E. [DOT/TSA Provisions for Fees Related to Hazardous Materials Endorsements and Transportation Worker Identification Credentials; Final Rule](#)
- F. [DOT/PHMSA Hazardous Materials: Temporary Reduction of Registration Fees; Final Rule](#)

HEALTH & SAFETY UPDATES

- G. [OSHA Announces Protection of Temporary Workers Initiative](#)

MISCELLANEOUS UPDATES

- H. [DOE Draft Supplemental Environmental Impact Statement for the Long-Term Management and Storage of Elemental Mercury; Notice of Availability](#)
- I. [DOJ/DEA Schedules of Controlled Substances: Placement of Methylone into Schedule I; Final Rule](#)

A. EPA Polychlorinated Biphenyls (PCBs); Recycling Plastics from Shredder Residue; Notice

On April 5, 2013, the Environmental Protection Agency (EPA) published a notice (78 FR 20640-20642) of a final interpretation of the Polychlorinated Biphenyls (PCB) regulations that allows the recycling of plastics separated from shredder residue recovered from automobiles as an excluded PCB product.

Background

On February 24, 2011, the Institute of Scrap Recycling Industries, Inc. (ISRI) submitted a letter to EPA requesting “written confirmation that separating plastics from automobile shredder residue (ASR) aggregate for use and distribution in commerce, using processes that reduce any PCBs that may be present to a level at or below which there is no unreasonable risk, is authorized” under the Toxic Substances Control Act (TSCA). In the letter ISRI stated that “analysis shows that the separation, recycling, distribution in commerce, and reuse of plastics from shredder aggregate is consistent with existing authorizations that allow the use and distribution in commerce of products that contain low levels of PCBs, including provisions for “excluded PCB products” and “excluded PCB manufacturing processes” as defined in 40 CFR 761.3.

On December 12, 2012, EPA published a request for comment (77 FR 74006) on an interpretation of the PCB regulations that would allow for the recycling of plastics separated from shredder residue recovered from automobiles as an excluded PCB product. EPA received 27 comment submissions, 23 of which supported EPA’s interpretation, 2 objecting to EPA’s adoption of this interpretation, one that suggested changes to the Voluntary Procedures for Recycling Plastics from Shredder Residue, and one regarding an administrative request on the comment period.

After reviewing the comments submitted, EPA is adopting the December 2012 interpretation with no changes.

Summary

In this interpretation EPA agrees with the ISRI interpretation that plastics recovered from ASR is regulated as an excluded PCB product provided that the materials are managed in accordance with the “Voluntary Procedures for Recycling Plastics from Shredder Residue” developed by ISRI. The Voluntary Procedures for Recycling Plastics from Shredder Residues requires shredders to develop and implement a documented materials management system that:

1. Documents source control programs aimed at preventing the introduction of PCBs regulated for disposal into the shredder feedstock materials that contribute to any shredder residue from which plastics will be recovered for recycling; and
2. Documents output control programs for facilities processing/producing/recycling plastics from shredder residues.

Effective Date

This interpretation became effective on the date of publication, April 5, 2013.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2013-04-05/pdf/2013-07981.pdf>

B. EPA Releases “Hazardous Waste Pharmaceuticals Wiki” for the Healthcare Community

On April 10, 2013, Kristin Fitzgerald, EPA, distributed an email announcing that EPA has developed a “hazardous Waste Pharmaceuticals Wiki” to facilitate the sharing of knowledge to assist the healthcare industry in making accurate hazardous waste determinations for waste pharmaceuticals. EPA also hopes that the Wiki will assist the healthcare community with compliance with the hazardous waste regulations.

The Hazardous Waste Pharmaceuticals Wiki also contains state-specific information, manufacturer’s information, and links to guidance documents regarding pharmaceutical hazardous wastes. Members of the healthcare professional community may register to edit this Wiki and contribute knowledge that will aid others in making hazardous waste determinations to ensure proper waste management. This website will only aid in making hazardous waste determinations and does not include information on RCRA regulations that apply to hazardous waste generators.

Link

The link to the Hazardous Waste Pharmaceutical Wiki is included below:

<http://hwpharms.wikispaces.com/>

C. DOT/FMCSA Self Reporting of Out-of-State Convictions; Final Rule

On April 26, 2013, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a final rule (78 FR 24684-24688) eliminating the requirement for drivers to notify the State licensing agency that issued their commercial driver’s license (CDL) or commercial learner’s permit (CLP) of out-of-State traffic convictions when those convictions occur in a State that has a certified CDL program in compliance with FMCSA’s rules.

Summary

The current regulations require both CDL holders and the States with certified CDL programs to report a CDL holder’s out-of-State traffic conviction to the driver’s State of licensure. This final rule amends the CDL rules to eliminate this reporting redundancy for those cases in which the conviction occurs in a State that has a certified CDL program in compliance with FMCSA’s regulations.

Currently, all 50 States and the District of Columbia have compliant certified CDL programs.

If at any time a State is no longer in compliance with the conviction reporting requirement or issues a decertification order prohibiting a State from issuing CDL’s, FMCSA will alert drivers

that they must comply with the self-reporting requirements under 49 CFR 383.31 using a Federal Register notice, its website, and social media.

This final rule does not change the driver's requirements to notify his/her current employer of traffic convictions, in any type of motor vehicle, within 30 days after the date of the conviction. Drivers must also continue to notify his/her current employer of any suspension, revocation, cancellation, lost privilege, or disqualification of a driver's license before the end of the business day following the day the employee received notice of the suspension, revocation, cancellation, lost privilege, or disqualification.

Effective Date

This final rule will become effective on May 28, 2013.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2013-04-26/pdf/2013-09915.pdf>

D. DOT/PHMSA Hazardous Materials: Revision of Maximum and Minimum Civil Penalties; Final Rule

On April 17, 2013, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) published a final rule (78 FR 22798-22800) revising the maximum and minimum civil penalties for knowing violations of the Federal hazardous material transportation law or a regulation, order, special permit, or approval issued under the law.

Summary

Changes made to 49 CFR 107.329; 49 CFR 171.1; and 49 CFR 107, Subpart D, Appendix A include the following:

1. Revising the maximum civil penalty from \$55,000 to \$75,000 for a person who knowingly violates a Federal hazardous material transportation law, regulation, order, special permit, or approval issued under the law.
2. Revising the maximum civil penalty from \$110,000 to \$175,000 for a person who knowingly violates a Federal hazardous material transportation law, regulation, order, special permit, or approval issued under the law that results in death, serious illness, or severe injury to any person or substantial destruction of property.
3. Increases the current \$250 minimum civil penalty amount to \$450 for a violation related to training.

Effective Date

This final rule became effective on April 17, 2013.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2013-04-17/pdf/2013-08981.pdf>

E. DOT/TSA Provisions for Fees Related to Hazardous Materials Endorsements and Transportation Worker Identification Credentials; Final Rule

On April 25, 2013, the Department of Homeland Security, Transportation Security Administration (TSA) published a final rule (78 FR 24353-24360) removing specific fee amounts from regulations regarding Security Threat Assessments (STAs) and credentialing for Hazardous Materials Endorsements (HMEs) and Transportation Worker Identification Credentials (TWICs).

Summary

The TSA is required to review the State and TSA collection of the HMR fee and collection of the TWIC fee no less than every two years. Upon review, if TSA finds that the fees are either too high or too low, TSA must adjust the fees. Removing specific fee references from the regulations will allow TSA the flexibility to lower or increase fees as necessary to meet the statutory obligation to recover the costs of these programs.

Current fee amounts will remain unchanged until any future revisions to fee schedules are published in the Federal Register.

Effective Date

This final rule will become effective on May 28, 2013.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2013-04-25/pdf/2013-09732.pdf>

F. DOT/PHMSA Hazardous Materials: Temporary Reduction of Registration Fees; Final Rule

On April 19, 2013, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) published a final rule (78 FR 23503-23506) amending the registration fees for persons who transport or offer for transportation certain categories and quantities of hazardous materials in intrastate, interstate, or foreign commerce.

Summary

Registration fees are currently used by PHMSA to fund the Hazardous Materials (HM) Grants Program. This program is designed to enhance the training of the nation's emergency response personnel, and to encourage the development of local emergency planning. Federal law requires

the Transportation Secretary to adjust the amount of the annual registration fee “to reflect any unexpended balance in the account” of the HM Grants Program. Based on PHMSA’s calculations, cutting the fee in half for one year will eliminate an unexpended balance.

1. Temporary Decrease

For registration year 2013-2014 the fee for a small business or not-for-profit organization is revised to be \$125 (plus a \$25 processing fee), and for all other businesses the fee is \$1,300 (plus a \$25 processing fee). After the 2013-2014 registration year the registration fees will return to the 2012-2013 registration year levels.

2. Fee Adjustments for Multi-Year Registrations

PHMSA currently allows a person to register for up to three years in one registration statement. The temporary decrease in registration fees in this final rule means that lower fees will be applied to any registrations paid in advance at the higher levels in effect at the time of payment. PHMSA will notify each registrant that will be eligible to request a refund for the 2013-2014 registration year and issue appropriate refunds.

Effective Date

This final rule became effective on the date of publication, April 19, 2013.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2013-04-19/pdf/2013-09213.pdf>

G. OSHA Announces Protection of Temporary Workers Initiative

On April 28, 2013, the Occupational Safety and Health Administration (OSHA) announced an initiative to improve the protection of temporary employees from workplace hazards. OSHA sent an internal memo to the Regional Administrators directing Field Inspectors to assess whether employers utilizing temporary workers are complying with the OSHA requirements for these employees. The inspectors will assess whether the temporary workers are exposed to safety and health violations and whether they receive the required training in a language they understand.

OSHA has also created a new code in their information system to denote when temporary workers have been exposed to safety and health violations.

Link

The link below will allow you to view/print OSHA’s press release regarding the protection of temporary workers initiative.

http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=23994

H. DOE Draft Supplemental Environmental Impact Statement for the Long-Term Management and Storage of Elemental Mercury; Notice of Availability

On April 19, 2013, the Department of Energy (DOE) published a notice of availability (78 FR 23548-23550) of the *Draft Long-Term Management and Storage of Elemental Mercury Supplemental Environmental Impact Statement* for public comment.

Background

The Mercury Export Ban Act prohibits the export of elemental mercury from the United States, beginning on January 1, 2013. To facilitate this ban the DOE must designate a facility or facilities for the long-term management and storage of up to 11,000 tons of elemental mercury. DOE initially identified seven sites, selected a preferred site, and performed environmental impact reviews of all seven sites.

On January 28, 2011, DOE published a notice of availability (76 FR 5145) of the *Final Long-Term Management and Storage of Elemental Mercury Environmental Impact Statement*. The Mercury Storage Final Environmental Impact Statement (FEIS) evaluated the potential health and environmental effects of storing up to 11,000 tons of elemental mercury at the seven alternative sites.

Summary

Subsequently, DOE has identified three additional alternative locations for the long-term storage of elemental mercury. The three alternate locations are all in the vicinity of the Waste Isolation Pilot Plant (WIPP) in Carlsbad, NM.

This Draft Mercury Storage Supplemental Environmental Impact Statement (SEIS) evaluates the three alternate locations near the WIPP site.

The Waste Control Specialists, LLC location near Andrews, Texas remains the Preferred Alternative identified by DOE.

Public Hearings

DOE will hold two public hearings on the SEIS.

May 7, 2013 from 6:00-9:00 PM
Skeen-Whitlock Building
DOE, Carlsbad Field Office
Carlsbad, New Mexico 88220

May 9, 2013 from 6:00-9:00 PM
Crowne Plaza Albuquerque Hotel
Albuquerque, New Mexico 87102

Comments Due

Comments on the Draft Mercury Storage SEIS must be submitted to DOE by June 3, 2013.

Link

The link below will allow you to view/print this notice of availability of the Draft Supplemental Environmental Impact Statement.

<http://www.gpo.gov/fdsys/pkg/FR-2013-04-19/pdf/2013-09291.pdf>

I. DOJ/DEA Schedules of Controlled Substances: Placement of Methylone into Schedule I; Final Rule

On April 12, 2013, the Department of Justice, Drug Enforcement Administration (DOE) published a final rule (78 FR 21818-21825) placing 3,4-methylenedioxy-N-methylcathinone (methylone) including its salts, isomers, and salts of isomers into Schedule I of the Controlled Substances Act (CSA).

Background

Methylone is a designer drug of the phenethylamine class and is structurally and pharmacologically similar to amphetamine. Methylone has been used as a research chemical, but there are no known medical uses for methylone. Furthermore methylone is reportedly being abused by individuals for its psychoactive effects. On October 21, 2011, DOE temporarily placed methylone into Schedule I of the CSA (76 FR 55616).

Summary

Based on consideration of the scientific and medical evaluation and accompanying recommendation of the Department of Health and Human Services (HHS), and based on DEA's consideration of its eight-factor analysis, DEA believes evidence exists that supports the potential for abuse of methylone. Therefore, DEA is publishing this final rule subjecting methylone, its salts, isomers, and salts of isomers to all of the regulatory controls as Schedule I Controlled Substances.

Effective Date

This final rule became effective on the date of publication, April 12, 2013.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2013-04-12/pdf/2013-08673.pdf>