

VEOLIA ES TECHNICAL SOLUTIONS, L.L.C.

REGULATORY UPDATE – August 2013

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HEALTH & SAFETY UPDATES

No Health and Safety Updates for the Month of August

MISCELLANEOUS UPDATES

- F. [NRC Branch Technical Position on the Import of Non-U.S. Origin Radioactive Sources; Final Branch Technical Position](#)

A. EPA Electronic Reporting of Toxics Release Inventory Data; Final Rule

On August 27, 2013, the Environmental Protection Agency (EPA) published a final rule (78 FR 52860-52868) requiring facilities to report non-trade-secret Toxics Release Inventory (TRI) information using electronic software provided by EPA.

Background

On March 5, 2012, EPA published a proposed rule (77 FR 13061) that would require facilities to report non-confidential Toxics Release Inventory (TRI) data to EPA using electronic software. EPA received five comments on this proposed rule and all were in support of requiring the electronic submittal of TRI data.

Summary

This final rule requires facilities to submit non-trade-secret TRI reporting forms to EPA electronically via the internet. EPA will no longer accept paper submissions of TRI reports, except for trade secret submissions. EPA is also requiring all revisions or withdrawals of previously submitted TRI reporting forms to be submitted electronically. TRI-MEweb is the current EPA provided on-line reporting application that facilities will be required to utilize.

Some of the ways that EPA believes electronic reporting and TRI-MEweb will improve TRI reporting are included below:

1. TRI-MEweb includes data validation tools that assist facilities in submitting complete and valid data and to compare data with prior reporting year data.
2. TRI-MEweb will pre-populate forms based on the prior year's reporting data.
3. Lowers the cost to EPA in processing the data.
4. Quicker release of the TRI data to the public.

Effective Date

This final rule will become effective on January 21, 2014, and electronic reporting will be required for the 2013 TRI reports that must be submitted by July 1, 2014.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2013-08-27/pdf/2013-20744.pdf>

B. EPA Amendment to Standards and Practices for All Appropriate Inquiries; Direct Final and Proposed Rules

On August 15, 2013, EPA published a direct final rule (78 FR 49690-49693) and a proposed rule (78 FR 49714-49716) that would amend the Standards and Practices for All Appropriate Inquiries to reference ASTM International's E1527-13 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process" and to allow the use of the ASTM

Standard when conducting all appropriate inquiries under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

Background

On January 11, 2002, the Small Business Liability Relief and Brownfields Revitalization Act (the Brownfields Amendments) were signed into law. The Brownfields Amendments revised some of the provisions of CERCLA Section 101(35) clarifying the requirement that parties purchasing potentially contaminated property undertake “all appropriate inquiries” into prior ownership and use of the property prior to purchase in order to qualify for protection from CERCLA liability. In a final rule published on November 1, 2005 (70 FR 66070) EPA set standards and practices for all appropriate inquiries. The regulations referenced ASTM E1527-05 “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment.” In December 2008, EPA amended the final rules to recognize another ASTM standard as acceptable, ASTM E2247-08 “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property.”

Summary

This direct final rule amends the All Appropriate Inquiries Final Rule to allow the use of ASTM standard E1527-13 “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.” In this final rule, EPA did not include a link to ASTM Standard E1526-13, but did provide a comparison of E1527-13 to E1527-05. Some of the revisions included in E1526-13 are:

1. Updated the definition of “recognized environmental condition.”
2. Updated the definition of “historical recognized environmental condition.”
3. Added a definition of “controlled recognized environmental condition.”
4. Revised the definition of “migrate/migration” to include vapor migrations.

Effective Date

This direct final rule will become effective on November 13, 2013, unless EPA receives adverse comments by September 16, 2013.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2013-08-15/pdf/2013-19764.pdf>

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

<http://www.gpo.gov/fdsys/pkg/FR-2013-08-15/pdf/2013-19763.pdf>

C. DOT/FRA Emergency Order Establishing Additional Requirements for Attendance and Securement of Certain Freight Trains and Vehicles on Mainline Track or Mainline Siding Outside of a Yard or Terminal

On August 7, 2013, the Department of Transportation, Federal Railroad Administration (FRA) published an emergency order (78 FR 48218-48224) that requires railroads operating on the general system to implement additional processes and procedures to ensure that certain unattended trains and rail vehicles (car, locomotive, tender) on mainline track or mainline siding outside of a yard or terminal are properly secured against unintended movement.

Applicability

The following requirements apply only to trains transporting the following hazardous materials:

1. Five or more tank car loads of any one or any combination of materials poisonous by inhalation as defined in 49 CFR 171.8, and including anhydrous ammonia (UN 1005) and ammonia solutions (UN 3318); or
2. 20 rail car loads or intermodal portable tank loads of any one or any combination of materials listed in (1) above, or, any Division 2.1 flammable gas, Class 3 flammable liquid or combustible liquid, Class 1.1 or 1.2 explosive, or hazardous substance listed in 49 CFR 173.31(f)(2).

Safety Plan and Securement Procedures

Each railroad must institute and carry out the following measures, effective within 30 days after the date of this order:

1. No train or rail vehicles transporting the type and quantity of hazardous materials described above shall be left unattended on a mainline track or mainline siding outside of a yard or terminal until the railroad develops, adopts, complies with and makes available to FRA upon request a plan that identifies specific locations and circumstances when such trains or rail vehicles may be left unattended. The plan shall contain a sufficient safety justification for any determination allowing such trains or vehicles to be unattended. FRA will monitor such plans and if FRA determines that adequate justification is not provided, the railroad shall ensure that trains and equipment are attended until appropriate modifications to the plan are completed. FRA does not intend to grant approval to any plan. Railroads shall notify FRA when the railroad has developed a plan under this provision prior to the railroad operating pursuant to the plan.
2. Railroads shall develop processes for securing unattended trains or rail vehicles transporting certain hazardous materials on a mainline track or mainline siding outside of a yard or terminal if permitted by the railroad's plan required under paragraph (1) of this order that contains the following requirements:
 - a. The controlling locomotive cab must be locked or the reverser on the controlling locomotive must be removed and secured.
 - b. Employees who are responsible for securing trains and rail vehicles transporting certain hazardous materials must communicate to the train dispatcher the number of hand brakes

applied, the tonnage and length of the train or rail vehicle, the grade and terrain features of the track, any relevant weather conditions, and the type of equipment being secured; train dispatchers must record the information provided; and train dispatchers or other qualified railroad employees must verify and confirm with the train crew that the securement meets the railroad's requirements.

3. Railroads shall review and verify, and adjust, as necessary, existing procedures and processes related to the number of hand brakes to be set on all unattended trains and equipment and shall ensure the means of verifying that number is appropriate.
4. Railroads shall implement operating rules and practices requiring the job briefing of securement for any job that will impact or require the securement of any train or vehicle in the course of the work being performed.
5. Railroads shall develop procedures to ensure that a qualified railroad employee inspects all equipment that any emergency responder has been on, under, or between for proper securement before the train or vehicle is left unattended.
6. Notice of this emergency order shall be provided to all employees affected by this emergency order.

Effective Date

Railroads must complete the implementation of this emergency order no later than September 1, 2013.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2013-08-07/pdf/2013-19215.pdf>

D. DOT/FMCSA Unified Registration System; Final Rule

On August 23, 2013, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a final rule (78 FR 52607-52655) amending the Unified Registration System by requiring interstate motor carriers, freight forwarders, brokers, intermodal equipment providers, hazardous materials safety permit applicants, and cargo tank facilities under FMCSA jurisdiction to submit required registration and biennial update information to the Agency via a new electronic on-line Unified Registration System (URS).

Summary

The ICC Termination Act of 1995 (ICCTA) and the Safe Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) require FMCSA to replace existing registration and information systems with a single, online, unified federal registration system.

The implementation of this Unified Registration System (URS) final rule will consolidate the following registration and information systems into the URS:

1. The USDOT identification number system;
2. The commercial registration system;
3. The financial responsibility system
4. The service of process agent designation system.

A summary of the major provisions included in the URS follow:

1. Entities covered by the URS will be required to register with FMCSA and update registration information on a new Form MCSA-1.
2. Registrations must be updated every 24 months, or when there are changes to an entity's legal name, form of business, or address.
3. FMCSA will use the USDOT Number as the sole unique identifier for motor carriers, brokers, and freight forwarders subject to the regulations.
4. User fees for URS registration, insurance filings, and other services are revised.
5. Requires all for-hire motor carriers and private motor carriers that transport hazardous materials in interstate commerce to electronically file evidence of financial responsibility to receive USDOT registration.

Effective Date

This final rule will become effective on October 23, 2015.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2013-08-23/pdf/2013-20446.pdf>

E. DOT/FMCSA Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report; Notice of Proposed Rulemaking

On August 7, 2013, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a notice of proposed rulemaking (78 FR 48125-48133) that would rescind the requirement in 49 CFR 396.11(b) requiring drivers of property carrying commercial motor vehicles (CMVs) to submit, and motor carriers to retain, driver-vehicle inspection reports (DVIRs) when the driver has neither found nor been made aware of any vehicle defects or deficiencies.

Drivers would still be required to perform pre-trip evaluations of equipment condition, and complete DVIRs if any defects or deficiencies are discovered or reported during the day's operations. Motor carriers would also still be required to maintain systematic inspections, repair and maintenance programs (including preventative maintenance) and maintain records to prove measures are being taken to reduce the risk of mechanical problems occurring while the vehicle is in operation. Finally, motor carriers would also still be required to review driver vehicle

inspections that list defects or deficiencies and take appropriate action before the vehicle is dispatched again.

FMCSA believes that removing the requirement for drivers to complete a no-defect DVIR will not diminish CMV safety and will significantly reduce the paperwork burden on drivers and motor carriers. Motor carriers would still be allowed to require their drivers to prepare no-defect DVIRs as a condition of employment if they chose to.

Comments Due

Comments on this notice of proposed rulemaking must be submitted to FMCSA on or before October 7, 2013.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2013-08-07/pdf/2013-18981.pdf>

F. NRC Branch Technical Position on the Import of Non-U.S. Origin Radioactive Sources; Final Branch Technical Position

On August 28, 2013, the Nuclear Regulatory Commission (NRC) published a final branch technical position (78 FR 53020-53025) on the Import of Non-U.S. Origin Sources to provide guidance that disused sealed sources for which the country of origin cannot be determined may be imported from a foreign country into the United States in a “one-for-one” exchange for a new source.

Summary

The NRC staff recognizes that in some circumstances it may not be feasible for the importer to determine the country of origin for disused sources it seeks to exchange prior to import. If, after a good faith effort and without exposing personnel to additional doses, the U.S. manufacturer, distributor, or other entity cannot determine whether an imported disused source that has been exchanged for a new source is of U.S. origin, the source in question shall be deemed of U.S. origin for the purposes of the sealed source exclusion to the definition of “radioactive waste” in 10 CFR 110.2. This application of the sealed source exclusion is limited to disused sources imported into the United States that have been exchanged for a new source in a foreign country on a “one-for-one” basis.

U.S. manufacturers, distributors, and suppliers must make a good faith effort to determine the source origin before an import occurs. A good faith effort includes, but is not limited to, communication of U.S. import requirements with the foreign customer, examination of a photograph of the source the customer seeks to exchange, and obtaining other relevant information related to the disused sources’ origin.

The NRC staff believes that this application of the sealed source exclusion reasonably balances the interests of public health and safety and international policy in the responsible handling of sources that have ended their useful life.

Effective Date

This Branch Technical Position will become effective on September 27, 2013.

Link

The link below will allow you to view/print the final Branch Technical Position.

<http://www.gpo.gov/fdsys/pkg/FR-2013-08-28/pdf/2013-20975.pdf>