

VEOLIA ES TECHNICAL SOLUTIONS, L.L.C.

REGULATORY UPDATE – January 2014

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A. EPA Hazardous Waste Management System: Conditional Exclusion for Carbon Dioxide (CO₂) Streams in Geologic Sequestration Activities; Final Rule

On January 3, 2014, the Environmental Protection Agency (EPA) published a final rule (79 FR 350-364) revising the Resource Conservation and Recovery Act (RCRA) hazardous waste management regulations to conditionally exclude carbon dioxide (CO₂) waste streams that are hazardous from the definition of hazardous waste if they are injected into Class VI Underground Injection Control (UIC) wells for geologic sequestration.

Background

On August 8, 2011, EPA published a proposed rule that would conditionally exclude from the definition of hazardous waste certain carbon dioxide (CO₂) waste streams that are to be injected into Underground Injection Control (UIC) Class VI wells for the purposes of geologic sequestration.

Geologic sequestration is the process of injecting CO₂ captured from an emission source (e.g., a power plant or industrial facility) into deep subsurface rock formations in order to isolate the CO₂ permanently. Geologic sequestration is a key component of carbon capture and storage (CCS). CCS is a three-step process, beginning with the capture and compression of the CO₂ stream from fossil-fuel power plants or other industrial sources, then the CO₂ stream is transported to an on-site or off-site location where it is injected underground for sequestration.

Summary

In this final rule EPA is authorizing the conditional exclusion with only minor changes from the August 8, 2011 proposed rule. The exclusion is located in 40 CFR 26.4(h) and reads:

“40 CFR 261.4(h) *Carbon dioxide stream injected for geologic sequestration.* Carbon dioxide streams that are captured and transported for purposes of injection into an underground injection well subject to the requirements for Class VI Underground Injection Control wells, including the requirements in 40 CFR Parts 144 and 146 of the Underground Injection Control Program of the Safe Drinking Water Act, are not a hazardous waste, provided the following conditions are met:”

Some of the conditions include:

1. Transportation of the carbon dioxide stream must be in compliance with Department of Transportation (DOT) requirements.
2. No hazardous wastes shall be mixed with, or otherwise co-injected with, the carbon dioxide stream.
3. The generator of the carbon dioxide stream claiming this exclusion must sign a certification statement stating that the carbon dioxide stream meets the exclusion requirements.
4. The Class VI Underground Injection Control well owner or operator injecting a carbon dioxide stream that meets this exclusion must sign a certification statement stating that the carbon dioxide stream meets the exclusion requirements.
5. The signed certification statement must be maintained for at least three years and must be accessible on the facility’s publicly-available web site using the title “Carbon Dioxide Stream Certification.”

Effective Date

This final rule will become effective on March 4, 2014.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2014-01-03/pdf/2013-31246.pdf>

B. EPA Amends SPCC Guidance Manual for Region Inspectors

From August through December 2013, EPA revised the *SPCC Guidance for Regional Inspectors Manual*. This guidance document is intended to be used by EPA inspectors when reviewing a facilities implementation of the Spill Prevention, Control, and Countermeasure (SPCC) rule (40 CFR Part 112). EPA has designed this guidance manual to provide a consistent national policy on SPCC related issues.

Some of the changes in the SPCC Guidance Manual include:

1. Definition of Oil - Revises the list of regulated oils to include biodiesel, ethanol fuels, some paints, and other materials.
2. Definition of “Navigable Waters” – Revised back to the original 1973 definition.
3. General Facility Description – Expands the list of items that must be included in this section.
4. Oil/Water Separators – Clarifies that Oil/Water Separators used solely for waste water treatment are exempt from the SPCC requirements and do not count toward the 1,320 gallon limit.
5. Non-Transportation Related Activities – Clarifies equipment and activities that may not count toward the 1,320 gallon limit.

Links

The link below will allow you to view/print the SPCC Guidance Manual.

http://www.epa.gov/oem/docs/oil/spcc/guidance/SPCC_Guidance_fulltext.pdf

The link below provides access to EPA’s Revised SPCC Guidance for Regional Inspectors webpage.

http://www.epa.gov/oem/content/spcc/spcc_guidance.htm

C. EPA Heather McTeer Toney Named Region 4 Administrator

On January 14, 2014, EPA announced the appointment of Heather McTeer Toney as Region 4 Administrator. Region 4 is based in Atlanta and covers the states of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. McTeer Toney received a

law degree from the Tulane University School of Law and served as the Mayor of Greenville, Mississippi from 2004-2012.

Link

The link below will allow you to view Heather McTeer Toney's biography.

<http://www2.epa.gov/aboutepa/heather-mcteer-tony-regional-administrator-epas-southeast-region>

D. California State Senate Committee Passes Bills to Amend Requirements for Approving and Disapproving Hazardous Waste Permit Renewals

On January 15, 2014, the California Senate Committee on Environmental Quality passed two measures (Senate Bill (S.B.) 812 and 712) that could reduce the number of California hazardous waste facilities operating on expired permits.

S.B. 812 would require the California Department of Toxic Substances Control (DTSC) to approve or deny the application for a permit renewal within 36 months of the expiration of the permit. The bill would deem an application for a permit renewal to be denied if the DTSC fails to approve or deny the application within that time frame.

S.B. 712 would require DTSC to take final action by December 31, 2015 on all applications for a hazardous waste facility permit that is submitted by a facility operating under interim status granted on or before January 1, 1986 by either issuing a final permit or a final denial of the application. The bill would also require the termination of interim status on January 1, 2020 for facilities that received interim status between January 2, 1986 and January 1, 2015.

These bills have advanced to the Senate Committee on Appropriations.

Links

The link below will allow you to view/print S.B. 812.

http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0801-0850/sb_812_bill_20140106_amended_sen_v98.pdf

The link below will allow you to view/print S.B. 712.

http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0701-0750/sb_712_bill_20140117_amended_sen_v97.pdf

E. California South Coast Air Quality Management District Adopts New Air Emission Standards for Battery Recycling Facilities

On January 10, 2014, the California South Coast Air Quality Management District (SCAQMD) published amendments to Rule 1420.1 to reduce arsenic, benzene, and 1,2-butadiene emissions from large lead acid battery recycling facilities (facilities that process more than 50,000 tons of

lead annually). Exide Technologies in Vernon, CA and Quemetco in City of Industry, CA would be affected by these proposed amendments.

Summary

The amendments require the lead acid battery recycling facilities to meet an ambient air concentration of less than 10 nanograms per cubic meter for arsenic by February 1, 2014 and within 60 days to limit facility-wide arsenic emissions to less than 25 pounds per year. Facility-wide arsenic emissions will be limited to less than 10 pounds per year, benzene emissions will be limited to 450 pounds per year, and emissions of 1,2-butadiene will be limited to 30 pounds per year by January 1, 2015.

Exide Lawsuit

On February 7, 2014, Exide Technologies filed a lawsuit in Los Angeles Superior Court requesting that SCAQMD's amendments to Rule 1420.1 be set aside.

Link

The link below will allow you to view/print SCAQMD amended rule 1420.1.

<http://aqmd.gov/rules/proposed/1420-1/1420-1a-DRAFT-02-05-14.pdf>

F. DOT/FMCSA Medical Certification Requirements as Part of the Commercial Driver's License (CDL); Extension of Certificate Retention Requirements; Final Rule

On January 14, 2014, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a final rule (79 FR 2377-2380) to keep in effect until January 30, 2015 the requirement that interstate drivers subject to either the commercial driver's license (CDL) or the commercial learner's permit (CLP) regulations, and the physical qualification requirements, must retain paper copies of their medical examiner's certificate when operating a commercial motor vehicle.

Summary

FMCSA has determined that there are some State driver licensing agencies (SDLAs) that will not meet the January 30, 2014 deadline to post the required medical certification and medical examiner's certificate information provided by a non-excepted, interstate CDL holder to the Commercial Driver's License Information System (CDLIS). Because of this, FMCSA cannot be certain that all CDL holders and their employers will be able to demonstrate or verify, that the driver is medically certified in compliance with the Federal Motor Carrier Safety Regulations by relying on the CDLIS driver records. Therefore, FMCSA is requiring CDL drivers to continue to carry the paper copies of their medical examiner's certificate when operating a commercial motor vehicle for another year.

Effective Date

This final rule became effective on the date of publication, January 14, 2014.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2014-01-14/pdf/2014-00445.pdf>

G. DOT/FMCSA Patterns of Safety Violations by Motor Carrier Management; Final Rule

On January 22, 2014, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a final rule (79 FR 3520-3542) that allows FMCSA to suspend or revoke the operating authority registration of for-hire motor carriers that show egregious disregard for safety compliance, permit persons who have shown egregious disregard for safety compliance to exercise controlling influence over their operations, or operate multiple entities under common control to conceal noncompliance with safety regulations.

Summary

Congress directed FMCSA to implement this rule because it recognized the danger that carriers seeking to evade compliance with FMCSA's regulations pose to the motoring public. The rule establishes a two-part framework under which FMCSA first determines whether a motor carrier has failed to comply with FMCSA's safety regulations or has attempted to conceal such noncompliance. If a motor carrier meets this initial threshold, FMCSA then evaluates the motor carrier's conduct to determine whether the motor carrier has engaged in a pattern or practice of safety violations or is using other entities under common control to avoid compliance or mask the noncompliance. The rule establishes factors for FMCSA to consider when making these determinations and provides for administrative review. If FMCSA ultimately determines that the motor carrier has engaged in misconduct, the carrier may have its operating authority registration suspended or revoked and may be subject to civil or criminal penalties.

Effective Date

This final rule will become effective on February 21, 2014.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2014-01-22/pdf/2014-01174.pdf>

H. OSHA Improve Tracking of Workplace Injuries and Illnesses; Proposed Rule; Extension of Comment Period

On January 7, 2014, the Occupational Safety and Health Administration (OSHA) published an extension of the comment period for the proposed rule, "Improve Tracking of Workplace Injuries and Illnesses" (79 FR 778).

Summary

On November 8, 2013, OSHA published a proposed rule (78 FR 67254) to revise the Occupational Injury and Illness Reporting regulations. The proposed rule would amend the recordkeeping regulations to add requirements for the electronic submission of injury and illness information employers are currently required to maintain. OSHA received a request from the National Association of Home Builders to extend the comment period an additional 90 days. In response, OSHA has agreed to extend to deadline for submitting comments 30 days.

A summary of the proposed rule is included in the November 2013 Regulatory Update.

Comments Due

Following the extension of the comment period, comments must now be submitted to OSHA by March 8, 2014.

<http://www.gpo.gov/fdsys/pkg/FR-2014-01-07/pdf/2014-00010.pdf>

I. OSHA Occupational Exposure to Crystalline Silica; Extension of Comment Period

On January 29, 2014, OSHA published an extension of the comment period for the notice of proposed rulemaking on Occupational Exposure to Crystalline Silica (79 FR 4641-4642).

Background

On September 12, 2013, OSHA published a proposed rule (78 FR 56273) to amend existing standards for occupational exposure to respirable crystalline silica. OSHA currently enforces permissible exposure limits (PELs) for respirable crystalline silica in general industry, construction, and shipyards that were adopted in 1971 and have not been updated. OSHA proposed a new PEL for respirable crystalline silica of 50 micrograms per cubic meter of air for all industry sectors. In a previous rulemaking OSHA extended the comment period for this proposed rule until January 27, 2014.

A summary of the proposed rule is included in the September 2013 Regulatory Update.

Comments Due

OSHA is extending the comment period for written comments until February 11, 2014.

Public Hearings

The public hearings will begin on March 18, 2014 in the auditorium of the Department of Labor Building, 200 Constitution Ave., NW, Washington, DC 20210 at 9:30 AM. A schedule for the public hearings will be released by OSHA at a later date.

Link

The link below will allow you to view/print OSHA's notification of the extension of the comment period.

<http://www.gpo.gov/fdsys/pkg/FR-2014-01-29/pdf/2014-01728.pdf>

J. NRC Low-Level Radioactive Waste Disposal Rulemaking and Strategic Assessment of Low-Level Radioactive Waste Regulatory Program; Public Workshop

On January 24, 2014, the Nuclear Regulatory Commission (NRC) published a notice (79 FR 4102-4104) of a public workshop to discuss proposed revisions to the Low-Level Radioactive Waste (LLRW) disposal regulations and to gather information on an update to NRC's 2007 Strategic Assessment of the LLRW regulatory program.

Background

The NRC licensing requirements for the disposal of LLRW in near-surface facilities are found in 10 CFR Part 61, "Licensing Requirements for Land Disposal of Radioactive Wastes" which were published in December 1982. The regulations have remained unchanged since. In 2007 the NRC published the "Strategic Assessment of Low-Level Radioactive Waste Regulatory Program." The Strategic Assessment identified and prioritized the NRC staff's activities to ensure that the LLW program continued to: (1) ensure the safe and secure disposal of LLRW; (2) improve the effectiveness, efficiency, and adaptability of the NRC's LLRW regulatory program; and (3) ensure regulatory stability and predictability while allowing flexibility in disposal options.

Since 2007, the NRC has completed several high priority activities identified in the 2007 Strategic Assessment, including updating guidance for LLRW storage, evaluating the disposal of depleted uranium (DU) and the measures required to ensure the safe disposal of DU, and developing a procedure for the review of low-activity waste disposal in Resource Conservation and Recovery Act (RCRA) facilities not licensed by NRC.

Public Workshop

The purpose of the public workshop is to discuss the status of on-going rulemaking efforts and to gather information on the update to the 2007 Strategic Assessment of the LLRW program. The workshop will be organized in two parts. In the first part, NRC will discuss the status of the proposed revisions to 10 CFR 61. In the second part, a panel of experts will discuss developments that would affect the LLRW program in the next 5-7 years. Following these presentations, the public will be allowed to comment and ask questions.

The public workshop will be held on March 7, 2014 from 8:00 AM until 1:00 PM at:

Renaissance Phoenix Downtown Hotel
50 East Adams Street
Phoenix, AZ 85004

Links

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

<http://www.gpo.gov/fdsys/pkg/FR-2014-01-24/pdf/2014-01291.pdf>

The link below will allow you to view/print the workshop agenda. The agenda will be available approximately 10 days before the meeting date.

<http://www.nrc.gov/public-involve/public-meetings/index.cfm>

The link below will allow you to register for the webinar of the public meeting.

<https://www1.gotomeeting.com/register/482915697>

The webinar ID is 482-915-697.