

VEOLIA ES TECHNICAL SOLUTIONS, L.L.C.

REGULATORY UPDATE – March 2014

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A. EPA Inspector General Evaluation of EPA Oversight of Hazardous Waste Imports

On March 26, 2014, the Environmental Protection Agency (EPA) published a memorandum stating that the Office of Inspector General (OIG) will begin preliminary research on EPA's oversight of hazardous waste imports on April 14, 2014. The objective of the evaluation is to determine EPA's effectiveness at ensuring that imported wastes are received and processed as expected. Specific questions that OIG intends to address are:

1. How does EPA confirm that hazardous wastes imported to the United States reach their intended destination facility and that no hazardous waste is lost or unaccounted for?
2. What management or enforcement actions does EPA take to respond to failures of shipments to reach intended destination facilities, and significant discrepancies in the volume or nature of hazardous waste shipped?

Link

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

http://www.epa.gov/oig/reports/notificationMemos/newStarts_03-26-14_HazardousWasteImports.pdf

B. EPA Inspector General Evaluation of Risks from Post-Closure Care Expiration at Resource Conservation and Recovery Act Hazardous Waste Disposal Sites

On March 17, 2014, EPA published a memorandum stating that the Office of Inspector General (OIG) will begin preliminary research on April 1, 2014, on the risks from post-closure care expiration at Resource Conservation and Recovery Act (RCRA) Hazardous Waste Disposal Sites. The evaluation objectives are:

Do EPA and authorized states and territories have safeguards in place to control public health, environmental and fiscal risks at RCRA hazardous waste disposal sites, closed with wastes in place, beyond the 30-year post-closure period?

1. Do public health, environmental and fiscal risks remain at the end of the post-closure care period at these disposal sites?
2. Do authorities have controls in place to mitigate risks remaining at the end of the post-closure period?
3. Has EPA taken the steps necessary to ensure that authorities address risks appropriately as disposal sites approach the end of post-closure care?

Link

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

http://www.epa.gov/oig/reports/notificationMemos/newStarts_03-17-14_RisksandRCRA.pdf

C. EPA Protection of Stratospheric Ozone: Updates to HCFC Trade Language as Applied to Article 5 Countries; Ratification Status of Parties to the Montreal Protocol; and Harmonized Tariff Schedule Commodity Codes; Direct Final and Proposed Rules

On March 26, 2014, EPA published a direct final rule (79 FR 16680-16688) and a proposed rule (79 FR 16749-16753) to update (1) regulations governing the trade of HCFCs to reflect that HCFC control measures have now taken effect for Parties operating under Article 5 of the Montreal Protocol, (2) references to Party ratification status, (3) commodity codes for ozone depleting substances to address changes made in 2012, and (4) other minor provisions.

Summary

The *Montreal Protocol on Substances that Deplete the Ozone Layer* (Montreal Protocol) is the international agreement aimed at reducing and eventually eliminating the production and consumption of stratospheric ozone-depleting substances (ODS). In 1987, the United States was one of the original signatories to the Montreal Protocol. Article 4 of the Montreal Protocol governs control of trade with non-parties and Countries operating under Article 5 of the Montreal Protocol (developing nations) that were given relief from control measures. This relief ended on January 1, 2013 when the Beijing Amendments became effective. Therefore, under Article 4 of the Montreal Protocol, trade is prohibited between any Party subject to the Montreal Protocol and any Article 5 country that has not ratified the Beijing Amendment. Currently only four countries have not ratified the Beijing Amendment: Kazakhstan, Libya, Mauritania, and Saudi Arabia.

This final rule updates 40 CFR 82.15(e) to reflect that the trade ban applies to Article 5 countries and removes Appendix C to Subpart A of Part 40 CFR Part 82. Appendix C contained information on Parties to the Montreal Protocol and their ratification status. This appendix was removed because the information is outdated and the information is also found in other appendices.

40 CFR Part 82 Appendix E is also updated to include all of the countries operating under Article 5 of the Montreal Protocol. This Appendix was last updated in 2009.

In 1998, EPA started requiring the importers of controlled substances to use specific Harmonized Tariff Schedule (HTS) codes listed in 40 CFR Part 82, Appendix K. EPA requires importers of ODS to include specific commodity codes in their 40 CFR Part 82 recordkeeping and reporting to improve compliance with the stratospheric ozone protection regulations. EPA is able to crosscheck the entry data collected by Customs and compare it to the import data reported to EPA. The commodity codes in the HTS were revised in 2012. This final rule revises the commodity codes for the ODS listed in 40 CFR Part 82, Appendix K to reflect the changes to the commodity codes in the HTS and to organize the list of ODS into Class I and II. The list of ODS and Commodity Codes is included below:

Description of Commodity or Chemical	Commodity Code from HTS
Class I	
CFC-11 (Trichlorofluoromethane)	2903.77.0010
CFC-12 (Dichlorodifluoromethane)	2903.77.0050
CFC-113 (Trichlorotrifluoroethane)	2903.77.0020
CFC-114 (Dichlorotetrafluoroethane)	2903.77.0030

CFC-115 (Monochloropentafluorethane)	2903.77.0040
CFC-13, CFC-111, CFC-112, CFC-211 through CFC-217 and other CFCs	2903.77.0080
CFC Mixtures (R-500, R-502, etc.)	3824.71.0010
Carbon Tetrachloride	2903.14.0000
Halon 1301 (Bromotrifluoromethane)	2903.76.0010
Halon, other	2903.76.0050
Methyl Bromide	2903.39.1520
Methyl Chloroform	2903.19.6010
Class II	
HCFC-22 (Chlorodifluoromethane)	2903.71.0000
HCFC-123 (Dichlorotrifluoroethane)	2903.79.9020
HCFC-124 (Monochlorotetrafluoroethane)	2903.79.9020
HCFC-141b (Dichlorofluoroethane)	2903.73.0000
HCFC-142b (Chlorodifluoroethane)	2903.74.0000
HCFC-225ca, HCFC-225cb (Dichloropentafluoropropanes)	2903.75.0000
HCFC-21, HCFC-31, HCFC-133, and other HCFCs	2903.79.9070
HCFC Mixtures (R-401A, R-402A, etc.)	3824.74.0000

Effective Date

The direct final rule will become effective on June 24, 2014, unless EPA receives adverse written comments by April 25, 2014.

Links

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

<http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05818.pdf>

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

<http://www.gpo.gov/fdsys/pkg/FR-2014-03-26/pdf/2014-05817.pdf>

D. DOT/PHMSA Hazardous Materials: Adoption of Certain Special Permits and Competent Authorities into Regulations (HM-233C); Final Rule

On March 18, 2014, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) published a final rule (79 FR 15033-15046) amending the Hazardous Materials Regulations (HMR) to adopt provisions contained in certain widely used or longstanding special permits and certain competent authority approvals that have established safety records.

Summary

These revisions provide wider access to the regulatory flexibility offered in special permits and approvals and eliminate the need for numerous renewal requests, reduce paperwork burdens, and facilitate commerce while maintaining an appropriate level of safety.

PHMSA is adopting into the HMR, the provisions contained in the following special permits and approvals:

SPECIAL PERMITS

1. DOT-SP 9275

Authorization for the transportation in commerce of certain limited quantities of liquids and solids containing ethyl alcohol and exempt these shipments for the provisions of the HMR. PHMSA is adopting this special permit to allow certain limited quantities of ethyl alcohol to be excepted from the applicable provisions of the HMR that require the packages to be marked with the words “Contains Ethyl Alcohol.” PHMSA is adding 49 CFR 173.150(g) to allow for the shipment of limited quantities of ethyl alcohol not exceeding 8 fluid ounces in glass containers and not exceeding 16 fluid ounces for non-glass containers without the term “contains ethyl alcohol” marked on the outside of the package. Packages containing 8 fluid ounces to 1 gallon shipped under this section require the marking “contains ethyl alcohol” on the outside of the package.

2. DOT-SP 11263

Authorization for the transportation of Class 9 solid coal pitch compounds in non-specification open-top or closed-top sift proof metal cans or fiber drums. PHMSA is adopting the terms of DOT-SP 11263 into the HMR by amending the entry in 49 CFR 172.101, the Hazardous Materials Table (HMT), for “Environmentally hazardous substances, solids, n.o.s., UN 3077,” by adding a new Special Provision N91 in Column 7. In addition, in 49 CFR 172.102 new Special Provision N91 is added authorizing the use of a non-DOT specification sift-proof, non-bulk, metal can with or without lid, or a non-DOT specification sift-proof, non-bulk fiber drum with or without lid. The fiber drum is required to be fabricated with a three ply wall, as a minimum. The coal tar pitch compound must remain in a solid mass during transportation.

3. DOT-SP 11836

Authorization for the transportation in commerce of UN1H1 and UN6HA1 drums containing ammonia solutions that do not meet certain requirements contained in 49 CFR 173.24 and 173.24a. PHMSA is adopting the terms of DOT-SP 11836 into the HMR by amending the entry in the HMT for “Ammonia solutions, *relative density between 0.880 and 0.957 at 15 degrees C in water, with more than 10 percent but not more than 35 percent ammonia*, UN 2672,” by adding a new Special Provision 336 in Column 7. In addition, in 49 CFR 172.102 new Special Provision 336 is added, authorizing the use of DOT UN1H1 drums, UN3H1 jerricans, and UN6HA1 composite packagings which meet the requirements of Part 178 of the HMR at the Packing Group I or II performance level except that the packagings do not meet the venting requirements in 49 CFR 173.24(g) and the hydrostatic pressure test marking specified in 49 CFR 173.24a(b)(4). Transportation of these packages also requires the door of each van trailer to be marked with “Warning trailer may contain chemical vapor. Do not enter until vapors have dissipated.” The driver of the transport vehicle and the consignee(s) must be trained not to enter the transport vehicle until the ammonia vapors have dissipated, and the emergency response information on the hazardous materials shipping paper must indicate that the vehicle may contain ammonia vapors.

4. DOT-SP 12134

Authorization of exceptions for spent bleaching earth (Division 4.2 PG III). Packagings authorized under the special permit are non-specification, sift-proof dump or hopper type vehicles, and sift-proof roll-on/roll-off bulk bins. All authorized packaging must be covered by a tarpaulin, metal cover, or equivalent means during transportation. The special permit also includes specific operational controls, including: the temperature of the spent bleaching earth may not exceed 55°C at the time it is offered for transportation or at any time during transportation; drivers must be specifically trained in handling and responding to emergency incidents involving the spent bleaching earth; and transport vehicles must be marked in accordance with 49 CFR 172.302(a). PHMSA is adopting the terms of DOT-SP 12134 into the HMR by amending the entry in the HMT for “Self-heating solid, organic, n.o.s. (spent bleaching earth), UN 3088,” by adding a new Special Provision, B116 in Column 7. In addition, in 49 CFR 172.102 new Special Provision B116 is added, authorizing the use of non-specification, sift-proof dump or hopper type motor vehicles, and sift-proof roll-on/roll-off bulk bins, which must be covered by a tarpaulin, metal cover, or equivalent means. The material also is subject to operational controls, including, not exceeding a temperature of 55°C(130°F) during transportation, not exceeding a transportation time of 24 hours, and drivers transporting spent bleaching earth must be trained in the properties and hazards of the spent bleaching earth and the actions required to mitigate the self-heating properties of the material that may occur during transportation.

5. DOT-SP 12825

Authorization for the transport between a vessel and a U.S. Coast Guard approved inflatable life raft servicing facility of life-saving appliances, self-inflating, containing non-DOT specification steel cylinders for the purpose of the servicing of such life-saving appliances. Specific operational controls are specified in the below listed Special Provision. PHMSA is adopting the terms of DOT-SP 12825 into the HMR by revising the entry in the HMT for “Life-saving appliances, self-inflating, UN 2990,” by adding a new Special Provision 338 in Column 7. In addition, in 49 CFR 172.102, new Special Provision 338 is added in appropriate sequence requiring that “Live-saving appliances, self-inflating, UN 2990” being shipped between a vessel and a U.S. Coast Guard approved life raft servicing facility only be subject to the requirements of this special provision. A material meeting the requirements of this special provision is not otherwise subject to the HMR.

6. DOT-SP 14479

Authorization for the use of alternative shipping names and marking requirements for regulated medical wastes. The Special Provision authorizes the continued use of regulated medical waste containers manufactured before October 1, 2006 and marked with an alternative shipping name for UN 3291, “Regulated medical waste, n.o.s.” It also allows for orientation arrows that deviate from the prescribed color specification in the HMR. PHMSA is adopting the terms of DOT-SP 14479 into the HMR by amending the entry in the HMT for “Regulated medical waste, n.o.s., UN 3088,” by adding a new Special Provision 337 in Column 7. Special Provision 337 allows for the use of regulated waste containers marked with the alternative shipping name of “Regulated medical waste, n.o.s., UN 3291” and black or white orientation arrows that deviate from the prescribed specifications in 49 CFR 172.312(a)(2).

7. Special Permits for Harmonization with the “FAA Modernization and Reform Act of 2012”

PHMSA is adding an exception to the HMR for Oxygen cylinders and other Oxidizing cylinders transported aboard aircraft within the state of Alaska. This language will make several existing special permits no longer necessary. This includes the following special permits: 14903, 14908, 15062, 15075, 15077, 15078, 15079, 15092, 15094, 15095, and 15143. PHMSA is adopting the terms of these special permits in 49 CFR 175.34.

APPROVALS

1. CA2005120010

Authorization to manufacture, mark, and sell UN4G combination packagings with outer fiberboard boxes and with inner fiberboard components that have basis weights that vary by not more than plus or minus 5% from the measured basis weight in the initial design qualification test report. PHMSA is adopting the terms of CA2005120010 into the HMR in 49 CFR 178.516(b)(7).

2. CA2006060005

Authorization to manufacture, mark, and sell UN5M1 and UN5M2 multi-wall paper bags with individual paper wall basis weights that vary by plus or minus 5% from the nominal weight basis weights reported in the initial design qualification test report. PHMSA is adopting the terms of CA2006060005 in 49 CFR 178.521(b)(4).

3. CA2006060006

Authorization to manufacture, mark, and sell UN4G combination packagings with outer fiberboard components that have individual containerboard basis weights that vary by plus or minus 5% from the nominal basis weight reported in the initial design. PHMSA is adopting the terms of CA2006060006 in 49 CFR 178.516(b)(7).

4. CA2006010012

Authorization to manufacture, mark, and sell UN4G combination packagings with outer fiberboard boxes and with inner fiberboard components that have individual containerboard basis weight that vary by plus or minus 5% from the nominal basis weight reported in the initial design qualification test report. PHMSA is adopting the terms of CA 2006010012 in 49 CFR 175.516(b)(7).

REVISION OF 49 CFR 107.705(c) FOR RENEWING APPROVALS

PHMSA is revising this section to allow approval holders applying for a renewal to continue using their approval after the expiration date if they apply at least 60 days before the expiration date.

Effective Date

This final rule will become effective on April 17, 2014.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2014-03-18/pdf/2014-05630.pdf>

E. DOT/FMCSA Gross Combination Weight Rating: Definition; Final Rule

On March 19, 2014, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a final rule (79 FR 15245-15250) revising the definition of “gross combination weight rating” (GCWR) to clarify the applicability of the FMCSA regulations for single-unit trucks when they are towing trailers and the GCWR information is not included on the vehicle manufacturer’s certification label.

Summary

FMCSA is revising the GCWR to be redefined as the greater of: (1) A value specified by the manufacturer of the power unit, if such value is displayed on the Federal Motor Vehicle Safety Standard (FMVSS) certification label required by the National Highway Traffic Safety Administration or (2) The sum of the gross vehicle weight ratings (GVWRs) or the gross vehicle weights (GVWs) of the power unit and the towed unit(s), or any combination thereof, that produces the highest value. Exception: the GCWR of the power unit will not be used to define a commercial motor vehicle when the power unit is not towing another unit.

FMCSA believes this revised definition provides a uniform means for motor carriers, drivers, and enforcement officials to determine whether a driver operating a combination vehicle is subject to the commercial driver’s license (CDL) requirements (49 CFR Part 383) or the general safety requirements (49 CFR Part 390).

In consideration of the revision to the definition of GCWR in 49 CFR 383.5 and 390.5, FMCSA is withdrawing the regulatory guidance concerning the means of determining the applicability of the Federal safety regulations. Specifically, the withdrawn guidance are questions 3 and 4 of 49 CFR 383.5, and questions 3, 4, and 11 of 49 CFR 390.5.

Effective Date

This final rule will become effective on April 18, 2014.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2014-03-19/pdf/2014-05502.pdf>

F. DOT/FMCSA Electronic Logging Devices and Hours of Service Supporting Documents; Supplemental Notice of Proposed Rulemaking

On March 28, 2014, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a supplemental notice of proposed rulemaking (79 FR 17655-

17724) that would amend the Federal Motor Carrier Safety Regulations to establish: Minimum performance and design standards for hours-of-service (HOS) electronic logging devices (ELDs); requirements for the mandatory use of these devices; requirements for HOS supporting documents; and measures to address concerns about harassment resulting from the mandatory use of ELDs.

Background

On April 5, 2010, FMCSA published a final rule amending the Federal Motor Carrier Safety Regulations to incorporate new performance standards for electronic on-board recorders (EOBRs). In August 2011, the United States Court of Appeals for the Seventh Circuit vacated the April 2010 final rule. The Court ruled that the April 2010 final rule did not address the potential for employers to use the EOBRs to harass drivers. The vacature of the final rule also rescinded the technical specifications for the EOBRs. In response FMCSA published a final rule on May 14, 2012 rescinding the April 2010 final rule, but stated at that time that they would be issuing a SNPRM in the future.

Subsequently FMCSA has conducted several public and technical meetings to address the technical specifications for EOBRs and the issue of the potential harassment of drivers.

Summary

FMCSA believes that this supplemental notice of proposed rulemaking (SNPRM) will reduce the paperwork burden for both motor carriers and drivers which will lead to improved compliance with the HOS regulations. In the SNPRM the term “electronic logging devices (ELDs) replaces “electronic on-board recorders (EOBRs). An ELD refers to a motor carrier or vendor central support system used to manage or store ELD Data. Following are some of the proposed amendments in this SNPRM:

1. New technical specifications for ELDs that address statutory requirements;
2. Mandating ELDS for drivers currently using RODs;
3. Clarifying supporting document requirements so that motor carriers and drivers can comply with HOS regulations, and make the best use of ELDs and related support systems as the primary means of recording HOS information and ensuring HOS compliance; and
4. Procedural and technical provisions designed to ensure that ELDs are not used to harass vehicle operators.

Comments Due

Comments on this SNPRM must be submitted to FMCSA on or before May 27, 2014.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2014-03-28/pdf/2014-05827.pdf>

G. Executive Order 13650: Improving Chemical Facility Safety and Security

On August 1, 2013, President Obama issued Executive Order (EO) 13650 – Improving Chemical Facility Safety and Security.

Summary

The EO, in response to the explosion in West, Texas, directed Federal Agencies (DHS, EPA, DOL, DOJ, USDA, and DOT) to work with State regulators, chemical facility owners and operators, and local and tribal communities to establish a Chemical Facility Safety and Security Working Group to improve chemical facility safety and security.

The working group has developed the following actions:

1. Expand Engagement of the Regulated Community in the Local Emergency Planning Process;
2. Improve training and protection for first responders, including a comprehensive implementation and compliance strategy for Hazardous Waste Operations and Emergency Response regulations;
3. Provide further technical assistance to State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), Local Emergency Planning Commissions (LEPCs), and Tribal Emergency Planning Committees (TEPCs) preparedness activities;
4. Identify and coordinate funding sources for LEPCs and TEPCs to sustain planning activities;
5. Increase the use of electronic reporting and data management; and
6. Improve public participation in LEPC and TEPC emergency response planning and access to information about chemical facility needs.

Comments

The public and stakeholders are encouraged to submit comments to the working group using the following email address:

Eo.chemicals@hq.dhs.gov

Link

The link below provides access to the Working Groups web page.

<http://www.osha.gov/chemicalexecutiveorder>

H. DOJ/DEA Schedules of Controlled Substances: Temporary Placement of 10 Synthetic Cathinones into Schedule I; Final Order

On March 7, 2014, the Department of Justice, Drug Enforcement Agency (DEA) published a final order (79 FR 12938-12943) to temporarily schedule 10 synthetic cathinones into schedule I of the Controlled Substances Act (CSA).

Summary

Synthetic cathinones are β -keto-phenethylamine derivatives of the larger phenethylamine structural class (amphetamines, cathinones, aminoindanes, etc.). Synthetic cathinones produce

pharmacological effects substantially similar to the schedule I substances cathinone, methcathinone, and MDMA and schedule II stimulants amphetamine, methamphetamine, and cocaine. These 10 synthetic cathinone substances have no known medical use in the United States and evidence indicates that these substances are currently being abused and therefore DEA is publishing this final order subjecting these 10 synthetic cathinones to the regulatory controls and administrative, civil, and criminal sanctions applicable to Schedule I Controlled Substances.

1. 4-methyl-N-ethylcathinone (4-MEC)
2. 4-methyl-*alpha*-pyrrolidinopropiophenone (4-MePPP)
3. Alpha-pyrrolidinopentiophenone (α -PVP)
4. 1-(1,2-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone)
5. 2-(methylamino)-1-phenylpentan-1-one (pentedrone)
6. 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone)
7. 4-fluoro-N-methylcathinone (4-FMC)
8. 3-fluoro-N-methylcathinone (3-FMC)
9. 1-(naphthalene-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphyrone)
10. Alpha-pyrrolidinobutiophenone (α -PBP)

Effective Date

This final order became effective on the date of publication, March 7, 2014.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2014-03-07/pdf/2014-04997.pdf>