

## VEOLIA NORTH AMERICA - INDUSTRIAL BUSINESS REGULATORY UPDATE - February 2015

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**A. EPA: The Hazardous Waste Electronic Manifest System Advisory Board - Request for Nominations**

On February 18, 2015, the Environmental Protection Agency (EPA) published a notice (80 FR 8643-8645) seeking nominations for three-year appointments to the Hazardous Waste Electronic Manifest System Advisory Board (the Board).

**Summary**

In accordance with the Hazardous Waste Electronic Manifest Establishment Act (e-Manifest Act), EPA is establishing a nine member Advisory Board to provide advice, consultation, and recommendations on the activities, functions, policies and regulations associated with the e-Manifest system. This notice seeks nominations to fill eight positions of the board; three positions from state agencies overseeing the intrastate and/or interstate tracking of hazardous waste, three positions from the hazardous waste management and transportation sector, and two positions from the information technology sector.

Any interested person and/or organization may nominate qualified individuals for membership on the board. Nominations must include a resume which provides the nominee's background, experience, and educational qualifications, as well as a brief statement describing the nominee's interest in serving on the board.

**Nomination Dates**

Nominations must be received by EPA on or before March 20, 2015.

**Link**

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-02-18/pdf/2015-03300.pdf>

**B. EPA Air Quality: Revision to the regulatory Definition of Volatile Organic Compounds – Requirements for t-Butyl Acetate; Proposed Rule**

On February 5, 2015, EPA published a proposed rule (80 FR 6481-6485) that would amend the regulatory definition of volatile organic compounds (VOCs) under the Clean Air Act (CAA).

**Summary**

t-butyl acetate (also known as tertiary butyl acetate or TBAC), is used as a solvent in paints, inks and adhesives where it substitutes for compounds that are regulated as VOCs. The regulatory definition of VOCs currently excludes TBAC for the purposes of VOC emission limitations or VOC content requirements because EPA has determined that it makes a negligible contribution to tropospheric ozone formation. However, the current regulations include TBAC as a VOC for the purposes of recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements with TBAC being required to be uniquely identified in emissions reports.

This proposed rule would remove the recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements for the use of TBAC under all VOC regulations.

**Comments Due**

Comments on this proposed rule must be submitted to EPA by April 6, 2015.

**Link**

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-02-05/pdf/2015-02325.pdf>

**C. DOT/PHMSA Hazardous Materials: Transportation of Lithium Batteries; Final Rule; Extension of Compliance Date**

On February 20, 2015, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration published a final rule (80 FR 9217-9218) extending the compliance date for the transportation of lithium batteries until August 7, 2015 for all modes of transportation other than air.

**Background**

On August 6, 2014, PHMSA published a final rule modifying requirements for the transportation of lithium cells and batteries. The final rule revised hazard communication and packaging provisions for lithium batteries to harmonize the Hazardous Materials Regulations (HMR) with the applicable provisions of the United Nations (UN) Model Regulations, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions) and the International Maritime Dangerous Goods (IMDG) Code. In the August 6, 2014 final rule, PHMSA established a mandatory compliance date of February 6, 2015 for shippers to incorporate the new requirements.

**Summary**

The Retail Industry Leaders Association, the Food Marketing Institute, the National Retail Federation, and the Rechargeable Battery Association submitted a joint request for a six month extension of the compliance date to provide time to implement the revisions for surface transportation. After reviewing the request PHMSA has agreed to a six month extension of the mandatory compliance date for all modes of transportation other than air.

A summary of the August 6, 2014 final rule is included in the August 2014 Regulatory Update.

**Compliance Date**

The mandatory compliance date for this final rule has been extended until August 7, 2015.

**Link**

The link below will allow you to view/print the notice of the extension of the compliance date.

<http://www.gpo.gov/fdsys/pkg/FR-2015-02-20/pdf/2015-03500.pdf>

**D. DOT/FMCSA Minimum Training Requirements for Entry-Level Drivers of Commercial Motor Vehicles: Negotiated Rulemaking Committee Membership and First Meeting**

On February 12, 2015, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a notice (80 FR 7814-7815) announcing the members of the Entry-Level Driver Training Advisory Committee (ELDTAC) that has been established to complete a negotiated rulemaking on Entry-Level Driver Training (ELDT) for Commercial Motor Vehicle (CMV) operation.

## **Background**

The ELDTAC is a negotiated rulemaking committee that has been established to develop a notice of proposed rulemaking to implement standards for individuals applying for a commercial driver's license (CDL) or upgrade a CDL.

## **Summary**

In this notice FMCSA is publishing the names of the individuals appointed to the ELDTAC and announcing the date of the first committee meeting.

## **Public Meeting Date**

The first public meeting of the ELDTAC was held on February 26 and 27, 2015 in Arlington, VA.

## **Link**

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-02-12/pdf/2015-02967.pdf>

## **E. NRC Concentration Averaging and Encapsulation Branch Technical Position**

On February 25, 2015, the Nuclear Regulatory Commission (NRC) published Revision 1 to the Branch Technical Position on Concentration Averaging and Encapsulation (CA BTP). This guidance provides acceptable methods that can be used to perform concentration averaging of low-level radioactive waste (LLW) for the purpose of determining its waste class for disposal.

## **Summary**

This revision provides updated guidance on the interpretation of 10 CFR 61.55(a)(8), "Determination of concentrations of wastes," as it applies to the classification (as Class A, B, or C) of a variety of different types and forms of LLW. 10 CFR 61.55(a)(8) states that radionuclide concentrations can be averaged over the volume of the waste or its weight if the units are expressed as nanocuries per gram. The previous version of the CA BTP was issued before the NRC adopted its risk-informed and performance based policy.

The major changes to the CA BTP are:

1. An increase in cesium-137 sealed source activity limits;
2. A demonstration of adequate mixing in blended LLW;
3. Specific guidance for licensees to use in proposing site- or process-specific averaging approaches;
4. Risk-informed treatment of cartridge filters; and
5. Risk-informed averaging of other discrete waste items.

## **Effective Date**

The revised version of CA BTP became effective on the date of publication, February 25, 2015.

## **Link**

The link below will allow you to view/print this notice of issuance of the revised branch technical position.

<http://www.gpo.gov/fdsys/pkg/FR-2015-02-25/pdf/2015-03913.pdf>

**F. DoA/APHIS Agricultural Bioterrorism Protection Act of 2002; Biennial Review and Republication of the Select Agent and Toxin List; Advance Notice of Proposed Rulemaking and Request for Comments**

**CDC/DHHS Possession, Use, and Transfer of Select Agents and Toxins; Biennial Review; Advance Notice of Proposed Rulemaking and Request for Comments**

On February 27, 2015, the Department Agriculture, Animal and Plant Health Inspection Service (APHIS) and the Department of Health and Human Services (HHS) published advance notice of proposed rulemaking (80 FR 10627 and 80 FR 10656-10658) seeking public comment on the list of select agents and toxins.

**Background**

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Act) required the establishment of a list of biological agents and toxins that have the potential to pose a severe threat to public health and safety, animal or plant health, or animal or plant products. The Act requires the list of select agents and toxins to be reviewed and republished on a biennial basis.

**Summary**

The purpose of these advance notices of proposed rulemakings is to seek public comment on the appropriateness of the current list of select agents and toxins. DHHS and APHIS are seeking comment on:

1. Are there any other biological agents or toxins that should be added to the list of select agents;
2. Are there any biological agents or toxins currently on the list of select agents that should be removed from the list;
3. *Coxiella burnetii* – should this material be removed or retained as a select agent? Are there other reasons or research data to support the removal besides the following reasons?
  - a. It is not easily transmitted from person to person;
  - b. It has a low mortality rate with antibiotic treatment; and
  - c. There is an investigational new drug vaccine available for at-risk personnel.
4. *Rickettsia prowazekii* – should this material be removed or retained as a select agent? Are there other reasons or research data to support the removal besides the following reasons?
  - a. It is readily treatable with antibiotics;
  - b. The risk of mass casualties is low because *Rickettsia prowazekii* can be treated with a single dose of doxycycline when symptoms are present; and
  - c. Transmissibility from person to person is low due to the fact that *Rickettsia prowazekii* is usually transmitted via blood, although it can be spread through inhalation of louse feces.
5. *Bacillus anthracis Pasteur Strain* – the Pasteur strain of this toxin is unable to produce toxic factors and is not considered harmful to humans, so, should this strain be removed or retained as a select agent? Are there any other reasons or research data to support the removal besides the following reasons?
  - a. *Bacillus anthracis Pasteur Strain* lacks the plasmid that encodes the toxin genes causing disease;
  - b. *Bacillus anthracis* Sterne strain, which lacks the plasmid that encodes for the capsule, was excluded from the select agent list in February 2003;
  - c. Historically, the *Bacillus anthracis Pasteur Strain* has been retained as a select agent to allow for continued oversight of laboratories in which the accidental (or intentional) combination of this strain with the Sterne strain could occur to produce the wild type phenotype *Bacillus anthracis*. However, recent studies indicate this transformation would be inefficient.
6. *Brucella abortus*, *B. melitensis*, and *B. suis* – should these materials be removed or retained as select agents? Are there other reasons or research to support the removal besides the following reasons?

- a. *Brucella abortus* has a low human mortality rate;
- b. *Brucella abortus*, *B. melitensis*, and *B. suis* are readily treatable with antibiotics; and
- c. Human-to-human transmission is extremely rare, and wildlife carriers in the United States often come into contact with humans without significant transmission.

**Comments Due**

Comments on these advance notices of proposed rulemaking must be submitted to APHIS and HHS on or before April 28, 2015.

**Links**

The link below will allow you to view/print the APHIS advance notice of proposed rulemaking.

<http://www.gpo.gov/fdsys/pkg/FR-2015-02-27/pdf/2015-04180.pdf>

The link below will allow you to view/print the HHS advance notice of proposed rulemaking.

<http://www.gpo.gov/fdsys/pkg/FR-2015-02-27/pdf/2015-04169.pdf>