



VEOLIA NORTH AMERICA - INDUSTRIAL BUSINESS REGULATORY UPDATE - May 2015

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A. EPA Alert - As Hurricane Season Begins: A Reminder to Minimize Process Shutdown Releases and to Report Releases in a Timely Manner

In May 2015, the Environmental Protection Agency (EPA) published an alert reminding businesses that hurricane season is beginning and that facilities should prepare for the effects of a hurricane and that the timely reporting of releases is required even if a hurricane causes the release.

Summary

EPA is encouraging all industry sectors to review their operational events during shutdown operations related to previous hazardous weather events and to make appropriate administrative/procedural, operational/process equipment, and hardware/software safety improvements. Emergency contact information should also be reviewed, updated, and reported to Local Emergency Planning Commissions (LEPCs) if necessary.

In the event of a release, spill, or discharge of oil, chemical, radiological or biological material that exceeds a reportable quantity the facility must contact the National Response Center (NRC) at (800) 424-8802.

Link

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

http://www.epa.gov/region4/r4_hurricanereleases.html

B. EPA Federal Appeals Court Consolidates Definition of Solid Waste Lawsuits with Petroleum Industry Lawsuit

On May 18, 2015, the U.S. Court of Appeals for the District of Columbia Circuit (Court) consolidated various lawsuits regarding EPA's 2015 Definition of Solid Waste Final Rule and a 2009 petroleum industry lawsuit on the treatment of spent petroleum refinery catalysts concerning the 2008 Definition of Solid Waste Final Rule.

Summary

The petroleum industry's 2009 lawsuit argued that EPA improperly regulated materials as hazardous wastes because the materials weren't "discarded". Then in April 2015, following the January 2015 Definition of Solid Waste final rule, additional lawsuits were filed by industry and environmental groups making similar legal challenges.

The Court has ruled that these cases are sufficiently alike to warrant consolidation into one court case. The Court has asked that parties file proposed briefing formats on the case by June 29, 2015, is encouraging joint submissions, and stated that the Court would look "with extreme disfavor on repetitious submissions."

C. EPA Spring 2015 Semi-Annual Regulatory Agenda; Notice

On May 28, 2015, EPA published the Spring 2015 Semi-Annual Regulatory Agenda as part of the 2015 Spring Unified Agenda and Regulatory Plan.

Summary

EPA publishes a semi-annual regulatory agenda twice per year. The semi-annual regulatory agenda describes a broad universe of regulatory activities that are under development or review including the following waste-related topics:

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| Solid Waste and Emergency Response – Final Rule Stage |
| 1. Revising Underground Storage Tank Regulations – Revisions to Existing Requirements and New Requirements for Secondary Containment and Operator Training |
| 2. Additions to List of Section 241.4 Categorical Non-Waste Fuels |
| Solid Waste and Emergency Response – Proposed Rule Stage |
| 1. Management Standards for Hazardous Waste Pharmaceuticals |
| 2. Hazardous Waste Generator Improvements Rule |
| 3. Hazardous Waste Export-Import Revisions Rule |
| 4. Modernization of the Accidental Release Prevention Regulations Under Clean Air Act |
| 5. Revisions to RCRA Subtitle D Research, Demonstration & Development Permit Rule |
| 6. Non-Hazardous Secondary Materials – Additions to List of Categorical Non-Waste Fuels; Other Treated Woods |
| 7. National Contingency Plan Revisions to Align with the National Response Framework |
| Solid Waste and Emergency Response – Long-Term Actions |
| 1. User Fee Schedule for Electronic Hazardous Waste Manifest Rule |
| 2. RCRA Smarter Waste Reporting |
| 3. Revisions to Land Disposal Restrictions Treatment Standards and Amendments to Recycling Requirements for Spent Petroleum Refining Hydrotreating and Hydrorefining Catalysts |

Link

The link below will allow you to view/print the Spring 2015 Semi-Annual Regulatory Agenda.

<http://resources.regulations.gov/public/component/main?main=UnifiedAgenda>

D. DOT/PHMSA Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains; Final Rule

On May 8, 2015, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) published a final rule (80 FR 26643-26750) adopting requirements designed to reduce the consequences and probability of accidents involving trains transporting large quantities of flammable liquids.

Summary

With this final rule PHMSA is revising the Hazardous Materials Requirements (HMR) to establish requirements for any “high-hazard flammable train” (HHFT) transported on the US rail network. A HHFT is defined as a train comprised of 20 or more loaded tank cars of a Class 3 flammable liquid in a continuous block or 35 or more loaded tank cars of a Class 3 flammable liquid across the entire train. This rule primarily impacts trains transporting large quantities of ethanol and crude oil.

This final rule adopts operational and safety improvements, including:

1. Enhanced Standards for both New and Existing Tank Cars used in HHFTs;
2. More Accurate Classification of Unrefined Petroleum-Based Products;

3. Rail Routing Risk Assessments;
4. Notification Requirements for Rail Routing;
5. Reduced Operating Speeds; and
6. Enhanced Braking

Effective Date

This final rule will become effective on July 7, 2015.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-05-08/pdf/2015-10670.pdf>

E. Collection Activities “Flammable Hazardous Materials by Rail DOT/PHMSA Hazardous Materials: Information Transportation”; Notice and Request for Comment

On May 14, 2015, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) published a notice (80 FR 27844-27845) of a proposed information collection for the rail transportation of certain flammable hazardous materials.

Summary

5 CFR 1320.8(d) requires PHMSA to provide the public and agencies an opportunity to comment on information collection and recordkeeping requests. This notice would revise an existing information collection request and would require tank car owners to report to PHMSA their progress in retrofitting tank cars.

Specifically, this revised reporting requirement would require owners of non-jacketed DOT-111 tank cars in Packing Group I service in a high-hazard flammable train (HHFT) to report to PHMSA the following information regarding the retrofitting progress:

1. The total number of tank cars retrofitted to meet the DOT-117R specification;
2. The total number of tank cars built or retrofitted to meet the DOT-117P specification;
3. The total number of DOT-111 tank cars (including those built to CPC-1232 industry standard) that have not been modified;
4. The total number of tank cars built to meet the DOT-117 specification; and
5. The total number of tank cars built or retrofitted to a DOT-117, 117R, or 117P specification that are Electronically Controlled Pneumatic (ECP) brake ready or ECP brake equipped.

Comments Due

Comments on this notice to revise reporting requirements in the retrofitting of tank cars must be submitted to PHMSA on or before July 13, 2015.

Link

The link below will allow you to view/print this notice and request for comments.

<http://www.gpo.gov/fdsys/pkg/FR-2015-05-14/pdf/2015-11625.pdf>

F. DOT/FMCSA Qualifications of Drivers; Diabetes Standard; Notice of Proposed Rulemaking

On May 4, 2015, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a notice of proposed rulemaking (80 FR 25260-25272) that would permit drivers with stable, well-controlled insulin-treated diabetes mellitus (ITDM) to be qualified to operate commercial motor vehicles (CMVs) in interstate commerce.

Summary

Under current regulations, a driver with ITDM may not operate a CMV in interstate commerce unless the driver obtains an exemption from FMCSA which must be renewed at least every two years. This NPRM would allow individuals with well-controlled ITDM to drive CMVs in interstate commerce if they are examined at least annually by a Medical Examiner (ME) listed in the National Registry of Certified Medical Examiners (National Registry), have received the medical examiners certificate (MEC) from the ME, and are otherwise physically qualified.

Comments Due

Comments on this notice of proposed rulemaking must be submitted to FMCSA by July 6, 2015.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-05-04/pdf/2015-09993.pdf>

G. DOT/FMCSA/PHMSA Spring 2015 Semi-Regulatory Agenda; Notice

On May 28, 2015, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) and Pipeline and Hazardous Materials Safety Administration (PHMSA) published the Spring 2015 Semi-Annual Regulatory Agenda as part of the 2015 Spring Unified Agenda and Regulatory Plan.

Summary

FMCSA and PHMSA publish a semi-annual regulatory agenda twice per year. The semi-annual regulatory agenda describes a broad universe of regulatory activities that are under development or review including the following commercial motor vehicle and hazardous materials transportation related topics:

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| Federal Motor Carrier Safety Administration – Final Rule Stage |
| 1. Commercial Driver’s License Drug and Alcohol Clearinghouse (MAP-21) |
| 2. Definition of Tank Vehicle with Respect to Commercial Driver’s License Holders |
| 3. Electronic Logging Devices and Hours of Service Supporting Documents (MAP-21) (RRR) |
| Federal Motor Carrier Safety Administration – Proposed Rule Stage |
| 1. Carrier Safety Fitness Determination |
| 2. Federal Motor Carrier Safety Standards; Certification Requirements |
| 3. MAP-21 Enhancements and other Updates to the Unified Registration System |
| 4. Qualification of Drivers; Diabetes Standard |
| Federal Motor Carrier Safety Administration – Long-Term Actions |
| 1. Electronic Signatures and Documents (E-Signatures) (RRR) |
| 2. Entry Level Driver Training |
| 3. Financial Responsibility for Motor Carriers, Freight Forwarders, and Brokers |

| Pipeline and Hazardous Materials Safety Administration – Final Rule Stage |
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| 1. Hazardous Materials: Adoption of American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code Section XII and the National Board Boiler and Pressure Vessel Inspectors Code |
| 2. Hazardous Materials: Adoption of Special Permits (MAP-21) (RRR) |
| 3. Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains |
| 4. Hazardous Materials: Miscellaneous Amendments (RRR) |
| 5. Hazardous Materials: Reverse Logistics (RRR) |
| 6. Hazardous Materials: Safety Requirements for External Product Piping on Cargo Tanks Transporting Flammable Liquids (Wetlines) (MAP-21) |
| 7. Hazardous Materials: Special Permit and Approvals Standard Operating Procedures and Evaluation Process (MAP-21) |
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| Pipeline and Hazardous Materials Safety Administration – Proposed Rule Stage |
| 1. Hazardous Materials: Miscellaneous Pressure Vessel Requirements (DOT Spec Containers) (RRR) |
| 2. Hazardous Materials: Oil Spill Response Plans for High-Hazard Flammable Trains |
| 3. Hazardous Materials: Review and Update of Rail Carrier Regulations |

Link

The link below will allow you to view/print the Spring 2015 Semi-Annual Regulatory Agenda.

<http://resources.regulations.gov/public/component/main?main=UnifiedAgenda>

H. OSHA Evaluating Hazardous Levels of Accumulation Depth for Combustible Dusts; Memorandum

On April 21, 2015, Thomas Galassi, Director of Enforcement programs for the Occupational Safety and Health Administration (OSHA), issued a memorandum to the OSHA Regional Administrators titled “Evaluating Hazardous Levels of Accumulation Depth for Combustible Dusts.”

Summary

The memorandum provides guidance in calculating the levels of dust accumulations that may be allowed at workplaces with bulk densities less than 75 lb/ft³ and supplements the dust accumulation guidance provided in CPL 03-00-008, *Combustible Dust National Emphasis Program*.

CPL 03-00-008 references 1/32 inch dust accumulation based on certain assumptions including a uniform dust layer covering the surfaces and a bulk density of 75 lb/ft³. This guidance allows the dust layer to exceed the 1/32 inch depth using a formula that divides 2.34375 by the bulk density of the material (2.34375 is 1/32 inch multiplied by 75 lb/ft³).

The memorandum also lists the following conditions where a dust explosion hazard and dust flash fire hazard exist in any building or room:

1. The total area of non-separated dust accumulations exceeding the layer depth (LD) criterion is greater than five percent of the footprint area.
2. The area of any single non-separated dust accumulation exceeding the layer depth (LD) criterion is greater than 1,000 ft².
3. The total volume of non-separated dust accumulations is greater than the layer depth (LD) criterion multiplied by five percent of the footprint area.
4. The total volume of any single non-separated dust accumulation is greater than the layer depth (LD) criterion multiplied by 1,000 ft².

The memorandum also includes guidance on collecting a dust sample to analyze for bulk density.

Link

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

https://www.osha.gov/dep/enforcement/Combustible_Dusts_04212015.html

I. OSHA Compliance Reminder: Shipments of Chemicals Must be Accompanied by a Safety Data Sheet using the 16-Section GHS-Style Format beginning on June 1, 2015

Effective June 1, 2015, chemical manufacturers and importers are required to provide Safety Data Sheets (SDSs) in place of MSDSs for all shipments of hazardous chemicals to downstream customers. The SDSs must use consistent headings in the 16-Section Global Harmonization System (GHS) style format.

OSHA’s Hazard Communication Standard (HCS) was amended on March 12, 2012 to align with the United Nations Globally Harmonized System of Classification and Labeling of Chemicals (GHS). The revisions in the HCS are being phased in by OSHA.

A summary of the revisions to the Hazard Communication Standard are included in the March 2012 Regulatory Update.

J. OSHA Spring 2015 Semi-Annual Regulatory Agenda; Notice

On May 28, 2015, the Occupational Safety and Health Administration (OSHA) published the Spring 2015 Semi-Annual Regulatory Agenda as part of the 2015 Spring Unified Agenda and Regulatory Plan.

Summary

OSHA publishes a semi-annual regulatory agenda twice per year. The semi-annual regulatory agenda describes a broad universe of regulatory activities that are under development or review. The Spring 2015 Semi-Annual Regulatory Agenda includes the following OSHA topics:

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| Occupational Safety and Health Administration – Final Rule Stage |
| 1. Improve Tracking of Workplace Injuries and Illnesses |
| 2. Rules of Agency Practice and Procedure Concerning OSHA Access to Employee Medical Records |
| 3. Updating OSHA Standards Based on National Consensus Standards: Eye and Face Protection |
| 4. Walking and Working Surfaces and Personal Fall Protection Systems (Slips, Trips, and Fall Protection) |
| Occupational Safety and Health Administration – Proposed Rule Stage |
| 1. Clarification of Employer’s Continuing Obligation to Make and Maintain Accurate Records of Each Recordable Injury and Illness |
| 2. Occupational Exposure to Beryllium |
| 3. Occupational Exposure to Crystalline Silica |
| 4. Quantitative Fit Testing Protocol: Amendment to the Final Rule on Respiratory Protection |
| 5. Standards Improvement Project IV |
| 6. Streamlining of Provisions on State Plans for Occupational Safety and Health |
| Occupational Safety and Health Administration – Long-Term Actions |
| 1. Bloodborne Pathogens |

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| 2. Chemical Management and Permissible Exposure Limits (PELs) |
| 3. Combustible Dust |
| 4. Emergency Response and Preparedness |
| 5. Infectious Diseases |
| 6. Injury and Illness Prevention Program |
| 7. Occupational Injury and Illness Recording and Reporting Requirements – Musculoskeletal Disorders (MSD) Column |
| 8. Preventing Backover Injuries and Fatalities |
| 9. Process Safety Management and Prevention of Major Chemical Accidents |
| 10. Update to the Hazard Communication Standard |

Link

The link below will allow you to view/print the Spring 2015 Semi-Annual Regulatory Agenda

<http://resources.regulations.gov/public/component/main?main=UnifiedAgenda>

K. DHS Chemical Facility Anti-Terrorism Standards; Guidance for the Expedited Approval Program; Notice of Availability

On May 13, 2015, the Department of Homeland Security (DHS) published a notice of availability (80 FR 27339-27340) regarding a modification to the Chemical Facility Anti-Terrorism Standards (CFATS) site security program approval process to include an optional Expedited Approval Program (EAP).

Summary

To address a backlog of site security plans awaiting DHS review, this new procedure will expedite the approval of security plans for facilities deemed lower risk by DHS. The EAP identifies specific security measures sufficient to meet risk-based performance standards established as part of the CFATS regulations.

Under the EAP a Tier 3 or Tier 4 chemical facility may submit a Site Security Plan to DHS, which must either follow the prescriptive measures described in the guidance document announced by this Notice of Availability, or the Tier 3 or Tier 4 chemical facility must certify that any material deviations from the guidance meet the risk-based performance standards contained in CFATS. If a Tier 3 or Tier 4 facility chooses to submit a Site Security Plan in accordance with the guidance, DHS can review the Site Security Plan for facial deficiency within 100 days after the date on which the Plan is received by DHS. DHS will subsequently monitor facilities' compliance with their Site Security Plans in accordance with this guidance through inspections and audits conducted under CFATS. If a Tier 3 or Tier 4 chemical facility opts not to participate in the EAP it must comply with the other existing CFATS requirements for submission of a Site Security Plan to DHS for review, and for implementation of the plan.

Effective Date

The EAP program will become effective on June 16, 2015.

Link

The link below will allow you to view/print the Notice of Availability.

<http://www.gpo.gov/fdsys/pkg/FR-2015-05-13/pdf/2015-11503.pdf>