



VEOLIA NORTH AMERICA - INDUSTRIAL BUSINESS REGULATORY UPDATE - June 2015

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A. EPA to Launch eDisclose an On-Line System for Self-Reporting and Resolving Environmental Violations

On June 10 and 15, 2015, the Environmental Protection Agency hosted webinars to present their plan to develop eDisclosure which will be a centralized, web-based system that will improve EPA's ability to efficiently receive and process violations disclosed under EPA's self-disclosure policies.

Summary

The eDisclosure portal will accept new reports involving almost all civil violations. The disclosures will be grouped into two Tiers.

1. Tier 1 disclosures include EPCRA violations that meet the Audit Policy conditions. The eDisclosure system will automatically issue an electronic Notice of Determination (eNOD) confirming that the violations are resolved with no assessment of civil penalties as long as the violations are corrected within 60 days of the date of discovery.
2. Tier 2 disclosures include all non-EPCRA violations; EPCRA violations where the violator can only certify compliance with Audit Policy conditions 2-9; EPCRA violations that resulted in significant economic benefit; and EPCRA and CERCLA violations excluded from Tier 1. The eDisclosure system will issue an electronic Acknowledgement Letter (AL) confirming EPA's receipt of the disclosure that includes a statement from EPA that a determination regarding the eligibility of penalty mitigation will be made at a later date.

To submit a disclosure using the eDisclosure portal a company must:

1. Register with the system;
2. Disclose the violations within 21 days of discovery; and
3. Submit an on-line Compliance Report certifying that the non-compliance was timely corrected. The Compliance Report is due within 60 days of submitting the initial disclosure.

EPA will spot check disclosures for possible errors and inconsistencies. A date for the launch of the eDisclosure system has not been announced by EPA.

Link

The link below will allow you to view/print EPAs eDisclosure Information Sheet.

<http://www2.epa.gov/sites/production/files/2015-06/documents/edisclosureinformationsheet.pdf>

B. EPA Final National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Industrial Activities; Notice of Final Permit Issuance

On June 16, 2015, EPA published a notice (80 FR 34403-34407) announcing the issuance of the final 2015 National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges from industrial activities.

Summary

This permit is more commonly known as the Multi-Sector General Permit (MSGP) and applies to facilities in EPA Regions 1, 2, 3, 5, 6, 7, 8, 9, and 10. The 2015 MSGP replaces the 2008 MSGP. The 2015 MSGP includes several new or modified requirements which are included below:

1. Electronic Reporting Requirements

The 2015 MSGP requires that notices of intent (NOIs), annual reports, notices of termination (NOTs), discharge monitoring reports (DMRs), and no exposure certifications be submitted electronically. All existing permit holders must submit a notice of intent for coverage under the 2015 permit using the NPDES electronic-reporting tool.

2. Information Required for Notices of Intent

New information must be included in the NOI. The new information is: location information for each discharge outfall; whether the facility discharges to saltwater; the hardness of the receiving water if the facility is subject to benchmark monitoring for metals; whether the facility discharges to a federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) site; and general information from the facilities Storm Water Pollution Prevention Plan (SWPPP).

3. Threatened and Endangered Species Requirements

Revises the procedures operators must follow to ensure that operators are making accurate determinations of which eligibility criteria for the protection of endangered and threatened species a facility qualifies under.

4. Inspections

EPA has consolidated the comprehensive site inspection and routine facility inspection procedures into one set of procedures.

5. Corrective Actions

Clarifies which corrective actions require a SWPPP review, modifies the deadlines to further specify EPA's expectations regarding what actions must be taken by deadlines, and revises and clarifies the reporting requirements for corrective actions.

Effective Date

The 2015 MSGP became effective on June 4, 2015.

Link

The link below will allow you to view/print the notice of final permit issuance.

<http://www.gpo.gov/fdsys/pkg/FR-2015-06-16/pdf/2015-14792.pdf>

The link below will allow you to view/print the 2015 MSGP.

<http://water.epa.gov/polwaste/npdes/stormwater/EPA-Multi-Sector-General-Permit-MSGP.cfm>

C. EPA: American Chemistry Council Files Lawsuit in U.S. Court of Appeals Regarding Pressure Relief Device Regulations under the Off-Site Waste and Recovery Operations Final Rule

On June 22, 2015, The American Chemistry Council (ACC) filed a statement of issues with the D.C. Circuit Court of Appeals challenging provisions of EPA's National Emission Standards for Hazardous Air Pollutants (NESHAP) for Off-Site Waste and Recovery Operations (OSWRO) published on March 18, 2015. The ACC and Eastman Chemical Company initially filed a joint petition for reconsideration of the OSWRO rule in May 2015.

Summary

The ACC's statement of issues does not specify all of the legal arguments it expects to make, but it does state that they will ask the Court to review the emission standards for pressure relief devices. EPA set emission standards from pressure relief devices that effectively prohibit or require zero releases from pressure relief devices (PRDs). ACC intends to challenge the legality of prohibiting releases from PRDs without following the CAA Section 112(d)(3) requirements to identify the best-performing facilities and to base emission standards on those sources.

The ACC has asked the Court to hold the litigation in abeyance for up to six months to allow EPA time to consider an administrative remedy.

D. **Wisconsin Department of Natural Resources Approved Rules Streamlining the Air Permitting Requirements for Minor Source Emitters; Final Rule**

On June 24, 2015, the Wisconsin Natural Resources Board adopted Air Management Permit rules streamlining requirements for Minor Sources of Air Emissions.

Summary

This final rule exempts "Natural Minor Sources," facilities that are not physically capable of exceeding the major source threshold, from the operating permit requirements. "Synthetic Minor Sources," facilities that are capable of exceeding the major source threshold, but do not, may still take advantage of the remaining revisions in this final rule. Some of the revisions include:

1. Minor Source operating permits will be permanent, eliminating the requirement to renew the permit every five years.
2. Allow certain pre-construction activities to occur while a minor source construction permit is pending. These activities include: the installation of building supports, foundations, and underground piping.
3. Minor sources are allowed to burn high sulfur diesel fuel if the emissions are controlled by best available control technology (BACT).
4. The Department of Natural Resources (DNR) is allowed to revoke minor source construction and operating permits at closed facilities without providing written notice of intent to revoke.
5. The removal of outdated tables and requirements, the removal of methyl ethyl ketone from the list of pollutants included in an operating permit, the correction of code citations references, the addition of clarifying notes, and other changes for consistency with federal regulations.

Link

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

<http://dnr.wi.gov/about/nrb/2015/june/06-15-3A1.pdf>

E. **California South Coast Air Quality Management District Amends Regulations for the Emission of Toxic Air Contaminants; Final Rule**

On June 5, 2015, the South Coast Air Quality Management District (SCAQMD) approved revisions to rules governing the emission of toxic air contaminants to reflect amendments to the State of California's Air Toxics Hot Spots Program Risk Assessment Guidelines.

Background

On March 6, 2015, the California Office of Environmental Health Hazard Assessment (OEHHA) approved revisions to the Air Toxics Hot Spots Program Risk Assessment Guidelines. The Revised OEHHA Guidelines incorporate age sensitivity factors which will increase cancer risk estimates to residential and sensitive receptors, based on the change in methodology. Under the Revised OEHHA Guidelines, even though the toxic emissions from a facility have not increased, estimated cancer risk to a residential receptor will increase due to the change in methodology. Cancer risks for off-site worker receptors are similar between the existing and revised methodology because the methodology for adulthood exposures remains relatively unchanged.

Summary

In this final rule the SCAQMD updated their air toxic rules to reflect the OEHHA's revised risk assessment guidelines for air toxic hot spots. The rules that were amended are:

1. Rule 1401 – New Source Review of Toxic Air Contaminants
2. Rule 1401.1 – Requirements for New and Relocated Facilities Near Schools
3. Rule 1402 – Control of Toxic Air Contaminants from Existing Sources
4. Rule 212 – Standards for Approving Permits and Issuing Public Notice

The new rules establish cancer and non-cancer health risk requirements, including strict controls for new and modified facilities. Under the rules a facility must notify neighbors and hold public meetings if its cancer risk exceeds 10 in 1 million cases during a 30 year period. Once the risk increases to 25 in 1 million, emissions of air toxics must be reduced.

Toxic emissions from a facility may not have increased, but the new guidelines may require facilities to conduct new health risk assessments. Facilities that may be impacted by this rule include: aerospace manufacturing plants, metal plating and finishing operations, oil refiners and wastewater treatment plants.

These rules target the emissions of numerous air toxics including:

1. Benzene
2. Cadmium
3. Dioxins
4. Formaldehyde
5. Hexavalent Chromium
6. Lead
7. Nickel

Link

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

<http://www.aqmd.gov/docs/default-source/Agendas/Governing-Board/2015/2015-jun1-028.pdf?sfvrsn=9>

F. DOT/FMCSA Hazmat Safety Permit (HMSP) – Amendment to Enforcement Policy; Notice

On June 19, 2015, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published an amendment to their enforcement policy (80 FR 35253-35255) implementing two congressional recommendations to the Department of Transportation (DOT) Hazardous Materials Safety Permit (HMSP) program.

Summary

The two congressional recommendations are:

1. Fully utilizing the Safety Measurement System (SMS) as part of the HMSP review process; and
2. Institute an ongoing requirement to conduct compliance reviews for HMSP motor carriers with insufficient data to utilize SMS.

FMCSA will use SMS scores to provide enhanced oversight of HMSP holders, to identify poor performing carriers for a safety fitness compliance review, and to provide grounds for suspension or revocation of the HMSP.

Program Overview

The HMSP program is based on the premise that carriers transporting certain amounts of particularly dangerous hazardous material must maintain a higher minimum level of safety in their operations than other carriers and must additionally demonstrate compliance with the regulatory requirements in the DOT Hazardous Materials Regulations (HMR), 49 CFR parts 171-180 and Federal Motor Carrier Safety Regulations (FMCSR), 49 CFR parts 350-399. Under FMCSA's current program, in order to obtain or renew a HMSP, a carrier must demonstrate that it meets the following regulatory requirements:

1. Maintains the minimum level of financial responsibility required by 49 CFR part 387
2. Maintains current PHMSA registration
3. Certifies that it has security and communications plans that comply with 49 CFR parts 172 and 385
4. Is assigned with a "Satisfactory" safety fitness rating
5. At the time of initial applications and renewal, the carrier's crash and inspection records in MCMIS for the prior 12 month period may not exceed the threshold rate established by FMCSA, based on crash and an out-of-service rates for the hazardous material motor carrier industry, indicating that the carrier has:
 - a. A crash rate in the top 30% of the national average, or
 - b. A driver, vehicle, hazardous material or total out-of-service (OOS) rate in the top 30% of the national average.

Once approved, an HMSP is issued to a motor carrier and must be renewed every two years. The application for renewal is submitted in conjunction with the motor carrier's MCS-150 biennial update.

New Program Enhancements

1. Continuous SMS Monitoring

HMSP holders will no longer be required to have crash and OOS rates that are below the 30% threshold at the time of the HMSP holder's two-year renewal. Beginning August 18, 2015, FMCSA will continually monitor these HMSP holders using SMS analysis as a basis for a compliance review referral or proposed revocation or suspension. HMSP holders will continue to be subject to the renewal provisions which require the carrier to submit its biennial update.

HMSP carriers will continue to be subject to the current intervention thresholds for all carriers of placarded hazardous material under the seven Behavior Analysis and Safety Improvement Categories (BASIC) in SMS. The BASICS include: Unsafe Driving, Hours of Service Compliance, Driver Fitness, Controlled Substances and Alcohol, Vehicle Maintenance, Hazardous Materials Compliance and Crash Indicator. Under the new program, FMCSA will review the permit holder's SMS scores monthly to determine if the carrier has met or exceeded intervention thresholds for either the Hazardous Materials Compliance or met or exceeded thresholds for any two of the other BASICS for the preceding two consecutive months. If the carrier meets or exceeds the HM BASIC or meets or exceeds thresholds of

any other two BASICs over a consecutive two-month period, FMCSA will identify the carrier for investigation with hazardous material compliance emphasis. A comprehensive investigation will entail a full-rated review that will also determine whether the carrier meets the safety fitness requirements.

If a carrier fails to comply with the applicable regulations, or an order issued under those regulations, indicating that the carrier is not fit to transport hazardous material that requires a HMSP, such conduct could similarly trigger a proposed suspension or revocation. The proposed suspension or revocation would be based on serious instances of non-compliance, less than satisfactory safety rating, or loss of operating authority. The proposed suspension or revocation would be subject to the 30-day notice requirement in 49 CFR 385.421(c)(2) and the carrier would have an opportunity to take corrective action and/or to apply for administrative review under 49 CFR 385.423 before FMCSA took final action. A proposed suspension or revocation will not become effective during the pendency of a request for administrative review that is timely-filed during the 30 day timeframe from the date of service of the written notice of proposed suspension or revocation.

2. Compliance Reviews for HMSP Motor Carriers with Insufficient Data to Utilize SMS

Effective August 18, 2015, FMCSA will begin to conduct comprehensive investigations for HMSP carriers when the carrier has insufficient data to calculate a percentile in SMS during any month of the previous 48 month period. HMSP carriers will not be allowed to operate for more than four years without either having enough safety performance data to confirm compliance, or having received a compliance review that results in a satisfactory rating.

Effective Date

These amendments to the HMSP enforcement policy will become effective on August 18, 2015.

Link

The link below will allow you to view/print the notice of amendments to the HMSP Enforcement Policy.

<http://www.gpo.gov/fdsys/pkg/FR-2015-06-19/pdf/2015-15091.pdf>

G. DOT/FMCSA Proposal for Future Enhancements to the Safety Measurement System (SMS); Notice and Request for Comment

On June 29, 2015, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a notice (80 FR 37037-37039) seeking comment on proposed enhancements to the Safety Measurement System (SMS).

Background

Since December 2010, FMCSA and States have used the SMS to identify and prioritize motor carriers for interventions that include warning letters and investigations and to identify motor carriers for roadside inspections using a software system. The SMS also provides motor carrier safety performance data to the motor carrier industry, consumers, and others interested parties. The SMS data is updated monthly.

Summary

FMCSA hosted a Continuous Improvement Working Group (CIWG) that included Federal and State Enforcement personnel to review the SMS. The following recommendations were proposed by the CIWG:

1. Revisions to the SMS Intervention Thresholds

FMCSA is proposing to divide the Behavior Analysis and Safety Improvement Categories' (BASICS) into three levels based on crash risk correlation. These levels would be:

- a. High: Unsafe Driving, Crash Indicator, Hours-of-Service (HOS) Compliance
- b. Medium: Vehicle Maintenance
- c. Low: Controlled Substances/Alcohol, Hazardous Materials Compliance, Driver Fitness

Based on these revised levels FMCSA is proposing to amend the intervention thresholds to better reflect the crash correlations of each BASIC. The table below includes the proposed revisions:

BASIC	Current Intervention Threshold (%)	Proposed Intervention Threshold (%)
Unsafe Driving Crash Indicator HOS Compliance	65	65
Vehicle Maintenance	80	75
Controlled Substances/Alcohol Hazardous Materials Compliance Driver Fitness	80	90

2. Hazardous Materials Compliance BASIC Changes

- a. Segmenting the Hazardous Materials Compliance BASIC by cargo tank (CT) and non-cargo tank (non-CT) carriers.
- b. Releasing the motor carrier percentile rankings under the Hazardous Materials Compliance BASIC to the public.

3. Reclassifying violations for operating while Out-of-Service to the Unsafe Driving BASIC.

4. Increasing the maximum Vehicle Miles Travelled (VMT) used in the Utilization Factor (UF) from 200,000 to 250,000 to better reflect the operations of high-utilization carriers.

Comments Due

Comments on these proposed revisions must be submitted to FMCSA on or before July 29, 2015.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-06-29/pdf/2015-15907.pdf>

H. OSHA Revised Enforcement Policy on the Concentration of Chemicals for Determining Whether Chemicals Exceed the Threshold Quantity for the Process Safety Management Standard; Memorandum

On June 5, 2015, Tom Galassi, OSHA Director of Enforcement Programs, issued a memorandum to the Regional Directors and State Program Designees revising OSHA's enforcement policy on the concentration of a chemical that must be present in a process for the purpose of determining whether the chemical is at or above the threshold quantity listed in Appendix A of the Process Safety Management of Highly Hazardous Chemicals (PSM) standard (29 C.F.R. § 1910.119).

Summary

OSHA will now use a "one percent test" to determine whether a process involves a chemical (whether pure or in a mixture) at or above the specified threshold quantities listed in 29 CFR 1910.119, Appendix A. To calculate if a chemical is present above the threshold quantity a facility must calculate:

1. The total weight of any chemical in the process at a concentration that meets or exceeds the concentration listed for that chemical in Appendix A, and
2. With respect to chemicals for which there is no concentration listed in Appendix A, the total weight of the chemical in the process at a concentration of one percent or greater. However, the facility need not include the weight of such chemicals in any portion of the process in which the partial pressure of the chemical in the vapor space under handling or storage conditions is less than 10 millimeters of mercury (mm Hg). The facility must document this partial pressure determination.

In determining the weight of a chemical present in a mixture, only the weight of the chemical itself, excluding any solvent, solution, or carrier is counted.

The memorandum includes example threshold determination calculations.

Effective Date

This policy became effective on the date of publication, June 5, 2015.

Link

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

https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=29411

I. OSHA Revisions to ANSI Workplace First Aid Kit Standards

In June 2015, the American National Standards Institute (ANSI) released z308.1-2015, American National Standard – Minimum Requirements for Workplace First Aid Kits and Supplies.

Summary

The 2015 edition introduces two classes of first aid kits, based on the assortment and quantity of first aid supplies. Class A kits are designed to deal with most common workplace injuries, such as minor cuts, abrasions and sprains. First aid kits designated as Class B include a broader range and quantity of supplies

to deal with injuries in more complex or high-risk environments.

First aid kits are also designated by Type (I, II, III or IV) depending on the work environment in which they are to be used. For example, Type 1 identifies kits used indoors and permanently mounted to a wall or other structure; Type IV kits are suitable for outdoor use and must pass tests for corrosion, moisture and impact resistance.

Many of the first aid supplies previously identified as being recommendations in the 2009 standard are now required for both newly-designated kit types. In addition, scissors are to be included in both classes of kits and a splint and a tourniquet are both required for a Class B first aid kit.

Link

A copy of the ANSI z308.1-2015 Standard can be purchased for \$30 using the following link.

<https://safetyequipment.org/profile-acct/index.cfm?action=store.product&ProductID=143>

J. NRC and DOT/FMCSA Revisions to Transportation Safety Requirements and Harmonization with International Atomic Energy Agency Transportation Requirements; Final Rule

On June 12, 2015, the Nuclear Regulatory Commission (NRC) published a final rule (80 FR 33987-34018) amending the NRC regulations for packaging and transportation of radioactive materials.

Summary

This final rule amends the NRC's regulations to conform with the International Atomic Energy Agency's (IAEA) 2009 standards for the international transportation of radioactive material and to maintain consistency with the Department of Transportation's regulations. This final rule revises 10 CFR 71 to:

1. Update administrative procedures for the quality assurance program requirements in Subpart H;
2. Re-establish restrictions on material that qualifies for the fissile material exemption;
3. Clarify the requirements for a general license;
4. Clarify the responsibilities of certificate holders and licensees when making preliminary safety determinations on packaging to be used for transporting radioactive material; and
5. Editorial changes.

Effective Date

This final rule became effective on July 13, 2015.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-06-12/pdf/2015-14212.pdf>

K. NRC Revision of Fee Schedules; Fee Recovery for Fiscal Year 2015; Final Rule

On June 30, 2015, the Nuclear Regulatory Commission (NRC) published a final rule (80 FR 37431-37464) amending the licensing, inspection and annual fees charged to NRC applicants and licensees.

Summary

The Omnibus Budget Reconciliation Act of 1990 requires the NRC to recover approximately 90 percent of its budget through fees. In order to meet the 90 percent recovery requirement for fiscal year 2015, NRC is increasing the licensing, inspection, and annual fees charged to applicants and licensees. Following are the fees increases that have a potential to impact Veolia operations.

Type of Fee	Previous Fee	2015 Fee
Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	\$5,800	\$6,700
Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	\$4,900	\$4,800
Application for export or import of nuclear material not requiring Commission or Executive Branch review, or obtaining foreign government assurances. Application – new license, or amendment; or license exemption request.	\$3,300	\$4,800
Minor amendment of an export or import license, for example, to extend the expiration date, change domestic information, or make other revisions that do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material.	1,400	\$2,700

Effective Date

These fees will become effective on August 31, 2015.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-06-30/pdf/2015-15763.pdf>