



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

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**A. EPA Preliminary Toxics Release Inventory (TRI) Data Released**

On July 21, 2015, the Environmental Protection Agency (EPA) released the preliminary Toxics Release Inventory (TRI) Data for 2014. EPA releases this data each July to provide the public with the most recent TRI information prior to the publication of the TRI National Analysis Report which is published each January.

Uses of this data include:

1. Determining if a particular facility has reported TRI data.
2. Determining what chemicals a particular facility is using and releasing to the environment, or otherwise managing as waste.
3. Determining if a facility has initiated any pollution prevention activities in 2014.
4. Conducting research into toxic chemical releases in the United States or in a particular geographic area.

**Link**

The link below will allow you to view the preliminary 2014 TRI data.

<http://www2.epa.gov/toxics-release-inventory-tri-program/2014-tri-preliminary-dataset>

**B. EPA Interim Procedure for Submitting Notifications under the 2015 Definition of Solid Waste Final Rule Published**

In July 2015, EPA released a document titled “Interim Procedure for Submitting Notifications under the 2015 Definition of Solid Waste Final Rule. The procedure explains how facilities should submit RCRA Subtitle C Site Identification Form 8700-12 to meet the notification requirements under the 2015 Definition of Solid Waste (DSW) final rule.

**Summary**

On January 13, 2015, EPA published the DSW final rule (80 FR 1694) which excludes certain hazardous secondary materials that are reclaimed from the RCRA Subtitle C hazardous waste regulations. Following are the instructions for completing the notifications in the interim procedure:

1. Facilities using the exclusions in 40 CFR 261.4(a)(23), (24), or (27) and facilities that have obtained a variance or non-waste determination under 40 CFR 260.30 are required to submit notifications using EPA Form 8700-12 prior to managing hazardous secondary materials under the exclusions and every two years thereafter.

When completing the “Addendum to the Site Identification Form: Notification of Hazardous Secondary Material Activity” Section the facility codes in Attachment A to the interim procedure should be used instead of the list in the current Site ID Instructions.

2. Facilities recycling hazardous secondary materials or hazardous wastes under any RCRA Subtitle C recycling provision must notify the EPA Regional Administrator or State Director if the product of the recycling process has levels of hazardous constituents that are not comparable to or unable to be compared to a legitimate product or intermediate but is still legitimately recycled (40 CFR 260.43(a)(4)(iii).

In Item 13 “Comments” add the following statement:

“Notifying under 40 CFR 260.43(a)(4)(iii) that the product of the recycling process has levels of hazardous constituents that are not comparable to or unable to be compared to a legitimate product or intermediate but which is still legitimate recycling.”

EPA expects to complete the modifications to EPA Form 8700-12 in late 2016.

#### **Effective Date and States**

The DSW final rule became effective on July 13, 2015.

Facilities in a state or territory without an authorized RCRA program (i.e., Alaska, Iowa, U.S. Virgin Islands, American Samoa, and the Northern Mariana Islands) and tribal lands are eligible for the new DSW exclusions on the effective date of the final rule, July 13, 2015. Facilities in these areas that choose to use the exclusions must submit notification prior to operating under the exclusions.

Facilities in a state with an authorized RCRA program are not eligible for the DSW exclusion until their state adopts the final rule. Therefore, these facilities cannot submit notifications under the final rule until it is adopted in their state.

#### **Link**

The link below will allow you to view/print the “Interim Procedure for Submitting Notifications under the 2015 Definition of Solid Waste Final Rule.”

[http://www.epa.gov/epawaste/hazard/dsw/interim\\_procedur.pdf](http://www.epa.gov/epawaste/hazard/dsw/interim_procedur.pdf)

### **C. EPA Polychlorinated Biphenyls (PCBs): Revisions to Manifesting Regulations; Item Number; Technical Amendment; Final Rule**

On July 2, 2015, EPA published a technical amendment (80 FR 37994-37995) to correct references in the polychlorinated biphenyl (PCB) regulations to the item number for the Special Handling Instructions Box on the manifest form.

#### **Summary**

On September 6, 2012, EPA published a direct final rule (77 FR 54818) to update and clarify several sections of the PCB manifesting regulations. The direct final rule incorrectly referenced Item 15 to identify the Special Handling Instructions Box on EPA Form 8700-22. The correct reference for the Special Handling Instructions Box is Item 14. This technical amendment amends the final rule by revising 40 CFR 761.207(a)(1), (2), and (3) to correctly identify the item number as 14.

#### **Effective Date**

The technical amendment became effective on the date of publication, July 2, 2015.

#### **Link**

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-07-02/pdf/2015-16395.pdf>

**D. EPA Transboundary Shipments of Hazardous Wastes between OECD Member Countries: Revisions to the List of OECD Member Countries; Final Rule**

On July 2, 2015, EPA published a final rule (80 FR 37992-37994) amending regulations regarding the transboundary movement of hazardous waste among the Organization for Economic Cooperation and Development (OECD) Member countries under the hazardous waste management provisions of the Resource Conservation and Recovery Act (RCRA) by adding three countries to the OECD list of member countries.

**Summary**

The RCRA hazardous waste regulations allow for the trade (importation and exportation) of hazardous wastes for recovery operations between OECD member countries. This final rule adds the following three countries to the list of OECD member countries:

1. Estonia
2. Israel
3. Slovenia

**Effective Date**

This final rule became effective on the date of publication, July 2, 2015.

**Link**

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-07-02/pdf/2015-16400.pdf>

**E. EPA Performance Specification 18 – Performance Specifications and Test Procedures for Hydrogen Chloride Continuous Emission Monitoring Systems at Stationary Sources; Final Rule**

On July 7, 2015, EPA published a final rule (80 FR 38628-68652) finalizing performance specifications and test procedures for hydrogen chloride (HCl) continuous emission monitoring systems (CEMS).

**Background**

EPA recently promulgated the Portland Cement Maximum Achievable Control Technology (MACT) rule (78 FR 10006) and the Mercury and Air Toxics Standards (MATS) rule (78 FR 24075). Both of these rules specify the use of extractive Fourier transform infrared spectroscopy (FTIR) and Performance Specification 15 (PS-15) for the continuous emissions monitoring of HCl emissions. In order to allow the use of alternative technologies for HCl CEMS and to aid in the measurement of low levels of HCl specified in these rules EPA has developed and is promulgating the new Performance Specification 18 (PS-18) and quality control procedures (Procedure 6).

**Summary**

There are multiple available HCl CEMS technologies available for use. EPAs stated goals for PS-18 and Procedure 6 are:

1. To allow for the use of different HCl CEMS sampling and analytical technologies as long as the required performance criteria set out in the performance specification are met; and
2. Establish consistent requirements for ensuring and assessing the quality of data measured by a HCl CEMS.

PS-18 and Procedure 6 were published as proposed rules on May 14, 2014 (79 FR 27690). EPA has reviewed and considered the comments submitted and has published the final rule as proposed with the exception of five revisions. The five revisions are:

1. Allow for the expansion of options for using dynamic spiking with extractive systems.
2. Clarified the spiking procedures for integrated path systems through the use of “method of standard additions” in daily quality control checks and as a replacement for the quarterly relative accuracy audit.
3. Eliminated the requirement for paired or duplicate trains when performing relative accuracy test audits using Method 26A.
4. Revised PS-18 to offer three reference method traverse point options that can be used without the need for stratification testing and added clarifying language concerning the stratification testing procedures.
5. Removed the calibration range above span requirements in both PS-18 and Procedure 6.

#### **Effective Date**

This final rule became effective on the date of publication, July 2, 2015.

#### **Link**

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-07-07/pdf/2015-16385.pdf>

#### **F. DOT/FMCSA Parts and Accessories Necessary for Safe Operation: Federal Motor Vehicle Safety Standards Certification for Commercial Motor Vehicles Operated by United States – Domiciled Motor Carriers; Notice of Proposed Rulemaking**

On June 15, 2015, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a notice of proposed rulemaking (80 FR 34588-34593) that would amend the Federal Motor Carrier Safety Regulations (FMCSRs) by requiring United States domiciled motor carriers to display a certification label affixed by the vehicle manufacturer or a U.S. DOT Registered Importer.

#### **Background**

The FMCSRs require that motor carriers operating commercial motor vehicles (CMVs) in the U.S., including Mexico and Canada domiciled carriers, ensure that the vehicles are equipped with the applicable safety equipment and features specified in 49 CFR 393, Parts and Accessories Necessary for Safe Operations, which include cross references to safety equipment and features that must be installed at the time of production. The National Highway Traffic Safety Administration (NHTSA) requires vehicle manufacturers to certify that the vehicles they produce for sale and use in the U.S. meet all applicable federal motor vehicle safety standards (FMVSS) in effect at the time of manufacture. In addition, they must affix an FMVSS certification label to each vehicle in accordance with the requirements of 49 CFR 567.

#### **Summary**

This notice of proposed rulemaking (NPRM) would require U.S. domiciled motor carriers engaged in interstate commerce to use only CMVs that display an FMVSS certification label affixed by the vehicle manufacturer indicating that the vehicle:

1. Satisfied all applicable FMVSS in effect at the time of manufacture; or
2. Has been modified to meet those standards and was legally imported by a DOT registered importer.

In the absence of such a label (e.g., because of vehicle damage or deliberate removal), the motor carrier must obtain, and a driver upon demand present, a letter issued by the vehicle manufacturer stating that the vehicle satisfied all applicable FMVSS in effect on the date of manufacture. The manufacturer should be able to determine quickly whether the vehicle was built to comply with the FMVSS by comparing the vehicle identification number (VIN) to its production records.

In the event a vehicle does not display a certification label, motor carriers would be responsible for providing their drivers with a letter from the vehicle manufacturer to present to Federal or State enforcement officials upon request.

This NPRM would address the National Transportation Safety Board's (NTSB) concerns about the operation of CMVs that do not display certification labels.

#### **Comments Due**

Comments on this notice of proposed rulemaking must be submitted to FMCSA on or before August 3, 2015.

#### **Link**

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-06-17/pdf/2015-14934.pdf>

### **G. OSHA Inspection Procedures for Hazard Communication Standard (HCS 2012); Directive**

On July 9, 2015, the Occupational Safety and Health Administration (OSHA) published an OSHA Instruction (Directive Number: CPL 02-02-079) titled "Inspection Procedures for the Hazard Communication Standard (HCS 2012)." The purpose of this Instruction is to establish policies and procedures to ensure the uniform enforcement of the Hazard Communication Standard.

#### **Background**

On March 26, 2012, OSHA published a final rule updating the HCS to align with the United Nations (UN) Globally Harmonized System of Classification and Labelling of Chemicals (GHS). The amendments include new hazard classification requirements, changes to labelling requirements, and a standard format for Safety Data Sheets (SDSs) which replace Material Safety Data Sheets (MSDSs).

This Instruction was published to ensure the uniform enforcement of the revised HCS and covers how the revised standard is to be enforced during the transition period and after the standard is fully implemented.

#### **Transition Period Dates**

Important dates for the transition to full implementation of the revised HCS are included below:

1. December 1, 2013 – Employee Training on the revised label and SDSs must have been completed by December 1, 2013.
2. June 1, 2015 – Chemical Manufacturers, Importers, and Distributors must be in compliance with the SDS requirements and Manufacturers and Importers must comply with labelling provisions.
3. December 1, 2015 – Distributors must be in compliance with labelling provisions.
4. June 1, 2016 – Employers must update their written hazard communication program, any alternative workplace labelling, and provide additional employee training for newly-identified physical or health hazards.

During the transition period manufacturers, importers, distributors, and employers may be in compliance with the HCS as amended in 1994, HCS 2012, or both. Also during the transition period, if OSHA identifies a violation under either HCS 1994 or 2012, citations will be issued for both standards.

**Effective Date**

This Instruction became effective on the date of publication, July 9, 2015.

**Link**

The link below will allow you to view/print the Inspection Procedures for HCS 2012 Instruction Manual.

[https://www.osha.gov/OshDoc/Directive\\_pdf/CPL\\_02-02-079.pdf](https://www.osha.gov/OshDoc/Directive_pdf/CPL_02-02-079.pdf)

**H. OSHA Clarification of Employer’s Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness; Notice of Proposed Rulemaking**

On July 29, 2015, the Occupational Safety and Health Administration (OSHA) published a notice of proposed rulemaking (80 FR 45116-45131) that would amend the injury and illness recordkeeping requirements to clarify that the duty to make and maintain accurate records of work-related injuries and illnesses is an ongoing obligation.

**Summary**

The primary objective of this notice of proposed rulemaking (NPRM) is to amend the recordkeeping regulations in 29 CFR 1904 to clarify that employers covered by the recordkeeping requirements have a continuing obligation to make and maintain accurate records of all recordable injuries and illnesses. This obligation continues for as long as the employer must maintain records for the year in which the injury or illness became recordable, and it does not expire if the employer fails to create a record when first required to do so. The proposed amendments consist of changes to existing text of provisions and titles of existing sections.

Following is a brief summary of the major amendments/clarifications included in this NPRM:

1. OSHA 300 Log

Employers must record every recordable injury or illness on the OSHA 300 Log. This obligation continues through the five-year record retention-and-access period. In addition, during that period, employers must update the OSHA 300 Log by adding cases not previously recorded and by showing changes to previously recorded cases.

2. OSHA 301 Incident Report

Employers must prepare a Form 301 Incident Report for each recordable injury or illness. This obligation continues through the five-year retention-and-access period. Employers are NOT required to update the form to show changes to the case that occur after the form was initially prepared.

3. Year End Records Review; Preparation, Certification, and Posting of OSHA Form 300A Annual Summary

These tasks are intended to be performed at particular times each year and are not continuing obligations.

### Comments Due

Comments on this notice of proposed rulemaking must be submitted to OSHA by September 28, 2015.

### Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-07-29/pdf/2015-18003.pdf>

## I. **DHHS/CDC Multi-Agency Informational Meeting Concerning Compliance with the Federal Select Agent Program; Notice of Public Webcast**

On July 20, 2015, the Department of Health and Human Services, Centers for Disease Control and Prevention (CDC) published a notice (80 FR 42819-42820) of a webcast to provide guidance related to the Federal Select Agent Program.

### Summary

The webcast is an opportunity for the affected community (i.e., registered entity responsible officials, alternate responsible officials, and entity owners) and other interested individuals to obtain specific regulatory guidance and information concerning biosafety, security, and incident response issues related to the Federal Select Agent Program. Representatives from the Federal Select Agent Program will participate in the webcast to address questions and concerns from participants.

### Date and Time of Webcast

The webcast will be held on Thursday, November 19, 2015, from Noon to 4:00 PM EST.

### Registration

Participants must register online by October 23, 2015.

### Links

The link below will allow you to register for the webcast.

<http://www.selectagents.gov>

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-07-20/pdf/2015-17734.pdf>

## J. **DOJ/DEA Schedules of Controlled Substances: Temporary Placement of Acetyl Fentanyl into Schedule I; Final Order**

On July 15, 2015, the Department of Justice, Drug Enforcement Administration (DEA) published a final order (80 FR 42381-42385) to temporarily schedule the synthetic opioid acetyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacetamide) and its optical, positional, and geometric isomers, salts and salts of isomers, into schedule I on the Controlled Substances Act (CSA).



### **Summary**

Acetyl fentanyl exhibits a pharmacological profile similar to fentanyl and other opioid analgesic compounds and is one-third as potent as fentanyl and 15.7 times more potent than morphine. Also, 39 overdose deaths due to acetyl fentanyl were documented in 2013 and 2014. Based on this data, the uncontrolled manufacture, distribution, importation, and abuse of acetyl fentanyl, along with no accepted medical use for the substance DEA is publishing his final order subjecting acetyl fentanyl to the regulatory controls and administrative, civil, and criminal sanctions applicable to Schedule I Controlled Substances.

### **Effective Date**

This final order became effective on the date of publication, July 17, 2015.

### **Link**

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-07-17/pdf/2015-17563.pdf>