

VEOLIA NORTH AMERICA - INDUSTRIAL BUSINESS REGULATORY UPDATE - August 2015

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A. EPA Management Standards for Hazardous Waste Pharmaceuticals and Hazardous Waste Generators: Proposed Rules to be Published in the Federal Register

On August 31, 2015, the Environmental Protection Agency (EPA) Regional Administrator signed the Management Standards for Hazardous Waste Pharmaceuticals and Hazardous Waste Generator Improvements proposed rules. These proposed rules will be published in the Federal Register in September and a 60 day public comment period will begin on the date of publication.

Management Standards for Hazardous Waste Pharmaceuticals

This proposed rule would create a new subpart, 40 CFR 266, Subpart P titled “Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.” Subpart P would include sector-specific regulations for managing hazardous waste pharmaceuticals at healthcare facilities and by pharmaceutical reverse distributors. All healthcare facilities, regardless of their RCRA generator category (small quantity generator, large quantity generator, etc.) would be required to manage their hazardous waste pharmaceuticals in compliance with 40 CFR 266 Subpart P instead of 40 CFR 262.

The proposed rules would create a new category of hazardous waste entity, the “pharmaceutical reverse distributor.” The proposed standards for a pharmaceutical reverse distributor are similar to Large Quantity Generator standards.

Other proposed standards for both healthcare facilities and pharmaceutical reverse distributors are:

1. A prohibition from disposing of hazardous waste pharmaceuticals down the toilet or drain (i.e., flushed or sewer);
2. Hazardous waste pharmaceuticals managed under Subpart P will not be included in the calculation of the facility’s generator category;
3. An exemption for hazardous waste pharmaceuticals that are also controlled substances; and
4. Management standards for hazardous waste pharmaceutical residues in containers.

In this proposed rule EPA is also seeking comment on efforts to amend the Acute Hazardous Waste Listing for Nicotine and Salts (P075).

Hazardous Waste Generator Improvements

EPA is proposing to revise the Resource Conservation and Recovery Act (RCRA) hazardous waste generator requirements in an effort to improve compliance, address gaps in the current regulations, provide flexibility for generators to manage hazardous wastes in a cost-effective and protective manner, reorganize the hazardous waste generator regulations to make them more user friendly, and to make technical corrections to the regulations.

Some of the proposed revisions include:

1. Replacing the term “conditionally exempt small quantity generator” with the term “very small quantity generator” (VSQG);
2. Allow VSQG’s to send their wastes to a Large Quantity Generator (LQG) if both facilities are operated by the same person/company;
3. Revise the regulations to include a provision for the episodic generation of hazardous waste in a month due to a non-routine event by a VSQG or SQG;
4. Revisions to the labeling requirements for containers and tanks;
5. Revisions to the closure requirements for LQG facilities;
6. Revisions to the satellite accumulation regulations for SQGs and LQGs; and
7. Revisions to the biennial reporting requirements for LQGs.

Summaries of the Proposed Rules

Complete summaries of the proposed rules will be included in the September 2015 Regulatory Update.

Links

The link below will allow you to view/print the pre-publication copy of the Management Standards for Hazardous Waste Pharmaceuticals proposed rule.

http://www2.epa.gov/sites/production/files/2015-08/documents/pre_publication_eo12866_pharms_2050-ag39_nprm_2015_08_30.pdf

The link below will allow you to view/print the pre-publication copy of the Hazardous Waste Generator Improvements proposed rule.

http://www2.epa.gov/sites/production/files/2015-08/documents/pre_publication_eo12866_hw_generator_2050-ag70_nprm_2015_08_30.pdf

B. EPA Letters of Determination Regarding Electronic-Cigarette Waste and Reclamation Status

On May 8, 2015, EPA published two letters, one discussing the RCRA hazardous waste status of electronic-cigarettes (e-cigarettes) and the other discussing the applicability of RCRA hazardous waste regulations to a nicotine reclamation process.

RCRA Hazardous Waste Status of E-Cigarettes

In a letter to EPA a company requested EPA's concurrence that e-cigarettes are best categorized as "manufactured articles" and therefore should not be regulated as hazardous waste commercial chemical products.

In the May 8, 2015 response letter EPA disagrees and states that e-cigarette are more appropriately considered containers of a commercial chemical product (nicotine) because they have cartridges (small containers) that contain the nicotine e-liquid.

Therefore, e-cigarette cartridges are considered containers of nicotine and the nicotine remaining in the cartridge upon disposal is an unused commercial chemical product carrying the hazardous waste code P075.

Applicability of RCRA Hazardous Waste Regulations to Nicotine Reclamation Processes

A nicotine reclamation company sent a letter to EPA requesting guidance on whether nicotine-containing gums, lozenges, patches, and e-cigarettes would be exempt from the definition of solid waste because they are commercial chemical products being reclaimed.

EPAs response is that provided the nicotine-containing products are legitimately recycled in accordance with 40 CFR 260.43, the nicotine-containing products would not be considered solid waste and therefore not subject to RCRA hazardous waste regulations when sent for nicotine reclamation.

EPA referenced the four legitimacy criteria outlined in the January 13, 2015, Definition of Solid Waste Final Rule and stated that these legitimacy factors must be met for the recycling to be legitimate.

Links

The link below will allow you to view/print EPAs guidance letter on the RCRA Hazardous Waste Status of E-Cigarettes.

[http://yosemite.epa.gov/osw/rcra.nsf/ea6e50dc6214725285256bf00063269d/EE5AE44ACEE473B585257E810070F655/\\$file/14850.pdf](http://yosemite.epa.gov/osw/rcra.nsf/ea6e50dc6214725285256bf00063269d/EE5AE44ACEE473B585257E810070F655/$file/14850.pdf)

The link below will allow you to view/print EPA's guidance letter on the Applicability of RCRA Hazardous Waste Regulations to Nicotine Reclamation Processes.

[http://yosemite.epa.gov/osw/rcra.nsf/6f3756c16d517d7185256f2a007818ee/42f79d357db8199885257e810070f6b0/\\$file/14851.pdf](http://yosemite.epa.gov/osw/rcra.nsf/6f3756c16d517d7185256f2a007818ee/42f79d357db8199885257e810070f6b0/$file/14851.pdf)

C. EPA Waste Management System; Testing and Monitoring Activities; Notice of Availability of Final Update V of SW-846; Notice

On August 13, 2015, EPA published a notice (80 FR 48522-48528) of the availability of the "Final Update V" to the Third Edition of the "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA publication SW-846.

Summary

Final Update V contains revisions to Chapters One through Five of SW-846. No changes were made to Method Defined Parameters (MDPs). This update also includes 8 new analytical methods and 15 revised analytical methods. These analytical methods are considered guidance, provide a basic standard operating procedure, and may be modified where appropriate. The 23 methods are listed in the table below:

Analytical Method Number	Method Title
1030	Ignitability of Solids
3200	Mercury Species Fractionation and Quantification by Microwave-Assisted Extraction, Selective Solvent Extraction and/or Solid Phase Extraction
3511	Organic Compounds in Water by Microextraction
3572	Extraction of Wipe Samples for Chemical Agents
3620C	Florisol Cleanup
4025	Screening for Polychlorinated Dibenzodioxins and Polychlorinated Dibenzofurans (PCDD/Fs) by Immunoassay
4430	Screening for Polychlorinated Dibenzo-p-Dioxins and Furans (PCDD/Fs) by Aryl Hydro-carbon Receptor PCR Assay
4435	Method for Toxic Equivalent (TEQS) Determination for Dioxin-Like Chemical Activity with the CALUX Bioassay
5021A	Volatile Organic Compounds in Various Sample Matrices using Equilibrium Headspace Analysis
6010D	Inductively Coupled Plasma-Atomic Emission Spectrometry
6020B	Inductively Coupled Plasma-Mass Spectrometry
6800	Elemental and Speciated Isotope Dilution Mass Spectrometry
8000D	Determinative Chromatographic Separations
8021B	Aromatic and Halogenated Volatiles by Gas Chromatography using Photoionization and/or Electrolytic Conductivity Detectors
8111	Haloethers by Gas Chromatography
8270D	Semivolatile Organic Compounds by Gas Chromatography/Mass Spectrometry
8276	Toxaphene and Toxaphene Congeners by Gas Chromatography/Negative Ion Chemical Ionization Mass Spectrometry (GC-NICI/MS)

8410	Gas Chromatography/Fourier Transform Infrared Spectrometry for Semivolatile Organics: Capillary Column
8430	Analysis of Bis(2-Chloroethyl)Ester and Hydrolysis Products by Direct Aqueous Injection
9013A	Cyanide Extraction Procedure for Solids and Oils
9014	Titrimetric and Manual Spectrophotometric Determinative Methods for Cyanide
9015	Metal Cyanide Complexes by Anion Exchange Chromatography and UV Detection
9320	Radium 228

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-08-13/pdf/2015-20030.pdf>

D. Illinois Amendments to the Hazardous Waste Manifest Copy Distribution Requirements

On July 16, 2015, the Illinois General Assembly approved Public Act 099-0055 removing the requirement for hazardous waste generators and facilities to submit copies of hazardous waste manifests to the Illinois EPA. The law states:

“Except to the extent required by federal law, generators and transporters of hazardous waste and facilities accepting hazardous waste are not required to submit copies of hazardous waste manifests to the Agency.”

Effective Date

This law became effective on July 16, 2015.

Link

The link below will allow you to view/print Public Act 099-0055.

<http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=099-0055>

E. Illinois Passes Law to Establish a New Prevention of Significant Deterioration Air Permitting Program

On August 25, 2015, Illinois Governor Bruce Rauner, signed State Bill (S.B.) 1672 that requires the Illinois Pollution Control Board to develop and operate a new prevention of significant deterioration (PSD) permitting program for new or modified sources of air pollution in non-attainment areas (Chicago and East St. Louis).

Summary

New source review (NSR) and PSD permits require industrial facilities to install best available control technology (BACT) when they expand or make modifications that increase emissions. The permits are intended to prevent emissions increases that could impair states’ ability to implement federal national ambient air quality standards.

The major change from this new law moves the appeals process to the Illinois Pollution Control Board from EPA’s Environmental Appeals Board (EAB). Other provisions in S.B. 1672 are:

1. Allows any person who is “aggrieved or is or may be adversely affected,” and has submitted comments on the permit, to bring an appeal to the Illinois Pollution Control Board.
2. Permit stays are no longer automatic, but the law allows parties to seek a stay from the Illinois Pollution Control Board under certain circumstances. Appeals need to show that the stay is necessary and that there is merit to the appeal.
3. Creates requirements for public hearings and public comments on draft permits. Formal responses from the Illinois EPA will be required.

Effective Date

The Illinois Pollution Control Board must promulgate rules before this law becomes effective.

Link

The link below will allow you to view/print S.B. 1672.

<http://ilga.gov/legislation/publicacts/99/PDF/099-0463.pdf>

F. DOT Notice of Lithium Battery Safety Public Meeting and Request for Information

On August 28, 2015, the Department of Transportation (DOT) published a notice (80 FR 52368-52371) announcing a public meeting on risk mitigation strategies to enhance the safe transport of lithium batteries by air.

Summary

The transportation of lithium batteries by air continues to raise significant safety concerns. Lithium batteries are highly flammable and capable of self-ignition, which can be caused by short circuiting, overcharging, exposure to extreme temperatures, mishandling, and defects. Several studies, working groups, and organizations have recommended options to control the hazards when transporting lithium batteries by air. In this public meeting DOT is requesting information in preparation for the ICAO Dangerous Goods Panel meeting on October 19-30, 2015.

DOT is seeking comment on recommendations on the following topics:

1. The draft performance criteria recommended by the third multidisciplinary group and how the criteria might be met at the packaging level or at the battery level to address the aviation fire hazards that have been identified.
2. The recommendation that operators be required to perform a safety risk assessment in order to ensure management of the risks associated with the transport of lithium batteries as cargo on passenger or all-cargo aircraft to an acceptable level of safety.
3. Additional measures which the working group did not reach full consensus on, including:
 - a. Consideration of the effects of an external fire as an element of the performance criteria to protect against the risks of a fire not initiated by a battery within a package.
 - b. Forbidding the carriage of lithium batteries as cargo on passenger aircraft, as an interim measure.
 - c. Eliminating the exceptions for certain small batteries in Section II of the ICAO lithium battery packing instructions or alternative means to identify the types and quantities of lithium batteries or cells being transported in order to effectively inform a safety risk assessment.
 - d. Reducing the state of charge of the battery in transport.
4. Qualitative and quantitative information on the potential impacts of implementing the recommendations and/or additional measures, including:

- a. Determination of the current level of exposure to these fire hazards – Data or information on the volumes of batteries currently transported on passenger aircraft or those utilizing the provisions in Section II of the ICAO.
- b. Establishment of the current baseline – Data or information regarding the effectiveness of the current requirements, evolution in the market, voluntary safety actions, and emerging safety risks.
- c. Potential benefits – Data or information providing estimates of potential safety benefits related to the recommendations and additional measures under consideration by ICAO, as well as alternatives that provide comparable or greater safety benefits.
- d. Potential costs – Data or information providing estimates of potential costs associated with the recommendations and additional measures under consideration by ICAO.
- e. Studies or analysis on the effectiveness of the recommendations and additional measures – Any studies that address how lithium batteries in differing packaging types or at varying charge states behave in aviation fire scenarios.

Date and Location of Public Meeting

The public meeting will be held on September 18, 2015 from 1:00-5:00 PM at:

U.S. Department of Transportation Headquarters
1200 New Jersey Avenue, SE
Washington, DC 20590

Individuals interested in attending the public meeting must pre-register using the following link.

<https://www.surveymonkey.com/r/RZWHJMR>

Comments

Comments may be submitted using the Federal Rulemaking Portal, by FAX, Mail, or hand delivered.

Link

The link below will allow you to view/print this notice of the lithium battery safety public meeting.

<http://www.gpo.gov/fdsys/pkg/FR-2015-08-28/pdf/2015-21416.pdf>

G. DOT/FMCSA Safety Notice for Cargo Tank Motor Vehicles

On August 18, 2015, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published Safety Notice regarding cargo tank motor vehicles (CTMVs).

Summary

Recent inspections conducted by FMCSA discovered significant deficiencies on CTMVs certified as meeting the DOT specifications that have recently been manufactured, tested, or repaired by entities registered with FMCSA to perform these functions. Similar issues have been identified on CTMVs manufactured under the terms of an exemption.

The deficient CTMVs are used to transport various types of hazardous materials, but the most prevalent deficiencies were discovered on DOT 407 specification CTMVs used to transport placarded amounts of Petroleum Crude Oil, UN1267.

Deficiencies noted during the inspections related to:

1. Venting;
2. Rollover Protection;
3. Marking and Specification Plates;
4. Emergency Remote Shut-Off Devices
5. CTMVs used to transport products that exceed the maximum lading density and/or the maximum load identified on the specification plates.

DOT specification CTMVs with these types of deficiencies do NOT meet the DOT specification and are NOT AUTHORIZED for use as DOT specification CTMVs. Owners of CTMVs that transport hazardous materials are responsible for ensuring that the CTMVs meet the DOT specifications and are in compliance with the Hazardous Materials Regulations.

H. DOT Commercial Vehicle Safety Alliance Brake Safety Week Inspection Spree; September 6-12, 2015

On August 19, 2015, the Commercial Vehicle Safety Alliance (CVSA) announced that this year's Brake Safety Week Inspection Spree will be held the week of September 6-12.

Summary

Tens of thousands of vehicles are inspected by state and federal inspectors during the annual Brake Safety Week Inspection Spree. During the 2015 inspect spree 13,305 vehicles were inspected and 2,162 trucks were put out-of-service for brake violations.

The main focus of these inspections is placed on brake components. The inspectors look at "brake-system components to identify loose or missing parts, air or hydraulic fluid leaks, worn linings, pads, drums or rotors, and other faulty brake-system components." Anti-lock braking system (ABS) malfunction indicator lamps are checked and pushrod strokes will be measured where applicable. Defective or out-of-adjustment brakes will result in the vehicle being placed out of service.

The inspection items include:

1. Driver's License
2. Registration – State Permitting (if applicable)
3. Low Air Warning Device
4. Pushrod Travel (Adjustment)
5. Brake Linings/Drums
6. Air Loss Rate (if leak detected)
7. Tractor Protection System

Brake Safety Inspection Week

September 6-12, 2015

Link

The link below will allow you to view CVSA's website and the Brake Safety Week announcement.

<http://cvsa.org/programs/brake-safety-week-2015.php>

I. OSHA Occupational Exposure to Beryllium and Beryllium Compounds; Proposed Rule

On August 7, 2015, the Occupational Safety and Health Administration (OSHA) published a proposed rule (80 FR 47565-47828) to amend the existing exposure limits for occupational exposure in general

industry to beryllium and beryllium compounds and to promulgate substance-specific standards for general industry regulation of occupational exposure to beryllium and beryllium compounds.

Background

OSHA currently enforces permissible exposure limits (PELs) for beryllium in general industry, construction, and shipyards. However, these PELs were adopted in 1971 and have not been updated since then. The currently regulated time-weighted average (TWA) PEL for beryllium is 2 micrograms/cubic meter of air ($\mu\text{g}/\text{m}^3$) as an 8-hour time-weighted average.

Summary

In this proposed rule OSHA is proposing a TWA PEL of $0.2 \mu\text{g}/\text{m}^3$ in general industry. OSHA is also proposing other elements of a comprehensive health standard, including:

1. Requirements for Exposure Assessment,
2. Preferred Methods for Controlling Exposure,
3. Respiratory Protection,
4. Personal Protective Clothing and Equipment,
5. Medical Surveillance,
6. Medical Removal,
7. Hazard Communication, and
8. Recordkeeping.

Comments Due

Comments on this proposed rule must be submitted to OSHA by November 5, 2015.

Link

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-08-07/pdf/2015-17596.pdf>

J. OSHA Training Requirements in OSHA Standards Guide Updated

In August 2015, OSHA published an updated version of its guide “Training Requirements in OSHA Standards” on its publications webpage.

Summary

The “Training Requirements in OSHA Standards” is designed to assist employers, safety and health professionals, training directors, and other affected parties in complying with the OSHA training requirements and to keep workers safe. The document divides the training requirements into five sections: General Industry, Maritime, Construction, Agriculture, and Federal Employee Programs.

Link

The link below will allow you to view/print the “Training Requirements in OSHA Standards” document.

<https://www.osha.gov/Publications/osha2254.pdf>

K. OSHA Infosheet Warns of Risk of Eye Infections from Contaminated Eyewash Water

In August 2015, OSHA published an Infosheet warning of the infection hazards that may be present when emergency eyewash stations are not properly maintained.

Background

Eyewash facilities are required in workplaces where corrosive chemicals are used (29 CFR 1910.151(c)), in HIV and HBV research labs, in production facilities (29 CFR 1910.1030(e)(3)(i)), and “where there is any possibility that an employee’s eyes may be splashed with solutions containing 0.1 percent or greater formaldehyde.

Summary

Water found in improperly maintained eyewash stations is more likely to contain organisms (e.g., acanthamoeba, pseudomonas, and legionella) that thrive in stagnant or untreated water and are known to cause infections. When a worker uses an eyewash station that is not properly maintained, organisms in the water may come into contact with the eye, skin, or may be inhaled. Workers using an eyewash station after exposure to a hazardous chemical or material may have eye injuries that make the eye more susceptible to infection. In addition, workers with skin damage or compromised immune systems are at an increased risk for developing illnesses from contaminated water.

Maintenance of Eyewash Stations

ANSI/ISEA standard Z358.1-2014 states that plumbed systems should be activated weekly to eliminate these hazards. In addition, eyewash station manufacturer instructions provide information on how often and for how long plumbed units should be activated to reduce microbial contamination.

Self-contained eyewash units must be maintained and employers should consult the manufacturer’s instructions for maintenance procedures. This includes flushing the system and using only solutions appropriate for flushing eyes.

Link

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

<https://www.osha.gov/Publications/OSHA3818.pdf>

L. NRC Instructions for Recording and Reporting Occupational Radiation Dose Data; Draft Regulatory Guide

On August 28, 2015, the Nuclear Regulatory Commission (NRC) published a draft regulatory guide (80 FR 52345-52346) titled “Instructions for Recording and Reporting Occupational Radiation and Dose Date.”

Summary

This draft regulatory guide (DG-8030), “Instructions for Recording and Reporting Occupational Radiation Dose Data” is being revised to incorporate additional information since revision 2 of the guide was issued. The proposed revision describes methods that the NRC considers acceptable for licensees to use for the preparation, retention, and reporting of records of occupational radiation doses. DG-8030 includes changes in the process a licensee needs to follow in order to determine monitoring for occupational exposure, determining prior doses, recording monitoring results, and reporting the results. The draft regulatory guide also references revised versions of NRC Form 4, “Cumulative

Occupational Dose History” and Form 5, “Occupational Dose Record for a Monitoring Period” along with detailed instructions for completing these forms.

Effective Date

The NRC believes that the revised NRC Forms 4 and 5 will become effective in January 2016.

Comments Due

Comments on the draft regulatory guide must be submitted to NRC on or before October 27, 2015.

Link

The link below will allow you to view/print the notice of the issuance of draft regulatory guide DG-8030.

<http://www.gpo.gov/fdsys/pkg/FR-2015-08-28/pdf/2015-21306.pdf>

M. NRC Low-Level Radioactive Waste Disposal; Proposed Rule and Draft NUREG; Reopening of Comment Period

On August 27, 2015, the Nuclear Regulatory Commission (NRC) published a notice (80 FR 51964-51965) reopening the comment period for the Low-Level Radioactive Waste Disposal and Guidance for Conducting Technical Analyses for Low-Level Radioactive Waste Disposal; Draft NUREG proposed rules published on March 26, 2015.

Summary

In the Low-Level Radioactive Waste Disposal proposed rule the NRC proposed amending the regulations governing low-level radioactive waste (LLRW) disposal facilities to require new and revised site-specific technical analyses and to permit the development of criteria for LLRW acceptance based on the results of these analyses. Draft NUREG-2175 was developed to provide guidance when conducting technical analyses (i.e., performance assessment, inadvertent intruder assessment, assessment of the stability of a LLRW disposal site, defense-in-depth analyses, protective assurance period analyses, and performance period analyses) to demonstrate compliance with the performance objectives in the licensing requirements for land disposal of radioactive wastes proposed rule.

The comment period for these proposed rules expired on July 24, 2015 however the NRC has decided to reopen the public comment periods until September 21, 2015 to allow more time for the development and submittal of comments.

Summaries of the two proposed rules are included in the March Regulatory Update.

Comments Due

Following the reopening of the comment period comments must now be submitted to NRC by September 21, 2015.

Link

The link below will allow you to view/print the notice of the reopening of the comment period.

<http://www.gpo.gov/fdsys/pkg/FR-2015-08-27/pdf/2015-21169.pdf>