

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

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**A. EPA Hazardous Waste Export-Import Revisions; Proposed Rule**

On October 19, 2015, the Environmental Protection Agency (EPA) published a proposed rule (80 FR 63283-63320) that would amend the existing regulations for the export and import of hazardous wastes from and into the United States. Specifically, the proposed revisions of the existing regulations are intended to streamline some of the requirements to minimize burden; improve tracking of the transportation and disposition of individual imported and exported shipments of hazardous wastes; improve the Agency's ability to monitor compliance with applicable legal requirements; and enable regulated parties and the government to benefit from the electronic submission of data. EPA's determination that some revisions to the import/export regulations are needed is also bolstered by the 2013 Commission for Environmental Cooperation (CEC) report as well as the 2015 EPA Office of Inspector General (OIG) report.

**Significant Proposed Revisions**

Some of the more significant revisions included in this proposal are:

1. Standardize the import/export regulations to more closely mirror the current regulations for international shipments between members of the Organization for Economic Cooperation and Development (OECD);
2. Enable electronic submittals of all export and import related documents; and
3. Enable electronic validation of consent in the Automated Export System (AES) for shipments subject to RCRA export consent requirements prior to export.

**Summary**

EPA is proposing the following revisions:

1. EPA is proposing to remove 40 CFR 262 Subpart E – Exports of Hazardous Waste and Subpart F – Imports of Hazardous Waste and amend 40 CFR 262 Subpart H – Transboundary Movements of Hazardous Waste for Recovery or Disposal. This amendment is intended to consolidate the regulations and standardize requirements applicable to ALL exports and imports of RCRA hazardous wastes, improve clarity of the requirements, and more accurately reflect the current procedures.

**A. Exports of Hazardous Waste – 40 CFR 262.83**

40 CFR 262.83 would be amended to establish the standards for the Exportation of Hazardous Wastes. This section would include new subsections as outlined below:

- (a) General Export Requirements
- (b) Notifications
- (c) RCRA Manifest Instructions for Export Shipments
- (d) Movement Document Requirements for Export Shipments
  - This proposed rule would require the use of an international movement document for all export shipments of hazardous waste including universal waste, SLABs shipped for reclamation, hazardous recyclable materials shipped for precious metals recovery, industrial ethyl alcohol shipped for reclamation and hazardous waste samples of more than 25 kilograms.
- (e) Duty to Return or Re-Export Hazardous Wastes
- (f) Export Contract Requirements
- (g) Annual Reports
- (h) Exception Reports
- (i) Recordkeeping

B. Imports of Hazardous Waste – 40 CFR 262.84

40 CFR 262.84 would be amended to establish the standards for the Importation of Hazardous Wastes. This section would include new subsections as outlined below:

- (a) General Import Requirements
  - (b) Notifications
  - (c) RCRA Manifest Instructions for Import Shipments
  - (d) Movement Document Requirements for Import Shipments
    - This proposed rule would require the use of an international movement document for all import shipments of hazardous waste including universal waste, SLABs shipped for reclamation, hazardous recyclable materials shipped for precious metals recovery, industrial ethyl alcohol shipped for reclamation and hazardous waste samples of more than 25 kilograms.
  - (e) Duty to Return or Export Hazardous Wastes
  - (f) Import Contract Requirements
  - (g) Confirmation of Recovery or Disposal
  - (h) Recordkeeping
2. This proposed rule would require the electronic submittal of import and export documents using EPA's Cross-Media Electronic Reporting Regulations (CROMERR). The following documents would be required to be submitted electronically:
- A. Export notices for hazardous wastes and CRTs being shipped for recycling;
  - B. Import notices when the country of export does not control as a hazardous waste export and EPA has not received a notice from the country of export;
  - C. Export annual reports for hazardous waste and CRTs being shipped for recycling;
  - D. Export exception reports;
  - E. Export confirmations of receipt;
  - F. Export confirmations of completing recovery;
  - G. Import confirmations of receipt;
  - H. Import confirmation of completing recovery; and
  - I. Import notifications regarding a need to make alternate arrangements of a need to return a waste shipment.
3. Exporters or U.S. authorized agents (recognized traders) would be required to file EPA–required information into the Automated Export System (AES) prior to departure in accordance with the deadlines specified in 15 CFR 30.4 (e.g., for truck shipments, no less than one hour prior to the arrival of the truck at the U.S. border) and to provide the Internal Transaction Number (ITN) issued by the AES. In addition, EPA would require that exporters submit electronic export notices into EPA's waste import/export database to enable the transmittal of all reference data needed for validation from EPA to AES.
4. Notification and consent procedures covered by contracts requiring all parties to comply with applicable requirements would be required. The notification/consent number would be required to be listed on the movement document (manifest) and would be required to include a signed certification statement that all contracts are in place and all required consents have been obtained. When using a RCRA hazardous waste manifest for the importation the consent number would be listed in the "Special Handling Instructions and Additional Information" in place of attaching copies of the import consent documentation.
5. This proposed rule would require that treatment, disposal, or recovery of the exported or imported waste must be completed within one year of receipt, the destination facility would be required to send confirmation of the treatment, disposal or recovery to the exporter and to the Agencies.

6. EPA is proposing to add a definition for a “recognized trader.” A “recognized trader” is a person acting as an exporter or importer, who does not physically handle a hazardous waste. A “recognized trader” would be required to obtain an EPA ID Number using EPA Form 8700-12 prior to arranging for the import or export of hazardous wastes. The proposed definition is:

*Recognized trader* means a person domiciled in the United States, by site of business who acts to arrange and facilitate transboundary movements of wastes destined for recovery or disposal operations, either by purchasing from and subsequently selling to United States and foreign facilities, or by acting under arrangements with a United States waste facility to arrange for the export or import of the wastes.”

7. Incorporation by Reference of OECD Amber and Green Waste Lists

In this proposed rule, EPA is proposing to incorporate by reference the most current OECD Amber and Green waste lists in 40 CFR 260.11(g)(1). The document referenced is the 2009 “Guidance Manual for the Implementation of Council Decision C(2001)107/FINAL, as Amended, on the Control of Transboundary Movements of Wastes Destined for Recovery Operations.”

8. Exclusion of Samples Imported or Exported for Hazardous Waste Characterization or Treatability Studies

EPA is proposing to limit the quantity of samples that can be imported or exported under the waste characterization exclusion in 40 CFR 261.4(d) or the treatability study exclusion in 40 CFR 261.4(e) to a maximum of 25 kilograms.

9. Spent Lead Acid Battery (SLAB) Requirements

RCRA hazardous waste manifest would NOT be required under the proposed rule for SLABs but the international movement document requirements would apply to all import and export shipments. In addition SLAB exporters and importers would be required to obtain EPA ID numbers.

#### **Comments Due**

Comments on this proposed rule must be submitted to EPA by December 18, 2015.

#### **Link**

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-10-19/pdf/2015-25348.pdf>

#### **B. EPA Ethylene Glycol Monobutyl Ether; Community Right-To-Know Toxic Chemical Release Reporting; Denial of Petition**

On October 8, 2015, EPA published a denial (80 FR 60818-60825) of a petition to remove ethylene glycol monobutyl ether (EGBE) from the category Certain Glycol Ethers under the list of chemicals subject to reporting under the Emergency Planning and Community Right-to-Know Act (EPCRA).

#### **Summary**

EPA is denying this petition because they concluded after a review of the petition and available information that EGBE meets the listing criteria under EPCRA Section 313(d)(2)(B) due to its potential to cause serious or irreversible chronic health effects in humans (liver toxicity and hematological effects).

As a result of the denial, EGBE remains subject to all EPCRA reporting requirements including Toxic Release Inventory reporting.

**Effective Date**

EPA's denial of this petition became effective on September 24, 2015.

**Link**

The link below will allow you to view/print the denial of the petition.

<http://www.gpo.gov/fdsys/pkg/FR-2015-10-08/pdf/2015-25674.pdf>

**C. EPA National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule; Final Rule**

On October 22, 2015, EPA published a final rule (80 FR 64063-64158) that requires the electronic reporting and sharing of Clean Water Act National Pollutant Discharge Elimination System (NPDES) information in place of the current paper-based reporting system.

**Summary**

This final rule requires NPDES regulated facilities to electronically submit NPDES compliance monitoring reports and notices (e.g., Discharge Monitoring Reports (DMRs), Notices of Intent to discharge in compliance with a general permit, other general permit waivers, certifications, and notices of termination of coverage, and program reports) to their authorized NPDES program (e.g., State) or to EPA through the National Information Exchange Network.

EPA's goal in requiring the electronic submittal of NPDES information is to improve the transparency of the information on compliance and enforcement activities in each state, connecting this information to local water quality, and providing the public with real-time, easy access to the information. EPA also believes that the electronic submittal of information will improve the quality of data collected from major and non-major facilities which will provide states, tribes, and EPA with more complete and comparable data on all NPDES permittees.

**Compliance Dates**

The electronic reporting of NPDES data will be implemented in two phases. These two phases are:

1. Phase 1 Data – Electronic Reporting Begins on December 21, 2016
  - a. Discharge Monitoring Reports (40 CFR 122.41(l)(4))
  - b. Biosolids Annual Program Reports (40 CFR Part 503) – If Reporting to EPA
2. Phase 2 Data – Electronic Reporting Begins on December 21, 2020
  - a. General Permit Reports (40 CFR 122.26(b)(15), 122.28, and 122.64)
    - Notices of Intent to Discharge (NOIs)
    - Notices of Termination (NOTs)
    - No Exposure Certifications (NOEs)
    - Low Erosivity Waivers (LEWs)
    - Other Waivers
  - b. Biosolids Annual Program Reports (40 CFR Part 503) – If Reporting to State Authorized NPDES Program
  - c. POTW Pre-Treatment Program Annual Reports (40 CFR 403.12(i))
  - d. Significant Industrial User Compliance Reports in Municipalities Without Approved Pre-Treatment Programs (40 CFR 403.12(e) and (h))

- e. CWA 316(b) Annual Reports (40 CFR Part 125, Subparts I, J, and N)
- f. Municipal Separate Storm Sewer System (MS4) Program Reports (40 CFR 122.34(g)(3) and 122.42(c))
- g. Sewer Overflow Event Reports (40 CFR 122.41(l)(6) and (7))

**Link**

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-10-22/pdf/2015-24954.pdf>

**D. Connecticut DEEP Eliminates Generator Photocopy Requirement for Hazardous Waste Manifests**

On September 29, 2015, the Connecticut Department of Energy & Environmental Protection (DEEP) issued a letter to Hazardous Waste Generators that the DEEP had eliminated the requirement for generators to photocopy hazardous waste manifests and submit the photocopy to the DEEP. DEEP believes that the elimination of the redundant submission of hazardous waste manifests will streamline DEEP internal process and save time and money for both DEEP and generators without negatively impacting human health and the environment.

**Effective Date**

The elimination of the requirement for generators to photocopy hazardous waste manifests and submit the copies to DEEP became effective on the date of issuance of the letter, September 29, 2015.

**Link**

The link below will allow you to view/print a copy of the September 29, 2015 DEEP letter.

[http://www.ct.gov/deep/lib/deep/waste\\_management\\_and\\_disposal/hazardous\\_waste/Letter\\_No\\_More\\_Gen\\_Manifest\\_Copy\\_9-29-2015.pdf](http://www.ct.gov/deep/lib/deep/waste_management_and_disposal/hazardous_waste/Letter_No_More_Gen_Manifest_Copy_9-29-2015.pdf)

**E. Canada; Ontario to Triple Hazardous Waste Fee by 2017**

The Ontario Ministry of Environment and Climate Change is proposing to amend the General – Waste Management Regulation (R.R.O. 1990, Regulation 347) and replace the Ministry’s Requirement for Hazardous Waste Fees.

The proposed regulation would increase the fee for hazardous waste transferred or disposed between January 1, 2016 and December 31, 2016 from \$10 to \$20 per ton and beginning on January 1, 2017 to \$30 per ton.

This information was reported in the October 2015 issue of EM magazine published by the Air and Waste Management Association (AWMA).

**F. DOT/FMCSA Parts and Accessories Necessary for Safe Operation; Inspection, Repair, and Maintenance; General Amendments; Notice of Proposed Rulemaking**

On October 7, 2015, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a notice of proposed rulemaking (80 FR 60592-60601) that would amend the “Parts and Accessories Necessary for Safe Operation” and “Inspection, Repair, and Maintenance” regulations in the Federal Motor Carrier Safety Regulations (FMCSRs).

## Summary

In response to petitions for rulemaking, FMCSA is proposing to amend the regulations for “Parts and Accessories Necessary for Safe Operation” and “Inspection, Repair, and Maintenance” of the FMCSRs. The proposed amendments do not involve new or more stringent requirements, but clarify existing requirements. The proposed amendments are summarized below:

### 1. Definition of Major Tread Groove (49 CFR 393.5)

49 CFR 393.75 specifies the requirements for tires on commercial motor vehicles (CMVs) operating in interstate commerce and specifies the tread depth be measured in a major tread groove. To promote uniformity and consistency in enforcement and maintenance, FMCSA is proposing to amend 49 CFR 393.5 to include a definition for “major tread groove” and include an illustration in 49 CFR 393.75 where the arrows indicate the location of tread wear indicators or wear bars signifying a major tread groove. The new definition is:

*“Major tread groove is the space between two adjacent tread ribs or lugs on a tire that contains a tread wear indicator or wear bar. (In most cases, the locations of tread wear indicators are designated on the upper sidewall/shoulder of the tire on original tread tires.)*

### 2. License Plate Lights

In response to a petition for rulemaking, FMCSA is proposing to amend Footnote 11 to Table 1 of 49 CFR 393.11 to indicate that no rear license plate lamp is required on truck tractors registered in States that do not require tractors to display a rear license plate. Currently, 35 states and the District of Columbia require only one license plate on a tractor and it is to be displayed on the front of the vehicle. Fourteen states require two license plates, one each on the front and rear of the tractor. This amendment will help eliminate further unnecessary enforcement actions by roadside inspectors.

### 3. Inspection of Anti-Lock Brakes (ABS) and Components

In a final rule published in 1998, FMCSA required ABS on medium and heavy vehicles which included a requirement for all powered vehicles to be equipped with an in-cab lamp to indicate ABS malfunctions. Truck tractors and other trucks equipped to tow air-braked trailers are required to have two separate in-cab lamps: one indicating malfunctions in the towing vehicle ABS and the other in the trailer ABS. In another final rule published in 1998, the FMCSRs were amended to require carriers to maintain ABSs installed on truck tractors, single unit trucks, buses, trailers, and converter dollies. This amendment placed the responsibility on interstate motor carriers to maintain the ABSs in operable condition at all times. The amendment did not add provisions regarding the periodic inspection of the ABS/ABS malfunction indicator which would result in a vehicle passing the periodic inspection even if it was inoperable. However, if determined by an inspector during a roadside inspection to be inoperable, it would result in a violation of the FMCSRs.

In this NPRM, FMCSA is proposing to amend Appendix G to include brake components, specifically ABS, automatic brake adjusters and the brake adjustment indicator as part of the periodic (annual) inspection requirements.

### 4. Inspection of Motor Vehicles and Intermodal Equipment in Operation

FMCSA is proposing to amend 49 CFR 396.9(d)(2) to clarify that violations or defects noted during a roadside inspection must also be indicated on the driver vehicle inspection report (DVIR).

49 CFR 396.9(d)(3) currently allows 15 days for the motor carrier to certify the correction of defects found during inspections and return the completed roadside inspection form to the issuing agency.

In this NPRM, FMCSA is requesting comments regarding whether the 15-day requirement remains appropriate, or whether a different time period should be considered.

5. Periodic Inspection

In this NPRM, FMCSA is proposing to amend 49 CFR 396.17(f) to clarify that only those roadside inspections that meet the criteria contained in Appendix G would be considered to meet the annual inspection requirement for a period of 12 months.

Currently most roadside inspections are performed using the North American Standard Out-of-Service Criteria, which is not the same as the criteria contained in Appendix G. Therefore, even if a vehicle passes a roadside inspection and is issued a CVSA decal, the motor carrier is still required to perform an annual inspection, unless the roadside inspection was performed in accordance with the criteria contained in Appendix G of the FMCSRs.

6. Inspector Qualifications

In accordance with 49 CFR 396.19(b) motor carriers are required to retain evidence of inspector qualifications for individuals performing annual motor vehicle inspections for the motor carrier for the period during which the individual is performing the inspections and for one year thereafter. Motor carriers do not have to maintain documentation of inspector qualification for those inspections performed either as part of a State periodic inspection program or at the roadside as part of a random roadside inspection program.

As clarified in the NPRM, since a random roadside inspection program does not generally meet the inspection criteria contained in Appendix G, it would not meet the periodic inspection requirements, therefore FMCSA is proposing to remove the reference to the random roadside inspection program currently contained in 49 CFR 396.19(b) and subsequently would not require evidence of those inspector qualifications to be retained.

7. Speed Restricted Tires

FMCSA is proposing to amend Section 10 of Appendix G to prohibit the use of speed-restricted tires on CMVs subject to the FMCSRs unless the use of such tires is specifically designated by the motor carrier.

**Comments Due**

Comments on this notice of proposed rulemaking must be submitted to FMCSA by December 7, 2015.

**Link**

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-10-07/pdf/2015-24921.pdf>

**G. DOT/FMCSA General Technical, Organizational, Conforming, and Correcting Amendments to the Federal Motor Carrier Safety Regulations; Final Rule**

On October 1, 2015, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a final rule (80 FR 59065-59075) that includes technical corrections and ministerial corrections throughout 49 CFR, Subtitle B, Chapter III. This final rule includes minor changes to correct errors and omissions, ensure conformity with the Office of Federal Register style guidelines, update cross-references, restore an inadvertent deletion of a reference to an Underwriters Laboratories'



standard, and improve clarity and consistency of certain regulatory provisions. This rule does not include any substantive changes to the affected regulations, except to remove one obsolete provision.

**Effective Date**

This final rule became effective on the date of publication, October 1, 2015.

**Link**

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-10-01/pdf/2015-24635.pdf>

**H. DOT/FMCSA Unified Registration System; Final Rule; Extension of Effective Dates**

On October 21, 2015, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published an extension of the effective dates (80 FR 63695-63714) for the August 23, 2013, Unified Registration System (URS) final rule.

**Summary**

On August 23, 2013, the FMCSA published a final rule (78 FR 52607) amending the Unified Registration System by requiring interstate motor carriers, freight forwarders, brokers, intermodal equipment providers, hazardous materials safety permit applicants, and cargo tank facilities under FMCSA jurisdiction to submit required registration and biennial update information to the Agency via a new electronic on-line Unified Registration System.

The implementation of the URS final rule will consolidate the following registration and information systems into the URS:

1. The USDOT identification number system;
2. The commercial registration system;
3. The financial responsibility system; and
4. The service of process agent designation system.

The major provisions included in the URS are:

1. Entities covered by the URS will be required to register with FMCSA and update registration information on a new Form MCSA-1.
2. Registrations must be updated every 24 months, or when there are changes to an entity's legal name, form of business, or address.
3. FMCSA will use the USDOT Number as the sole unique identifier for motor carriers, brokers, and freight forwarders subject to the regulations.
4. User fees for URS registration, insurance filings, and other services are revised.
5. Requires all for-hire motor carriers and private motor carriers that transport hazardous materials in interstate commerce to electronically file evidence of financial responsibility to receive USDOT registration.

**Revised Effective Dates**

The delay of the implementation of the 2013 final rule will allow FMCSA additional time to complete the information technology (IT) systems work required to fully implement the rule.

The following table includes the revised effective/compliance dates:

URS Final Rule Major Provision	New Effective Compliance Date
Registration Application Process using the MCSA-1 on-line application for New Applicants	12/12/2015
Use of MCSA-1 on-line application for all new and existing entities for all reasons to file	9/30/2016
USDOT Number as sole identifier(discontinuing issuance of docket numbers)	9/30/2016
New Fees Schedule	9/30/2016
Evidence of Financial Responsibility (Insurance Filings and Surety Bonds/Trusts) for New Private Hazardous Materials and New Exempt For Hire Carriers	9/30/2016
Process Agent Designation (BOC-3) for All New Motor Carriers	9/30/2016
Evidence of Financial Responsibility (Insurance Filings and Surety Bonds/Trusts) for Existing Private Hazardous Materials and Existing Exempt For Hire Carriers	12/31/2016
Process Agent Designation (BOC-3) for All Existing Motor Carriers	12/31/2016

**Link**

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-10-21/pdf/2015-26625.pdf>

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

On October 14, 2015, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) published a notice (80 FR 61886-61887) of its intention to revise an information collection for “Flammable Hazardous Materials by Rail Transportation” (OMB Control Number 2137-0628) that would require tank car owners to report to the Department of Transportation (DOT) on their progress in retrofitting tank cars.

**Summary**

The proposed revisions 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 DOT the following information regarding the progress on retrofitting the tank cars:

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 the 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 the proposed information collection revision must be submitted to PHMSA on or before November 13, 2015.

**Link**

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

<http://www.gpo.gov/fdsys/pkg/FR-2015-10-14/pdf/2015-26025.pdf>

**J. DOJ/DEA Schedules of Controlled Substances: Table of Excluded Nonnarcotic Products: Nasal Decongestant Inhaler/Vapor Inhaler and Vicks® VapoInhaler®; Interim Final Rules**

On October 27, 2015, the Department of Justice, Drug Enforcement Administration (DEA) published interim final rules (80 FR 65632-65635) and (80 FR 65635-65637) amending the table of Excluded Nonnarcotic Products.

**Summary**

These interim final rules are limited to updating the listings for two nonnarcotic products. The changes in the updated listing are:

1. Update the company name for the drug product Nasal Decongestant Inhaler/Vapor Inhaler (containing 50 milligrams levmetamfetamine) to Aphenia Pharma Solutions – New York, LLC; and
2. Update the marketer of the Vicks® VapoInhaler®, containing 50 mg levmetamfetamine in a nasal decongestant inhaler to Proctor & Gamble Company.

**Effective Date**

These interim final rules became effective on October 27, 2015, but DEA will accept comments on these actions until December 28, 2015.

**Links**

The link below will allow you to view/print the interim final rule for the Nasal Decongestant Inhaler/Vapor Inhaler.

<http://www.gpo.gov/fdsys/pkg/FR-2015-10-27/pdf/2015-27264.pdf>

The link below will allow you to view/print the interim final rule for the Vicks® VapoInhaler®.

<http://www.gpo.gov/fdsys/pkg/FR-2015-10-27/pdf/2015-27266.pdf>