VEOLIA NORTH AMERICA - INDUSTRIAL BUSINESS REGULATORY UPDATE - March 2017

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A. EPA Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Further Delay of Effective Date

On March 16, 2017, the Environmental Protection Agency (EPA) published a notice (82 FR 13968-13969) staying and delaying the effective date of the Accidental Release Prevention Requirements final rule for 90 days to June 19, 2017.

Summary

On January 13, 2017, EPA published a final rule (82 FR 4594) amending the chemical accident prevention provisions of the Clean Air Act (CAA) in 40 CFR Part 68. The amendments were related to various aspects of the risk management programs including prevention programs at stationary sources, emergency response preparedness requirements, and information availability. On January 26, 2017, EPA published a final rule extending the effective date rule from March 14, 2017 to March 21, 2017.

A group known as the "RMP Coalition" submitted a petition for reconsideration of the final rule to EPA on February 28, 2017. The EPA Administrator has announced a reconsideration proceeding of the Risk Management Program Amendments and that EPA will prepare a notice of proposed rulemaking that will provide the RMP Coalition with an opportunity to comment on issues raised in the petition.

A summary of the Accidental Release Prevention Requirements final rule is included in the January 2017 Regulatory Update.

Issuance of Stay and Delay of Effective Date

This notice issues a 90-day administrative stay of the effective date of the Risk Management Program Amendments and delays the effective date of the final rule 90-days until June 19, 2017.

Link

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

https://www.gpo.gov/fdsys/pkg/FR-2017-03-16/pdf/2017-05288.pdf

B. EPA SW-846 Update VI, Phase I Released for Public Comment

On March 31, 2017, EPA announced the release of SW-846 Update, VI, Phase I for public comment.

Summary

This update contains Method 1340 for In Vitro Bioaccessibility of Lead in Soil, which is a new method for the characterization of lead bioavailability in lead-contaminated soil under field conditions. The bioaccessibility of lead is important because the amount of lead that actually enters the blood and body tissues from ingested medium depends on the physical and chemical properties of the lead and medium.

Streamlined Procedure for Publishing Non-Regulatory SW-846 Methods

EPA announced this new update using the streamlined approval process for non-regulatory SW-846 methods. Beginning in October, 2016, all non-regulatory methods will be announced for public comment and final posting on EPA's Hazardous Waste Test Methods web page.

Docket Number

The docket number for this update is EPA-HQ-OLEM-2017-1222.

Comments Due

Comments on this new SW-846 method must be submitted to EPA on or before May 1, 2017.

Link

The link below will allow you to view/print EPA's notification of this new test method.

https://www.epa.gov/hw-sw846/sw-846-update-vi-announcements

The link below will allow you to sign up to be notified when new test methods are posted on EPA's Hazardous Waste Test Methods web page.

https://www.epa.gov/hw-sw846/forms/contact-us-about-hazardous-waste-test-methods

C. EPA Seeking Recommendations on Regulations that Could be Repealed, Replaced, or Modified to make them Less Burdensome

On February 24, 2017, President Donald Trump issued Executive Order 13777 on Enforcing the Regulatory Reform Agenda. This order establishes a policy to alleviate unnecessary regulatory burdens on the American People.

Summary

One item in particular, requires each agency to create a Regulatory Reform Task Force to evaluate existing regulations and to identify regulations that could be repealed, replaced, or modified to make them less burdensome.

To accomplish this, EPA's Office of Land and Emergency Management (OLEM) is holding a public meeting on Tuesday, May 9, 2017, in Arlington, VA to allow interested parties an opportunity to present recommendations on specific OLEM regulations that they believe are burdensome and could be repealed or modified.

Comments Due

Written comments must be submitted to EPA on or before May 15, 2017.

Link

The link below will allow you to view/print Executive Order 13777.

https://www.whitehouse.gov/the-press-office/2017/02/24/presidential-executive-order-enforcing-regulatory-reform-agenda

D. DOT/PHMSA Hazardous Materials: Harmonization with International Standards (RRR); Final Rule

On March 30, 2017, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) published a final rule (82 FR 15796-15897) amending the Hazardous Materials Regulations (HMR) to maintain consistency with international regulations and standards by incorporating various amendments, including changes to proper shipping names, hazard classes, special provisions, packaging authorizations, air transport quantity limitations and vessel stowage requirements.

Summary

Following are amendments that could impact Veolia operations:

1. Reciprocity of Cargo Tank and Cargo Tank Motor Vehicle (CTMV) Facility Registration between the United States and Canada.
2. Approval and registration requirements for United States and Canadian Cylinder and Pressure Receptacle Requalifiers.
3. Authorization for Use and Transport Canada Equivalency Certificates in the United States.
4. Expanded Authorization for the Transportation and Use of Canadian Cylinders in the United States.
5. Amended definitions (*Aerosol, Large Salvage Packaging, UN Tube)*.
6. Changes to the 49 CFR 172.101 Hazardous Materials Table
    a. 6 New Entries
    b. 3 Shipping Name Amendments
    c. Amendments to the Hazard Class for UN3507, Uranium hexafluoride, radioactive material, excepted package
    d. Addition of the Division 6.1 hazard label and subsidiary hazard class to 4 proper shipping names
7. Special Provisions
    a. SP 181 – applicable to lithium ion batteries contained in or packed with equipment
    b. SP 422 – requires the use of a new lithium battery Class 9 label
    c. W31, W32, W40 and W100 – require new packaging requirements for certain materials transported by cargo vessel.
8. New Class 9 Hazard Class Label for Lithium Batteries
9. Revisions to Packaging and Marking Requirements for Small Lithium Batteries (49 CFR 173.185(c))
    a. Strong outer packaging must be rigid
    b. Replace the current text marking requirements that communicate the presence of lithium batteries and the flammability hazard that exists if damaged – to a single new lithium battery mark
    c. Removal of the requirement to include an alternative document indicating that the package contains lithium cells or batteries, must be handled with care and that a flammability hazard exists if damaged, special procedures to follow in the event the package is damaged and a telephone number for additional information
10. New Size requirement for Damaged/Defective lithium ion or metal battery marking (49 CFR 173.185(f))
    a. “Damaged/Defective lithium ion battery” and/or “Damaged/Defective lithium metal battery” marking must be in characters at least 12 mm (0.47 inch) high
11. Revisions and additions to the 49 CFR 173.225 Organic Peroxide Table
12. New Transport Conditions for Radiation Detectors Containing Division 2.2 Non-Flammable Gas
13. Relief to the Vessel Segregation Requirements for hazardous materials assigned with certain Organometallic substance shipping names.
14. Extended transitional period for the continued use of previously authorized hazard class labels until December 31, 2018. *NOTE: Although the continued use of the old hazard class label is now extended by USDOT until December 31, 2018, Veolia locations should have already discarded stock of all old versions of the hazard class labels and should be in compliance with the new label requirements.*

Compliance Dates

Effective Date – March 30, 2017 (except for instruction 22, which is effective January 2, 2019 for polymerizing substances)

Voluntary Compliance Date – January 1, 2017

Delayed Compliance Date – January 1, 2018 (unless otherwise specified)

Link

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

https://www.gpo.gov/fdsys/pkg/FR-2017-03-30/pdf/2017-04565.pdf

E. DOT/FMCSA Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators; Further Delay of Effective Date

On March 21, 2017, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a final rule (82 FR 14476-14477) further delaying the effective date of the Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators to May 22, 2017.

Summary

In accordance with the Presidential directive as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled "Regulatory Freeze Pending Review," this action temporarily delays, until May 22, 2017, the effective date of the final rule titled "Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators," initially effective on February 6, 2017.

The "Regulatory Freeze Pending Review" memorandum directed the heads of Executive Departments and Agencies to temporarily postpone for 60 days from the date of the memorandum the effective dates of certain regulations that had been published in the Federal Register, but had not yet taken effect. Because the original effective date of the final rule published on December 8, 2016, fell within that 60-day window, the effective date of the rule was extended to March 21, 2017, in a final rule published on February 1, 2017 (82 FR 8903). Consistent with the memorandum of the Assistant to the President and Chief of Staff, and as stated in the February 1, 2017, final rule delaying the effective date, FMCSA is further delaying the effective date of this regulation until May 22, 2017. The delay of the effective date until May 22, 2017, is necessary to provide the opportunity for further review and consideration of this new regulation, consistent with the January 20, 2017 memorandum.

Effective Date

Following this extension the effective date of this final rule is now May 22, 2017.

Link

The link below will allow you to view/print the extension of the effective date of the final rule.

https://www.gpo.gov/fdsys/pkg/FR-2017-03-21/pdf/2017-05525.pdf

F. DOT/FMCSA Carrier Safety Fitness Determination; Notice of Withdrawal

On March 23, 2017, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a notice of withdrawal (82 FR 14848-14850) withdrawing the January 21, 2016, notice of proposed rulemaking (NPRM) which proposed a revised methodology for the issuance of a safety fitness determination (SFD) for motor carriers.

Summary

The new methodology would have determined when a motor carrier is not fit to operate commercial motor vehicles (CMVs) in or affecting interstate commerce based on the carrier's on-road safety data (SMS Data); or a combination of on-road safety data and investigation information. FMCSA had

recently announced that, rather than move to a final rule, a Supplemental Notice of Proposed Rulemaking (SNPRM) would be the next step in the rulemaking process.

On February 15, 2017, a letter from 62 national and regional organizations of motor carriers urged Secretary of Transportation, Elaine, L. Chao, to withdraw the NPRM. The organizations argued that the proposed rule utilizes SMS data and methodologies, which Congress directed the Nation Academies of Science to review in the Fixing America's Surface Transportation Act (FAST Act). The National Academies of Science final report is expected in June 2017. The organizations representing motor property and passenger carriers believe it is ill-advised to develop a new SFD system until the report is received and any necessary reforms are made through corrective actions to the foundational data and methodologies that support safety fitness determinations.

Based on the comments received in response to the NPRM and the February 2017 correspondence to Secretary Chao, FMCSA has decided to withdraw the January 2016 NPRM and cancels the plans to develop a SNPRM as announced on January 12, 2017. If FMCSA determines that changes to the safety fitness determination process are still necessary and advisable in the future, a new rulemaking would be initiated that would incorporate any appropriate recommendations from the National Academies of Science and comments received through this rulemaking.

Link

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

https://www.gpo.gov/fdsys/pkg/FR-2017-03-23/pdf/2017-05777.pdf

G. OSHA Occupational Exposure to Beryllium; Further Delay of Effective Date

On March 21, 2017, the Occupational Safety and Health Administration (OSHA) published a final rule (82 FR 14439) further delaying the "Occupational Exposure to Beryllium" final rule to May 20, 2017.

Summary

OSHA published the Beryllium Final Rule on January 9, 2017 with an effective date of March 10, 2017. On February 1, 2017, OSHA delayed the effective date of the rule to March 21, 2017, in response to the memorandum from the Assistant to the President and Chief of Staff titled "Regulatory Freeze Pending Review" published on January 20, 2017. On March 2, 2017, OSHA proposed to further delay the effective date to May 20, 2017.

OSHA received 25 unique comments on the proposal to extend the effective date. After reviewing the comments, OSHA believes that commenters have raised substantive concerns, including about the Beryllium Final Rule's treatment of the construction and shipyard industries and has decided to delay the effective date an additional 60 days to allow for the opportunity for further review of the final rule.

Effective Date

The effective date of the Beryllium final rule has been extended to at least May 20, 2017.

Link

The link below will allow you to view/print the notice of the delay of the effective date.

https://www.gpo.gov/fdsys/pkg/FR-2017-03-21/pdf/2017-05569.pdf

H. OSHA Injury and Illness Recordkeeping Provision Overturned

On April 3, 2017, President Trump signed into law House Joint Resolution 83 (H.J. Res. 83) nullifying a final rule that amended the OSHA recordkeeping regulations regarding and employers' duty to create and maintain work-related injury or illness records as an ongoing obligation.

Summary

The final rule codified OSHA's long-standing policy that injury and illness recordkeeping violations are "ongoing" violations that could be cited within the OSH Act's 6-month window from the time an inspector first discovers the violation. A court ruling stated that the 6-month period began when the violation occurs, not when OSHA learns of the violation.

The result of the rule's repeal is that OSHA will no longer be able to cite recordkeeping violations that occurred earlier than six months from the time an OSHA inspector discovers the violation.

Link

The link below will allow you to view/print House Joint Resolution 83.

https://www.congress.gov/bill/115th-congress/house-joint-resolution/83/actions

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

On March 27, 2017, the Department of Health and Human Services, Centers for Disease Control and Prevention (CDC) published a notice of a rescheduled public webcast (82 FR 15221) titled "Multi-Agency Informational Meeting Concerning Compliance with the Federal Select Agent Program."

Summary

The public webcast is an opportunity for the affected community (i.e., registered entity responsible officials, alternate responsible officials, and entity owners) 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 on the webcast to address questions and concerns from participants.

New Webcast Date

The webcast will be conducted on Friday, April 28, 2017, from Noon to 4:00 PM Eastern Time.

Registration

Participants who have already registered for the webcast will not need to re-submit registrations for the new date. All others will need to complete an on-line registration.

Links

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

http://www.selectagents.gov/webform.html

The link below will allow you to view/print the notice of the date change for the webcast.

https://www.gpo.gov/fdsys/pkg/FR-2017-03-27/pdf/2017-05952.pdf

J. DOJ/DEA Schedules of Controlled Substances: Placement of 10 Synthetic Cathinones into Schedule I; Final Rule

On March 1, 2017, the Department of Justice, Drug Enforcement Administration (DEA) published a final rule (82 FR 12171-12177) placing 10 synthetic cathinones: 4-methyl-*N*-ethylcathinone (4-MEC); 4-methyl-*alpha*-pyrrolidinopropiophenone (4-MePPP); alpha-pyrridinopentiophenone (α-PVP); 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one) (butylone, bk-MBDB e); 2-(methylamino)-1-phenylpentan-1-one (pentedrone); 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone, bk-MBDP); 4-fluoro-*N*-methylcathinone (4-FMC, flephedrone); 3-fluoro-*N*-methylcathinone (3-FMC); 1-(naphthalene-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (naphyrone); alpha-pyrrolidinobutiophenone (α-PBP) and their optical, positional, and geometric isomers, salts and salts of isomers into Schedule I of the Controlled Substances Act (CSA).

Summary

On March 7, 2014, the DEA published a final order (79 FR 12938) temporarily placing these 10 synthetic cathinones into Schedule I of the CSA. On March 2, 2016, the HHS provided DEA with a scientific and medical evaluation document as their basis for recommending that DEA control these synthetic cathinones under Schedule I of the CSA.

After reviewing the scientific and medical evaluations, public comment, and the recommendations of the HHS along with DEA's consideration of their eight-factor analysis, DEA has determined that there is substantial evidence of potential for the abuse of these 10 synthetic cathinones. Therefore, this final rule subjects the regulatory controls and administrative, civil, and criminal sanctions applicable to Schedule I substances on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess) these 10 synthetic cathinones.

Effective Date

This final rule became effective on the date of publication, March 1, 2017.

Link

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

https://www.gpo.gov/fdsys/pkg/FR-2017-03-01/pdf/2017-03974.pdf

K. DOJ/DEA Schedules of Controlled Substances: Placement of Brivaracetam into Schedule V; Final Rule

On March 9, 2017, the Department of Justice, Drug Enforcement Administration (DEA) published a final rule (82 FR 13067-13069) placing brivaracetam ((2*S*)-2-[(4*R*)-2-oxo-4-propylpyrrolidin-1-yl] butanamide) (BRV, UCB-34714, and Briviact) into Schedule V of the Controlled Substances Act (CSA).

Summary

Brivaracetam (BRV) is a new chemical and has not been marketed in the United States or any other country. In humans, BRV is most similar to Schedule V substances lacosamide, exogabine, and pregabalin in producing reverse inhibition caused by negative modulators of gamma aminobutyric acid (GABA) and glycine and inhibits sodium channels.

On May 12, 2016, DEA published an interim final rule (81 FR 29487) temporarily placing BRV into Schedule V of the CSA and initiating a public comment period. This final rule adopts the interim final rule without any changes placing BRV including its salts into Schedule V of the CSA.

Effective Date

This final rule became effective on the date of publication, March 9, 2017.

Link

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

https://www.gpo.gov/fdsys/pkg/FR-2017-03-09/pdf/2017-04698.pdf

L. DOJ/DEA Schedules of Controlled Substances: Placement of FDA-Approved Products of Oral Solutions Containing Dronabinol [(-)-delta-9-trans-tetrahydrocannabinol (delta-9-THC)] in Schedule II; Interim Final Rule

On March 23, 2017, the Department of Justice, Drug Enforcement Administration (DEA) published an interim final rule (82 FR 14815-14820) placing dronabinol [(-)-delta-9-*trans*-tetrahydrocannabinol (delta-9-THC)] oral solution into Schedule II of the Controlled Substances Act (CSA).

Summary

Syndros is an oral solution that contains 5 mg of dronabinol per mL of solution. Dronabinol is the generic name and is the primary psychoactive substance in marijuana. On December 28, 2016, the Food and Drug Administration (FDA) approved Syndros for the treatment of anorexia associated with weight loss in patients with Acquired Immune Deficiency Syndrome (AIDS), and for the treatment of nausea and vomiting resulting from cancer chemotherapy in patients who failed to respond to conventional anti-emetic therapies.

The DEA was provided with scientific and medical evaluation and a scheduling recommendation for dronabinol by HHS on December 28, 2016. After reviewing all information DEA is issuing this interim final rule to schedule FDA-approved dronabinol oral solution as a Schedule II controlled substance under the CSA.

Effective Date

This interim final rule became effective on March 23, 2017.

Link

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

https://www.gpo.gov/fdsys/pkg/FR-2017-03-23/pdf/2017-05809.pdf