VEOLIA NORTH AMERICA - INDUSTRIAL BUSINESS REGULATORY UPDATE - April 2017

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

On April 3, 2017, the Environmental Protection Agency (EPA) published a proposed rule (82 FR 16146-16149) to delay the effective date of the Accidental Release Prevention Requirements: Risk Management Programs under the Clean Air Act; Final Rule to February 19, 2019.

Background

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. After receiving a petition for reconsideration of the final rule from a group known as the "RMP Coalition, EPA announced that a reconsideration proceeding will be conducted and that EPA will prepare a notice of proposed rulemaking and provide an opportunity for comment on the issues raised in the petition. In addition, EPA extended the effective date of the final rule 90-days until June 19, 2017.

Subsequently, EPA received a petition for reconsideration from the Chemical Safety Advocacy Group and a petition for reconsideration and stay of the final rule from the States of Arizona, Arkansas, Florida, Kansas, Kentucky, Louisiana, Oklahoma, South Carolina, Texas, Wisconsin, and West Carolina.

Summary

On April 3, 2017, EPA published a proposed rule that would delay the effective date of the Risk Management Program Amendments to February 19, 2019. This timeframe will allow EPA time to evaluate the objections, consider other issues that may benefit from additional comments, and take further regulatory action. This would include EPA proposing and finalizing a rule to revise the Risk Management Program revisions.

Comments Due

Comments on this proposed rule to extend the effective date of this rule until February 19, 2019, must be submitted to EPA by May 19, 2017.

Link

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

https://www.gpo.gov/fdsys/pkg/FR-2017-04-03/pdf/2017-06526.pdf

B. Webinar Training for Exporters of Manifested Hazardous Wastes using the Automated Export System (AES) of AESDirect

In April 2017, EPA announced that a training webinar would be conducted on using the Automated Export System (AES) for the exportation of manifested hazardous wastes, spent/used lead-acid batteries, universal wastes and cathode ray tubes for recycling.

Summary

The 30-minute webinar will provide detailed filing instructions for exporters and their authorized filing agents (e.g., customs brokers) on how to file the RCRA information about their shipments in AES and AESDirect.

Webinar Date and Time

The webinar will be conducted on June 5, 2017 from 1:30-2:00 PM Eastern Time.

Registration

The link to register for the webinar is:

https://clu-in.org/conf/tio/register/new.cfm?date=967

C. DOT/FMCSA New Brakes Out-of-Service Violation added to CSA's Safety Management System (SMS); Notice

On April 12, 2017, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) announced that they were updating the Safety Measurement System (SMS) to add a Brakes Out-of-Service Violation to the Safety Measurement System (SMS).

Summary

FMCSA is committed to continually updating the Safety Measurement System (SMS) to align with FMCSA regulations and information technology (IT) systems to effectively identify large truck and bus companies with the highest safety risk and prioritize them for an intervention.

As part of this effort, FMCSA had added a brakes out-of-service (OOS) violation, also known as "cite 396.2A1BOS," to the SMS. The brakes OOS violation differs from other violations in the SMS because it relates directly to underlying brake violations that are already used in the SMS and signifies an OOS condition based on the underlying violations noted under other "cites." When underlying brake violations indicate that 20% or more of the total brakes are defective, 396.3A1BOS is cited and recorded as an OOS violation. The brakes OOS violation provides carriers and Safety Investigators with a clearer picture of the brake issues that lead to an OOS condition.

Effective Date

The brakes OOS violation became effective in the SMS on April 1, 2017, but is not implemented retroactively.

Link

The link below will allow you to view/print FMCSA's announcement of the Brakes Out-Of-Service Violation that has been added to the SMS.

https://csa.fmcsa.dot.gov/WhatsNew/Article?articleId=108323

D. DOT/PHMSA Hazardous Materials: Use of DOT Specification 39 Cylinders for Liquefied Flammable Compressed Gas; Safety Advisory Notice Revision

On April 24, 2017, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a revised safety advisory notice (82 FR 18967-18968) to address concerns of offerors and users of DOT Specification 39 (DOT-39) cylinders that exceed 75 cubic inches (1.23L) and to provide clarification on the initial safety advisory notice issued on December 13, 2016.

Safety Concern

The release of a liquefied flammable compressed gas as a result of the failure of a cylinder having an internal volume exceeding 75 cubic inches is a safety concern with a potential to cause property damage, serious personal injury or even death. A DOT-39 cylinder, without further size restriction, can have a volume of up to 1,526 cubic inches at a service pressure of 500 psig or less and can have up to 20 times the energy stored of a DOT-39 cylinder limited to 75 cubic inches. This increased stored energy presents a greater safety risk in the event of a release. Additionally, because of the design specifications that allow for thinner walls when used at lower pressure, these cylinders may be at greater risk from corrosion or puncture.

Revision

Given the known risks associated with cylinders that are filled with liquefied flammable compressed gases, PHMSA is issuing this revised safety advisory notice to advise offerors and transporters of DOT-39 cylinders that those with an internal volume greater than 75 cubic inches should not be filled and/or transported with **liquefied compressed cyclopropane, ethane, or ethylene, or liquefied petroleum gases**.

Effective Date

These revisions became effective on the date of publication, April 24, 2017.

Link

The link below will allow you to view/print the revised safety advisory notice.

https://www.gpo.gov/fdsys/pkg/FR-2017-04-24/pdf/2017-05614.pdf

E. DHHS/CDC Possession, Use, and Transfer of Select Agents and Toxins – Addition of *Bacillus cereus* Biovar *anthracis* to the HHS List of Select Agents and Toxins; Interim Rule; Adoption as Final

On April 12, 2017, the Department of Health and Human Services, Centers for Disease Control (CDC) published a final rule (82 FR 17569-17570) adopting as final, the interim final rule (81 FR 63138) adding *Bacillus cereus* Biovar *anthracis* to the list of select agents and toxins as a Tier 1 select agent.

Background

On September 14, 2016, CDC published an interim final rule and request for comments adding *Bacillus cereus* Biovar *anthracis* to the list of select agents and toxins. CDC received two comments, both supporting the rule change.

Summary

Recent research has determined that *Bacillus cereus* Biovar *anthracis* has all of the virulence determinants and threat potential of *Bacillus anthracis*, as a Tier 1 select agent. *Bacillus cereus* Biovar *anthracis* has the potential to pose a severe threat to public health and safety and it may present a great risk for deliberate misuse with significant potential for mass casualties or devastating effects to the economy, critical infrastructure, or public confidence. Therefore, this final rule, adopts as final this substance to the Tier 1 list of select agents subject to the biosafety and security requirements of the select agent regulations.

Effective Date

The adoption as final of the interim final rule became effective on April 12, 2017.

Link

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

https://www.gpo.gov/fdsys/pkg/FR-2017-04-12/pdf/2017-07210.pdf

F. DOJ/DEA Schedules of Controlled Substances: Temporary Placement of Six Synthetic Cannabinoids (5F-ADB, 5F-AMB, 5F-APINANA, ADB-FUBINACA, MDMB-CHMICA and MDMB-FUBINACA) into Schedule I; Temporary Scheduling Order

On April 10, 2017, the Department of Justice, Drug Enforcement Administration (DEA) published a temporary scheduling order (82 FR 17119-17124) placing six synthetic cannabinoids: methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate [5F-ADB; 5F-MDMB-PINACA]; methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate [5F-AMB]; N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-)4-fluorobenzyl)-1H-indazole-3-carboxamide [ADB-FUBINACA]; methyl2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate [MDMB-CHMICA, MMB-CHMINACA] and methyl 2-(1-(4-flurorbenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate [MDMB-FUBINACA] and their optical, positional, and geometric isomers, salts, and salts of isomers into schedule I of the Controlled Substances Act (CSA).

Summary

In a letter dated April 22, 2016, the Acting Administrator notified the Assistant Secretary of his intent to place these six synthetic cannabinoids into schedule I of the CSA. Available data and information indicate that these synthetic cannabinoids have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Therefore, the Administrator finds it necessary to temporarily place these six synthetic cannabinoids into Schedule 1 of the CSA.

Effective Date

This temporary scheduling order became effective on April 10, 2017.

Link

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

https://www.gpo.gov/fdsys/pkg/FR-2017-04-10/pdf/2017-07118.pdf