



VEOLIA NORTH AMERICA - INDUSTRIAL BUSINESS REGULATORY UPDATE - July 2017

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The information contained herein is provided by Veolia North America for general informational purposes only. This information should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you should have any questions, please contact Kevin McGrath, Veolia Environmental Director at kevin.mcgrath@veolia.com.

A. EPA Hazardous Waste Electronic Manifest System (“e-Manifest”) Advisory Board; Notice of Public Meeting

On July 14, 2017, the Environmental Protection Agency (EPA) published a notice (82 FR 32546-32547) announcing that there will be a three day meeting of the Hazardous Waste Electronic Manifest System (“e-Manifest”) Advisory Board on September 26-28, 2017 to consider and advise EPA regarding the initial launch of the e-Manifest System.

Summary

The purpose of the e-Manifest Advisory Board Meeting is to address user registration and account activation issues that need to be resolved prior to launching the e-Manifest System along with electronic signature agreements (ESAs) for the e-Manifest System.

Public Meeting Dates and Location

The meeting will be held on September 26-28, 2017 at:

Environmental Protection Agency Conference Center
Lobby Level
One Potomac Yard (South Building)
2777 S. Crystal Drive
Arlington, VA 22202

Comments Due

EPA is requesting the written comments be submitted by September 12, 2017.

Link

<https://www.gpo.gov/fdsys/pkg/FR-2017-07-14/pdf/2017-14866.pdf>

B. EPA Address and Agency Name Changes for Region 4 State and Local Agencies; Technical Correction; Final Rule

On July 17, 2017, EPA published a final rule (82 FR 32644-32646) correcting the addresses and agency names for EPA Region 4 State and local agencies in EPA regulations. EPA Region 4 includes the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

Summary

Some of EPA’s air pollution control regulations require the submittal of notifications, reports, and other documents to the appropriate authorized State or local agency. This technical amendment updates and corrects agency names and the addresses for submitting the required information to the State and local agency offices. The regulations in 40 CFR Parts 52, 60, and 61 require these amendments.

1. North Carolina Agency Name Change

This final rule changes the name for the North Carolina Department of Natural Resources to the North Carolina Department of Environmental Quality.

2. Kentucky Division for Air Quality Address Changes

Kentucky Department for Environmental Protection
Division for Environmental Protection
Division for Air Quality
300 Sower Boulevard, 2nd Floor
Frankfort, Kentucky 40601

Louisville Metro Air Pollution Control District
701 W. Ormsby Ave., Suite 303
Louisville, KY 40203

3. North Carolina Address Changes

North Carolina Department of Environmental Quality
Division of Air Quality
1641 Mail Service Center
Raleigh, NC 27699-1641

Forsyth County Office of Environmental Assistance and Protection
201 North Chestnut Street
Winston-Salem, NC 27101-4120

Mecklenburg County Land Use and Environmental Services Agency
Air Quality
2145 Suttle Avenue
Charlotte, NC 28208

Western North Carolina Regional Air Quality Agency
125 South Lexington Ave., Suite 101
Asheville, NC 28801-3661

4. Tennessee Address Changes

Tennessee Department of Environment and Conservation
Division of Air Pollution Control
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue
15th Floor
Nashville, TN 37243

Knox County Air Quality Management
Department of Public Health
140 Dameron Avenue
Knoxville, TN 37917

Metro Public Health Department
Pollution Control Division
2500 Charlotte Avenue
Nashville, TN 37209

Chattanooga-Hamilton County Air Pollution Control Bureau
6125 Preservation Drive
Chattanooga, TN 37416

Shelby County Health Department
Pollution Control Section
814 Jefferson Avenue
Memphis, TN 38105

Effective Date

This final rule became effective on the date of publication, July 17, 2017.

Link

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

<https://www.gpo.gov/fdsys/pkg/FR-2017-07-17/pdf/2017-14746.pdf>

C. EPA/DoD Definition of “Waters of the United States” – Recodification of Pre-Existing Rules; Proposed Rule

On July 27, 2017, EPA and the Department of Defense, Department of the Army, Corps of Engineers (Corps of Engineers)” published a proposed rule (82 FR 34899-34909) to initiate the first step in a two-step process to review and revise the definition of the “waters of the United States” consistent with the Executive Order “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule” published on February 28, 2017.

Summary

In the first step, the Agencies propose to rescind the definition of “waters of the United States” to re-codify the definition which currently governs the administration of the Clean Water Act pursuant to a decision issued by the U.S. Court of Appeals for the Sixth Circuit staying a definition promulgated by the Agencies in 2015. Proposing to re-codify the regulations that existed prior to the 2015 Clean Water Rule would provide continuity and certainty for regulated entities, the States, agency staff, and the public.

In the second step, the Agencies will pursue notice-and-comment rulemaking in which the agencies will conduct a substantive re-evaluation of the definition of the “waters of the United States.”

Comments on Step One

Comments on step one must be received by EPA or the Corps of Engineers on or before August 28, 2017.

Link

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

<https://www.gpo.gov/fdsys/pkg/FR-2017-07-27/pdf/2017-13997.pdf>

D. EPA Spring 2017 Regulatory Agenda

On July 21, 2017, EPA published the Spring 2017 Semi-Annual Regulatory Agenda as part of the 2017 Spring Unified Agenda and Regulatory Plan.

Summary

EPA publishes a semi-annual regulatory agenda twice per year. The semi-annual regulatory agenda describes a broad universe of regulatory activities that are under development or review. This is the first regulatory agenda published by the Trump administration. Following are the waste-related topics applicable to Veolia operations:

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| Office of Land and Emergency Management – Final Rule Stage |
| 1. User Fee Schedule for Electronic Hazardous Waste Manifest |
| 2. Internet Posting of and Confidentiality Determinations for Hazardous Waste Export and Import Documents |
| 3. Non-Hazardous Secondary Materials - Additions to List of Categorical Non-Waste Fuels; Other Treated Railroad Ties |
| Office of Land and Emergency Management – Proposed Rule Stage |
| 1. Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations |
| 2. Amendment to Standards and Practices for All Appropriate Inquiries Under CERCLA |
| Office of Land and Emergency Management – Prerule Stage |
| 1. Bioreactor/Wet Landfill Regulations Under RCRA Subtitle D |

Link

The link below will allow you to view/print the Spring 2017 Semi-Annual Regulatory Agenda

<https://www.reginfo.gov/public/do/eAgendaMain>

E. DOT/PHMSA Hazardous Materials: New York City Permit Requirements for Transportation of Certain Hazardous Materials; Notice of Administrative Determination of Preemption

On July 6, 2017, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) published a notice of administrative determination of preemption (82 FR 31390-31396) finding that the hazardous materials transportation act (HMTA) preempts the New York City permit and inspection requirements (transportation of hazardous materials) with respect to trucks based outside the inspecting jurisdiction.

Summary

1. Inspection and Permit Requirement

PHMSA finds that the Fire Department of the City of New York’s (FDNY’s) permit and inspection requirements, FC 2707.4 and 105.6 (transportation of hazardous materials), create an obstacle to accomplishing and carrying out the hazardous material regulations (HMR’s) prohibition against unnecessary delays in the transportation of hazardous materials on vehicles based outside the inspecting jurisdiction. Accordingly, the HMTA preempts FDNY’s permit and inspection requirements with respect to vehicles based outside the inspecting jurisdiction.

PHMSA, however, finds that the HMTA does not preempt FDNY’s permit and inspection requirements with respect to motor vehicles that are based within the inspecting jurisdiction.

2. Permit Fee

PHMSA finds that the FDNY has not shown that the fee it imposes with respect to its permit and inspection requirements is “fair” or “used for a purpose related to transporting hazardous material,”

as required by 49 U.S.C. 5125(f)(1). Therefore, HMTA preempts FDNY’s permit fee requirements also.

Link

The link below will allow you to view/print the notice of administrative determination of preemption.

<https://www.gpo.gov/fdsys/pkg/FR-2017-07-06/pdf/2017-14147.pdf>

F. DOT/FMCSA/PHMSA Spring 2017 Regulatory Agenda

On July 21, 2017, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) and pipeline and Hazardous Materials Safety Administration (PHMSA) published the Spring 2017 Semi-Annual Regulatory Agenda as part of the 2017 Spring Unified Agenda and Regulatory Plan.

Summary

FMCSA and PHMSA publish a semi-annual regulatory agenda twice per year. The semi-annual regulatory agenda describes a broad universe of regulatory activities that are under development or review. This is the first regulatory agenda published by the Trump administration. Following are the commercial motor vehicle and hazardous materials transportation related topics applicable to Veolia operations:

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| Federal Motor Carrier Safety Administration – Final Rule Stage |
| 1. Electronic Signatures and Documents (E-Signatures) (RRR) |
| Federal Motor Carrier Safety Administration – Proposed Rule Stage |
| 1. Commercial Learner’s Permit Validity |
| 2. Military Licensing and State CDL Reciprocity |
| 3. Amendment to Agency Rules of Practice |
| Federal Motor Carrier Safety Administration – PreRule Stage |
| 1. Evaluation of Safety-Sensitive Personnel for Moderate-to-Severe Obstructive Sleep Apnea |
| 2. Financial Responsibility for Motor Carriers, Freight Forwarders and Brokers |
| Pipeline and Hazardous Materials Safety Administration – Final Rule Stage |
| 1. Hazardous Materials: Response to Petitions from Industry to Modify, Clarify, or Eliminate Regulations (RRR) |
| 2. Hazardous Materials: Miscellaneous Amendments; Response to Appeals and Corrections |
| 3. Hazardous Materials: Oil Spill Response Plans and Information Sharing for High-Hazard Flammable Trains |
| 4. Hazardous Materials: Miscellaneous Amendments Pertaining to DOT-Specification Cylinders (RRR) |
| 5. Hazardous Materials: Incorporation of ASME Code Section XII and the National Board Inspection Program |
| Pipeline and Hazardous Materials Safety Administration – Proposed Rule Stage |
| 1. Hazardous Materials: Volatility of Unrefined Petroleum Products and Class 3 Materials |
| 2. Hazardous Materials: FAST Act Requirements for Real-Time Train Consist Information by Rail |

Link

The link below will allow you to view/print the Spring 2017 Semi-Annual Regulatory Agenda.

<https://www.reginfo.gov/public/do/eAgendaMain>

G. Canada Transport Canada; Amendment of the Transportation of Dangerous Goods Regulations; Final Rule

On July 12, 2017, Transport Canada published in the Canada Gazette, regulations amending the Transportation of Dangerous Goods Regulations (International Harmonization Update, 2016).

Summary

This amendment harmonizes Canada's Transportation of Dangerous Goods Regulations (TDGRs) with the United Nations Model Regulations on the Transport of Dangerous Goods (19th Edition, UN Recommendations), the International Civil Aviation Organization Technical Instructions (2015-2016 ICAO TIs), the International Maritime Dangerous Goods Code (IMDG Code 2016), as well as requirements with the U.S. under the Regulatory Cooperation Council (RCC) work plan.

Link

The link below will allow you to view Transport Canada's TDG website including the announcement of the adoption of these amendments.

<https://www.tc.gc.ca/eng/tdg/clear-modifications-adopted-90.htm>

H. OSHA Electronic Submittal of Injury and Illness Data Launched on August 1, 2017

On July 14, 2017, the Occupational Safety and Health Administration (OSHA) announced that the Injury Tracking Application (ITA) for the electronic submittal of injury and illness data will be launched on August 1, 2017.

Summary

On June 28, 2017, OSHA published a notice (82 FR 29261) to delay the electronic reporting compliance date of the "Improve Tracking of Workplace Injuries and Illnesses" final rule from July 1, 2017 to December 1, 2017. OSHA proposed the delay because their data collection system was not yet released.

This notice announces that OSHA's data collection system was launched and available for the electronic entry of injury and illness data beginning on August 1, 2017.

The ITA webpage includes information on reporting requirements, a list of frequently asked questions and a link to request assistance in completing the forms.

Links

The link below will allow you to view/print OSHA's news release announcing the launch of the Injury Tracking Application.

<https://www.osha.gov/news/newsreleases/trade/07142017>

The webpage for the ITA application is included below.

<https://www.osha.gov/injuryreporting/index.html>

I. OSHA Spring 2017 Regulatory Agenda

On July 21, 2017, the Occupational Safety and Health Administration (OSHA) published the Spring 2017 Semi-Annual Regulatory Agenda as part of the 2017 Spring Unified Agenda and Regulatory Plan.

Summary

OSHA publishes a semi-annual regulatory agenda twice per year. The semi-annual regulatory agenda describes a broad universe of regulatory activities that are under development or review. This is the first regulatory agenda published by the Trump administration. Following are the occupational health and safety related topics applicable to Veolia operations:

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| Occupational Safety and Health Administration – Final Rule Stage |
| 1. Standards Improvement Project IV |
| Occupational Safety and Health Administration – Proposed Rule Stage |
| 1. Occupational Exposure to Beryllium |
| 2. Quantitative Fit Testing Protocol: Amendment to the Final Rule on Respiratory Protection |
| 3. Technical Corrections to 16 OSHA Standards |
| 4. Puerto Rico State Plan |
| 5. Improve Tracking of Workplace Injuries and Illnesses |
| 6. Tracking of Workplace Injuries and Illnesses |
| Occupational Safety and Health Administration – Prerule Stage |
| 1. Powered Industrial Trucks |
| 2. Lock-Out/Tag-Out Update |
| 3. Blood Lead Level for Medical Removal |

Link

The link below will allow you to view/print the Spring 2017 Semi-Annual Regulatory Agenda.

<https://www.reginfo.gov/public/do/eAgendaMain>

J. Canada Health Canada; Delays Implementation of GHS/WHMIS 2015

On July 10, 2017, Health Canada announced an extension to the timelines for implementing the Globally Harmonized System (GHS), Workplace Hazardous Materials Information System (WHMIS) for the classification and labeling of chemicals.

Summary

The GHS/WHMIS is a comprehensive system for providing health and safety information on hazardous products intended for use, handling, and/or storage in Canadian workplaces. Health Canada outlined a multi-year transition period for the implementation of GHS/WHMIS.

The purpose for the extension of the timelines for transition include:

1. Time for partners and stakeholders to make the necessary legislative, regulatory, and system adjustments;
2. Old labels and material safety data sheets (MSDSs) can be moved out of the supply chain and workplaces in a predictable manner;
3. Increased employer and worker awareness and understanding of the hazardous classification and communication in WHMIS 2015; and

4. Consistency across Canada through coordination and alignment between federal, provincial and territorial jurisdictions.

Implementation Dates

June 1, 2018 – Manufacturers and importers must comply with the Hazardous Products Regulations
September 1, 2018 – Distributors must comply with the Hazardous Products Regulations
December 1, 2018 – Employers must comply with the Hazardous Products Regulations

Link

The link below will allow you to view/print the Health Canada News Release of the extension of the timelines for GHS/WHMIS compliance.

<https://www.canada.ca/en/health-canada/services/environmental-workplace-health/occupational-health-safety/workplace-hazardous-materials-information-system.html>

K. DOJ/DEA Schedules of Controlled Substances: Temporary Placement of Acetyl Fentanyl into Schedule I; Temporary Scheduling Order

On July 14, 2017, the Department of Justice, Drug Enforcement Administration (DEA) published a temporary scheduling order (82 FR 32453-32457) placing the synthetic opioid, *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacrylamide (acryl fentanyl or acryloylfentanyl) and its isomers, esters, and ethers into Schedule I of the Controlled Substances Act (CSA).

Summary

Acryl fentanyl exhibits pharmacological profiles similar to that of fentanyl and other μ -opioid receptor agonists. The toxic effects of acryl fentanyl in humans are demonstrated by overdose fatalities (at least 83 confirmed overdose deaths) involving this substance. Based on information reviewed by the DEA, the misuse and abuse of acryl fentanyl leads to the same qualitative public health risks as heroin, fentanyl, and other opioid analgesic substances. Therefore, the DEA finds it necessary to temporarily place acetyl fentanyl, its isomers, esters, and ethers into Schedule I of the CSA.

Effective Date

This temporary scheduling order became effective on July 14, 2017 and is in place until July 15, 2019, unless it is extended for an additional year or a permanent scheduling proceeding is completed.

Link

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

<https://www.gpo.gov/fdsys/pkg/FR-2017-07-14/pdf/2017-14880.pdf>

L. DOJ/DEA Designation of Alpha-Phenylacetoacetonitrile (APAAN), a Precursor Chemical Used in the Illicit Manufacture of Phenylacetone, Methamphetamine, and Amphetamine, as a List I Chemical; Final Rule

On July 14, 2017, the Department of Justice, Drug Enforcement Administration (DEA) published a final rule (82 FR 32457-32461) designating the chemical alpha-phenylacetoacetonitrile (APAAN) its salts, optical isomers, and salts of optical isomers as a List I chemical under the Controlled Substances Act (CSA).

Summary

On December 12, 2016, DEA published a notice of proposed rulemaking (NORM) to control APAAN due to its use in clandestine laboratories to illicitly manufacture the schedule II controlled substances phenylacetone, methamphetamine, and amphetamine. One comment to the NPRM was received by DEA and it supported the proposed listing of APAAN. Therefore, this final rule lists APAAN its salts, optical isomers, and salts of optical isomers as a List I chemical subject to the recordkeeping, reporting, import and export controls of the CSA.

Effective Date

This final rule will become effective on August 14, 2017.

Link

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

<https://www.gpo.gov/fdsys/pkg/FR-2017-07-14/pdf/2017-14878.pdf>