



VEOLIA NORTH AMERICA - INDUSTRIAL BUSINESS REGULATORY UPDATE - November 2017

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A. EPA Community Right-to-Know; Adopting 2017 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting; Withdrawal of Direct Final Rule

On November 14, 2017, the Environmental Protection Agency (EPA) published a withdrawal of a direct final rule (82 FR 52674-52675) that would have adopted the 2017 North American Industry Classification System (NAICS) codes for Toxics Release Inventory (TRI) Reporting.

Summary

On August 17, 2017, EPA published a direct final rule (82 FR 39038) and a proposed rule (82 FR 29101) to update the list of NAICS codes subject to TRI reporting under EPCRA section 313 to include the 2017 revised NAICS codes. This would have modified the list of relevant exceptions and limitations to the covered NAICS codes for reporting purposes.

EPA received a public comment that noted that the direct final rule omitted one of the covered NAICS codes updated in 2017. Therefore, EPA is withdrawing the direct final rule and will instead proceed with a final rule based on the proposed rule after considering and responding to all public comments received.

Effective Date

The withdrawal of the direct final rule became effective on November 14, 2017.

Link

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

<https://www.gpo.gov/fdsys/pkg/FR-2017-11-14/pdf/2017-24633.pdf>

B. EPA Electronic Manifest System; Update

On November 13 and 30, 2017, EPA held electronic manifest (e-Manifest) Application Programming Interface (API) Workshops. These half-day workshops were intended to determine how to integrate companies hazardous waste electronic systems with EPA's e-Manifest system.

e-Manifest Implementation

EPA's Regional e-Manifest work group met in November to discuss procedures for ID assignment and user account activation in the e-Manifest system for receiving facilities that currently collect state-only regulated wastes. These facilities will be required to register and obtain an account in the e-Manifest system, submit manifests to the system, and pay user fees for submissions.

e-Manifest User Fee Rule

The draft rule is currently at the Office of Management and Budget (OMB) being reviewed in accordance with Executive Order 12866. EPA anticipates that the final rule will be published in December 2017.

Link

The link below provides access to EPA's e-Manifest Monthly Update webpage.

<https://www.epa.gov/e-manifest/monthly-update-hazardous-waste-electronic-manifest-system-e-manifest>

C. British Columbia Spill Contingency Planning, Preparedness, Recovery, and Reporting Regulations; Revisions

On October 30, 2017, new British Columbia (BC), Canada regulations for the transportation of liquid petroleum became effective regarding: (1) Spill Preparedness, Response and Recovery, (2) Spill Reporting, and (3) Spill Contingency Planning.

Applicability

The new regulations apply to:

1. *Regulated Persons* - rail and highway transporters in possession or control of 2,642 gallons (10,000 liters) or more of liquid petroleum products; and
2. *Responsible Persons* – persons in possession or control of a substance when a spill occurs.

Spill Reporting

Beginning on October 30, 2017, the new spill reporting requirements require immediate verbal reporting to the BC Provincial Emergency Program Spill Reporting Hotline (1-800-663-3456) for any spill of a substance into the environment that may cause, is causing, or has caused an adverse effect to water, the environment, human health or property if the volume exceeds quantities in the Spill Reporting Regulation or if the substance has entered a body of water, regardless of the quantity.

Beginning on October 30, 2018, a written report must be submitted within 30 days of the spill.

Spill Response

Beginning on October 30, 2017, a responsible person must ensure that persons with the skill, experience, resources, and equipment respond to the release within a prescribed period and activate an incident command system.

Spill Contingency Planning

Companies providing transportation of liquid petroleum must develop and maintain spill contingency plans by October 20, 2018.

Effective Date

Spill reporting and response requirements became effective on October 30, 2017 while written spill reports and spill contingency planning requirements are delayed until October 30, 2018.

Link

The link below will allow you to view British Columbia's web page for the new Spill Response Regulations.

<https://www2.gov.bc.ca/gov/content/environment/air-land-water/spills-environmental-emergencies/spill-preparedness-and-response-bc>

D. DOT/FMCSA Hours of Service of Drivers: Application for Exemption; Truck Renting and Leasing Association (TRALA); Notice of Final Disposition; Grant of Application for Exemption

On October 11, 2017, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a decision (82 FR 47306-47308) issuing a limited exemption to the Truck Renting

and Leasing Association (TRALA) that provides that all drivers of property-carrying commercial motor vehicles rented for 8 days or less are not required to use an ELD in the vehicle.

Summary

While operating under this exemption, drivers will remain subject to the standard hours of service limits, maintain a paper record of duty status (RODS) if required, and maintain a copy of the rental agreement in the vehicle. While this exemption allows paper logs to be used for the first 8 days, rental trucks that are used for more than 8 days will require an ELD to be installed (unless operated exclusively by a 100 mile radius driver).

Terms and Conditions of the Exemption

1. Scope

The exemption covers a rental period of 8 days or fewer, regardless of the reason for the rental. Evidence that a carrier has replaced a rental CMV with another on 8-day cycles or attempted to renew a rental agreement for the same commercial motor vehicle (CMV) for an additional 8 days will be regarded as a violation of the exemption and subject the carrier to penalties for failure to use an ELD.

2. Information to be Carried on a Vehicle

- a. Drivers must have a copy of the Federal Register notice in their possession while operating under the terms of the exemption and it must be presented to law enforcement officials upon request
- b. Drivers must have a copy of the rental agreement in the CMV, and make it available to law enforcement officers on request. The agreement must clearly identify the parties to the agreement, the vehicle, and the dates of the rental period.
- c. The driver must possess copies of his/her record of duty status for the current day and the prior 7 days. 100 air mile radius drivers should carry a copy of their completed 100 Air Mile Radius time record form.

3. Notification of Accidents to FMCSA

Carriers operating under the exemption must notify FMCSA within 5 business days of any accident involving any of the motor carrier's drivers operating under the terms of the exemption.

Effective Dates

This exemption is effective from October 11, 2017 through October 11, 2022.

Link

The link below will allow you to view/print the Notice of Final Disposition granting the application for an exemption.

<https://www.gpo.gov/fdsys/pkg/FR-2017-10-11/pdf/2017-21892.pdf>

E. DOT Procedures for Transportation Workplace Drug and Alcohol Testing Programs: Addition of Certain Schedule II Drugs to the Department of Transportation's Drug-Testing Panel and Certain Minor Amendments; Final Rule

On November 13, 2017, the Department of Transportation (DOT) published a final rule (82 FR 52229-52248) amending DOT's drug-testing program by adding hydrocodone, hydromorphone, oxycodone,

and oxycodone to its drug-testing panel; adding methylenedioxyamphetamine (MDA) as an initial test analyte; and removing methylenedioxyethylamphetamine (MDEA) as a confirmatory test analyte. The final rule also adds clarifications to the drug-testing program provisions where necessary, deletes outdated information, and removes the requirement for employers and Consortium/Third Party Administrators to submit blind specimens.

Summary

DOT is modifying the drug-testing panel in 49 CFR 40.87(a) and the medical review officers (MROs) test result verification procedures in 49 CFR 40.137 and 49 CFR 40.139, to include hydrocodone, hydromorphone, oxycodone, and oxymorphone and to remove MDEA and add MDA as an initial test analyte in 49 CFR 40.87(a).

DOT also revised the following definitions:

1. Alcohol Screening Device (ASD)
2. The Department of Transportation Agency
3. Drugs
4. Evidential Breath Testing Device (EBT)

Following are some of the amendments that were included in this final rule:

1. Provisions Related to Urine Specimens

- a. Fatal Flaws

Three additional fatal flaws have been added to 49 CFR 40.199(b):

- i. There is no Chain of Custody Form (CCF)
 - ii. Two separate collections were performed using one CCF
 - iii. There was no specimen submitted to the laboratory with the CCF

- b. Shy Bladder Process – “Questionable Specimens”

Adopts a requirement for the collector to discard any initial questionable specimens. The MRO will evaluate a “shy bladder” situation if the employee was unable to provide a sufficient specimen for the direct observation recollection.

- c. Only Urine Specimens Are Authorized for Testing

Only urine specimens are authorized for testing under 49 CFR Part 40. Oral fluid testing and hair testing are NOT authorized.

2. Removal of Blind Specimen Testing
3. Prohibition on DNA Testing of Urine Specimens
4. Removal of Obsolete Compliance Dates

Effective Date

This final rule will become effective on January 1, 2018.

Link

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

<https://www.gpo.gov/fdsys/pkg/FR-2017-11-13/pdf/2017-24397.pdf>

F. OSHA Improve Tracking of Workplace Injuries and Illnesses: Delay of Compliance Date; Final Rule

On November 24, 2017, the Occupational Safety and Health Administration (OSHA) published a final rule (82 FR 55761-55766) delaying the initial electronic submission deadline for calendar year 2016 Form 300A information until December 15, 2017.

Summary

On May 12, 2016, OSHA published a final rule revising the Recording and Reporting Occupational Injuries and Illnesses regulations requiring facilities to electronically submit injury and illness information on Form 300A to OSHA. The initial submittal date for 2016 Form 300A information was July 1, 2017.

The initial submittal date has been postponed a couple of times as OSHA finalizes their data collection system. On November 24, 2017, OSHA delayed the compliance date once again until December 15, 2017.

Effective Date

Following the latest postponement the initial data submission deadline is December 15, 2017.

Link

The link below will allow you to view/print the Federal Register notice delaying the compliance date.

<https://www.gpo.gov/fdsys/pkg/FR-2017-11-24/pdf/2017-25392.pdf>

G. DOJ/DEA Schedules of Controlled Substances: Temporary Placement of FUB-AMB into Schedule I; Temporary Scheduling Order

On November 3, 2017, the Department of Justice, Drug Enforcement Administration (DEA) published a temporary scheduling order (82 FR 51154-51158) placing the synthetic cannabinoid methyl 2-(1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamido)-3-methylbutanoate [FUB-AMB, MMB-FUBINACA, AMG-FUBINACA], and its optical, positional, and geometric isomers, salts, and salts of isomers into Schedule I of the Controlled Substances Act (CSA).

Summary

The illicit use of the synthetic cannabinoid (CS) FUB-AMB has dramatically increased over the past 12 months posing an imminent threat to public health. FUB-AMB has pharmacological effects similar to the Schedule I hallucinogen THC and other temporarily or permanently controlled Schedule I synthetic cannabinoid substances and has no accepted medical use in the United States. DEA has determined that it is necessary to temporarily place FUB-AMB into Schedule I of the CSA to avoid an imminent hazard to public safety.

Effective Date

The temporary scheduling order became effective on November 3, 2017.

<https://www.gpo.gov/fdsys/pkg/FR-2017-11-03/pdf/2017-24010.pdf>