



VEOLIA NORTH AMERICA - INDUSTRIAL BUSINESS REGULATORY UPDATE - April 2018

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A. EPA Electronic-Manifest System: Update

On April 16, 2018, the Environmental Protection Agency (EPA) held an electronic manifest (e-Manifest) Application Programming Interface (API) webinar and on April 25, 2018, EPA held a general e-Manifest webinar. The theme for the April 25 webinar was “General Information Update.”

In April, EPA’s e-Manifest development team released a significant amount of new functionality related to discrepancies, PCBs, residues, and uploading paper manifests with data to the e-Manifest system. Updates were also made to the JSON schema in GitHub. “User Experience” testing is being conducted with an interface between the tester and the development team. The development team has also released a search functionality and State Services functions.

The General e-Manifest webinar provided updates on:

1. The Site Managers role
2. Instructional videos
3. Updates on e-Manifest system functionality
4. Demonstrated “How to Sign a Manifest” in the e-Manifest system

EPA continues their e-Manifest programming efforts and announces their progress during the monthly API webinars. EPA continues to state that the e-Manifest system will be effective on June 30, 2018.

Links

The link below provides access to EPA’s e-Manifest Monthly Update Webpage.

<https://www.epa.gov/e-manifest/monthly-webinars-about-hazardous-waste-electronic-manifest-e-manifest#materials>

The link below will allow you to view/print the slides from the April 25, 2018 webinar.

https://www.epa.gov/sites/production/files/2018-04/documents/final_april_25_e-manifest_webinar_slides_and_template.pdf

B. EPA The Appropriate Use of Compliance Tools in Civil Enforcement Settlements; Memorandum

On April 3, 2018, Susan Bodine, EPA Assistant Administrator, published a memorandum (memo) titled “The Appropriate Use of Compliance Tools in Civil Enforcement Settlements.” This memo replaces a 2015 memo to clarify that there is no default expectation that “innovative enforcement” provisions will be routinely sought as injunctive relief. The previous memo (“Use of Next Generation Compliance Tools in Civil Enforcement Settlements”) discussed the topic of injunctive relief in connection with the “innovative enforcement” element of the Next Generation Compliance initiative which suggested that “innovative enforcement” tools such as advanced monitoring and independent third-party verification of settlement obligations should routinely be included in Agency settlements.

Examples of innovative enforcement tools includes:

1. The use of infrared cameras to detect fugitive emissions,
2. Electronic monitoring,
3. Data analytics,
4. Targeting

In the memo EPA states that there should not be an expectation that any particular element of injunctive relief should routinely be included in all settlements and the appropriate tools that are included in a settlement should be determined on the particular facts and circumstances of each case.

Effective Date

This memorandum became effective on the date of publication, April 3, 2018.

Link

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

<https://www.epa.gov/sites/production/files/2018-04/documents/memoonappropriateuseofcompliancecetooleincivilenforcementsettlements.pdf>

C. DOT/FMCSA Electronic Documents and Signatures

On April 16, 2018, the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) published a final rule (83 FR 16210-16228) amending the federal motor carrier regulations to allow the use of electronic records and signatures to satisfy FMCSA's regulatory requirements.

Background

In recent years, FMCSA has received a number of requests from motor carriers requesting permission to use electronic methods to comply with various federal motor carrier regulations that require motor carriers to generate, sign, or store documents. On January 4, 2011, FMCSA issued regulatory guidance to 49 CFR 390.31 regarding the use of electronic signatures to satisfy FMCSA's regulatory requirements.

On April 28, 2014, FMCSA published a notice of proposed rulemaking (NPRM) that proposed incorporating the 2011 guidance into regulations with some revisions. The NPRM proposed to codify FMCSA's guidance issued under 49 CFR 390.31 and eliminate references to outdated recordkeeping and reporting methods. The goal of the proposed rule was to establish parity between paper and electronic documents and signatures, and expand entities ability to use electronic means to comply with federal motor carrier regulations. The NPRM only applied to documents where FMCSA requires entities to retain copies of the documents.

Summary

This final rule adopts the NPRM substantially as proposed and establishes parity between paper and electronic documents and signatures. The final rule only applies to documents between private parties that FMCSA requires entities to retain copies of. It does not apply to forms or other documents that must be submitted directly to FMCSA unless there are already procedures in place in the regulations for electronic submission to FMCSA. Some of FMCSA's rules that are impacted by this final rule include:

1. Hours of Service (HOS) of Drivers Regulations
2. Inspection, Repair and Maintenance
3. Driver Qualification Files
4. Medical Qualification Files
5. Accident Reporting Requirements
6. Commercial Driver Licensing and Test Standards
7. Transportation of Hazardous Materials, Highway Routing
8. Training Certification for Entry-Level Commercial Motor Vehicle Operators
9. Hazardous Materials Safety Permits
10. FMCSA Registration
11. Commercial Motor Vehicle Marking Requirements
12. Commercial Driver's License Drug and Alcohol Clearinghouse
13. Electronic Logging Device (ELD) Registration

This rule does not impose new requirements, and it is expected to provide regulatory relief to industry. It codifies previously issued regulatory guidance that provides flexibility to the industry in the use of electronic documents and electronic signatures, and removes outdated and obsolete references in the regulatory text. Because the previously issued regulatory guidance that is now being codified has been in place for several years, since January 4, 2011, it is believed that many regulated entities for whom the use of electronic documents and methods best suits their needs may have already made this transition from traditional paper-based methods. Therefore, many of the potential cost savings possible from this rule may have largely already occurred.

Effective Date

This final rule will become effective on June 15, 2018.

Link

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

<https://www.gpo.gov/fdsys/pkg/FR-2018-04-16/pdf/2018-07749.pdf>

D. DOJ/DEA Schedules of Controlled Substances: Placement of Butyryl Fentanyl and U-47700 into Schedule I; Final Order

On April 20, 2018, the Department of Justice, Drug Enforcement Administration (DEA) published a final order (83 FR 17486-17488) maintaining the placement of butyryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide) and U-47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide), including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, in schedule I of the Controlled Substances Act (CSA).

Summary

On May 12, 2016, and November 14, 2016, butyryl fentanyl and U-47700, were temporarily placed into Schedule I of the CSA to avoid an imminent hazard to public safety. Both substances share a pharmacological profile similar to fentanyl, morphine, and other synthetic opioids and are known to be abused for their opioid-like effects. Because these substances have no known currently accepted medical use in the United States and to meet the United States' obligations under the single Convention on Narcotic Drugs, DEA has determined that these substances should remain in Schedule I of the CSA.

Effective Date

This final order became effective on the date of publication, April 20, 2018.

Link

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

<https://www.gpo.gov/fdsys/pkg/FR-2018-04-20/pdf/2018-08280.pdf>