

Veolia North America - Industrial Business Regulatory Update - July 2019

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No Health and Safety Updates for July 2019.

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A. US Court of Appeals Definition of Solid Waste Ruling

Agency

United States Court of Appeals for the District of Columbia Circuit

Dates

Published Date: July 2, 2019

Summary

On July 2, 2019, the U.S. Court of Appeals for the District of Columbia Circuit (the Court) released their decision upholding the transfer based exclusion in the Definition of Solid Waste Rule published in 2018.

On October 30, 2008, EPA published a final rule (73 FR 64668) revising the definition of solid waste to exclude certain hazardous secondary materials (HSM) from regulation as a hazardous waste under RCRA as long as certain criteria were met. In 2015, EPA published revisions to the final rule that included provisions associated with the definition of solid waste. Of most significance, EPA replaced the transfer-based exclusion with a verified-recycler exclusion and made the legitimacy criteria more restrictive by making it mandatory to comply with all four of the legitimacy criteria.

In 2018 EPA published a final rule reinstating the transfer-based exclusion and amending the legitimacy criteria requirements by requiring the fourth criteria (that the secondary must not contain significant concentrations of hazardous constituents that are not found in analogous products) to be "considered" not mandatory.

Environmental groups challenged this final rule.

On July 2, 2019, the Court denied the Environmental groups challenge. The ruling keeps in place:

The transfer-based exclusion as long as the first three legitimacy criteria are met and the fourth is considered. The four criteria are:

1. Legitimate recycling must involve a hazardous secondary material that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process;
2. The recycling process must produce a valuable product or intermediate;
3. The hazardous secondary material must be managed as a valuable commodity; and
4. The product of the recycling process must be comparable to a legitimate product or intermediate.

Reference/Link

Publication: United States Court of Appeals for the District of Columbia Circuit No. 18-1163

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

[https://www.cadc.uscourts.gov/internet/opinions.nsf/426A1EEDDE9B8B568525842B00503A26/\\$file/18-1163-1795406.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/426A1EEDDE9B8B568525842B00503A26/$file/18-1163-1795406.pdf)

B. EPA Enhancing Effective Partnerships Between the EPA and the States in Civil Enforcement and Compliance Assurance Work; Notice of Availability

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: July 19, 2019

Effective Date: July 19, 2019

Summary

The Environmental Protection Agency (EPA) Office of Enforcement and Compliance Assurance (OECA) has issued a final policy on Enhancing Effective Partnerships Between the EPA and the States in Civil Enforcement and Compliance Assurance Work. This final policy incorporates feedback collected through the public notice process and established expectations and procedures for enhancing effective partnerships in civil enforcement and compliance assurance work between EPA and authorized states.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2019-07-19/pdf/2019-15309.pdf>

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

<https://www.epa.gov/sites/production/files/2019-07/documents/memoenhancingeffectivepartnerships.pdf>.

C. EPA Review of the Dust-Lead Hazard Standards and the Definition of Lead-Based Paint; Final Rule

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: July 9, 2019

Effective Date: January 6, 2020

Summary

As part of EPA's efforts to reduce childhood lead exposure, EPA evaluated the current dust-lead hazard standards (DLHS) and the definition of lead-based paint (LBP). Based on their evaluation, EPA is revising the DLHS from 40 ug/ft² and 250 ug/ft² to 10 ug/ft² and 100 ug/ft² on floors and window sills respectively. EPA is also finalizing its proposal to make no change to the definition of LBP because it did not have sufficient information to support making any changes at this time.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2019-07-09/pdf/2019-14024.pdf>

D. DOT/FMCSA Incorporation by Reference; North American Standard Out-of-Service Criteria;

Hazardous Materials Safety Permits; Final Rule

Agency

Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA)

Dates

Published Date: July 8, 2019

Effective Date: July 8, 2019

Summary

FMCSA amends its Hazardous Materials Safety Permit regulations to incorporate by reference the April 1, 2018, edition of the Commercial Vehicle Safety Alliance's (CVSA) "North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR part 173.403." The Out-of-Service Criteria provide uniform enforcement tolerances for roadside inspections to enforcement personnel nationwide, including FMCSA's State partners.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2019-07-08/pdf/2019-14226.pdf>

E. DOT/FMCSA Third Party Commercial Driver's License Testers; Notice of Proposed Rulemaking

Agency

Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA)

Dates

Published Date: July 9, 2019

Comments Due: September 9, 2019

Summary

In this notice of proposed rulemaking (NPRM), FMCSA is proposing to allow States to permit a third party skills test examiner to administer the Commercial Driver's License (CDL) skills test to applicants to whom the examiner has also provided skills training. Under this proposal, States would have the option to permit this practice, which is currently prohibited under FMCSA rules. The Agency believes that allowing States to permit this practice could alleviate CDL skill testing delays and reduce inconvenience and cost for third party testers and CDL applicants, without negatively impacting safety.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2019-07-09/pdf/2019-14225.pdf>

F. DOT/FMCSA Partial Extension of Compliance Date for Entry-Level Driver Training; Notice of

Proposed Rulemaking; Extension of Comment Period

Agency

Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA)

Dates

Published Date: July 18, 2019

Comments Due: August 19, 2019

Summary

FMCSA proposes to extend the compliance date for two provisions from the final rule, “Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators” (81 FR 88732, Dec. 8, 2016) (ELDT final rule) from February 7, 2020, to February 7, 2022. The proposed two-year extension would delay the date by which training providers must begin uploading driver-specific training certification information into the Training Provider Registry (TPR), an electronic database that will contain entry-level driver training (ELDT) information. It would also delay the date by which State Driver Licensing Agencies (SDLAs) must confirm that applicants for a commercial driver's license (CDL) have complied with ELDT requirements prior to taking a specified knowledge or skills test. Drivers seeking a CDL or endorsement on or after February 7, 2020, must still complete the required training, as set forth in the ELDT final rule.

Reference/Link

The link below will allow you to view/print this notice of proposed rulemaking; extension of comment period.

<https://www.govinfo.gov/content/pkg/FR-2019-07-18/pdf/2019-14956.pdf>

G. DOT/FMCSA Commercial Driver's License Out-of-State Knowledge Test; Notice of Proposed Rulemaking

Agency

Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA)

Dates

Published Date: July 29, 2019

Comments Due: September 27, 2019

Summary

The FMSA proposes to allow driver applicants to take the commercial driver's license (CDL) general and specialized knowledge tests in a State (the testing State) other than the applicant's State of domicile. Under this proposed rule, a State would not be required to offer the knowledge tests to out-of-State applicants. However, if the testing State elects to offer the knowledge tests to these applicants, it would transmit the results to the State of domicile, which would be required to accept the results. Because this proposal would not change the existing standards for administration of the knowledge tests, FMCSA concludes it would have no detrimental impact on safety.

Reference/Link

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

G. DOT/FMCSA Certification for Conducting Driver or Vehicle Inspections, Safety Audits, or Investigations; Notice of Proposed Rulemaking

Agency

Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA)

Dates

Published Date: July 8, 2019

Comments Due: September 6, 2019

Summary

FMCSA is proposing to include by reference the current policy and practices for FMCSA employees, State or local government employees, and contractors to obtain and maintain certifications for conducting driver or vehicle inspections, safety audits, or investigations. The Fixing America's Surface Transportation Act (FAST Act) requires FMCSA to incorporate by reference in its regulations the Commercial Vehicle Safety Alliance's (CVSA) "Operational Policy 4: Inspector Training and Certification." This proposed rule, if adopted, would also replace an interim final rule (IFR) in place since 2002 that referenced the certification procedures published on the FMCSA website. No changes would be made to the certification policy or procedures currently followed by individuals to obtain and maintain certification to conduct driver or vehicle inspections, safety audits, or investigations.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2019-07-08/pdf/2019-14224.pdf>

H. OSHA Review of the Dust-Lead Hazard Standards and the Definition of Lead-Based Paint; Final Rule

Agency

Occupational Safety and Health Administration (OSHA)

Dates

Published Date: July 9, 2019

Effective Date: January 6, 2020

Summary

As part of EPA's efforts to reduce childhood lead exposure, EPA evaluated the current dust-lead hazard standards (DLHS) and the definition of lead-based paint (LBP). Based on their evaluation, EPA is revising the DLHS from 40 ug/ft² and 250 ug/ft² to 10 ug/ft² and 100 ug/ft² on floors and window sills respectively. EPA is also finalizing its proposal to make no change to the definition of LBP because it did not have sufficient information to support making any changes at this time.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2019-07-09/pdf/2019-14024.pdf>

I. DHS Chemical Facility Anti-Terrorism Standards; Personnel Surety Program Implementaiton Notice

Agency

Department of Homeland Security (DHS)

Dates

Published Date: July 9, 2019

Effective Date: July 9, 2020

Summary

Cybersecurity and Infrastructure Security Agency (CISA) is publishing notice to inform high-risk chemical facilities, in particular Tier 3 and Tier 4 facilities, regulated under Chemical Facility Anti-Terrorism Standards (CFATS) of the full implementation of the CFATS Personnel Surety Program at all high-risk chemical facilities. CISA has previously implemented the Personnel Surety Program at Tier 1 and 2 facilities. CISA will not implement the program in a phased manner at all high-risk chemical facilities, to include Tier 3 and 4 facilities. High-risk chemical facilities will be individually notified when to begin implementing risk based performance standard (RBPS) 12 in accordance with its Site Security Plan (SSP). High-risk chemical facilities at which the CFATS Personnel Surety Program is already implemented are unaffected by this notice.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2019-07-09/pdf/2019-14591.pdf>

J. DOJ/DEA Schedules of Controlled Substances: Temporary Placement of N-Ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-Chloro-α-PVP in Schedule I; Temporary Scheduling Order

Agency

Department of Justice, Drug Enforcement Administration (DEA)

Dates

Published Date: July 18, 2019

Effective Date: July 18, 2020

Summary

On July 18, 2019, the Department of Justice, Drug Enforcement Administration (DEA) published a temporary scheduling order to place the following synthetic cathinones in schedule I. These include N-ethylhexedrone (2-(ethylamino)-1-phenylhexan-1-one); alpha-pyrrolidinohexanophenone (1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one; alpha-pyrrolidinohexiophenone; trivial name: α-PHP); 4-methyl-alpha-ethylaminopentiophenone (2-(ethylamino)-1-(4-methylphenyl)pentan-1-one; trivial name: 4-MEAP); 4'-methyl-alpha-pyrrolidinohexiophenone (1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one; 4'-methyl-alpha-pyrrolidinohexanophenone; trivial name: MPHP); alpha-pyrrolidinoheptaphenone (1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one; trivial

name: PV8); and 4'-chloro-alpha-pyrrolidinovalerophenone (1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one; 4'-chloro-alpha-pyrrolidinopentiophenone; trivial name: 4-chloro-a-PVP), and their optical, positional, and geometric isomers, salts, and salts of isomers in schedule I.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2019-07-18/pdf/2019-15184.pdf>