

Veolia North America - Industrial Business

March, 2022

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MISCELLANEOUS UPDATES

No Miscellaneous Updates for March 2022

A. New Toxics Release Inventory Data Show Decline in Releases of Certain Toxic Chemicals; News Release

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 03/03/2022

Summary

On March 3, 2022, the Environmental Protection Agency (EPA) published a news release to announce the release of the 2020 Toxics Release Inventory (TRI) National Analysis. The analysis shows that companies managing chemicals continue to make progress in pollution prevention and reducing chemical releases into the environment. The total releases of TRI chemicals nationwide decreased by 10% from 2019 to 2020.

TRI chemicals include chemicals that cause:

- Cancer or other chronic human health effects
- Significant adverse acute human health effects
- Significant adverse environmental effects

Enhancements were made to make the data more useful and accessible to communities, including those with environmental justice concerns. Specifically, the EPA has added demographic information to the “Where You Live” mapping tool in order to help policymakers and stakeholders identify areas where vulnerable communities have been potentially exposed to air and water pollution.

The EPA is offering \$23 million in grant funding opportunities for states and tribes to develop and provide businesses with information, training and tools to help them adopt pollution prevention (P2) practices.

From 2011 to 2020, releases in Region 7 decreased by 35.7 million pounds (21%), due primarily to reduced releases from the electric utilities, metal mining, and primary metals sectors. For 2020, 5% of Region 7 facilities reported implementing new source reduction activities.

To access the 2020 TRI National Analysis please click the following link:

<https://www.epa.gov/trinationalanalysis>

For information on facility efforts to reduce TRI chemical releases please click the following link:

<https://www.epa.gov/toxics-release-inventory-tri-program/pollution-prevention-p2-and-tri>

Reference/Link

The link below will allow you to view/print this News Release

<https://www.epa.gov/newsreleases/new-epa-toxics-release-inventory-data-show-decline-releases-certain-toxic-chemicals-0>

B. New EPA Tool Provides the Public with Customized Updates on Local Enforcement and Compliance Activities; News Release

Agency

Environmental Protection Agency (EPA)

Dates

Published Date: 03/22/2022

Summary

The EPA has announced the release of a new web tool, called “ECHO Notify,” that facilitates members of the public to stay informed about important environmental enforcement and compliance activities in their communities.

Using ECHO Notify, users can sign up to receive weekly emails when new information is available within the selected geographic area, such as when a violation or enforcement action has taken place at a nearby facility.

EPA has prepared a video that provides an overview of ECHO Notify and explains how to use it. The video can be seen here:

<https://www.youtube.com/watch?v=gqOxKU165KY&feature=youtu.be>

To access the tool “ECHO Notify” click the following link or copy it into your browser:

<https://echo.epa.gov/tools/echo-notify>

Reference/Link

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

[https://www.epa.gov/newsreleases/new-epa-tool-provides-public-customized-updates-local-enforcement-and-compliance#:~:text=WASHINGTON%20\(March%2022%2C%202022\),compliance%20activities%20in%20their%20communities.](https://www.epa.gov/newsreleases/new-epa-tool-provides-public-customized-updates-local-enforcement-and-compliance#:~:text=WASHINGTON%20(March%2022%2C%202022),compliance%20activities%20in%20their%20communities.)

C. **Records of Violations; Final Rule**

Agency

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

Dates

Published Date: 03/09/2022

Effective Date: 05/09/2022

Comments Due: 04/08/2022

Summary

FMCSA is amending its regulations to eliminate the requirement that drivers operating commercial motor vehicles (CMVs) in interstate commerce prepare and submit a list of their convictions for traffic violations to their employers annually. This requirement is largely duplicative of a separate rule that requires each motor carrier to make an annual inquiry to obtain the motor vehicle record (MVR) for each driver it employs from every State in which the driver holds or has held a CMV operator's license or permit in the past year. To ensure motor carriers are aware of traffic convictions for a driver who is licensed by a foreign authority rather than by a State, the Agency amends the rule to provide that motor carriers must make an annual inquiry to each driver's licensing authority where a driver holds or has held a CMV operator's license or permit.

In this final rule, the Agency rescinds 49 CFR §391.27 (Record of violations) and removes all related references to the rule in the Federal Motor Carrier Safety Regulations (FMCSRs). §391.27 provides that each motor carrier must, at least once every 12 months, require each driver it employs to prepare and furnish the motor carrier with a list of all violations of motor vehicle traffic laws and ordinances, other than violations involving only parking, for which the driver has been convicted or has forfeited bond or collateral during the preceding 12 months. When a driver does not have any such violations to report, the driver is required to furnish a certification to that effect. The motor carrier must retain the list of violations or certification of no violations in the driver's qualification file.

FMCSA retains the requirement in §391.25(a) (Annual inquiry and review of driving record) for an annual MVR inquiry. §391.25 requires each motor carrier to make an annual inquiry to obtain the MVR for each driver it employs from every State in which the driver holds or has held a CMV operator's license or permit in the past year. The motor carrier must review the MVR obtained and maintain a copy of it in the driver's qualification file. §391.25 applies to all motor carriers, domestic and foreign, but is limited to inquiries for drivers licensed by a State.

To ensure motor carriers are aware of traffic convictions for a driver who is licensed by a foreign authority rather than by a State, FMCSA amends §391.25(a) to require motor carriers to inquire annually of each driver's licensing authority where a driver holds or has held a CMV operator's license or permit. This change requires motor carriers to request MVRs from Canadian and Mexican driver's licensing authorities.

To maintain consistency within part 391 with respect to requests for MVRs, FMCSA is making conforming changes to the hiring process. The Agency amends §391.23 (Investigation and inquiries) to require a motor carrier to make an inquiry to each driver's licensing authority where the driver holds or has held a motor vehicle operator's license or permit during the preceding 3 years to obtain the driver's MVR when a motor carrier is hiring a driver. FMCSA changes §391.21 (Application for employment) to require each driver to provide on the employment application the issuing driver's licensing authority of each unexpired CMV operator's license or permit that has been issued to the driver so motor carriers can make the required inquiries under §391.23.

Reporting of Traffic Convictions

This rule only eliminates §391.27 and its requirement that drivers operating CMVs in interstate commerce prepare and submit a list of their traffic convictions to their employers annually. It does not change the requirement in §383.31 for CDL drivers to inform their employers of all traffic convictions in any type of vehicle within 30 days. It also does not change the conviction information required to be provided to prospective employers on employment applications under §391.21. Thus, convictions for driving while intoxicated and driving under the influence continue to be reportable under §§383.31 and 391.21. These regulations require reporting of all traffic convictions other than those that relate only to parking.

Regulatory Guidance

FMCSA employs guidance to explain how the Agency applies regulations to specific facts. Such guidance does not have the force and effect of law, is strictly advisory, and is not meant to bind the public in any way. Conformity with guidance is voluntary. Guidance is intended only to provide information to the public regarding existing requirements under the law or FMCSA policies. The guidance does not alter the substance of a regulation. Guidance for specific regulations is available through the Guidance Portal on FMCSA's website. This rule amends regulations that have associated guidance. FMCSA changes the guidance related to §391.23, 391.25 and 391.27 to conform to the changes made in this rule.

Overview of Changes

Effective beginning May 9, 2022, drivers will no longer be required to complete a Certificate of Violations form to report if any violations were received in the prior year and the form will no longer be required for placement in the driver qualification file.

The requirements to obtain an initial motor vehicle report for driver applicants and on an annual basis for driver employees remain unchanged.

Drivers must also continue to inform their employer of all traffic convictions in any type of vehicle within 30 days as currently required under §383.31.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2022-03-09/pdf/2022-04930.pdf>

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, Director, Environment at kevin.mcgrath@veolia.com.

D. Commercial Driver's License Out-of-State Knowledge Test; Withdrawal

Agency

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

Dates

Withdrawn Date: 03/09/2022

Original Proposed Rule Published Date: 07/29/2019

Summary

After consideration of comments received by the agency, FMCSA is withdrawing a notice of proposed rulemaking (NPRM) to allow driver applicants to take the commercial driver's license (CDL) general and specialized knowledge tests in a State other than the applicant's State of domicile. The NPRM also proposed that the applicant's State of domicile would be required to accept knowledge test results from the testing State.

In August 2017, FMCSA issued regulatory guidance titled, "Commercial Driver's License Standards: Regulatory Guidance Concerning the Issuance of Commercial Learner's Permits" (August 2017 Guidance) (82 FR 36101 (Aug. 3, 2017)), which clarified the circumstances under which a CDL applicant's State of domicile may accept the results of knowledge testing administered to the applicant in another State. The August 2017 Guidance permits the testing State and the State of domicile to enter into a voluntary agreement prior to the general knowledge test being administered by the testing State. The guidance emphasizes that, because only the State of domicile is authorized to issue a Commercial Learner's Permit (CLP) or CDL, the responsibility for compliance with the requirements of 49 CFR 383.71 (driver application and certification) and 383.73 (CLP/CDL issuance) remains with the State of domicile. To the Agency's knowledge, no States have entered into an agreement pursuant to the August 2017 Guidance.

On July 29, 2019, FMCSA published in the Federal Register (Docket No. FMCSA-2018-0332, 84 FR 36552) a NPRM to amend 49 CFR 383.79(a)(1) and (2) by permitting a State also to administer knowledge test(s) to an out-of-state applicant, and by requiring the State of domicile also to accept those knowledge testing results.

The Agency carefully considered all comments received in response to the NPRM. The NPRM was intended to promote further flexibility in the CDL issuance process without negatively impacting safety. All State commenters noted that due to process complexities associated with the proposed change, State Driver's Licensing Agencies (SDLAs) would need to implement significant changes to accommodate the receipt of out-of-State knowledge test results. Given States' security and operational concerns surrounding out-of-State knowledge testing, including remote delivery of the CLP credential, FMCSA concludes the proposed change is not advisable at this time. However, States may enter into voluntary agreements for out-of-State knowledge testing in accordance with the August 2017 Guidance.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2022-03-09/pdf/2022-04966.pdf>

E. Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators; Correction

Agency

Federal Motor Carrier Safety Administration (FMCSA)

Dates

Published Date: 03/18/2022

Effective Date: 02/07/2022

Summary

FMCSA has removed obsolete regulatory text from its June 30, 2021, entry-level driver training (ELDT) final rule. The section-by-section analysis in the March 7, 2016 notice of proposed rulemaking (NPRM) concerning the ELDT requirements proposed that, upon the effective date of the final rule, Subpart E, consisting of §§380.501 through 380.513, pertaining to the old driver training standards would be removed from the regulations and the subpart reserved for future use. However, the Agency omitted the amendatory instruction needed to remove and reserve the subpart from the December 8, 2016 final rule. FMCSA has corrected the omission, which was repeated in subsequent ELDT rulemaking notices, the most recent being the June 2021 final rule.

With Subpart E being removed from the regulations, drivers who received their CDL between July 31, 2003 and February 6, 2022, will no longer be required to complete the previously required entry level driver training program. Entry level driver training is only required for CDL/CDL permit drivers who receive the CDL permit, wish to upgrade their current CDL, or add the hazardous materials endorsement on or after February 7, 2022. The new entry level driver training program must be completed with a registered third party training provider. As a result, the certificate for the old entry level driver training program will no longer be collected and retained in the driver qualification file.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2022-03-18/pdf/2022-05709.pdf>

F. Hazardous Materials: Frequently Asked Questions - Applicability of the Hazardous Material Regulations; Notice; Request for Comments

Agency

Pipeline and Hazardous Materials Safety Administration (PHMSA)

Dates

Published Date: 03/22/2022

Comments Due: 05/23/2022

Summary

PHMSA is announcing an initiative to convert historical letters of interpretation (LOI) applicable to the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180) that have been issued to specific stakeholders into broadly applicable frequently asked questions on its website. By creating a repository of frequently asked questions, PHMSA seeks to eliminate the need for recurring requests for common LOI. This Federal Register Notice introduces this initiative and its objectives to those subject to the Hazardous Materials Regulations. PHMSA's objective is to gain insight regarding the utility of this initiative and topics to prioritize in the development of future frequently asked questions. PHMSA requests comment on the initiative and input on the prioritization of future sets of frequently asked questions.

The FAQs contained in this notice are intended to clarify, explain, and promote better understanding of the HMR. FAQs are not substantive rules, themselves, and do not create legally enforceable rights, assign duties, or impose new obligations not otherwise contained in the existing regulations and standards, but are provided to help the regulated community understand how to comply with the regulations. However, an individual who can demonstrate compliance with an FAQ is likely to be able to demonstrate compliance with the relevant regulations. If a different course of action is taken by an individual, the individual must be able to demonstrate that its conduct is in accordance with the regulations.

PHMSA is creating a repository of these questions, which will remove the need for recurring requests for common letters of interpretation and will assist PHMSA in streamlining the use of its resources by eliminating frequently asked and recurring LOI. This initiative will provide additional value to PHMSA's Online Code of Federal Regulations (oCFR) tool found at <https://www.phmsa.dot.gov/standards-rulemaking/hazmat/phmsas-online-cfr-ocfr>. The oCFR tool is an interactive web-based application that allows users to navigate with a single click between all content, including LOI connected to an HMR citation. The oCFR tool includes the ability to sort, filter, and export search results. Upon completion of this initiative, the PHMSA Office of Hazardous Materials Safety (OHMS) will be able to achieve efficiencies for other more complex or novel requests for LOI and devote resources to other hazardous materials transportation safety projects.

Frequently Asked Questions: Applicability of Hazardous Materials Regulations to Persons and Functions

49 CFR 171.1 addresses the applicability of the HMR for the safe and secure transportation of hazardous materials in commerce. PHMSA proposes to publish the following series of FAQs in the Federal Register and on its website to facilitate a better understanding of the HMR applicability requirements and avoid the need for responding to frequent and recurring questions already addressed in accordance with §105.20.

(1) Question: Is a Federal, state, or local government agency subject to the HMR?

Answer: Pursuant to § 171.1(d)(5), a Federal, state, or local government that transports hazardous materials for non-commercial governmental purposes using its own personnel is not engaged in transportation in commerce and, therefore, is not subject to the HMR. As specified in § 171.1, the HMR governs the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce. The term “in commerce” does not include a Federal, state, or local government that transports hazardous materials for its own use, using its own personnel, and motor vehicles, aircrafts, or vessels under its control.

(2) Question: Are state universities subject to the HMR when transporting hazardous materials?

Answer: A state agency—such as a state university—that transports hazardous materials for its own non-commercial use, using its own personnel and vehicles, is not engaged in transportation in commerce and, therefore, is not subject to the HMR. However, if the university is privately-operated or is a state university offering hazardous materials for transportation to commercial carriers, the HMR apply.

(3) Question: Is a hazardous material transported on private roads subject to the HMR?

Answer: Section 171.1(d)(4) states that the transportation of hazardous materials entirely on private roads with restricted public access is not subject to the HMR.

(4) Question: Is a hazardous material subject to the HMR that only crosses a public road?

Answer: The transportation of hazardous materials that, for example, takes place by motor vehicle and within a contiguous plant or factory boundary, is not subject to the HMR. However, intra-plant transport that utilizes or crosses a public road is subject to the HMR during that portion of the transportation unless access to the public road is restricted by gates, traffic signals, guard stations, or similar controls, in accordance with § 171.1(d)(4).

(5) Question: Are hazardous materials installed or used in or on a motor vehicle (e.g., gasoline in the motor vehicle's fuel tank) subject to the HMR?

Answer: Hazardous materials that are installed or used in or on a motor vehicle such as the motor vehicle's fuel, suspension, or safety systems are not subject to the HMR. Fuel systems and safety equipment may be subject to the Federal Motor Carrier Safety Regulations (FMCSR) or National Highway Traffic Safety Administration (NHTSA) requirements.

(6) Question: Is the filling of a package with a hazardous material subject to the HMR if it is not being offered for transportation in commerce? For example, pouring a flammable liquid into bottles that may be transported eventually.

Answer: The answer is no. However, if there is a chance of future transportation in commerce, the stakeholder should consider placing that hazardous material in packaging suitable for transportation of that material in commerce to minimize safety risks associated with its re-packaging.

(7) Question: Are stationary (storage) tanks containing a hazardous material such as propane subject to the HMR?

Answer: The answer is no, unless the tank is transported in commerce containing a hazardous material or its residue or if it is represented and maintained as a Department of Transportation (DOT) packaging usable for hazmat transportation.

(8) Question: Are hazardous materials being transported for personal use subject to the HMR? For example, are pesticides that are transported from a store by individuals to treat their garden subject to the HMR?

Answer: The answer is no. Under part 171, the phrase “in commerce” means in furtherance of a commercial enterprise and transportation in a private motor vehicle for personal use is not considered in furtherance of a commercial enterprise even when transported in a leased or rented vehicle.

(9) Question: Are privately-owned SCUBA tanks that are used for diving and marked as DOT specification cylinders subject to the HMR?

Answer: A SCUBA tank that is represented as conforming to HMR requirements—i.e., marked with a DOT specification marking—must be maintained by the owner of said SCUBA tank in accordance with the applicable specification requirements whether or not it is in transportation in commerce.

(10) Question: Are government-owned hazardous materials transported for government purposes by contractor personnel subject to the HMR?

Answer: The answer is yes. As provided in § 171.1(d)(5), the HMR does not apply to transportation of a hazardous material in a motor vehicle, aircraft, or vessel operated by a Federal, state, or local government employee solely for noncommercial Federal, state, or local government purposes. However, contractor personnel are not considered government employees and the provisions of the HMR apply.

(11) Question: Are gasoline cans transported by a landscaping company by motor vehicle subject to the HMR?

Answer: Commercial businesses—such as landscaping, swimming pool services, or construction companies—transporting hazardous materials are considered “in commerce” and subject to the HMR. However, when used in support of a business, the HMR provides an exception in § 173.6 for the transport of “materials of trade.”

(12) Question: Are household hazardous wastes that are transported by a private person to a county drop-off facility subject to the HMR?

Answer: The answer is no, provided the household hazardous wastes are the individual's personal property and he or she is not engaged in a commercial activity, such as a landscaping company or carpentry service.

Reference/Link

The link below will allow you to view/print this Request for Comments.

<https://www.govinfo.gov/content/pkg/FR-2022-03-22/pdf/2022-05958.pdf>

G. Improve Tracking of Workplace Injuries and Illnesses; Proposed Rule

Agency

Occupational Safety and Health Administration (OSHA)

Dates

Published Date: 03/30/2022

Comments Due: 05/31/2022

Summary

The Occupational Safety and Health Administration (OSHA) is proposing to amend the regulations on injury and illness recordkeeping. The changes to the regulations include the following:

- Requiring establishments with 100 or more employees in certain designated industries to electronically submit information from their OSHA Forms 300, 301, and 300A to OSHA once a year.
- Establishments with 20 or more employees in certain industries would continue to be required to electronically submit information from their OSHA Form 300A annual summary to OSHA once a year.
- Updating the classification system used to determine the list of industries covered by the electronic submission requirement.
- Removing the current requirement for establishments with 250 or more employees, not in a designated industry, to electronically submit information from their Form 300A to OSHA on an annual basis.

OSHA intends to post the data from the proposed annual electronic submission requirement on a public website after identifying and removing information that reasonably identifies individuals directly, such as individuals' names and contact information.

Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2022-03-30/pdf/2022-06546.pdf>