

Environmental Compliance & Transportation Information Bulletin



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Editor's Corner

Viva Las Vega! Well, I guess what they say is true... location, location, location. We have the initial and recertification DOT manifesting courses in Vegas next week. We have 40 students in the initial class and 42 students in the recertification class. It will be a very busy week. Biggest classes we have had in a long time. Wonder what happens if we have it in Hawaii in two years? (Sorry, only kidding.)

We will be in Vegas during St. Patrick's Day which raises two concerns. The first obviously has to do with our students, the luck of the Irish (while in Vegas) and green beer (while in Vegas). The second concern is that my 7 year old son is just itching to dye his hair green. Daddy, don't let him do it!

All else is fine in Omaha and as always, we are just a phone call away, so if you need me or the CX, do not hesitate to call! You know where to find us!

Very sincerely,

Sandi Zebrowski

Upcoming training sessions

Our surveyed initial and recertification courses for this year are in Las Vegas 16-20 March. We do anticipate several onsite courses this FY, so contact Beverly VanCleaf at 402-697-2559 or Rick Waples at 402-697-2560 if you need recertification or initial training.

I would anticipate the FY2010 survey to be out in April or May. Our initial course 223 is scheduled for 15-19 March 2010 in Orlando. Our recertification course 429 is scheduled for 17



and 18 March in Orlando. Please sign up when the survey comes out if you need initial or recertification next year.

Also, please let your districts and customers know about the upcoming training survey. Remember, our PROSPECT courses are open to all federal agencies and all interested in attending should sign up during the survey. In addition, onsite training is always available as well.

Testing the 24-hour Hour Emergency Response Phone Number

by Richard Waples

We all should be familiar with the DOT requirement in 49 CFR 172.602 that any person who offers a hazardous material for transportation must provide an emergency response phone number. DOT requires that this telephone number must be: 1) Monitored at all times while the hazardous material is in transportation; 2) The person answering the phone must either be knowledgeable of the hazardous material shipment and has comprehensive emergency response and mitigation information or they have immediate access to a person that possesses such knowledge and information; and 3) The telephone number must be on the shipping paper.



Mr. James (Jim) Boyle, Buffalo District Construction Representative for the Linde FUSRAP site takes the emergency response phone number requirement very seriously and on his own initiative started performing routine tests on his Contractor to ensure that the telephone number works and the necessary information is readily available. Jim's last test of the emergency response phone number on December 12, 2008 was a successful test, but he still felt there should be improvements. Jim told the EM CX that it took 26 minutes for the Contractor to sort through the numerous shipping papers they had to match it to the intermodal container that he identified. Jim felt the time needed to be reduced and after working with his Contractor, they developed a spreadsheet system to help organize the shipping papers and tie them to the railcar and intermodal containers to expedite the process. Jim also explained that he doesn't want the Contractor to just create a spreadsheet that doesn't include all the emergency response information, so when he does his tests, he tries to ask questions that will require the person to have the actual shipping paper in front of them. Jim mentioned that when their rail carrier had a derailment near Cleveland, Ohio on February 10, 2008, the emergency phone number was called and the Contractor was able to answer the questions from the emergency responders.

We would recommend that all Districts Construction Representatives consider implementing some form of routine testing of their emergency response phone number when shipping hazardous materials. It is better for USACE to discover problems before a real emergency incident and the first responders are calling for information. It also can avert potential fines by DOT if we discover any problems. Fines start at \$800 and go up to \$6000 per violation and remember that DOT usually can find several violations associated with an incident.

HAZMAT Incidents in Calendar Year 2008

by Sandi Zebrowski

Per DOT's web site, in calendar year 2008 there were 16,420 transportation incidents involving hazardous materials resulting in \$43M of damages and four fatalities. 7,212 incidents involved Flammable-combustible liquids and 3,977 incidents involved combustible. There were 312 incidents involving radioactive materials, 120 involving explosives and 261 involving poisons.

The most incidents, 14,712 and the four fatalities occurred in the highway mode of transportation. There were 1256 air incidents, 905 rail incidents and 178 water incidents. The four fatalities were all transportation workers.

The full reports can be viewed at:

<http://www.phmsa.dot.gov/portal/site/PHMSA/menuitem.ebdc7a8a7e39f2e55cf2031050248a0c/?vgnextoid=919149877dd7c110VgnVCM1000009ed07898RCRD&vgnnextchannel=8010dd246007c110VgnVCM1000009ed07898RCRD&vgnnextfmt=print>

Regulatory Update

Note that this update just provides registers of interest pertaining to the management and transportation of hazardous materials and hazardous wastes. See our web site for a more complete listing of EPA Federal Registers that impact all Corps environmental work:

http://www.environmental.usace.army.mil/info/technical/compliance_tools/comptools/comptools.html



The entire register can be assessed at <http://www.gpoaccess.gov/fr/index.html>

01/30/2009 p 5633 Amendment to the Universal Waste Rule: Addition of Pharmaceuticals

Action: Proposed rule; extension of comment period

Summary: This extends the comment period from February 2, 2009 to March 4, 2009.

Applicability: This rule, if finalized, may benefit DoD hospitals and pharmacies by allowing certain pharmaceuticals to be managed as universal waste rather than as hazardous waste under RCRA .

01/02/2009 p 41 - p 61 Identification of Non-Hazardous Materials That are Solid Waste

Action: Advance notice of proposed rulemaking

Summary: EPA seeks comments on which non-hazardous materials are or are not solid waste under RCRA in order to assist them in developing Clean Air Act standards under Section 112 and 129. EPA is also seeking comments on a number of specific questions concerning the meaning of "solid waste" under RCRA as it applies to non-hazardous waste programs.

Applicability: If the definition of a solid waste is changed such that certain secondary materials used for fuel or as ingredients in a manufacturing process are no longer considered solid waste, some units subject to regulation under the CAA may be allowed to use these secondary materials as fuel. As such, EPA may have to develop new emission standards for those regulated units as they would be burning different materials in lieu of, or in addition to, traditional fuels (e.g., fossil fuels).

12/30/2008 p 79641 - p 79645 Revisions of the Clean Water Act Regulatory Definition of "Discharges of Dredged Material"

Action: Final action

Summary: This amends the term "discharges of dredged material" in response to a court decision which concluded that incidental fallback which occurs during the process of removing dredged material and ends up essentially in the same area from which it was removed is not subject to the CWA as an "addition" of pollutants.

Applicability: This pertains to discharges of pollutants into waters of the United States

Reference: <http://edocket.access.gpo.gov/2008/pdf/E8-30984.pdf>

12/29/2008 p 79473 - p 79481 Final National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges Incidental to the Normal Operation of a Vessel

Action: Notice of availability

Summary: This announces availability of an NPDES Vessel General Permit (VGP) for discharges incidental to the normal operation of vessels. A court vacated a long-standing exclusion for discharges incidental to normal operations, thus causing such discharges to require an NPDES permit under the Clean Water Act. The VGP provides a means for complying with newly applicable NPDES permit requirements.

Applicability: This applies to all vessels operating as a means of transportation, except recreational vessels and vessels of the Armed Forces that have discharges incidental to normal operation to waters of the United States. In particular, this applies to USACE Civil Works vessels.

Reference: <http://edocket.access.gpo.gov/2008/pdf/E8-30816.pdf>

12/23/2008 p 78651 - p 78655 Amendment to Standards and Practices for All Appropriate Inquiries Under CERCLA

Action: Direct final rule

Summary: This amends the "All Appropriate Inquires Rule" to reference ASTM International's E2247-08 "Standard Practices for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property" and allows its use for satisfying the statutory requirements for conducting all appropriate inquiries under CERCLA. Completing all appropriate inquiries prior to purchasing property can provide relief from otherwise applicable CERCLA liability.

Applicability: This pertains to forestlands and rural property.

Reference: <http://edocket.access.gpo.gov/2008/pdf/E8-30536.pdf>

12/19/2008 p 77954 - p 78017 Expansion of RCRA Comparable Fuel Exclusion

Action: Final rule

Summary: This adds a new RCRA exclusion for emission comparable fuels. These fuels are energy-rich hazardous secondary materials which would otherwise be hazardous wastes, but which have the same hazardous constituent concentrations as fossil fuels that would be burned in their place.

Applicability: This pertains to RCRA hazardous waste regulations.

Reference: <http://edocket.access.gpo.gov/2008/pdf/E8-29956.pdf>

12/19/2008 p 77492 - p 77493 Ban on Lead-Containing Paint and Certain Consumer Products Bearing Lead-Containing Paint

Action: Final rule

Summary: Congress enacted Public Law 110-314 which mandates reduction of the lead in paint from the existing limit of 0.06 percent to 0.009 percent effective August 14, 2009. The Consumer Product Safety Commission is amending its regulations accordingly to redefine "lead-containing paint".

Applicability: This may be of general interest to those in the environmental compliance or remediation arena since lead-containing paint is often a source of environmental contamination.

Reference: <http://edocket.access.gpo.gov/2008/pdf/E8-30238.pdf>

12/11/2008 p 75340 - p 75346 Civil Monetary Penalty Inflation Adjustment Rule

Action: Final rule

Summary: This adjusts for inflation civil monetary penalties that can be assessed under EPA administered statutes and regulations.

Applicability: This applies to penalties assessed under RCRA, SDWA, CWA, TSCA, FIFRA, CAA, CERCLA, EPCRA, and the Mercury-Containing and Rechargeable Battery Management Act.

Reference: <http://edocket.access.gpo.gov/2008/pdf/E8-29380.pdf>

12/08/2008 p 74488 - p 74493 U.S. Government's Process for Obtaining Stakeholder Information for Chemicals Proposed for Addition to the Stockholm Convention on Persistent Organic Pollutants

Action: Notice

Summary: This provides notice relative to chemicals proposed under the Stockholm Convention on Persistent Organic Pollutants (POPS). Parties to the convention are supposed to reduce or eliminate the production and use of POPS and take measures to reduce releases of unintentionally produced POPS.

Applicability: The US signed, but has not ratified the Convention and thus is not party to it. However, this represents an opportunity to provide submissions for review. This may be of general interest to those tracking "emerging contaminants."

Reference: <http://edocket.access.gpo.gov/2008/pdf/E8-28982.pdf>

12/05/2008 p 74236 – p 74323 Oil Pollution Prevention; Spill Prevention Control, and Countermeasure Rule Requirements- Amendments

Action: Final Rule



Summary: EPA is providing clarifications, exemptions, and greater flexibility to the regulated community. In particular, EPA is finalizing a set of streamlined requirements for a specific subset of qualified facilities. Those facilities that meet the Tier 1 qualified facility provisions are now authorized to use a “template” SPCC plan. EPA has provided a template in Appendix G to 40 CFR 112.

Applicability: This final rule provides clarification and relief to the regulated community, specifically active installation O&M staff and Civil Works staff.

Reference: <http://edocket.access.gpo.gov/2008/pdf/E8-27848.pdf>

12/02/2008 p 73520 - p 73544 Amendment to the Universal Waste Rule: Addition of Pharmaceuticals

Action: Proposed rule

Summary: EPA proposes to add pharmaceutical wastes to the Universal Waste Rule.

Applicability: This proposal applies to discarded pharmaceuticals which are hazardous waste either because they are listed waste or because they exhibit a hazardous waste characteristic.

Reference: http://www.access.gpo.gov/su_docs/fedreg/a081202c.html

Question of the Quarter? What is out on the lawn all summer and is Irish?

As reported by my 7 year old.....Paddy O’Furniture!



Do you have a regulatory question? Call us or e-mail us at http://www.environmental.usace.army.mil/tech_reg.htm



Happy Spring!



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