

Environmental Compliance & Transportation Information Bulletin



Edition 70.

March 2010

Editor's Corner

I thought we were out of the woods. I thought it was all over. How could it be anymore dreary and miserable than it has already been. It is pure torture. Certainly, it should be done and over. But, this morning I woke to what perhaps were the biggest snowflakes I had ever seen! All I know is I am tired of winter, cold, snow and the lack of sun. I think all over the country we have been experiencing that same sentiment!

Well, next week it is the surveyed session and Orlando here we come. If you haven't noticed a pattern, our courses in March are always in warm climates. Next year, back to Phoenix. The PROSPECT survey should be out for FY11 soon. Also, there is a super important change in the Security Planning requirements; actually, a reduction in the requirement, so read the article as it will affect many of you.

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.



Combined Initial Hazardous Waste Manifesting and Initial Class 7 Certification Course in Baltimore 26 Apr 2010 - 30 April 2010. The cost is \$1250 per student. This course will combine PROSPECT Course #223 (initial DOT and initial RCRA-36 hours) with Course #441 (initial DOT and Radioactive

Waste-24 hours). This modified course is five days in length (moves very fast) and does provide training to the students on how to ship, DOT hazardous materials which includes RCRA hazardous waste as well as Radioactive (Class 7) waste. (For people only requiring the RAD portion of the course, you would be expected to attend the last 3 days at a tuition expense of \$800.) If you are interested in the course, please contact Hans Honerlah, 410-962-9184.

In addition, we have a couple of onsites scheduled at this time:

- **HW and RW Recertification Class (429/430)** will be taught in Buffalo 30 Mar - 1 April. Please contact Rick Waples if you are interested in attending either the HW and RW class or just the HW class.

- **HW Recertification Class (429)** will be taught at Fort Hood 13-14 April. If you are interested in attending, please contact Beverly VanCleaf.

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.

PROSPECT SURVEY for 2011 TO BE OUT SOON

If you are like me you are SOOOOOO tired of this weather! Looking for a warm retreat next winter, try Phoenix March 2011 for initial manifest training or the refresher training!



I would anticipate the FY2011 survey to be out in April or May. Our initial course 223 is scheduled for 28 Feb-4 March 2011 in Phoenix. Our HW recertification course 429 is scheduled for 2 and 3 March in Phoenix with the Rad recertification 2-4 March in Phoenix as well. 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.

Good news! Changes to HAZMAT Security Plan Regulations

Published March 9, 2010 in the Federal Register, PHMSA, in consultation with the Transportation Security Administration (TSA) of the Department of Homeland Security (DHS), modified current security plan requirements applicable to the commercial transportation of hazardous materials by air, rail, vessel, and highway. Based on an evaluation of the security threats associated with specific types and quantities of hazardous materials, the final **rule narrows the list of materials subject to security plan requirements and reduces associated regulatory costs and paperwork burden.** The final rule also clarifies certain requirements related to security planning, training, and documentation.

This final rule is effective October 1, 2010. However, voluntary compliance with all the amendments in this final rule is authorized as of **April 8, 2010.**

In this final rule PHMSA is revising the list of materials subject to security planning. Several changes to the list of materials were made based on comments and discussions with other federal partners and TSA.

Below is the list by Class/Division of hazmat and thresholds subject to security planning under this final rule. The phrase “large bulk quantity,” as used in the following table, refers to a quantity greater than 3,000 kg (6,614 pounds) for solids or 3,000 liters (792 gallons) for liquids and gases in a single packaging such as a cargo tank motor vehicle, portable tank, tank car, or other bulk container.

Class/ division	PHMSA final rule security plan revisions
1.1.....	Any quantity.
1.2.....	Any quantity.
1.3.....	Any quantity.
1.4.....	Placarded quantity.
1.5.....	Placarded quantity.
1.6.....	Placarded quantity.
2.1.....	A large bulk quantity.
2.2.....	A large bulk quantity of materials with an oxidizer subsidiary.
2.3.....	Any quantity.
3.....	PG I and II in a large bulk quantity; placarded quantity desensitized explosives.
4.1.....	Placarded quantity desensitized explosives.
4.2.....	PG I and II in a large bulk quantity.
4.3.....	Any quantity.
5.1.....	Division 5.1 materials in PG I and II, and PG III perchlorates, ammonium nitrate, ammonium nitrate fertilizers, or ammonium nitrate emulsions or suspensions or gels in a large bulk quantity.
5.2.....	Any quantity of Organic peroxide, Type B, liquid or solid, temperature controlled.
6.1.....	Any quantity PIH or a large bulk quantity of a material that is not a PIH.
6.2.....	CDC or USDA list of select agents.
7.....	IAEA Categories 1 & 2; HRCQ; known radionuclides in forms listed as RAM-QC by NRC; or a quantity of uranium hexafluoride requiring placarding under Sec. 172.505(b).
8.....	PG I in a large bulk quantity.
9.....	Not subject.
ORM-D.....	Not subject.

Therefore, in summary, starting April 8, 2010, just because you needed a placard no longer means you need a security plan. You will need to revisit the regulations and the table above to determine if you need a security plan under the new regulations.

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>

03/09/2010 p 10974 – 10989 Hazardous Materials: Risk-Based Adjustment of Transportation Security Plan Requirements



Action: Final rule

Summary: PHMSA, in consultation with the Transportation Security Administration (TSA) of the Department of Homeland Security (DHS), is modifying current security plan requirements applicable to the commercial transportation of hazardous materials by air, rail, vessel, and highway. Based on an evaluation of the security threats associated with specific types and quantities of hazardous materials, the final rule narrows the list of materials subject to security plan requirements and reduces associated regulatory costs and paperwork burden. The final rule also clarifies certain requirements related to security planning, training, and documentation. The final rule is effective October 1, 2010 but voluntary compliance with all the amendments is authorized as of April 8, 2010.

Applicability: This final rulemaking would be of interest to USACE personnel involved with shipping hazardous materials, including hazardous waste and radioactive waste. Previous shipments that might have required a security plan because they met one or more of the seven conditions will want to review this rule to determine if their shipments continue to need a security plan.

Reference: <http://edocket.access.gpo.gov/2010/pdf/2010-4778.pdf>.



03/01/2010 p 9147 – p 9148 Hazardous Materials: Transportation of Lithium Batteries

Action: Notice of public meeting

Summary: On January 11, 2010, PHMSA in coordination with the FAA, published a notice of proposed rulemaking to comprehensively address the safety risks associated with the air transport of lithium cells and batteries. PHMSA and FAA will hold a public meeting on March 5, 2010 in Washington, DC, to provide interested persons with an opportunity to submit oral comments on the proposals in the NPRM. Written comments need to be submitted by 12 March 2010.

Applicability: This proposed rulemaking would be of interest to USACE personnel involved with shipping lithium batteries or equipment that contains lithium batteries.

Reference: <http://edocket.access.gpo.gov/2010/pdf/2010-4232.pdf>.

02/02/2010 p 5376 – p 5403 Hazardous Material; Miscellaneous Packaging Amendments

Action: Final rule

Summary: PHMSA (DOT) has finalized the rule making initiated by the 09/1/2006 NPRM. The NPRM addressed thirteen (13) specific issues relative to packaging requirements, clarifications, and amendments. In this final rule, PHMSA is amending packaging requirements in the Hazardous Materials Regulations to enhance compliance flexibility, clarify certain regulatory issues and reduce compliance burdens on the regulated community. The primary focus of the rule addresses intermediate bulk packaging, associated packaging authorizations and performance oriented packaging. This final rule also incorporates requirements for construction, maintenance, and end use of Large Packagings. The effective date of this rule is October 1, 2010.

Applicability: USACE personnel involved with the transportation of hazardous materials should be aware of the revised definitions and specific packaging authorizations.

Reference: <http://edocket.access.gpo.gov/2010/pdf/2010-1615.pdf>.



01/11/2010 p 1302 – p 1324 Hazardous Materials: Transportation of Lithium Batteries

Action: Notice of proposed rulemaking

Summary: PHMSA (DOT) in consultation with the Federal Aviation Administration (FAA), is proposing to amend the Hazardous Materials Regulations (HMR) on the transportation of lithium cells and batteries, including lithium cells and batteries packed with or contained in equipment. The proposed changes are intended to enhance safety by ensuring that all lithium batteries are designed to withstand normal transportation conditions. This would include provisions to ensure all lithium batteries are packaged to reduce the possibility of damage that could lead to a catastrophic incident, and minimize the consequences of an incident. In addition, lithium batteries would be accompanied by hazard communication that ensures appropriate and careful handling by air carrier personnel, including the flight crew, and informs both transport workers and emergency response personnel of action to be taken in an emergency. Lithium batteries are hazardous in transportation because they present both chemical (e.g., flammable electrolytes) and electrical hazards. DOT is proposing revisions to shipping descriptions, adopt watt-hours in place of

equivalent lithium content to measure the relative hazard of lithium ion cells, eliminate regulatory exceptions for lithium cells and batteries in air transportation mode, require lithium cells and batteries be packed to prevent short circuits in all modes of transport, consolidate and simplify current and revised lithium battery requirements in the HMR. Comments on the proposed rulemaking are due March 12, 2010.

Applicability: This proposed rulemaking would be of interest to USACE personnel involved with shipping lithium batteries or equipment that contains lithium batteries.

Reference: <http://edocket.access.gpo.gov/2010/pdf/2010-281.pdf>.

01/08/2010 p 1235 - p 1262 Revisions to the Requirements for: Transboundary Shipments of Hazardous Wastes Between OECD Member Countries, Export Shipments of Spent Lead-Acid Batteries, Submitting Exception Reports for Export Shipments of Hazardous Wastes, and Imports of Hazardous Wastes

Action: Final rule

Summary: This rule amends certain existing regulations promulgated under the hazardous waste provisions of the Resource Conservation and Recovery Act regarding hazardous waste exports from and imports into the United States. Specifically, the amendments implement recent changes to the agreements concerning the transboundary movement of hazardous waste among countries belonging to the Organization for Economic Cooperation and Development (OECD), establish notice and consent requirements for spent lead-acid batteries intended for reclamation in a foreign country, specify that all exception reports concerning hazardous waste exports be sent to the International Compliance and Assurance Division in the Office of Enforcement and Compliance Assurance's Office of Federal Activities in Washington, DC, and require U.S. receiving facilities to match EPA provided import consent documentation to incoming hazardous waste import shipments and to submit to EPA a copy of the matched import consent documentation and RCRA hazardous waste manifest for each import shipment.

Applicability: This applies in imports and exports of hazardous waste.

Reference: <http://edocket.access.gpo.gov/2010/pdf/E9-31081.pdf>.



01/08/2010 p 1085 - p 1087 Commerce in Explosives; List of Explosive Materials (2009R-18T)

Action: Notice of List of Explosive Materials

Summary: Pursuant to 18 U.S.C. 841(d) and 27 CFR 555.23, the Department of Justice must publish and revise at least annually a list of explosives determined to be within the coverage of 18 U.S.C. 841 *et seq.* This notice publishes the 2009 List of Explosive Materials. The list covers not only explosives, but also blasting agents and detonators, all of which are defined as explosive materials in 18 U.S.C. 841(c). As a result of a recent court decision, ammonium perchlorate composite propellant (APCP) is no longer regulated under the Federal explosives laws. Therefore, APCP has been removed from the list of explosives. In addition, the Department is revising the list to include a parenthetical text after "ammonium perchlorate explosive mixtures" to clarify that this term excludes APCP.

Applicability: This may be of general interest since DoD manages explosives.

Reference: <http://edocket.access.gpo.gov/2010/pdf/2010-45.pdf>.

01/07/2010 p 984 - p 986 Draft Recommended Interim Preliminary Remediation Goals for Dioxin in Soil at CERCLA and RCRA Sites

Action: Notice of availability and announcement of public comment period

Summary: EPA announces a 50-day public comment period for draft recommended interim preliminary remediation goals (PRGs) developed in the *Draft Recommended Interim Preliminary Remediation Goals for Dioxin in Soil at Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Resource Conservation and Recovery Act (RCRA) Sites*. EPA's Office of Solid Waste and Emergency and Emergency Response (OSWER) has developed the draft recommended interim PRGs for dioxin in soil. These draft recommended interim PRGs were calculated using existing, peer-reviewed toxicity values and current EPA equations and default exposure assumptions.

Applicability: This is relevant to cleanup actions under CERCLA or RCRA involving dioxin.

Reference: <http://edocket.access.gpo.gov/2010/pdf/2010-16.pdf>.

01/04/2010 p 146 - p 148 Public Comment on Candidate National Enforcement and Compliance Assurance Priorities for Fiscal Years 2011-2013

Action: Notice of public comment period

Summary: EPA is soliciting public comment and recommendations on enforcement and compliance national priorities to be addressed for fiscal years 2011-2013.

Applicability: Awareness of EPA priorities may be beneficial to staff seeking to prioritize resources.

Reference: <http://edocket.access.gpo.gov/2010/pdf/E9-31042.pdf>.

01/04/2010 p 63 – 74 Hazardous Materials: Revision to Requirements for the Transportation of Batteries and Battery-Powered Devices; and Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization’s Technical Instructions; Corrections

Action: Final rule; corrections

Summary: PHMSA published a final rule amending the Hazardous Materials Regulations (HMR) to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. The revisions were necessary to harmonize the HMR with recent changes to the International Civil Aviation Organization’s Technical Instructions for the Safe Transport of Dangerous Goods by Air, the International Maritime Dangerous Goods Code, Transport Canada’s Transportation of Dangerous Goods Regulations, and the United Nations Recommendations on the Transport of Dangerous Goods. These revisions also included amendments and clarifications addressing the safe transportation of batteries and battery-powered devices. This final rule corrects several errors in the 01/14/2009 final rule.

Applicability: This would be of interest to USACE personnel that make hazardous material shipments.

Reference: <http://edocket.access.gpo.gov/2010/pdf/E9-30556.pdf>.



12/29/2009 p 68703 – p 68709 Requirements for Intermodal Equipment Providers and for Motor Carriers and Drivers Operating Intermodal Equipment

Action: Final rule; technical amendments, response to petitions for reconsideration, and; partial extension of deadline

Summary: The Federal Motor Carrier Safety Administration (FMCSA) has made intermodal equipment providers (IEPs) subject to certain Federal Motor Carrier Safety Regulations (FMCSRs), and establishes shared safety responsibility among IEPs, motor carriers, and drivers. These amendments create a fifth marking option for identifying the IEP responsible for the inspection, repair, and maintenance of items of intermodal equipment. The effective date of this final rule is December 29, 2009. IEPs must mark their intermodal chassis with its legal name or a single trade name and a USDOT identification number by December 17, 2010.

Applicability: USACE personnel involved with intermodal shipments would want to be aware of these requirements for the IEPs, carriers and drivers.

Reference: <http://edocket.access.gpo.gov/2009/pdf/E9-30654.pdf>.

12/29/2009 p 68701 – p 68702 Hazardous Materials: Adjustment of Maximum and Minimum Civil Penalties

Action: Final rule

Summary: PHMSA is adjusting the maximum and minimum civil penalties for a knowing violation of the Federal hazardous material transportation law or a regulation, order, special permit, or approval issued under that law.

Applicability: USACE personnel involved with shipping hazardous materials should be aware of the potential civil penalties for a knowing violations of a the hazmat regulations.

Reference: <http://edocket.access.gpo.gov/2009/pdf/E9-30696.pdf>.

12/22/2009 p 68004 – p 68015 Hazardous Materials: Incorporation of Special Permits Into Regulations

Action: Notice of proposed rulemaking

Summary: The Pipeline and Hazardous Materials Safety Administration is proposing to amend the Hazardous Materials Regulations to incorporate provisions contained in certain widely used or longstanding special permits that have an established safety record. Special permits allow a company or individual to package or ship a hazardous material in a manner that varies from the regulations so long as an equivalent level of safety is maintained.

Applicability: Amendments addressing the use of non-specification packaging, lab packs, and aerosols for recycling or disposal may be of particular interest hazardous waste management staff.

Reference: <http://edocket.access.gpo.gov/2009/pdf/E9-30280.pdf>.

12/15/2009 p 66259 - p 66260 Hazardous Waste Management System: Identification and Listing of Hazardous Waste: Conditional Exclusion From Hazardous Waste and Solid Waste for Solvent-Contaminated Industrial Wipes Extension of Comment Period; Data Availability

Action: Extension of Comment Period

Summary: The EPA is extending the comment period for the document entitled "Conditional Exclusion from Hazardous and Solid Waste for Solvent-Contaminated Industrial Wipes," which appeared in the Federal Register on 10/27/2009. The public comment period for this document was to close on 12/28/2009, but is extended until 02/26/2010.



Applicability: Army generates solvent contaminated rags affected by this rulemaking. Army tracks this action and commented on the Notice of Proposed Rulemaking.

Reference: <http://edocket.access.gpo.gov/2009/pdf/E9-29804.pdf>.

12/08/2009 p 64643 - p 64658 Withdrawal of the Emission-Comparable Fuel Exclusion Under RCRA

Action: Proposed rule

Summary: EPA proposes to withdraw the conditional exclusion from RCRA promulgated on 12/19/2008 for Emission Comparable Fuel (ECF). These are fuels produced from hazardous secondary materials which, when burned in industrial boilers under specified conditions, generate emissions that are comparable to emissions from burning fuel oil in those boilers. EPA is proposing to withdraw this conditional exclusion because ECF appears to be better regarded as being a discarded material and regulated as a hazardous waste. The exclusions for comparable fuel and synthesis gas fuel are not addressed or otherwise affected by this proposed rule.

Applicability: This applies to fuels produced from hazardous secondary materials. **Reference:** <http://edocket.access.gpo.gov/2009/pdf/E9-29063.pdf>.

12/07/2009 p 64137 - p 64374 The Regulatory Plan

Action: Semiannual Regulatory Agenda

Summary: This provides the Fall 2009 Regulatory Plan that lists regulatory actions of various agencies, including EPA. It includes a statement of EPA's priorities, highlights of EPA's regulatory plan, and abstracts listed items.

Applicability: This is used by Army as a tool for monitoring regulatory actions of EPA and other agencies for potential impacts to Army.

Reference: <http://edocket.access.gpo.gov/2009/pdf/E9-28608.pdf>.

12/1/2009 p 62996 – p 63058 Effluent Limitations Guidelines and Standards for the Construction and Development Point Source Category;

Action: Final Rule

Summary: EPA has finalized the effluent limitations guidelines (ELG) for construction and development. The ELG applies discharges associated with construction activity required to obtain NPDES permit coverage under 40 CFR 122.26(b)(14)(x) and (b)(15) [i.e. sites disturbing 1 or more acres]. There are both non-numeric and numeric standards (i.e. turbidity) for this ELG. The non-numeric standards are consistent with existing general construction best management practices (BMPs) and address erosion and sediment controls, soil stabilization, dewatering, pollution prevention measures, prohibited discharges, and surface outlets. The effective date for those standards is February 1, 2010. Numeric standards for turbidity (280 NTU daily maximum) are applicable to larger sites. Sites disturbing 10 or more acres will require compliance with turbidity standards in four (4) years [2/2/2014], while sites



disturbing 20 or more acres will require compliance with in 18 months of the 2/1/2010 effective date [8/12/2010]. EPA is sensitive to the state and local permitting requirements and has adjusted the phase in period to reflect existing construction general permit cycles.

Applicability: USACE construction, engineering and civil works staff involved with the design and construction activities with regulated storm water should be aware of the new requirements effective 2/1/2010.

Reference: <http://edocket.access.gpo.gov/2009/pdf/E9-28446.pdf>

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



Happy Spring!



EC&T Information Bulletin

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**The Information Bulletin is distributed quarterly by the
Environmental and Munitions Center of Expertise in Omaha, NE.**

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