

# Environmental Compliance & Transportation Information Bulletin



Edition 74.

March 2011

## Editor's Corner

*Well, spring is just around the corner....on the calendar anyway. We were in Phoenix last week teaching and it was sunny and 78! It was wonderful. We had two great classes and while, as always, we tortured the poor students, Bev, Rick and I enjoyed it!*

*Soon the FY12 survey will be out, so if you know someone who needs initial training, or if you need refresher training, please sign up when the survey comes out.*

*All else is fine in Omaha. My daughter is preparing to go to high school next year and I have been spending my evening picking out courses and filling out forms. And I thought middle school was scary...ha! Anyway, 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

For FY11, the survey session was held in Phoenix, February 28<sup>th</sup> 2011 thru March 4<sup>th</sup> 2011. The recertification training was March 2<sup>nd</sup> and 3<sup>rd</sup> 2011 in Phoenix. It was a fun week. The initial session had 33 students and the recertification course had 48 students. Big classes. It was a sunny 78 degrees all week!

We have a few District onsites scheduled for the remainder of this year: Rick Waples will be at the Philadelphia District to teach 429/430 in mid to late May. He will be at the New York District to teach 429/430 on June 21-23, 2011 in Edison NJ at the EPA training facility. Then, we will be at the New England District teaching 429 on June 8-9, 2011. If you are interested in attending any of these sessions, please contact Beverly VanCleaf or Rick Waples.



Remember, if you want to **schedule an onsite course**, please call Beverly VanCleaf or Rick Waples. This will be a busy year for onsite recertification courses, so get your request in early.

The FY11 PROSPECT Course manual and schedule, go to: <http://ulc.usace.army.mil/> If you are looking for PROSPECT courses for FY11, there is a change in the way the material is presented. The Purple Book can be found at: <http://ulc.usace.army.mil/downloads/purplebook2011.pdf> But, in FY11, the dates and schedules are NOT in the Purple Book, so you need to go to <http://ulc.usace.army.mil/CrsScheduleNewFY.aspx> for the FY11 dates and schedules.

Remember, this training is open to **all federal employees** and everyone can and should register now!

As always, to schedule an onsite for initial training or refresher training, or to obtain additional information, contact: Joe Pickett, (256) 895-7445 or Beverly VanCleaf at (402) 697-2559, e-mail: [Beverly.D.Vancleaf@usace.army.mil](mailto:Beverly.D.Vancleaf@usace.army.mil).

Also, please let your districts and customers know about the upcoming training survey for FY12. 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 2012 TO BE OUT SOON

It is not too early to start thinking about training. Probably in April or early May the FY12 PROSPECT survey will be out. We will be traveling to Tampa next year for Spring Break....the week of March 19<sup>th</sup>, 2012 for the initial and recertification classes.

Please sign up when the survey comes out if you need initial or recertification next year. Signing up at the survey time ensures the course will be held.

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.

## Reminder: 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 was effective October 1, 2010.

In this final rule PHMSA revised 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, 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](http://www.environmental.usace.army.mil/info/technical/compliance_tools/comptools/comptools.html)



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



### 03/02/2011 p 11570 – p 11595 Hazardous Materials: Enhanced Enforcement Authority Procedures

**Action:** Final rule

**Summary:** PHMSA is implementing enhanced inspection, investigation, and enforcement authority conferred on the Secretary of Transportation by the Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005. This final rule establishes procedures for issuance of emergency orders (restrictions, prohibitions, recalls, and out-of-service orders) to address unsafe conditions or practices posing an imminent hazard; opening packages to identify undeclared or noncompliant shipments, when the person in possession of the package refuses a request to open it; and the temporary detention and

inspection of potentially non-compliant packages. These inspection and enforcement procedures will not change the current inspection procedures for DOT, but will enhance DOT's existing enforcement authority and allow us to respond immediately and effectively to conditions or practices that pose serious threats to life, property, or the environment.

**Applicability:** This would be of interest to shippers of hazardous materials.

**Reference:** <http://edocket.access.gpo.gov/2011/pdf/2011-4270.pdf>



**02/28/2011 p 10771 – p 10778 Hazardous Materials: Limiting the Use of Electronic Devices by Highway**

**Action:** Final rule

**Summary:** The Pipeline and Hazardous Materials Safety Administration (PHMSA) is prohibiting texting on electronic devices by drivers during the operation of a motor vehicle containing a quantity of hazardous materials requiring placarding or any quantity of a select agent or toxin listed in the Department of Health and Human Services "Select Agents and Toxins" regulations. Additionally, in accordance with requirements adopted on September 27, 2010 by the Federal Motor Carrier Safety Administration (FMCSA), motor carriers are prohibited from requiring or allowing drivers of covered motor vehicles to engage in texting while driving. This final rule is effective March 30, 2011.

**Applicability:** This would be of interest to shippers of hazardous materials.

**Reference:** <http://edocket.access.gpo.gov/2011/pdf/2011-4273.pdf>

**02/22/2011 p 9665 – p 9666 Designation, Reportable Quantities, and Notification; Notification Requirements**

**Action:** Final rule, technical amendment.

**Summary:** EPA is issuing a technical amendment to correct telephone and facsimile numbers used to immediately notify the National Response Center. EPA issued a final rule in the Federal Register on April 4, 1985, that provided telephone numbers for any person in charge of a vessel or an offshore or an onshore facility to use as soon as he or she has knowledge of any release (other than a federally permitted release or application of a pesticide) for the immediate notification to the National Response Center when there is a release of a hazardous substance from a vessel or facility in a quantity equal to or exceeding the reportable quantity in any 24-hour period.

**Dates:** This final rule is effective on February 22, 2011.

**Applicability:** This would be of interest to all DoD facilities for their Spill Response Plans.

**Reference:** <http://www.gpo.gov/fdsys/pkg/FR-2011-02-22/pdf/2011-3872.pdf>



**02/17/2011 p 9276 -9278 Tank Vessel and Marine Transportation-Related Facility Response Plans for Hazardous Substances**

**Action:** Proposed rules; reopening of comment period

**Summary:** The Coast Guard is reopening the comment periods on two proposed rules before issuing final rules regarding Tank Vessel Response Plans for Hazardous Substances (USCG-1998-4354) and Marine Transportation-Related Facility Response Plans for Hazardous Substances (USCG-1999-5705).

**Dates:** Comments are due May 18, 2011.

**Applicability:** Operators of tank vessels within the USACE community should be aware of this proposed rulemaking.

**Reference:** <http://www.gpo.gov/fdsys/pkg/FR-2011-02-17/pdf/2011-3568.pdf>

**01/28/2011 p 5215 – p 5216 Draft Regulatory Guide: Issuance, Availability**

**Action:** Notice of Issuance and Availability of Draft Regulatory Guide, DG-7007, "Administrative Guide for Verifying Compliance with Packaging Requirements for Shipment and Receipt of Radioactive Material."

**Summary:** The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses. This guide describes an approach that the staff of the NRC considers acceptable for meeting the administrative requirements in Title 10, of the Code of Federal Regulations, Part 71, "Packaging and Transportation of



Radioactive Material” (10 CFR Part 71). The regulations in 10 CFR Part 71 apply to NRC licensees that package, transport, or receive licensed material. NRC requests that comments be submitted by March 30, 2011 to ensure consideration.

**Applicability:** This notice would be of interest to shippers of licensed radioactive material.

**Reference:** <http://edocket.access.gpo.gov/2011/pdf/2011-1909.pdf>.

**01/27/2011 p 4847 – p 4854 Hazardous Materials: Safety Requirements for External Product Piping on Cargo Tanks Transporting Flammable Liquids**

**Action:** Proposed rule

**Summary:** PHMSA is proposing to amend the Hazardous Materials Regulations to prohibit the transportation of flammable liquids in unprotected external product piping on DOT specification cargo tank motor vehicles. DOT has already prohibited the transportation of Division 5.1, 5.2, 6.1 and Class 8 hazardous materials in external product piping (wetlines) in previous rulemaking. Class 3 flammable materials were deferred from this requirement because there was not an acceptable method to drain product from the wetlines back into the loading facility. However, the external piping remained a safety hazard during vehicle collisions. The proposed rule would prohibit carriage of flammable liquids in wetlines in DOT specification cargo tanks unless the tanker is equipped with bottom damage protection devices or there is less than 1 liter remaining in the wetlines. An exception for the truck-mounted cargo tanks is being proposed because of a reduced safety risk with this type of cargo tank and vehicle.

**Applicability:** Provided for general information.

**Reference:** <http://edocket.access.gpo.gov/2011/pdf/2011-1695.pdf>.



**01/20/2011 p 3790 – p 3813 Voluntary Labeling Program for Biobased Products**

**Action:** Final rule

**Summary:** The U.S. Department of Agriculture (USDA) is establishing a voluntary labeling program for biobased products under section 9002 of the Farm Security and Rural Investment Act of 2002, as amended by the Food, Conservation, and Energy Act of 2008. Under the voluntary labeling program, a biobased product, after being certified by USDA, can be marketed using the “USDA Certified Biobased Product” label. The presence of the label will mean that the product meets USDA standards for the amount of biobased content and that the manufacturer or vendor has provided relevant information on the product for the USDA BioPreferred Program Web site. This final rule applies to manufacturers and vendors who wish to participate in the voluntary labeling component of the BioPreferred Program. The final rule also applies to other entities (e.g., trade associations) that wish to use the label to promote biobased products.

**Applicability:** Provided for general information.

**Reference:** <http://edocket.access.gpo.gov/2011/pdf/2011-968.pdf>

**01/19/2011 p 3308 – p 3389 Hazardous Materials: Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air**

**Action:** Final rule

**Summary:** PHMSA is amending the Hazardous Materials Regulations 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 limited quantities, and vessel stowage requirements. These revisions are necessary to harmonize the Hazardous Materials Regulations with recent changes made to the International Maritime Dangerous Goods Code, the International Civil Aviation Organization’s Technical Instructions for the Safe Transport of Dangerous Goods by Air, and the United Nations Recommendations on the Transport of Dangerous Goods—Model Regulations.

**Applicability:** This would be of interest to shippers of hazardous materials.

**Reference:** <http://edocket.access.gpo.gov/2011/pdf/2010-33324.pdf>.



**01/12/2011 p 2056 – p 2066 Incorporation of Revised ASTM Standards That Provide Flexibility in the USE of Alternatives to Mercury-Containing Thermometers; Solicitation of Public Comment on the Required Use of Mercury-Containing Thermometers in EPA Regulations**

**Action:** Proposed rule

**Summary:** Due to elemental mercury's high toxicity, EPA seeks to reduce potential mercury exposures to humans and the environment by reducing the overall use of mercury containing products, including mercury containing thermometers. This action proposes to provide flexibility to use alternatives to mercury-containing industrial thermometers. These proposed amendments will allow the use of such alternatives in certain limited field and laboratory applications previously impermissible as part of compliance with EPA regulations.

**Applicability:** The DoD RCRA Services Steering Committee is coordinating comments on this rulemaking. The internal deadline for submitting comments to the Steering Committee is 16 Feb 2011. EPA's comment deadline is 14 Mar 2011.

**Reference:** <http://edocket.access.gpo.gov/2011/pdf/2011-246.pdf>

#### **01/05/2011 p 454 – p 464 Hazardous Materials Transportation: Revisions of Special Permits Procedures**

**Action:** Final rule

**Summary:** PHMSA is revising its procedures for applying for a special permit to require an applicant to provide sufficient information about its operations to enable the agency to evaluate the applicant's fitness and the safety impact of operations that would be authorized in the special permit. In addition, PHMSA is providing an online application option. The effective date of this amendment is March 7, 2011 however voluntary compliance is authorized after January 5, 2011. It is important to note that DTR 4500.9-R-II, chapter 204, paragraph B requires that all DOD requests for special permits must go through the Surface Deployment and Distribution Command for processing with DOT.

**Applicability:** This would be of interest to shippers of hazardous materials that might require a special permit.

**Reference:** <http://edocket.access.gpo.gov/2011/pdf/2010-33316.pdf>.

#### **12/23/2010 p 80765 – p 80773 Hazardous Materials: Adoption of ASME Code Section XII and the Nation Board Inspection Code**

**Action:** Advance notice of proposed rulemaking

**Summary:** PHMSA is considering amending the Hazardous Materials Regulations (HMR) to incorporate the most recent edition of the American Society of Mechanical Engineers' Boiler and Pressure Vessel Code, Section XII for the design, construction, and certification of cargo tank motor vehicles, cryogenic portable tanks and multi-unit-tank car tanks (ton tanks). PHMSA is requesting comments to identify any gaps or inconsistencies between current HMR requirements and these consensus standards by March 23, 2011.

**Applicability:** This would be of interest to shippers of hazardous materials.

**Reference:** <http://edocket.access.gpo.gov/2010/pdf/2010-32231.pdf>

#### **12/20/2010 p 79843 – p 79857 Environmental Protection Agency Fall 2010 Regulatory Agenda**

**Action:** Semiannual regulatory flexibility agenda and semiannual regulatory agenda

**Summary:** EPA published the semiannual regulatory agenda online at [www.reginfo.gov](http://www.reginfo.gov) to update the public on regulations and major policies currently under development, reviews of existing regulations and major policies, and rules and major policymaking completed or cancelled since the last agenda.

**Applicability:** This is an important reference document for environmental professionals tracking status and development of regulatory actions.

**Reference:** <http://edocket.access.gpo.gov/2010/pdf/2010-30459.pdf>

#### **12/20/2010 p 79812 – p 79835 Department of Transportation Regulatory Agenda; Semiannual Summary**

**Action:** Semiannual regulatory agenda

**Summary:** DOT published the semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The agenda provides the public with information about DOT's regulatory activity and enable the public to be more aware of and allow it to more effectively participate in the Department's regulatory activity.

**Applicability:** This is an important reference document to shippers of hazardous materials.

**Reference:** <http://edocket.access.gpo.gov/2010/pdf/2010-30462.pdf>



**12/20/2010 p 79304 – p 79308 Technical Corrections to the Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formerly Affiliated with Colleges and Universities**

**Action:** Direct final rule

**Summary:** This makes technical corrections to an existing rule.

**Applicability:** Provided for information only. This does not apply to government labs.

**Reference:** <http://edocket.access.gpo.gov/2010/pdf/2010-31746.pdf>



**12/17/2010 p 78918 Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Removal of Saccharin and Its Salts From the Lists of Hazardous Constituents, Hazardous Wastes, and Hazardous Substances**

**Action:** Final rule

**Summary:** This removes saccharin and its salts from the list of hazardous constituents and commercial chemical products which are regulated as hazardous wastes when discarded. This also modifies the list of hazardous substances.

**Applicability:** Provided for general information purposes.

**Reference:** <http://edocket.access.gpo.gov/2010/pdf/2010-31773.pdf>

**Do you have a regulatory question?** Call us or e-mail us at  
[http://www.environmental.usace.army.mil/tech\\_reg.htm](http://www.environmental.usace.army.mil/tech_reg.htm)



*Happy Spring!*



**EC&T Information Bulletin**

**Preparer**

*Sandi Zebrowski/Rick Waples*

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

**Telephone 402-697-2555/2560**

***sandi.m.zebrowski@usace.army.mil or richard.j.waples@usace.army.mil***