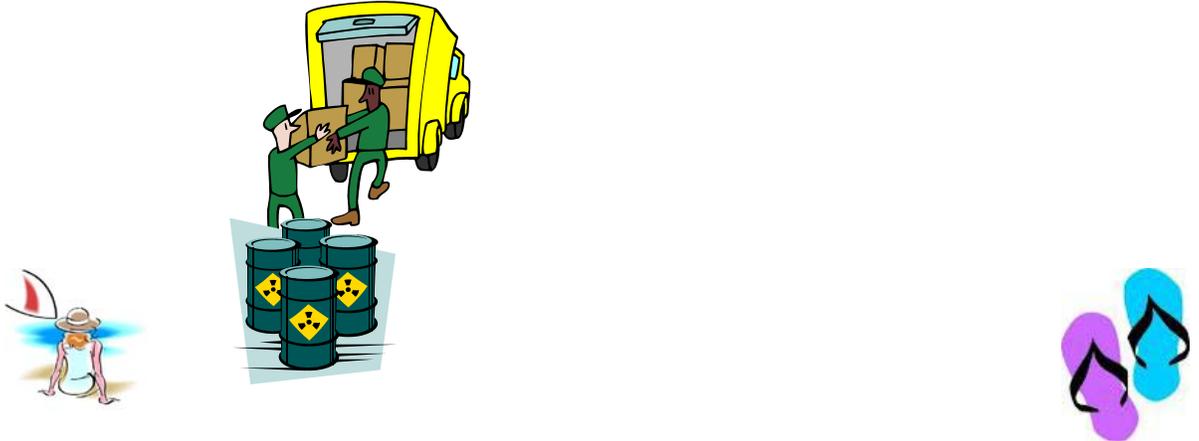


Environmental Compliance & Transportation Information Bulletin



Edition 79.

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Editor's Corner

Last year at this time, we were experiencing tornados and floods. Our hearts go out to all those impacted by these natural disasters as I watched the waters of the Missouri River rise outside my office window last spring. Hopefully the weather this summer will be calmer. Well, the school year too is done. My daughter finished her first year in high school and I survived! My son finished 5th grade.

The FY13 training survey is 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 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

For FY12, the surveyed session was conducted last March in Orlando.

We have two DOT/RCRA onsite refresher classes scheduled for the remainder of this calendar year: Rick Waples will be at Fort Gordon, Augusta GA to teach 429 on August 7-8, 2012 but space is very limited. Ed Bave will be instructing the Omaha District Rapid Response group this fall but a definitive date has not been established and space will also be limited. If you are interested in attending any of these sessions, please contact Beverly VanCleaf, Rick Waples or Ed Bave.

Remember, if you want to schedule an onsite course, please call Beverly VanCleaf or Rick Waples. We have only two onsite courses for the remainder of the calendar year so if your District hazmat employees need a refresher class, please contact Beverly as soon as possible.

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.

Also, please let your districts and customers know about the upcoming training survey for FY13. 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 2013 is out!

The PROSPECT survey for FY 13 is out and closes **15 June**. We are hoping to find a “government Classroom” someplace nice and warm (not in Alabama) for our classes in February.

The FY2013 Purple Book and schedule can be found at: <http://ulc.usace.army.mil/>

There is a SUPER important change. We are offering, for the first time, a one-day recertification class next year. But, this class will NOT overview existing processes and regulations like the two-day course does. We will only talk about the new requirements, do an exercise or two and then test you. So the prerequisite is that you need to have taken our refresher at least 3 times and pass an online pre-test with a score of 70% or above. And we are not kidding about the test this time!

CCN 223; Feb 25th to Mar 1, 2013. HW MANIFEST/DOT CERTIFICATION – Initial class.
<http://ulc.usace.army.mil/CourseListDetailNewFy.aspx?CtrlNbr=223>

CCN 429; Feb 27th and 28th. HW MANIFEST/DOT RECERTIFICATION. 16-hour Recertification Class.
<http://ulc.usace.army.mil/CourseListDetailNewFy.aspx?CtrlNbr=429>

CCN 430; Feb 27, 28 and ½ day on Mar 1st. RADIOACTIVE WASTE TRANSPORT/DOT RECERTIFICATION. This is the recertification for Radioactive Waste transportation.
<http://ulc.usace.army.mil/CourseListDetailNewFy.aspx?CtrlNbr=430>



CCN 431; Feb 27th. Hazardous Waste Manifesting, Adv 8-Hour Ref. This is the new 8-hour recertification class. <http://ulc.usace.army.mil/downloads/PurpleBook2013.pdf> Read Prerequisite.

Please sign up during survey time 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.

WARNING!

This is a reminder: the old shipping description sequence of Proper Shipping Name, Hazard Class/Division, Identification number, and Packing Group (SHIP) which is currently allowed for domestic shipments by the highway and rail mode will **NO LONGER** be authorized after January 1, 2013. You are encouraged to standardize your basic shipping description with the new international format that is Identification Number, Proper Shipping Name, Hazard Class/Division, and Packing Group (I SHIP) to avoid a potential problem with highway and rail shipments come January 1, 2013.

Important Questions from the Field

Question #1: Is security training part of the PROSPECT Manifest class? Or should the manifestors (is that a real word?) attend a specialty security course?

EM CX Response: We have already included a Section within our PROSPECT courses (CCN 223 - Initial HW Manifesting/DOT Certification & CCN 429 - HW Manifesting/DOT Recertification) that provides Security Awareness Training as required by 49 CFR 172.704(a)(4). As you are probably aware from reading the EP and the DOT regulations, all HAZMAT employees must have security awareness training and we meet this requirement within our PROSPECT courses. So attending our PROSPECT courses provides your staff with the necessary security awareness training required by DOT and DOD. However, if you ship 1 of 16 higher hazard types of hazardous materials [49 CFR 172.800(b) see applicability] you must have an in-depth security plan and your HAZMAT employees must be trained on the specifics of this security plan (49 CFR 172.704(b)(5)). We **DO NOT** cover this within our PROSPECT course because the training will need to be on the site-specific security plan.



To illustrate the above points, if you ship Class 9 materials and review the applicability of 49 CFR 172.800(b) you will determine that Class 9 shipments do not show up on the list of 16 and therefore do not require an in-depth security plan. The only mandatory training would be the Security Awareness training but not any In-depth Security Plan training.

Question #2. Who signs an HAZMAT Bill of Lading?

EM CX response: USACE policy on who signs shipping papers is provided in EP 415-1-266 and is discussed in Paragraphs 7-3, 7-4 and 7-6. http://140.194.76.129/publications/eng-pamphlets/EP_415-1-266/toc.htm.

“7-6. DOT Regulated Materials. For DOT regulated hazardous materials that are not transported with EPA hazardous waste manifests or NRC manifests, either the contractor (if required by the contract) or a USACE member formally designated as specified above may sign the DOT shipping papers with the exception of any FUSRAP waste. DOT training is mandatory to perform this function.”

It is not uncommon when you ask the contractor to sign the Bill of Lading (BoL) as the offeror of the hazardous material (excluding hazardous wastes) and on their own behalf; they immediately object and want to sign “on behalf of the Corps of Engineers.” Signing on behalf of the Corps of Engineers, instead of their own company, is not appropriate. If the desire is to have the contractor sign the BoL for hazardous materials (excluding hazardous wastes), it requires some language in the original contract.

Another document, EP 200-1-2 which is entitled “Process and Procedures for Shipping Hazardous Wastes and Other Hazardous Materials” http://140.194.76.129/publications/eng-pamphlets/EP_200-1-2/toc.htm includes a discussion on this topic on pages A-84 “What am I actually signing” and A-94 “If I have a DOT shipping document, who signs it?” This again points out that Contractors can sign the BoL, but they must sign as an offeror and not as an agent for the government.

USACE Office of Counsel at the EM CX and HQ have held the legal opinion that contractors may not be authorized to sign on behalf of the Corps of Engineers except in very limited situation such as a remote project in Alaska and only after this revision to USACE policy has been approved by the customer and the Chief of Construction for the District.

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 accessed at <http://www.gpoaccess.gov/fr/index.html>

05/14/2012 p 28259 – p 28261 Postal Service: Mailings of Lithium Batteries

Action: Final rule

Summary: The Postal Service will revise the Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMMR) 601.10.20, to incorporate standards that prohibit the outbound international mailing of lithium batteries and devices containing lithium batteries. This prohibition also extends to the mailing of lithium batteries to and from an APO, FPO, or DPO location [APO: Air/Army Post Office; FPO: Fleet Post Office; DPO: Designated Post Office]. However, this prohibition does not apply to lithium batteries authorized under DMM 601.10.20 when mailed within the United States or its territories. There are very specific requirements that must be followed in order to ship lithium batteries (Primary: Non-rechargeable or Secondary: Rechargeable) domestically within the US. The effective date of this rule is May 16, 2012.

Applicability: This would be of interest to anyone that might consider shipping lithium batteries through the US Post Office.

Reference: <http://www.gpo.gov/fdsys/pkg/FR-2012-05-14/pdf/2012-11459.pdf>



05/10/2012 p 27368 – p 27374 National Priorities List, Final Rule No. 54

Action: Final rule

Summary: This rule adds three sites to the General Superfund Section of the National Priorities List.

Applicability: This rule may be of general interest to persons involved in CERCLA remediation projects because the preamble provides an overview of the CERCLA and National Contingency Plan process for placing sites on the NPL, removing sites from the NPL, etc.

Reference: <http://www.gpo.gov/fdsys/pkg/FR-2012-05-10/pdf/2012-11289.pdf>

04/26/2012 p 24885 – p 24907 Hazardous Materials; Miscellaneous Amendments (RRR)

Action: Notice of proposed rulemaking (NPRM)

Dates: Comments must be received by June 25, 2012

Summary: PHMSA proposes to make miscellaneous amendments to the Hazardous Materials Regulations to update and clarify certain regulatory requirements. These proposed amendments are designed to promote safer transportation practices; eliminate unnecessary regulatory requirements; address a petition for rulemaking; incorporate a special permit into the Hazardous Materials Regulations; facilitate international commerce; and simplify the regulations. Among other provisions, PHMSA is proposing to update various entries in the Hazardous Materials Table and corresponding special provisions, clarify the lab pack requirements for temperature-controlled materials, and revise the training requirements to require that a hazardous material employer must make hazardous materials employee training records available upon request to an authorized official of the Department of Transportation (DOT) or the Department of Homeland Security (DHS).

Applicability: These proposed amendments to the hazardous material regulations would be of interest to shippers of hazardous materials.

Reference: <http://www.gpo.gov/fdsys/pkg/FR-2012-04-26/pdf/2012-9895.pdf>



04/16/2012 p 22504 – p 22509 Hazardous Material; Packages Intended for Transport by Aircraft

Action: Final rule

Summary: PHMSA is amending the Hazardous Materials Regulations to require closures of inner packagings containing liquids within a combination packaging intended for transportation by aircraft to be secured by a secondary means or, where a secondary closure cannot be applied or it is impracticable to apply, permit the use of a leakproof liner. These amendments are consistent with the 2011–2012 edition of the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). Voluntary compliance is authorized on May 16, 2012 and the rule becomes effective on July 1, 2012.

Applicability: This rule would be of interest to shippers that offer hazardous materials that are liquids in the air mode.

Reference: <http://www.gpo.gov/fdsys/pkg/FR-2012-04-16/pdf/2012-8978.pdf>

04/13/2012 p 22229 – p 22232 Hazardous Waste Technical Corrections and Clarifications Rule

Action: Final rule

Summary: EPA is publishing today's final rule to address the adverse comments received on a June 4, 2010 partial withdrawal notice.

Applicability: This action pertains to conforming change to 40 CFR 266.20(b); and correcting the information regarding the entry for K107 in the table at 40 CFR 261.32(a).

Reference: <http://www.gpo.gov/fdsys/pkg/FR-2012-04-13/pdf/2012-8924.pdf>



04/11/2012 p 21714 – p 21716 Hazardous Materials: Transportation of Lithium Batteries

Action: Notice of proposed rulemaking; request for additional comment

Summary: PHMSA is seeking comment on the impact of changes to the requirements for the air transport of lithium cells and batteries that have been adopted into the 2013– 2014 International Civil Aviation Organization Technical Instructions on the Transport of Dangerous Goods by Air (ICAO Technical Instructions). PHMSA is considering whether to harmonize with these requirements and is publishing this notice to allow interested persons an opportunity to supplement comments to our January 11, 2010, Notice of Proposed Rulemaking (NPRM). Comments are due by May 11, 2012.

Applicability: This notice of proposed rulemaking would be of interest to shippers of lithium batteries.

Reference: <http://www.gpo.gov/fdsys/pkg/FR-2012-04-11/pdf/2012-8550.pdf>



03/28/2012 p 18871 – p 18872 Administrative Guide for Verifying Compliance With Packaging Requirements for Shipment and Receipt of Radioactive Material

Action: Regulatory guide; issuance

Summary: The U.S. Nuclear Regulatory Commission (NRC or Commission) is issuing a revision to Regulatory Guide 7.7, “Administrative Guide for Verifying Compliance with Packaging Requirements for Shipment and Receipt of Radioactive Material.” This regulatory guide describes an approach the staff of the NRC considers acceptable for meeting the administrative requirements associated with the shipment and receipt of radioactive materials. The focus of this document is for Type B or Type AF packages and includes guidance on how to plan the shipments, select the correct packaging, prepare the packages for shipment, receive and open the packages, and recordkeeping. This guide may be downloaded from the NRC library at <http://www.nrc.gov/reading-rm/adams.html>. In searching for the document in the NRC ADAMS system it is important to use the Accession No. ML112160407.

Applicability: This would be of interest to shippers of Type B or Type AF packages of Class 7 (radioactive) material.

Reference: <http://www.gpo.gov/fdsys/pkg/FR-2012-03-28/pdf/2012-7438.pdf>

03/09/2012 p 14445 Leakage Tests on Package for Shipment of Radioactive Material

Action: Regulatory guide; issuance

Summary: The U.S. Nuclear Regulatory Commission (NRC or Commission) is issuing a revision to Regulatory Guide 7.4, “Leakage Tests on Packages for Radioactive Material.” This guidance pertains to Type B packages and gives licensees and applicants with a method the NRC considers acceptable for meeting the containment criteria for Type B packages.

Applicability: This notice of available NRC guidance would be of potential interest for shippers of a Type B quantity of radioactive material.

Reference: <http://www.gpo.gov/fdsys/pkg/FR-2012-03-09/pdf/2012-5751.pdf>



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



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P r e p a r e r

Sandi Zebrowski/Rick Waples

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Telephone 402-697-2555/2560

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