



ENERGYSOLUTIONS

Commercial Training Services

Q1 2019 NEWS

KEEPING THE NUCLEAR AND HAZARDOUS MATERIAL TRANSPORTATION INDUSTRY INFORMED OF REGULATORY CHANGES AND UPDATES

SPOTLIGHT

State Permitting



Have you ever wondered if there is a central location to find permitting and registration requirements for the transportation of hazardous materials for each individual state? The National Conference of State Legislatures (NCSL)'s does just that! Its website can be found at: <http://www.ncsl.org/research/transportation/hazmat-transportation.aspx>.

The NCSL conveniently charts the state permitting, licensing and registration requirements for the transportation of hazardous materials, hazardous waste and radioactive materials. The majority of these requirements are geared towards the transporter, but some are the generator's

(shipper's) responsibility. Currently, there are 26 states requiring special permits or licenses for hazardous waste transport; fifteen states requiring registration to transport hazardous waste within or through their state; and 28 states requiring specific permits or licenses for the transportation of radioactive materials and radioactive waste. Seven (7) states require radioactive materials transporters and/or shippers to register. Many radioactive material permits and licenses are limited to specific kinds of radioactive materials such as low-level radioactive waste and high-level radioactive waste, or mixed waste (EPA RCRA hazardous waste and radioactive).

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IMPORTANT DATE TO REMEMBER

JANUARY 1, 2019

- Labels must have a 2mm inner border (HM-215M, 80 FR 1076, January 8, 2015 & HM-215N, 82 FR 15796, March 30, 2017)
- Begin voluntary IMDG Code 2018 Edition Amendment 39-18 compliance
- Begin using the IATA DGR 60th Edition



NRC Updates Advanced Notification Designee List

The Nuclear Regulatory Commission (NRC) has updated the list of individuals to receive advance notification of radioactive material and nuclear material shipments required by either 10 CFR Part 37 (Category 1 and 2), Part 71 (HRCQ) or Part 73 (Spent Nuclear Fuel) on March 6, 2019. This list of States, Territories and Participating Tribes can be downloaded from the NRC website at <https://scp.nrc.gov/special/designee.pdf>.

Frequently Asked Questions

Load Securement — Preventing Loss and Shifting of Cargo

Is loading and unloading a vehicle regulated by the Hazardous Material Regulations (HMR)?

Reference: 05-0267, 13-0195, 16-0061, 16-0088

Yes. All pre-transportation and transportation functions are subject to the applicable HMR requirements concerning compatibility of lading with the packaging, outage and filling limits, securing of valves and closures, venting, segregation, cargo securement and similar provisions. (See 10 CFR 71.5 and 49 CFR 171.1, 173.30, 177.804, 177.842)

If a shipper loads the vehicle, who is responsible for the load securement?

Reference: 98-0260, 98-0242, 13-0195, 16-0061; and NRC Information Notice No. 87-31

Each person is responsible for the function that they perform. In the event a shipper conducts or participates in the loading process of a hazardous material onto a transport vehicle, they must comply, as does the carrier, with applicable requirements of the HMR (§ 173.30).

Are in-direct tiedowns enough to prevent lateral movement of packages on a flatbed trailer?

Reference: NRC Information Notice No. 87-31

No, in-direct tiedowns are mainly useful for preventing vertical movement. We have learned from OE that packages will move without adequate blocking and bracing, friction mat, etc to prevent side-to-side and forward to rearward motion.

What is expected of an NRC licensed shipper to ensure they meet all the load securement rules?

Reference: 13-0195, and NRC Information Notice No. 87-31

Licensees should include written loading procedures with detailed checklists and quality control oversight and release requirements to ensure that all shipments are properly loaded and braced.

Is some movement of a package on a vehicle allowed?

Reference: 14-0230, 16-0088

Yes, but the movement cannot damage the package or other packages, nor can any cargo movement impair the driver's ability to safely control the vehicle.

DOT letters of interpretation can be found at: <https://www.phmsa.dot.gov>. Click on: "Regulations and Compliance" then "Interpretations" Next, you can search by entering the reference number in the search box or search by the applicable regulatory section number, or search by the published date. To access any NRC Informational Notices, go to: <http://www.nrc.gov/reading-rm/doc-collections> Then, click on Generic Communications, Informational Notices, and search by appropriate year. Do not forget that you have these internet addresses (and many more) in a PDF on our training class CD handout.



Seasonal Safety

It may be Spring, but Winter is still upon some and so are the challenges with frostbite. Here in the Southeast of the USA, we are experiencing weather ranging from winter to summer, sometimes in the same week. Be careful and watch your local forecast for changing weather conditions. With Spring upon us, so is the increase of bugs, insects, snakes, etc. Be careful while working and playing outside!

Columbia, SC Office to Close at the End of the Year

Our offices in Columbia, SC have changed building locations several times over the years. We have even changed names a few times! It is with a sad heart, our Columbia office staff will be finding new "homes" to work from by the end of 2019. Some folks will be moving to the new Charlotte, NC office, some to the Barnwell, South Carolina complex, and some working from home. The Commercial Training Services personnel are moving

to Barnwell. Our new home will soon be in the Barnwell Processing Facility, located in building #201. The address will be [16043 Dunbarton Blvd., Barnwell, SC 29812](#).

If you are ever in the Barnwell area Monday-Thursday, please stop by for a visit. Call ahead for reservations. Otherwise, we will continue to see you in the classroom as usual.

popquiz

Recent Lessons Learned, Industry Events, and Operating Experiences



Exactly What Are We Looking at Here?

These communications were found on the closed transport vehicle, the tarp enclosure preventing access to the package (see inset picture showing pre-transport configuration).

So, is it bulk or non-bulk? Both types of communications are displayed.

Are these package (markings & labels) or conveyance (orange panel & placard) communications? Both are displayed on the tarp surrounding the package.

What is a "USA DOT 7B(U) Type B(U)" package? In the USA, does the DOT certify a Type B package? See 49 CFR 173.416 to find that it is the NRC. Also see 173.471 for the proper Type B package certification marking based on the NRC issued CoC, which in this case should have been "USA/9233/B(U)-96"

Next, should you have two "RQ" markings? Is the RQ marking required for bulk packagings? And, if you include the description, should it be in parenthesis "RQ (radionuclides)" or just a hyphen? See 172.324 to know it is only a non-bulk specification marking and only the letters "RQ" are required for labeled class 7 non-bulk packages.

Lastly, is "Fissile Excepted" a required marking? Is it an additional descriptor as shown here or be part of the proper shipping name?



When Is It Time to Replace a Placard?

This type of hinged placard is allowed per 49 CFR 172.516(e), but only if the required format, color and legibility requirements in 49 CFR 172 Subpart F are maintained. Do you see the faded yellow color and "grayish" spots on the white portions of this radioactive class 7 placard? Are both the shipper and carrier responsible to ensure placards meet the visibility and display requirements? Be careful and stay vigilant.



Hey! What the Hay!?!

Is this a wide load? Should your cargo exceed the width of 102 inches without special authorization per 23 CFR 658.15? Also, is the load securing correct for the bundles of hay? Please review 49 CFR 393 Subpart I for the necessary commercial motor vehicle "Protection against Shifting and Falling Cargo" requirements.



THE LATEST HAPPENINGS

IN THE FEDERAL REGISTER

DOT V2X COMMUNICATION COMMENT REQUEST—On December 26, 2018 (83 FR 66338), the Department of Transportation (DOT) published a notice requesting comment about recent developments in V2X technologies (“V2X” includes vehicle-to-vehicle (V2V), vehicle-to-infrastructure (V2I) and vehicle-to-pedestrian (V2P) communications). In particular, the Office of the Secretary (OST) wants to hear from stakeholders, and the public generally, whether focusing on Dedicated Short-Range Communications (DSRC) as the primary means of V2V communications is consistent with recent technological developments, as well as with OST DOT’s general desire to remain technologically neutral and avoid interfering with the many innovations in transportation and telecommunication technologies. If technological developments support the use of alternatives to DSRC, the OST DOT would also need to know how to ensure that these alternative technologies are interoperable with each other and DSRC. This notice requests comment on how these developments impact both V2X in general and OST DOT’s role in encouraging the integration of V2X. Please submit your comments by January 25, 2019. Note: DOT extended the comment period in a notice published on February 13, 2019 (84 FR 3850) in the federal register to February 25, 2019.

COMMENT REQUEST: EPA WASTE MANIFEST SYSTEM UPDATES—On February 08, 2019 (84 FR 2854), the Environmental Protection Agency (EPA) published a notice requesting comment on specific aspects of proposed information collection requirements for Generators, Transporters, and Waste Management Facilities Under the RCRA Hazardous Waste Manifest System. EPA is proposing revisions to: (1) Improve the precision of waste quantities and units of measure reported in Items 11 and 12 of the

hazardous waste manifest (both paper and electronic), respectively; (2) enhance the quality of international shipment data reported on the manifest; and (3) assist EPA with integrating e-Manifest and biennial reporting (BR) requirements. These improvements are discussed in more detail in the federal register notice. Comments must be submitted on or before April 9, 2019.

NRC REQUESTS CONTINUED INFORMATION COLLECTION—On February 13, 2019 (84 FR 3833), the Nuclear Regulatory Commission (NRC) published a notice requesting comments on the renewal of an existing collection of information sent to the Office of Management and Budget (OMB) for review. The information collection is entitled, “Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.” Currently in 10 CFR Part 37, licensees authorized to possess and use Category 1 or Category 2 quantities of radioactive material are required to submit initial compliance notifications and fingerprints for the reviewing officials; and as needed for implementation notifications, event notifications, notifications of shipments of radioactive material, and fingerprinting of new employees. Please submit comments by March 15, 2019.

EPA & ACE REVISING WATERS OF THE US DEFINITION—On February 14, 2019 (84 FR 4154), the EPA and the Department of the Army, Corps of Engineers, Department of Defense (ACE) published a proposed rule asking the public to comment on defining the scope of waters federally regulated under the Clean Water Act (CWA) in 33 CFR Part 328 and 40 CFR Parts 110, 112, 116, 117, 122, 230, 232, 300, 302 and 401. This proposal is the second step in a comprehensive, two-step process intended to review and revise the definition of “waters of the United States” consistent with the

Executive Order signed on February 28, 2017, “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule.” This proposed rule is intended to increase CWA program predictability and consistency by increasing clarity as to the scope of “waters of the United States” federally regulated under the Act. This proposed definition revision is also intended to clearly implement the overall objective of the CWA to restore and maintain the quality of the nation’s waters while respecting State and tribal authority over their own land and water resources. Comments must be received on or before April 15, 2019.

EPA ADDS HAZWASTE PHARMACEUTICAL RULES—On February 22, 2019 (84 FR 5816), the EPA published a final rule adding regulations for the management of hazardous waste pharmaceuticals by healthcare facilities and reverse distributors in 40 CFR Parts 261 thru 273. Healthcare facilities (for both humans and animals) and reverse distributors will manage their hazardous waste pharmaceuticals under this new set of sector-specific standards in lieu of the existing hazardous waste generator regulations. Among other things, these new regulations prohibit the disposal of hazardous waste pharmaceuticals down the drain and eliminates the dual regulation of Resource Conservation and Recovery Act (RCRA) hazardous waste pharmaceuticals that are also Drug Enforcement Administration (DEA) controlled substances. The new rules also maintain the household hazardous waste exemption for pharmaceuticals collected during pharmaceutical takeback programs and events, while ensuring their proper disposal. The new rules codify EPA’s prior policy on the regulatory status of nonprescription pharmaceuticals going through reverse logistics. Additionally,



THE LATEST HAPPENINGS

EPA is excluding certain U.S. Food and Drug Administration (FDA) approved over-the-counter (OTC) nicotine replacement therapies (NRTs) from regulation as hazardous waste and is establishing a policy on the regulatory status of unsold retail items that are not pharmaceuticals and are managed via reverse logistics, fulfilling the commitment we made in the Retail Strategy of September 2016. This final rule is effective on August 21, 2019.

DOT REQUESTS CONTINUED INFORMATION COLLECTION—On February 25, 2019 (84 FR 6041), the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a notice requesting comments on three (3) information collections pertaining to hazardous materials transportation for which PHMSA intends to request renewal from the Office of Management and Budget. These include: 1. Radioactive (RAM) Transportation Requirements; 2. Hazardous Materials Public Sector Training and Planning Grants; and 3. Subsidiary Hazard Class and Number/Type of Packagings. Interested persons are invited to submit comments on or before April 26, 2019.

DOT UPDATES HHFT'S OIL SPILL RESPONSE PLANS—On February 28, 2019 (84 FR 6910), the PHMSA in consultation with the Federal Railroad Administration (FRA) published a final rule revising and clarifying the requirements for comprehensive oil spill response plans (COSRPs) and expanding their applicability based on petroleum oil thresholds that apply to an entire train involving petroleum oil and high-hazard flammable trains (HHFTs). Specifically, this final rule: 1. Expands the applicability for COSRPs; 2. Modernizes the requirements for COSRPs; 3. Requires railroads to share information about HHFT operations with State and tribal emergency response commissions to improve community preparedness; and 4. Incorporates

by reference a voluntary standard in 49 CFR Parts 107, 130, 171, 173 and 174. The amendments in this final rule will provide regulatory flexibility and improve response readiness to mitigate effects of rail accidents and incidents involving petroleum oil and HHFTs. This final rule is effective as of April 1, 2019. PHMSA is authorizing voluntary compliance beginning February 28, 2019. Unless otherwise specified, compliance with the amendments adopted in this final rule is required beginning August 27, 2019. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of April 1, 2019.

NRC REQUESTING SNM REGULATORY BASIS COMMENTS—On March 01, 2019 (84 FR 6980), the NRC published a notice requesting comments on a draft revised regulatory basis to support a rulemaking that would update special nuclear material (SNM) physical protection requirements for fuel cycle facilities in 10 CFR Part 73. The rule would establish generically applicable security requirements similar to those imposed by security orders issued by the NRC following the terrorist attacks of September 11, 2001. Please submit comments by April 1, 2019. Comments received after this date will be considered if it is practical to do so; however, the NRC is only able to ensure consideration of comments received on or before this date.

FMCSA REVISES CDL ENTRY LEVEL TRAINING—On March 06, 2019 (84 FR 8029), the Federal Motor Carrier Safety Administration (FMCSA) published a final rule amending the entry-level driver training (ELDT) regulations in 49 CFR Part 380 published on December 8, 2016, titled "Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators" (ELDT final rule), by adopting a new Class A CDL theory instruction upgrade curriculum

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to reduce the training time and costs incurred by Class B commercial driver's license (CDL) holders upgrading to a Class A CDL. This final rule does not change the regulatory text proposed in the June 29, 2018 Notice of Proposed Rulemaking (NPRM). FMCSA believes this modest change in the Class A theory training requirements for Class B CDL holders upgrading to a Class A CDL maintains the same level of safety established by the ELDT final rule, and the regulatory burden reduction will result in annualized cost savings of \$18 million. This final rule is effective May 6, 2019. The compliance date for this final rule is February 7, 2020. Petitions for Reconsideration of this final rule must be submitted to the FMCSA Administrator no later than April 5, 2019.

LITHIUM BATTERIES TRANSPORTED BY AIRCRAFT UPDATE—On March 06, 2019 (84 FR 8006), the PHMSA published an interim final rule (IFR) revising the Hazardous Materials Regulations for lithium cells and batteries transported by aircraft. This IFR will revise 49 CFR Parts 172 and 173: 1. Prohibiting the transport of lithium ion cells and batteries as cargo on passenger aircraft; 2. Requiring lithium ion cells and batteries to be shipped at not more than a 30 percent state of charge aboard cargo-only aircraft when not packed with or contained in equipment; and 3. Limiting the use of alternative provisions for small lithium cell or battery shipments to one package per consignment. This interim final rule does not restrict passengers or crew members from bringing personal items or electronic devices containing lithium cells or batteries aboard aircraft, or restrict cargo-only aircraft from transporting lithium ion cells or batteries at a state of charge exceeding 30 percent when packed with or contained in equipment or devices. This interim final rule is effective on March 6, 2019. Comments must be received by May 6, 2019.

2019 COMMERCIAL TRAINING SCHEDULE

Radioactive Class 7 Material Packaging, Transportation & Disposal Regulatory Compliance Courses

All DOT/NRC training courses meet the requirements of 49 CFR Part 172 Subpart H and NRC IE Notice 79-19

COURSE	DATE	CEU**	TUITION	LOCATION
DOT/NRC Radioactive Waste Packaging, Transportation & Disposal	April 8 - 11	40	\$1,895	Surfside Beach, SC
Air Transport of Radioactive Materials (IATA/DOT)	April 12	8	\$945*	Surfside Beach, SC
DOT/NRC Radioactive Waste Packaging, Transportation & Disposal	June 3 - 6	40	\$1,895	San Diego, CA
Air Transport of Radioactive Materials (IATA/DOT)	June 7	8	\$945*	San Diego, CA
DOT/NRC/EPA Hazardous Waste/Mixed Waste Packaging, Transportation & Disposal	July 15 - 19	40	\$1,995	Clinton, TN
Bear Creek Operations (BCO) Facility Tour	July 18	—	\$0	Clinton, TN
DOT/NRC Radioactive Waste Packaging, Transportation & Disposal	July 29 - August 1	40	\$1,895	Orlando, FL
Air Transport of Radioactive Materials (IATA/DOT)	Aug 2	8	\$945*	Orlando, FL
DOT/NRC Radioactive Waste Packaging, Transportation & Disposal	October 21 - 24	40	\$1,895	Hilton Head, SC
Air Transport of Radioactive Materials (IATA/DOT)	October 25	8	\$945*	Hilton Head, SC
DOT/NRC/EPA Hazardous Waste/Mixed Waste Packaging, Transportation & Disposal	November 4 - 8	40	\$1,995	Clinton, TN
Bear Creek Operations (BCO) Facility Tour	November 7	—	\$0	Clinton, TN
DOT/NRC Radioactive Waste Packaging, Transportation & Disposal	December 2 - 5	40	\$1,895	Henderson, NV
Air Transport of Radioactive Materials (IATA/DOT)	December 6	8	\$945*	Henderson, NV

** If an IATA class is taken in conjunction with the DOT/NRC class during the same week, there is a \$200 multi-class discount*

*** The American Academy of Health Physics (AAHP) has pre-approved continuation education credit hours for these courses*

