



THE HAZMAT NEWS NETWORK

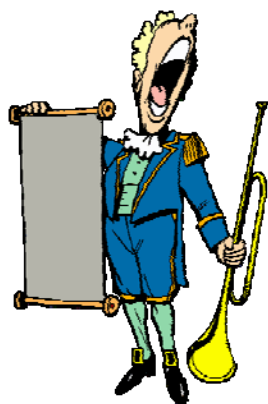


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WELL, I'VE BEEN A BIT BUSY LATELY so the newsletter issues are behind. Welcome to the Aug/Sept 07 issue of **The Hazmat News Network** newsletter (yeah I know it's October...I'm already behind!). This two-month issue reviews what's been happening with DOT hazmat dockets and talks about other important news. Best of all, it's free! Now if you don't want to receive this newsletter, simply send us an email with REMOVE. Enjoy...and happy autumn.

DOCKET ACTION IS STILL AT A SLOW, EASY PACE. Here are the latest. Please note that we do not address Special Permit (formerly Exemptions) actions. Remember, if you need to get a copy of any of these dockets, simple go to [2007 Federal Register Contents](#).



Aug 9th: The DOT (PHMSA) published the final rule, *Transportation of Lithium Batteries* (HM-224C). This final rule tightens the safety standards for transportation of lithium batteries, including both primary (non-rechargeable) and secondary (rechargeable) lithium batteries. Specifically, DOT is adopting amendments from the December 15, 2004 NPRM, imposing a limited prohibition on the transport of primary Li batteries and cells on PAX, and adopting

many of the April 2, 2002 NPRM changes. The effective date of this final rule is January 1, 2008.

Sep 20th: The DOT (PHMSA) published the NPRM, *Fuel Cell Cartridges and Systems Transported on Board Passenger Aircraft in Carry-on Baggage* (HM-243). This rule proposes to amend the HMR to permit certain fuel cell cartridges and fuel cell systems designed for portable electronic devices to be transported by passengers and crew in carry-on baggage on board passenger-carrying aircraft. The proposed rule would cover fuel cells containing certain hazardous materials (flammable liquids, including methanol; formic acid; certain borohydride materials; or butane) and meeting certain performance and consumer use standards, which we are proposing to incorporate by reference into the HMR. Comments are due by Nov. 19, 2007.

Sep 28th: The DOT (PHMSA) published the final rule in response to appeals, *Transportation of Compressed Oxygen, Other Oxidizing Gases and Chemical Oxygen Generators on Aircraft* (HM-224B). On January 31, 2007, PHMSA published a final rule that amended requirements in the Hazardous Materials Regulations applicable to the air transportation of compressed oxygen cylinders and oxygen generators. In response to appeals submitted by entities affected by the January 31 final rule, this final rule amends requirements adopted in the January 31, 2007 final rule and delays the effective date of these requirements from October 1, 2007 to October 1, 2008.

Sep 28th: The DOT (PHMSA) published the correction final rule, *Revision and Reformatting of Requirements for the Authorization to Use International Transport Standards and Regulations* (HM-215F). On May 3, 2007, PHMSA published a final rule to amend the Hazardous Materials Regulations (HMR) by revising and consolidating the requirements of the then, §§171.11, 171.12, and 171.12a. This rule corrects error in the May 3rd final rule and is effective Sept. 28, 2007.

THANKS TO ALL YOU EXPLOSIVE PEOPLE! I wish to thank all of you who attended our first DOT Explosives Packaging and Transport Workshop in Las Vegas. We are encouraged by your comments and look forward to our next class offering sometime in May 2008. Look for our full 2008 training schedule in an upcoming newsletter.



DON'T FORGET ABOUT OUR UPCOMING IATA/ICAO training that will be held in Richland, WA, on December 4-7. The first two days are for non-rad dangerous goods followed by a specialty class targeted to Class 7 radioactive materials. You can attend either class separately or, for a discounted price, come for both. Each participant will receive the 49th edition of the IATA Dangerous Goods Regulations and other valuable materials that will assist in your compliance needs. Get your registrations in early as class size is limited. Go to www.regulatoryresources.net to look over both course syllabi and get the registration form.

THERE SEEMS TO BE A HOLE IN OUR PACKAGE quality assurance programs! Over the last 20 years I've been blessed to teach, consult, problem-solve, develop, and assess in varying applications of the hazmat regulations. And over the years there is one thing that stands out: the shipper's failure to show evidence of compliance with the general packaging requirements of §§ 173.24, 173.24a, 173.24b and 173.27. Compliance to these sections is the responsibility of the shipper! The hazmat regs require that all packagings used for hazardous materials, specification and non-specification, meet these requirements. One big difference between these requirements and the requirements in Part 178...your lading! The manufacture does not know what you will be placing in the packaging. The general packaging requirements are to be assessed, not against an empty packaging, but against the package containing your stuff. How can you prove that you're meeting §173.24(b)? If you're using plastics, can you provide evidence of compliance to the Part 173 Appendix B requirements as specified in §173.24(e)(3)? For those who ship Class 7 radioactive materials, you





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must have a quality assurance program that provides evidence of compliance (§§ 173.403, 173.474, 173.475). A common misconception is made as to compliance with these requirements when using a Class 7 packaging that is certified to a higher standard. This is due to the fact that any more robust Class 7 packaging must, by reference, meet the general packaging requirements of §173.410. However, under the June 22, 2004 docket, HM-215E (69 FR 34604), the DOT stated with regard to the then §178.2:

*Upon further consideration, we [DOT] agree that the references to §§ 173.24 and 173.27 may impose an unintended and unwarranted burden on the packaging manufacturer and imply that responsibility for compliance with the requirements of these sections rests with the packaging manufacturer rather than the shipper. **The requirements in §§ 173.24, 173.24a and 173.27 are the responsibility of the shipper.** A package that meets the performance requirements of Part 178 does not necessarily meet the general requirements of Part 173. **The shipper must undertake additional steps to ensure that a hazardous material packaging that is purchased from a packaging manufacturer meets all of the applicable requirements.** Therefore, on our own initiative we are removing the phrase “and the general packaging requirements in §§ 173.24 and 173.27 of this subchapter” from the paragraph. [emphasis added]*

The regulators took this in consideration in the suggested penalty assessment table in Part 107! Don't assume you meet this requirement. Do the QA for each packaging design and factor into it your lading.

HEY MANUFACTURERS...YOU NEED TO LISTEN TOO! In my reviews of packaging and shipping operations I've ran across many manufacturer packaging certification that say they qualify the packaging to meet specific hazmat packaging standards. Included with these is sometimes the references to the general packaging requirements, §§ 173.24, 173.24a, 173.24b and 173.27. How can this be unless you're aware of what will be placed into the shipper's packagings? It may be worth the few extra minutes it will take to look over the 'certificates of compliance' to see if you're qualifying the packaging for something that may be beyond your ability.



ANOTHER THING TO THINK ABOUT... Do you ever place Division 6.1 poison material or waste, including any with a subsidiary of poison, into a plastic packaging? Before you say “No” you may want to look closely at your waste operations. Some common solvents used throughout industry are classified under the hazmat regs as Division 6.1. If you are using plastic packaging for these materials/wastes, the packaging used must have the word **POISON** marked within six inches of the opening of the packaging. The

marking must be at least ¼ inch high and permanent. This means that the marking must be able to survive any packaging recondition process. The HMR in §172.313(b) states that embossing is an example of what is meant as permanent. Now shippers, before you get too over zealous, remember you cannot etch or burn this marking into the surface of the packaging; this would certainly be construed as an alteration in the original packaging design that could reduce its integrity.



ONE LAST ITEM OF IMPORTANCE FOR PACKAGINGS has to do with maintenance. Be sure to read carefully §173.24(b) and also §171.1(a). The shipper is responsible to maintain the packaging so as to ensure all design and specification requirements are met at the time of use. Remember, non-specification does not mean non-applicable! This requirement applies to any packaging used for the transport of hazardous materials. Can you qualify every packaging used meets the standard for which it is designed when you use it? Can you tell me how long the gasket material can be stored before the QA life expires? Can you tell me the consequence of storing packagings in outside locations where they are subject to temperature and humidity extremes? Do you have the documentation from the manufacturer that supports how you are maintaining your packagings? What do you do when the gasket material rips or the glue holding the gasket fails allowing part or the entire gasket to dislodge from its designed location within the closure? Did you know that DOT considers it a violation if a packaging displays a specification/certification and you cannot provide evidence that that packaging meets the requirement for which it is marked? How are you controlling these packagings from being used for the shipping of hazardous materials or wastes?



NOW ABOUT THE CONTINUATION SHEET of the new Uniform Hazardous Waste Manifest (UHWM); you do know that you, the shipper, are responsible to consecutively number each hazmat description placed in Item 27b. This may be a challenge for some who are using computer programs to fill out the manifests. First, make sure the program is in fact numbering the blocks on the continuation sheet. Then, make sure that if you use more than one block in Item 9b on the first page (e.g., your description consumes all of block 1 and continues into block 2 of Item 9b), that the preprinted, sequential numbers on the first page are renumbered to show the appropriate number of hazardous waste descriptions. The number of Item 27b on the continuation page of the UHWM must continue from the first page and run sequentially. Whew, wasn't that easy?