



THE HAZMAT NEWS NETWORK



Regulatory Resources, Inc. 240 Joshua Road Kennewick, WA 99338

Voice: 509-628-1020 — Fax: 509-628-0972 — email: newsletter@regulatoryresources.net — www.regulatoryresources.net — Feb/March 2009

Welcome hazmat'rs to the February/March '09 issue of **The Hazmat News Network**. We hope you find our newsletter informative and useful to your compliance operations. Feel free to forward this to others. Contact us if you wish to be removed.



DID I MISS SOMETHING or were there really no new PHMSA dockets published since our last newsletter? Wow, what a nice break. Keep in mind that if you need a copy of any docket, visit the PHMSA website at this [link](#) or view the daily Federal Register publication at [2008 Federal Register Contents](#). Also, our website posts all our newsletters back to 1995. Use these as a resource if you're in search of past docket information.

FYI...SPRING BREAK HAS SPRUNG and RRI is taking advantage of it. Our office will be closed from March 27th through April 5th. And, the best part of all is that I won't even be able to get to my emails or voice messages! So if you call or email me during this break please understand that I won't be able to get back to you until after April 6th.

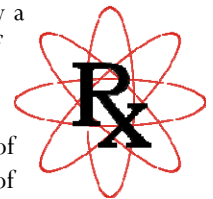


'WAIT-A-HOLD-IT' YOU PUBLIC UNIVERSITIES! It seems that public universities are liking the "not subject to the hazmat regs" application of §171.1(d)(5). PHMSA has responded a number of times to questions from public universities asking if they are subject to the Hazardous Materials Regulations (HMR). The regulator responds very favorably by stating that a state agency, such as a state university, that transports hazmat for its own use, using its own personnel and vehicles is not engaged in transportation in commerce and, therefore, is not subject to the HMR. Ah, the flowers are blooming and the birds are singing. And just when the rainbow starts forming its magical arch a radioactive Dementor appears. You see, it's different for Class 7 radioactive materials. First, remember that you're an NRC (or State approved) licensee. Second, don't forget the NRC has a small series of regulations addressing radioactive materials in transport, specifically 10 CFR 71.5. It's a small paragraph in this section (paragraph (b)) that wilts the flowers, stifles the birds, and dissolves the rainbow away. Paragraph 71.5(b) states "[i]f DOT regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the DOT specified in paragraph (a) of this section to the same extent as if the shipment or transportation were subject to the DOT regulations." In other words, the NRC will enforce the DOT hazmat regulations on NRC licensees even during those times

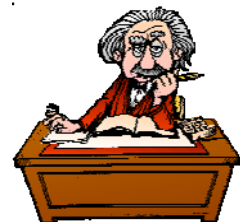


with the DOT regulations themselves do not apply. Now there is one glimmer of light here...this applies only to those licensees who offer for transport or transport licensed material outside the site of usage, as specified in the license, or where transport is on public access roadways. Remember, I'm only the messenger.

AND WHILE WE'RE ON THE SUBJECT of 10 CFR 71, there seems to be a section that isn't complemented by 49 CFR 100-180 (the Hazmat Reg). Section 71.12 of the NRC transport regulations is a section without any paragraphs; it's two sentences. This section exempts any physician licensed by a State to dispense drugs in the practice of medicine from 10 CFR 71.5...that's right, the "Dementor" section just discussed. Now here's the problem. In the HMR, this type of operation meets the definition of a Material of Trade or MOT (49 CFR 171.8). Class 7 radioactive materials are not authorized in §173.6 (application of MOT) for the MOT exception. No where in the HMR does it authorized total relief from the hazmat regulations to someone transporting Class 7 radioactive material in commerce. No where. Therefore, by the rules established in the HMR, anyone offering for transport or transporting in commerce a material that meets the defining criteria of Class 7 radioactive material is subject to the HMR. I'm sorry to say that the exemption of 10 CFR 71.5 doesn't override the requirements of 49 CFR 100-180. Now if you're in need of some great training...give me a call.



GET YOUR REGISTRATIONS IN NOW for our May 18-19 DOT Explosives packaging and transport class and July 21-24 DOT/ICAO radioactive materials transport workshop. Both of these will be held at the Hampton Inn along the banks of the Columbia River in Richland, WA. Make sure to make your reservations early and let them know it's for RRI's class. I'm confident, from all the others who've stayed here, that you'll enjoy your visit. The registration form and syllabus for each course is located at our website ([link](#)). I need to have all registrations to me within 7 working days of the start of the class. Our 2009 training schedule and hotel information is on the second page of this newsletter. Oh, one very important note about the DOT/ICAO rad class: I will be using the ICAO TI as the air regulation reference book. That's right, I'm teaching to the "real" regulation! Naturally, the course will be supplemented with IATA DGR information (e.g., Shipper's Declaration). So, don't delay in getting your registrations in as soon as possible as space is limited.





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Regulatory Resources, Inc. 2009 Compliance Training Schedule

Date	Course No.	Course	Location	Where	Hotel Contact Info.
Dec 8, 2008	504	ICAO DG Pkg & Transport Report	Los Alamos, NM	Motorolla Bldg.	Hampton Inn 468 Bradley Blvd. Richland, WA 99352 800-560-7809 509-943-4400
Dec 9, 2008	505	ICAO Rad Pkg & Transport Report	Los Alamos, NM	Motorolla Bldg.	
Jan 20-21, 2009	204	Initial DOT Hazmat	Richland, WA	Hampton Inn	
Jan 22, 2009	505	ICAO Rad Pkg & Transport Report	Richland, WA	Hampton Inn	
Feb 2-4, 2009	204 & 202	Initial DOT Hazmat/Waste P&T	Richland, WA	Hampton Inn	
Feb 4-6, 2009	202	Initial DOT Rad P&T	Richland, WA	Hampton Inn	
Mar 2-6, 2009	304	Advanced DOT HazMat for Shippers	Richland, WA	Hampton Inn	
Mar 9-13, 2009	302	Advanced DOT HazWaste for Shippers	Richland, WA	Hampton Inn	
Mar 16-20, 2009	303	Advanced DOT Rad Materials for Shippers	Richland, WA	Hampton Inn	
Apr 20-23, 2009	TBD	TBD	Los Alamos, NM	Motorolla Bldg.	
May 12-13, 2009	305	UN Packaging for Users	Richland, WA	Hampton Inn	<u>Hotels in or near Los Alamos</u> Hiltop House Holiday Inn Express Hampton Inn Varied B&B's Santa Fe is ~30 minute drive <u>Los Alamos class location:</u> Motorolla Building 4200 West Jemez Road Los Alamos, NM
May 14-15, 2009	306	Class 7 Packaging for Users	Richland, WA	Hampton Inn	
May 18-19, 2009	204	DOT Explosives P&T	Richland, WA	Hampton Inn	
Jul 21-24, 2009	203 & 402	DOT & ICAO Class 7 P&T for Shippers	Richland, WA	Hampton Inn	
Aug 10-13, 2009	TBD	TBD	Los Alamos, NM	Motorolla Bldg.	
Aug 17-19, 2009	201 & 202	Initial DOT Hazmat/Waste P&T	Richland, WA	Hampton Inn	
Aug 19-21, 2009	203	Initial DOT Rad P&T	Richland, WA	Hampton Inn	
Aug 24-28, 2009	307	Advanced Mixed Waste P&T for Shippers	Richland, WA	Hampton Inn	
Oct 19-23, 2009	TBD	TBD	Los Alamos, NM	Motorolla Bldg.	

¹ Class runs ½-day on Wednesday

² Class starts at 1pm on Wednesday