Regulatory Resources Inc.
"The Source You'll Come Back To"

THE HAZMAT NEWS NETWORK

A Publication of Regulatory Resources, Inc.
240 Joshua Road Kennewick, WA 99338

Voice: 509-628-1020 – Fax: 509-628-0972 – email: newsletter@regulatoryresources.net – www.regulatoryresources.net – June 03

SUMMER'S IN FULL SWING and we hope you're having a great one! Welcome to the June 2003 newsletter. It's absolutely free. And for issues you missed simple go to our website at www.regulatoryresources.net. Although copyright protected please feel free to forward this newsletter to others.

DOCKET ACTIONS for June looked at first to be busy but turned out to be rather slow. Here's what happened.

• June 2nd: RSPA published a correction to the final rule compliance dates for docket HM-220D, "*Requirements for Maintenance, Requalification, Repair and Use of DOT Specification Cylinders*" (published 5/8/03). RSPA is correcting to delayed compliance dates and identifying that immediate compliance is authorized.

• June 9th: RSPA, together with the FRA and TSA published a Notice to describe the application of federal laws to the transport of explosives by rail. This Notice is in response to the Safe Explosives Act (Pub. L. 107-296, Nov. 25, 2002). Basically, these agencies determined that in light of the extensive regulations of the rail transport of explosives by DOT, the protections inherent in railroad operations against improper use of these materials by employees, and the security safeguards taken by the railroads, that the transport of explosives by rail does not present a sufficient security risk warranting further regulations at this time. The effective date of this Notice was June 4, 2003.

• June 10th: RSPA published a Notice for Public Meeting and Request for Written Comments concerning the proposed changes to the IAEA TS-R-1 Regulations for the Safe Transport of Radioactive Materials. Please, if possible get to this meeting scheduled for July 22 at the DOT office in Washington, DC. Get your comments in now since these changes will eventually make it back in our domestic rulemaking action.

• June 11th: RSPA published a NPRM, Docket HM-206B, "*Changes to the Hazard Communication Requirements, Including Revision of Design of Labels and Placards for Materials Poisonous by Inhalation (PIH).*" There are quite a number of changes in this docket, some of which include a slight modification to the PIH label and placard, updated color standards for labels and placards, expanded use of the CGA cylinder labeling exception, a "non-odorized" marking for LPG (when applicable), empty packages containing only a residue of a non-RQ amount of a hazardous substance, and much more. Go to our LINKS page of our website to get to the 2003 dockets. You need to read and respond to this one. Comments are due by August 11, 2003.

LAST CALL FOR OUR ADVANCED RADIOACTIVE Materials Packaging & Transportation Workshop to be held on July 28-August 1, 2003 here in the beautiful Tri-Cities (that's actually Richland, WA). All the information about the workshop can be found by going to our website at www.regulatoryresources.net. Plan on being out of the class no later than 11:30am on Friday. Hurry and get your registration in; I limit the class size on advanced classes to ensure the questions of the participants are met. Oh, register for your room at the hotel by July 18th.

WHAT IS "MEETING THE DEFINITION OF?" I recently had a question concerning the application PIH materials to the Small Quantity Exception in 49 CFR 173.4. The material in question was phosphorus oxychloride, classed as a 6.1, PG II with a subsidiary of PIH, Zone B (Special Provision 2 in Column 7 of the Hazmat Table). Because the material is classed as PG II the question rose as to why the maximum quantity of material was limited to only one gram (173.4(a)(1)(iii)). The reason is that the requirement is stated as limiting to 1 gram all materials that meet "***the definition of*** a Division 6.1, Packaging Group I, Hazardous Zone A or B" (emphasis added). Although the material is classed in the Hazmat Table as a 6.1 PG II, the subsidiary hazard meets "the definition of" a 6.1, PG I, PIH Zone B as seen in 173.133. Please note that no definition exists for PIH liquid in PG II or PG III; all PIH liquids "meet the definition" of PG I. Now the question comes up as to why this material was listed in the Hazmat Table as a PG II. First, notice that the "+" symbol appears in Column 1 of the Hazmat Table for phosphorus oxychloride. This generally occurs for two specific reasons: (1) the material is classed (including PG) as such even though it does not meet the classification criteria of the definition for which it's classed (e.g., only 30% of the animal population expires when the test criteria calls for a 50% mortality rate); and (2) for PIH materials which are not classed internationally as a 6.1 in PG I (PIH is not yet addressed internationally and RSPA tries to align our domestic regs with international regs). This second reason explains the disparity in the classification of phosphorus oxychloride. Under our domestic regs in accordance with 173.2a, the 6.1, PG I, PIH takes precedence over 6.1, PG II. However, RSPA wanted to keep the class and PG the same for this material as seen in the international regulations. Hence, the "+" in Column 1 for this entry.