



**HAPPY SPRING!** Alrighty then...Spring is here and it's time to take a hour off our schedules again (this Saturday). Welcome to the March-03 edition of the newsletter. It's free, has been, will be, pass it on in whole to others. See our Oct-Nov 2001 newsletter for description of acronyms.

**DOCKET ACTION** this month has been slow, but potent!

- **Feb 24<sup>th</sup>:** EPA withdrew it pilot concerning the reduced regulations for CRTs (FR 12/26/02). Somebody whined.
- **Feb 24<sup>th</sup>:** The FMCSA extended the comment period for the General Requirements, Inspection, Repair, and Maintenance; Intermodal Container Chassis and Trailers, to 4/10/03.
- **Feb 25<sup>th</sup>:** The FMCSA published a notice of inquiry and comments to a series of questions concerning the need for and potential benefits and costs of implementing a graduated CDL for CMV drivers. Comments due before 5/27/03.
- **Feb 28<sup>th</sup>:** RSPA published a *formal interpretation* concerning airline passengers who have hazmat in carry-on or checked bags, and for air carriers accepting such hazmats.
- **Mar 25<sup>th</sup>:** RSPA published the final rule HM-232, concerning hazmat security requirements. See the next article.
- **Mar 25<sup>th</sup>:** RSPA published the final rule, HM-206C, amending the HMRs to require an aircraft operator with hazmat to place a telephone number on the pilot-in-command notification or in the cockpit to provide info about the hazmat; require such notification to be retained at the air carriers place of business or airport of departure; and have this info readily available to give to the airport of destination. The rulemaking is effective 10/1/03 (delayed to 10/1/04).
- **Mar 31<sup>st</sup>:** The FMCSA published a final rule concerning the inflation adjustment for civil penalties. Does this make sense?
- **Mar 31<sup>st</sup>:** The FMCSA published a notice of proposed guidance and request for comments regarding the use of binding arbitration under the alternate dispute resolution. Comments are due before 5/30/03.

**EFFECTIVE 3/25/03, RSPA'S NEW** *Security Requirements for Offerors and Transporters of Hazardous Materials* (HM-232) requirements became part of every hazmat employer and employee's life. RSPA is requiring two main additions to the HMRs: (1) offerors and transporters subject to the registration requirements in 49 CFR 107 Subpart G or who offer or transport select agents and toxins of the CDC in 42 CFR 73, and persons who operate facilities that store such materials incident to transportation must develop a security plan (e.g., Plan) and provide training to the Plan for all those who "have access to or handle" material covered by the Plan; and (2) a new general security awareness training element is added for all hazmat employees. What got cut from the proposal was the requirement to have a copy of

the DOT registration in the vehicle, the inclusion of the DOT registration number of the offeror on the shipping paper, and the requirement to add to the shipping paper the name and address of both the consignor and consignee (DOT may address this last issue in an upcoming rulemaking). If a Plan is required, it need

only address those materials listed as triggering the DOT registration requirement or subject to 42 CFR 73; the Plan is not required to address "all" hazmat of the given company. The Plan first "requires" the



completion of a transportation security risk assessment. Help for such requirements is available at DOT's hazmat website. The Plan must include: (1) method(s) for confirming information provided by an employee applicant position that involves access to or the handling of hazmat addressed by the Plan (which does not have to include those who only prepare shipping papers and those in the package manufacturing or reconditioning field); (2) method(s) to address the possibility of unauthorized access to the hazmat "being prepared for" transport; and (3) method(s) to address en route security risks, including shipper/carrier cooperation and coordination of Plans – an offeror should be satisfied that the carrier has a Plan in place that adequately addresses the security risks (including all storage). The Plan must be in place by 9/25/03; training to the Plan completed within 90-days of the Plan's completion (which may be prior to 9/25/03). The Plan must be in writing and updated as needed. Keep in mind that RSPA warned us that this final rule is the 1<sup>st</sup> step in a series of security rulemakings! Training to the general security awareness must be completed within the employee's 3-year retraining schedule. However, because RSPA stated the rule is effective immediately, it means that the security element **must be** included in retraining that occurs as soon as April 2003! New hazmat employees are still subject to the 90-day grace period **ONLY IF** working with a properly trained hazmat employee. See new 172.704(a)(4). This general training must include security risks associated with hazmat transport; method(s) designed to enhance transport security; and how to recognize and respond to possible security threats (can we shoot first and ask later?).

**KEEP AN EYE OUT** in upcoming newsletters for our new package training courses ( hazmat and rad) and for support to help you meet the new security training requirements.