



THE HAZMAT NEWS NETWORK



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

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MERRY CHRISTMAS!

Welcome everyone to the combined Oct/Nov/Dec issue of **The Hazmat News Network**. This newsletter is absolutely FREE and is provided to you in hopes of helping in your compliance needs. Pass it along to others you think will benefit. And

please contact us if you wish to be removed.

NOT TOO MUCH ACTION IN THE DOCKET WORLD since our last newsletter. Below is a summary. Remember, if you need a copy of any of these dockets, visit [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.

Oct 30th: The EPA published the final rule, *Revisions to the Definitions of Solid Waste*. EPA revised the definition of solid waste to exclude certain hazardous secondary materials from regulations under Subtitle C of RCRA. The purpose is to encourage safe, environmentally sound recycling and resource conservation and to respond to a series of seven court decisions concerning the definition of solid waste. EPA is codifying the concept of "legitimate recycling" which is a key component in the approach to recycling hazardous secondary materials. The effective date of this final rule is 28 Dec 2008.

Nov 26th: PHMSA published the Final Rule, *Enhancing Rail Transportation Safety and Security for Hazardous Materials Shipments* (HM-232E). This docket is requiring rail carriers to compile annual data on certain shipments of explosive, toxic by inhalation, and radioactive materials; use the data to analyze safety and security risks along rail routes where those materials are transported; assess alternative routing options; and make routing decisions based on those assessments. DOT is also clarifying rail carriers' responsibility to address in their security plans issues related to en route storage and delays in transit. In addition, they are adopting a new requirement for rail carriers to inspect placarded hazardous materials rail cars for signs of tampering or the presence of suspicious items, including improvised explosive devices. The effective date is 26 Dec 2008.

OUR '09 TRAINING CALENDAR IS OUT and is included on the next page. We plan on having this information on our website in the very near future along with the course registration forms. Contact us directly if you can't wait to obtain a registration form. Class size is limited so plan ahead and get your registrations in early. See you in class!



WHADDA YA MEAN EMPTY ISN'T EMPTY? Empty container regs can be confusing given you are more than likely having to employ both the EPA RCRA and DOT Hazmat regs. For this discussion, we'll assume whatever residue remaining meets the criteria of a RCRA hazardous waste. The hazwaste container residue exemption is located at 40 CFR 261.7. First, if the waste is an acute hazardous waste (P listed primarily) you had better really like the container since you'll have to triple rinse it before it exits the hazwaste regs. If the waste is a gas, no pressure can be remaining at the time the waste is designated. For all other wastes to exit the hazwaste regs, the residue in the container must be: (1) emptied as far as practicable; and (2) contain ≤ 2.5 cm or $\leq 3\%$ by weight total capacity (for containers >450 L it is 0.3%). In other words, residue may be present but it is no longer subject to the hazwaste regs (the exception is for the residue and not the container, however). Now let's take off the RCRA hazwaste hat and put on the DOT hazmat hat and start over. 49 CFR 173.29(a)

says that residue remaining in a container must be shipped as if the container held a greater amount of the hazmat (unless specifically addressed in paragraph (b)). In other words, there is NO exception! The term 'residue' is defined in §171.8 to include hazardous vapors. Here are some examples. A small cylinder that held a non-acute flammable gas is spent so that no apparent pressure remains. The cylinder is not subject to RCRA hazwaste regs. However, unless the cylinder is purged to remove any hazardous vapors (or gas), it is still fully regulated as a Division 2.1 gas by DOT. Here's another one...a 150 ml bottle of non-acute flammable liquid is emptied and the cap reapplied. This container is considered 'non-regulated empty' under the hazwaste regs; however, it is still fully regulated by the HMR since it will contain flammable liquid residue and flammable vapors. How many situations like these are occurring? How many "empty containers" go into a standard lab waste stream? The size of the container doesn't matter to DOT! One more. You have a drum crusher and they're good at it. The containers were RCRA empty. The crushed containers/scraps are placed into another container for transport. If the residue collected in the transport container meets any of the DOT hazard class criteria it is DOT regulated. Bottom line: RCRA exemptions do not apply to the DOT HMR!



A QUICK NOTE ABOUT A LETTER from PHMSA issued on October 30th, Ref. No. 08-0191. The letter is in regards to RQ determinations for hazardous waste. I believe DOT's responses are incorrect in all three scenarios as each meets an RQ for D001. We've alerted DOT to this. Review our Jan 07 newsletter for RQ determination info. Please call us if you have any questions.



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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 Recert	Los Alamos, NM	Motorolla Bldg.	<p>Hampton Inn 468 Bradley Blvd. Richland, WA 99352</p> <p>800-560-7809 509-943-4400</p>
Dec 9, 2008	505	ICAO Rad Pkg & Transport Recert			
Jan 20-21, 2009	201	Initial DOT Hazmat	Los Alamos, NM	Motorolla Bldg.	
Jan 22, 2009	505	ICAO Rad Pkg & Transport Recert			
Feb 2-4, 2009	201 & 202	Initial DOT Hazmat/Waste P&T ¹	Richland, WA	Hampton Inn	
Feb 4-6, 2009	203	Initial DOT Rad P&T ²			
Mar 2-6, 2009	301	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	
May 14-15, 2009	306	Class 7 Packaging for Users			
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 ¹	Richland, WA	Hampton Inn	
Aug 19-21, 2009	203	Initial DOT Rad P&T ²			
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