



HAPPY NEW YEAR! First of all, I want to extend to each of you the very best in 2002. This newsletter is a FREE publication from *Regulatory Resources, Inc.* THE HAZMAT NEWS NETWORK is intended to provide the latest docket actions and discussions on issues in the world of hazmat and hazardous waste management, packaging, and transportation.

DOCKET ACTIVITY IN DECEMBER and January is still slow...but I'm not complaining. (For a list of the acronyms used, see our Oct/Nov 2001 newsletter.)

- **Nov 27th:** RSPA published an extension of the comment period for docket HM-223, "Loading, Unloading and Storage." Comments are due to RSPA by 2/1/02. Make sure to read this docket paying close attention to the proposed term "pre-transportation"...it's not pretty. See our June 2001 newsletter for a synopsis (available at www.regulatoryresources.net).
- **Dec 3rd:** EPA published a delay of effective date and reopening of comments on the 10/3/01 HWIR Mixture and Derived-from Rules to allow comments until 1/2/02.
- **Dec 4th:** RSPA published a NPRM, HM-213, concerning a number of revisions to the HMRs to update and clarify the regs on construction and maintenance of cargo tank motor vehicles. Comments are due by 2/4/02.
- **Dec 12th:** The FMCSA published a notice of identification of unauthorized cargo tanks stemming from non-conformance with existing regulations.
- **Dec 27th:** The FMCSA published three notices to inform us that they granted the application from the Ford Motor Company and General Motors Corporation for a renewal of and granting of exemptions concerning the rate at which fuel can be added to CMVs equipped fuel tanks that do not meet the FMCSR. See the notices for the vehicles specified.
- **Jan 17th:** EPA published a NPRM to reduce the recordkeeping and reporting burden that RCRA imposes. Yea! Check out the six docket pages that identify the reports EPA proposed to eliminate or modify. Comments are due by 4/17/02.

IGNITABLE AQUEOUS/ALCOHOL SOLUTIONS may not be ignitable. Both the DOT HMRs and RCRA hazardous waste regs have an exception for aqueous/alcohol solutions. In fact, DOT has two exceptions found in 173.150(e). The first exception allows a solution to be reclassified to combustible liquid if it does not contain over 24% alcohol by volume and no other hazmat. We can combine this with the exception that's found in 173.150(f). Here we find that a combustible liquid in non-bulk packaging, if not a hazardous substance or hazardous waste, is no longer subject to the HMRs. The second

exception in 173.150(e) excepts a solution from the HMRs if it does not contain more than 24% alcohol by volume and has at least 50% water by volume, and contains no other hazmat. The RCRA exception for the ignitable characteristic in 40 CFR 261.21(a)(1) states that it applies to an aqueous solution with a flash point <140°F if the solution has an alcohol content less than 24% by volume. What they fail to mention is that in order to qualify for this exception the solution must also contain, *at a minimum*, 50% water. Be careful, RCRA uses the term "aqueous" for both D001 and D002 characteristics and yet they are defined completely different. We'll discuss the term aqueous as it applies to D002 in the near future (after EPA clarifies a conflict with their application of the term).



MARINE POLLUTANTS SEEM SLIPPERY to some shippers. Marine pollutants (MPs) are defined in 49 CFR 171.8. However, the application of MPs to the HMRs is discussed in 171.4. In this section we find that MPs are



regulated at all times in vessel transport but only by other modes when in bulk packages. Keep in mind that transport on a ferry is considered a vessel movement. Section 171.8 defines a MP to be any constituent(s) listed in Appendix B to 172.101 that

is in one package at 10% or more by weight, or for those MPs identified with the "PP" (hence, severe MPs – just think of the kids wading pool) in the Appendix B table, in one package at 1% or more by weight. What is not mentioned is that for two or more MPs in the same package the determination is made based on the combined contribution of all MPs. This is expressed in the box to the right where the "HAVE" is the % by weight of each MP and the "ALLOWED" is the 1% or 10% limit for the given MP. For example, a bulk package of dirt containing, by weight, 0.4% PCBs, 0.4% cadmium compounds and 3% nitrobenzene would have a summation value of 1.1. This would be a marine pollutant.

$$\sum \frac{\text{Have}}{\text{Allowed}} \geq 1$$