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**FINALLY, SUMMER'S ARRIVING!** And just in time for more hazmat news. Welcome everyone to the monthly publication, "*The Hazmat News Network*". This free service is provided to assist you in your DOT regulatory compliance activities. Please pass it (or forward it) to others you think will benefit from the information provided.

**DOT DOCKET ACTIVITY SLOWS ITS PACE** during the last month...whew. Here's what's happening.

- **May 4<sup>th</sup>:** FHWA published a final rule that amends the FMCSRs to require that air-braked truck tractors manufactured on or after March 1, 1997, and air-braked single-unit and converter dollies manufactured on or after March 1, 1998, be equipped with antilock brake systems (ABS) that meet the requirements of the Federal Motor Vehicle Safety Standard No. 121. The ABS requirement also applies to hydraulic-braked trucks and buses manufactured after March 1, 1999. Oh, the carrier is responsible to maintain the ABS systems. Final rule is effective June 3, 1998.
- **May 4<sup>th</sup>:** EPA issued a final rule that adds two new wastes codes, K140 and U408, to the listed wastes in 40 CFR 261. The chemical of concern is 2,4,6-tribromophenol. The effective date is November 4, 1998.
- **May 6<sup>th</sup>:** The EPA published a Direct Final Rule and a proposed rule to eliminate errors and clarify ambiguities in the used oil management standards, specifically used oil contaminated with PCBs. The effective date of the direct final rule is July 6, 1998 (unless adverse comments are noted and received by June 5<sup>th</sup>). Comments on the proposed rule must have been submitted by May 20<sup>th</sup> (oops, too late).
- **May 11<sup>th</sup>:** RSPA published a notice to inform us about the public meeting for the International Standards on the Transport of Dangerous Goods, June 18<sup>th</sup> and July 16<sup>th</sup> at the Nassif Building (DOT Palace), Washington, D.C.
- **May 14<sup>th</sup>:** FHWA is soliciting comments on a notice of proposed rulemaking (NPRM) concerning rear impact guards and rear impact protection for trailers and semitrailers with a GVWR of  $\geq 10,000$  pounds and manufactured after January 25, 1998. Comments are due by July 13, 1998.
- **May 15<sup>th</sup>:** FHWA published a NPRM to amend the regulations concerning the transportation of household goods. Comments are due by July 14, 1998.
- **May 18<sup>th</sup>:** The FHWA published a NPRM to modify the National Network for CMVs by adding a route in North Dakota. Comments are due by July 17, 1998.

**BUT WE REALLY DIDN'T MEAN THAT!** It seems that there is, once again, confusion because of the DOT regulations. Boy, aren't we surprised. The definition of strong outside container (e.g., strong, tight package) found in 49 CFR 171.8 does not apply to radioactive materials packages. First some background. 49 CFR Part 173, subpart I is the radioactive

material classification and packaging subpart. There are 4 general levels of rad packagings: (1) excepted packaging; (2) industrial packagings; (3) Type A packagings; and (4) Type B packagings (see Definitions, 173.403, "package"). Section 173.410 identifies the "minimum packaging design requirements" for all packaging containing radioactive materials. No where in the rad definitions (173.403) is "strong, tight package" (STP) defined. Hence, by default, we **must** refer to 171.8 for the definition of STP. Now the problem: STP is identified as an authorized packaging for LSA or SCO materials according to 173.427(b)(3) and (c). DOT specifically addresses in 173.427(c) that the 173.410 minimum design requirements for all rad packages does not apply when packaging according to (c). This statement does not appear in 173.427(b)(3), therefore, by default minimum design requirements apply to (b)(3). And yet, DOT specifically states in 173.427(b)(3) that a STP is an authorized packaging. Remember, a STP is defined in 171.8 and further clarified by DOT "...as a package which is tough, firm and durable (i.e., strong) and is constructed and closed so that its contents cannot pass through (i.e., tight). Visible cracks — flaps that do not quite meet or hand holds — are permissible if they do not affect the structural integrity of the packaging." I'm sorry folks but a "strong, tight package" does not require a specified design standard like that of the minimum design packaging for rad materials. Therefore, by DOT's own definition, a STP is not the same as the "minimum packaging design requirements" of 173.410. Now a little side note regarding 173.410. Paragraph (c) regarding "The external surface...will be easily decontaminated" doesn't really mean what it says either. If it were to be taken in actual context, we could no longer use fiberboard, wood, and most plastic containers for any radioactive material shipments (remember, all rad packages must meet 173.410). Also, 173.410(b) only applies to the points on the package that are intended to lift the package and not every lifting point (e.g., lifting points used to open and close the packaging's cover). I'd say it's time for DOT to take the initiative and rewrite these sections to remove the terrible inconsistencies. Next month we'll discuss how the undefined requirements work when applied to operations. Until then, if you have any questions, give me a call or email.

**LAST CHANCE FOR AN INEXPENSIVE** software program that takes the headaches out of your radioactive materials shipping determinations. After June 15<sup>th</sup> the introductory period is over and the price of the RRI Rad Calc software program will increase to \$299. So, you'd better hurry and order your copy now while the cost is still only \$99. Visa and MasterCard are accepted.