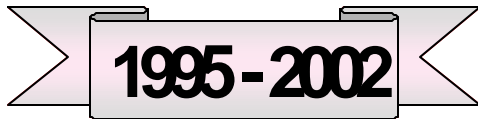


**WOW! WE'RE STARTING OUR 8<sup>TH</sup> YEAR.** Can you believe we started the newsletter on November 1995! We started it as a free service and plan to continue. Please pass this on to others you think can benefit from the information



provided. Don't forget to visit our website for back issues.

**WE'VE CHANGED OUR MAIN EMAIL ADDRESS** so you'll need to update your file. Please change us from "[rri@televar.com](mailto:rri@televar.com)" to "[rri@charter.net](mailto:rri@charter.net)". You can always get a hold of us at the address in the newsletter header as well.

**DOCKET ACTION** these last two months has been active.

- **Sept 27<sup>th</sup>:** RSPA published the final rule HM-189T providing minor editor corrections and clarifications. The effective date was the published date of the docket.
- **Sept 27<sup>th</sup>:** The FMCSA published the final rule, "Development of a North American Standard for Protection Against Shifting and Falling Cargo." The docket is applicable to CMV operating in interstate commerce. The effective date of the rule is 12/26/02 with a full compliance date of 01/02/04.
- **Sept 30<sup>th</sup>:** RSPA published an extension of compliance dates and corrections concerning HM-220D, *Requirements for Maintenance, Requalification, Repair and Use of DOT Specification Cylinders*. The new compliance date for this docket is moved from 10/01/02 until 05/30/03.
- **Oct 2<sup>nd</sup>:** The FMCSA published a final rule concerning technical amendments (obsolete references, grammatical errors) to the FMCSRs. The rule was effective on 10/02/02.
- **Oct 3<sup>rd</sup>:** The DOT Office of the Secretary published a withdrawal of notices of proposed rulemaking. The notices affect Parts in 14 CFR and 49 CFR, including the FMSCR.
- **Oct 4<sup>th</sup>:** The FMCSA published the final rule, "Revision to Periodic Tire Check Requirements for Motor Carriers Transporting Hazardous Materials." The FMCSA is eliminating the requirement to stop periodically to check tires. The effective date of this rule was 11/04/02.
- **Oct 7<sup>th</sup>:** The EPA published a direct final rule and sister proposed rule to grant a national treatability variance from the LDR treatment standards for radioactively contaminated cadmium-, mercury-, and silver-containing batteries. The new subcategory allows for macroencapsulation. The effective date of this direct final rule is 11/21/02.
- **Oct 8<sup>th</sup>:** RSPA published an extension for comments to the HM-232A supplemental ANPRM, *Security Requirements*

*for Motor Carriers Transporting Hazardous Materials*. This docket was originally published on 07/16/02. The thrust of this supplemental notice concerns the procedures for requesting confidential treatment. The comment period closed on 11/15/02. RSPA will, to the extent possible, consider late comments.

- **Oct 10<sup>th</sup>:** RSPA published a safety advisory notice, No. 02-8, concerning the unauthorized stamping of indentations in the side walls of high-pressure compressed gas cylinders by Blue Water Divers (Blue Waters) Let., British Virgin Islands. The cylinders are being used by the SCUBA industry.
- **Oct 22<sup>nd</sup>:** RSPA published a notice of public meeting concerning the preparation for and report of the UN Subcommittee of Experts on the Transport of Dangerous Goods. The meetings are 11/20 and 12/18/02 in the Nassif Bldg.
- **Nov 1<sup>st</sup>:** RSPA published a NPRM, HM-229, "Revisions to Incident Reporting Requirements and the Hazardous Materials Incident Report Form." RSPA wanted to let the public know that they have contracted with an outside firm to assist in the development and layout of the new report form. Expect action on this docket sometime after then new year.

**SAY WHAT? LET'S TALK ABOUT THIS.** A recent RSPA letter concerns a violation of 49 CFR 177.848(e)(3). It appears the shipper/carrier had properly packaged a Division 5.1 and Class 8 liquid. These two materials were placed on a vehicle and properly secured. The citation was given based on the fact that these packages were not "separated in a manner that, in the event of leakage from packages under conditions normally incident to transportation, commingling of hazardous materials would not occur." (emphasis added). Hold on a minute!



All packages of hazmat must be packaged to prevent leakage under conditions normally incident to transportation (49 CFR 173.24(b)). Unless the violation extended to improper packaging of the hazmat, e.g., a violation of §173.24(b), it is impossible to violate the separation and segregation requirement in §177.848(e)(3). In other words, if the shipper packages the hazmat so it will not leak under conditions normally incident to transportation then the hazmat cannot in any way commingle on a transport vehicle under conditions normally incident to transportation. The only way to violate §177.848(e)(3) is to also violate §173.24(b).