

RCS Register

February 2006 *a semi-monthly publication*

Volume 7 Issue 1

DOT:

Revisions to the Hazardous Materials Regulations

The U.S. Department of Transportation's (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) has recently made a number of Changes in the Hazardous Materials Regulations (HMR). These changes became effective on January 9, 2006 and fall under the following topics:

1. Definitions of "hazmat employee" and "hazmat employer";
2. Revision of shipping paper retention requirements;
3. Security plan exception for farmers;
4. Applicability of postal laws and regulations; and
5. Replacement of "exemption" with "special permit."

1. The PHMSA has revised the definitions of "hazmat employee" and "hazmat employer" to specify both of these definitions to include self-employed individuals. Also, both definitions are revised to include persons that represent, mark, certify, or sell packaging components as qualified for use in

transporting hazardous materials in commerce.

2. Under the HMR, each person who provides a shipping paper must retain a copy of the shipping paper for 375 days after the hazardous material is accepted by the initial carrier. Each carrier must also retain a copy of the shipping paper for 375 days. The PHMSA now requires shippers to retain a copy of a shipping paper for a period of two years after the shipping paper is provided to a carrier. Carriers are now required to retain a copy of a shipping paper for a period of one year after the date the shipping paper is received from the shipper.

3. The PHMSA now exempts certain agricultural operations from the requirement in to develop and implement security plans. An exemption in the HMR from the security plan requirements is now present for farmers who generate less than \$500,000 annually in gross receipts from the sale

of agricultural commodities, transport hazardous materials in direct support of their farming operations and transport hazardous materials by highway or rail within 150-mile radius of their farming operations.

4. The PHMSA has revised the HMR to clarify that Hazardous Material requirements do not apply to any matter subject to the postal laws and regulations of the United States, except in the case of an "imminent hazard."

5. The PHMSA has revised the HMR to change the term "exemption" to "special permit." An initial effective period of two years and renewals of up to four years has been provided. In this final rule most of the appearances of the word "exemption" has been replaced with "special permit." This amendment will apply to various forms of "exemption," such as plural, singular, e-mail addresses, and mailing addresses. Current exemptions

DOT con't. on Page 4

Inside this issue...

A Note from the President
Quality Corner

Page 3
Page 2

Articles

DOT: Revisions
OSHA Reminder

Page 1
Page 4

Articles, con't.

EPA: Hazardous Material Fine Page 5
EPA: Man Faces Prison Sentence Page 5

Quality Corner:

2005 Baldrige Award Winners Announced

President George W. Bush and Commerce Secretary Carlos Gutierrez have announced the 2005 Malcolm Baldrige National Quality award winners. Six (6) very diverse organizations ranging from an oil industry business to a community college were awarded the distinct honor.

The Baldrige Award is given by the President of the United States to businesses—manufacturing and service, small and large—and to education and health care organizations that apply and are judged to be outstanding in seven areas: leadership; strategic planning; customer and market focus; measurement, analysis, and knowledge management; human resource focus; process management; and results.

The winners are:

- ◆ Sunny Fresh Foods Inc. of Monticello, Minnesota (manufacturing category)
- ◆ DynMcDermott Petroleum Operations Co. of New Orleans (service category)
- ◆ Park Place Lexus of Plano, Texas (small-business category)
- ◆ Richland College of Dallas (education category)
- ◆ Jenks Public Schools of Jenks, Oklahoma (education category)

- ◆ Bronson Methodist Hospital of Kalamazoo, Michigan (health care category)

All six (6) Baldrige Award winners have documented impressive improvement.

Having received their first Baldrige award in 1999, Sunny Fresh Foods, a manufacturer of egg-based food products, has increased revenues by 93 percent. Sunny Fresh Foods uses a balanced scorecard approach to track and measure performance in six (6) key business drivers. Each business driver has several key indicators that provide objectives and improvement opportunities. Sunny Fresh Foods has 620 employees and operates five (5) plants.

DynMcDermott received registration to ISO 9001 in 2001, and has achieved Voluntary Protection Program certification from the U.S. Occupational Safety and Health Administration, and the Department of Energy (DOE) for each of their four (4) sites. Overall customer satisfaction with DynMcDermott's products has improved from 67-percent satisfaction in 1999 to 85 percent in 2004. This exceeds the DOE target of 75 percent. Also, since 2001, performance levels have

ranged from 4.5 to 5.8 on a six-point scale, well above the DOE's satisfaction target of 3.0.

Park Place Lexus operates automotive dealerships in Plano and Grapevine, Texas, and employs 420 people. Its Grapevine location had a New Car Client Satisfaction Index Score of 99.8 percent in 2004, making it the highest-rated Lexus dealership in the nation. Park Place Lexus has implemented a stringent hiring process that includes aptitude, personality and behavioral tests to ensure that the correct individuals are placed in the correct positions. Park Place Lexus' revenues have increased from about \$70 million in 1995 to \$350 million in 2004, and forecast revenues of \$387 million in 2005.

Richland College, the first community college to receive a Baldrige Award, provides education to more than 20,000 students. Richland College reports that even though their state-supplied budget decreased by 40 percent, they decreased their operational costs per credit-hour all the while improving services, added necessary employees and implemented stakeholder-listening services to measure

A Note From the President



Crude Thoughts

“What is a cynic? A man who knows the price of everything and the value of nothing.”

Oscar Wilde, *Lady Windermere's Fan*, 1892, Act III
Irish dramatist, novelist, & poet (1854 - 1900)

I was having a discussion with an associate and a point about the world oil supply and the cost of gasoline surfaced. The associate claimed that the price of oil should be coming down soon because we (the people of Earth) have the technology to produce economically feasible Synthetic Crude Oil. He was right we do have the technology to synthesize (key word) bitumen (tar sands).

The Merriam-Webster defines the word synthetic as something resulting from synthesis rather than occurring naturally; *especially*, a product (as a drug or plastic) of chemical synthesis.

Deposits of tar sands are located world wide, with the largest deposits located in Venezuela and Alberta, Canada. Tar sands have only been recently judged a reserve of oil that is economically extractable. Tar sands represent up to 66% of the world's deposits of oil, with 34% (1.8 trillion barrels) in the Venezuelan Orinoco tar sands deposit, 32% (1.7 trillion barrels) in Canada's Athabasca Tar Sands deposit and the remaining 33% (1.75 trillion bar-

rels) in conventional oil, much of it in Saudi Arabia and other Middle-Eastern countries.

Extracted bitumen is separated from the sand in giant separation cells. Hot water is added to the sand, and the slurry is piped to the extraction plant where it is agitated and the oil skimmed from the top. Bitumen is much thicker than traditional crude oil, so it must be either mixed with lighter petroleum products or chemically split before it can be transported by pipeline for upgrading into synthetic crude oil.

Estimates are that around 80% of the Alberta tar sands are too far below the surface for the current open-pit mining technique. Techniques are being developed to extract the oil below the surface. These techniques require a plot of the tar sands be heated thus the bitumen would be liberated underground, and then transported to extraction points where it must be liquefied before reaching the surface. Skeptics site that the amount of

water needed to produce steam, proves that larger production sites are not feasible; proponents argue that water efficiency will improve along with the technology.

The Athabasca oil sands deposit has an estimated oil reserve production capacity of 750,000 barrels of crude oil per day using current hot water processes.

J. Anthony Daniels

RCS



Contact RCS, Inc. for all of your Regulatory Consulting **NEEDS.**

Please visit www.4rcs.com or contact one of our friendly Client Assurance associates today to find out how RCS can help YOU!

877-377-4243

info@4rcs.com

DOT con't. from Page 1

will be effective until they expire, are terminated, or become due for renewal. Special permits will replace current exemptions at the time when a renewal application is submitted and approved by the Associate Administrator.

Packagings and shipping papers prepared in accordance with a new special permit issued on or after October 1, 2005 must be marked with "DOT-SP" and the appropriate special permit number, unless otherwise specified by the special permit.

Packagings and shipping papers previously marked "DOT-E" in accordance with a current exemption generally may continue in use so long as the provisions in the exemption remain valid. Continued use of pre-printed shipping papers and "DOT-E" markings on packagings will be evaluated on a case-by-case basis when current exemptions become due for renewal.

An initial special permit will be valid for up to two years before it expires or becomes due for renewal. For the purposes of a party to a special permit, a new applicant is considered to be a "new" holder for assigning an expiration date. If renewed, a special permit will be valid for up to four years before the next renewal.

In addition to the changes listed above, the Office of Hazardous Materials Exemptions

OSHA Reminder: Employers Must Post Injury/ Illness Summaries Beginning February 1

Beginning February 1, 2006 employers must post a summary of the total number of job-related injuries and illnesses that occurred last year. Employers are required to post the Summary (OSHA Form 300A) from Feb.1 to Apr. 30, 2006. Remember to post OSHA Form 300A and not the OSHA 300 Log.

The posted summary must list the total numbers of job-related injuries and illnesses that occurred and were logged on the OSHA 300 form in 2005. Annual average number of employees and total hours worked during the

calendar year is also required. This employment information assists in calculating incidence rates. Companies with no recordable injuries or illnesses in 2005 must post the form with zeros on the total line. A company executive must certify all establishment summaries.

OSHA Form 300A is to be displayed in a common area wherever notices to employees are usually posted such as a conference room or break room. A copy of the summary must be made available to employees who move from work-site to worksite.

Baldrige con't. from Page 2

satisfaction.

Jenks Public Schools, the 11th-largest school district in Oklahoma, operates nine

and Approvals (OHMEA) has been renamed to the Office of Hazardous Materials Special Permits and Approvals (OHMSPA).

Please contact RCS with any additional questions regarding these recent changes.

schools on five campuses, and has 9,271 enrolled students. Its Academic Performance Index scores from 2001 to 2005 exceeded the API scores at the national and state levels, and led the state for K-12 schools of comparable size. Jenks Public Schools operates an innovative pre-kindergarten and kindergarten program where classes are held on site at a long-term care facility for the elderly. It has established four pillars of excellence: strong quality leadership, continuous improvement, customer focus and systems/process focus.

Baldrige con't. on Page 5

Foundry in Columbia, Pa. Settles Hazardous Waste Violations

The Paul W. Zimmerman Foundries Co. has agreed to pay a \$30,000 penalty to settle alleged violations of hazardous waste regulations at its brass foundry in Columbia, Pa.

The U.S. Environmental Protection Agency (EPA) cited the company for violating the Resource Conservation and Recovery Act (RCRA). A January 2005 inspection by EPA and the Pennsylvania Department of Environmental Protection revealed several violations of RCRA regulations. According to U.S. EPA reports, the Paul W. Zimmerman Foundries Co. was improperly storing over

6,000 kilograms of lead-containing waste in six (6) containers. Containers of Hazardous Waste were not labeled with the required hazardous waste warning labels, were not marked to identify their generation date, were not inspected weekly, and employees involved in hazardous waste management activities were not properly trained to do so. The company was also cited for failing to have a Preparedness, Prevention and Contingency Plan to deal with hazardous waste emergencies and releases.

EPA: Michigan Man Sent to Prison for Abandoning Chemicals

On December 19, 2005, the U.S. District Court for the Western District of Michigan sentenced James A. Vaandering of Muskegon, Mich., to thirteen (13) months in prison, three hundred (300) hours of community service and three (3) years of supervised release once he completes his prison term. Vaandering will also pay a \$1,000 dollar fine and pay EPA restitution of \$151,000 for a Superfund cleanup. The defendant had previously pleaded guilty to abandoning hazardous

chemicals at the site of the former Sealmore Corporation electroplating facility which is located in Muskegon, Michigan where Vaandering was a supervisor. The Sealmore Corporation facility was condemned in late 2000. The facility contained a number of chemicals and liquids in vats used in electroplating, including hexavalent chromium and hydrofluoric acid. Serious health problems can be caused from exposure to hexavalent chromium and hy-

Baldrige con't from Page 4.

District stakeholders meet regularly to assess operations with these goals in mind.

Bronson Methodist Hospital, which also received the 2005 Michigan Quality Leadership Award, has a strong patient as well as strong employee focus. It exceeds best-practice levels for work system performance and effectiveness with an annualized turnover rate of only 5.6 percent. Employee development investments increased from \$3,108 per full-time employee in 2002 to \$4,453 in 2005, mainly through the implementation of computer-based learning programs.

The winners were selected from a total of 64 applicants. The awards will be formally presented in Washington, D.C. in early 2006. For more information, visit www.baldrige.nist.gov.



drofluoric acid. The case was investigated jointly by the Michigan Department of Environmental Quality's Office of Criminal Investigations and Detroit Office of EPA's Criminal Investigation Division. The U.S. attorney's office for the Western District of Michigan prosecuted the case.