

Escaping the ELD Mandate

Effective December 18, 2017 the Electronic Logging Device (ELD) requirement became effective without much fanfare. This was the date that, unless exempted or using an Automatic On-Board Recording Device (AOBRD), all motor carriers operating commercial motor vehicles (CMVs) must use the ELD to track the driver's record of duty status – fondly referred to as “hours of service.” The AOBRD may be used until December 16, 2019.

Many carriers have requested, and received, exemptions to the ELD requirement from the Department of Transportation (DOT). The exemption requires the driver to manually log hours of service using paper log books. Also, motor carriers that operate under the “Short-haul operations” exemption for recording duty status (49 CFR 395.1(e)), may require a driver to record the driver's duty status manually with the use of paper log books instead of the ELD. DOT allows this method provided the driver does not have to complete a paper log book on not more than 8 days within any 30-day period in which case, an ELD would need to be used (49 CFR 395.8). Any time a driver does not meet any of the requirements for the

short-haul operations exemption they must complete a paper log book for that 24-hour period.

In summary, motor carriers who do not want to use the ELD should request a waiver, but even with the waiver their drivers will need to complete manual paper log books. And for those who operate under the short-haul operations exemption for recording driver's record of duty status and do not install an ELD in the CMV, the motor carrier must proactively track their drivers' 30-day status to ensure the driver has not needed to complete more than the allowable 8 manual log books. Otherwise, the ELD must be installed and used.

FAA Proposes \$63,750 Civil Penalty Against J&J Tech Group for Alleged HazMat Violations

The U.S. Department of Transportation's Federal Aviation Administration (FAA) proposes a \$63,750 civil penalty against J&J Tech Group of Miami for allegedly violating the Hazardous Materials Regulations.

The FAA alleges that on February 22, 2017, two passengers affiliated with the company offered three checked

bags containing hundreds of lithium ion batteries to American Airlines for shipment by air from Miami to Buenos Aires, Argentina. The shipment included 318 lithium ion batteries as well as 85 cell phones and 11 laptop computers that contained lithium ion batteries.

American Airlines workers at Miami International Airport discovered the shipment during checked baggage screening.

The FAA alleges J&J Tech Group offered through checked baggage a greater number of lithium batteries than were allowed by the regulations. Moreover, regulations prohibit offering these batteries as cargo on a passenger-carrying aircraft.

The FAA further alleges that the shipments were not accompanied by a shipper's declaration of dangerous goods and were not properly classed, described, packaged, marked, labeled or in the proper condition for shipment. Additionally, the agency alleges J&J Tech Group failed to ensure that each of its employees received required hazardous materials training, and failed to provide emergency response information with the shipment.

J&J Tech Group has asked to meet with the FAA to discuss the case.



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Labeling and Marking for Poison Inhalation Hazards (PIHs)

If you've been around the shipping world long enough, you may remember some changes that the DOT made 20 years ago for labeling poison inhalation hazards (PIHs). Their concern was that the Poison, Toxic or even the Poison Gas labels were inadequate in communicating the seriousness of PIH materials. To remedy the concern, the DOT proposed a rule to require the use of the "Inhalation Hazard" labels for both 2.3 Gases and 6.1 PG I Zone A and Zone B liquids. After a comment period they made a few adjustments since shipping internationally could be frustrated because the requirements weren't recognized outside of the U.S. at that point. With delayed implementation dates set, a final rule was made that instituted these requirements.

Fast forward to now and you are reading the requirements for Marking poisonous hazardous materials in 172.313. It appears that for PIH material, marking the words "Inhalation Hazard" in association with the required labels or placards, as appropriate, and shipping name when required is applicable. Later in the paragraph it states that when the words "Inhalation Hazard" appear on the label or placard, the marking is not required.

If you didn't know the history, the current regulation may cause some confusion regarding marking and labeling in that if you had a PIH and only used a Toxic or Poison label it would allow you to simply add the marking "Inhalation Hazard". The label substitution table in 172.101(g) and the table in 172.400(b)

help to clarify that if you have a PIH you must use either the "Poison Gas" label for 2.3 material or the "Poison Inhalation Hazard" label for 6.1 Zone A or Zone B materials. To add to the confusion, the "Poison Gas" label or placard does not say Poison Gas even though that is what it is called. Rather, it has the skull and crossbones at the top of both the label and placard symbolizing "Poison" and the words Inhalation Hazard below.

When does the paragraph in 172.313 make more sense? In at least three cases in the Haz Mat Table where the primary hazard is not identified as a 6.1 Zone A or Zone B PIH, yet in Column 7 the Special Provision code indicates the material is a PIH.

1	2 Hazardous materials descriptions and proper shipping names	3 Hazard class or Division	4 Identification Numbers	5 PG	6 Label Codes	7 Special provisions (§172.102)	-8 Packaging (§173.***)			-9 Quantity limitations (see §§173.27 and 175.75)		-10 Vessel stowage	
							8A Exceptions	8B Non-bulk	8C Bulk	9A Passenger aircraft/rail	9B Cargo aircraft only	10A Location	10B Other
D	Ammonia, anhydrous	2.2	UN1005		2.2	13, 379, T50	None	304	314, 315	Forbidden	Forbidden	D	40, 52, 57
D	Ammonia solution, relative density less than 0.880 at 15 degrees C in water, with more than 50 percent ammonia	2.2	UN3318		2.2	13, T50	None	304	314, 315	Forbidden	Forbidden	D	40, 52, 57
	Hydrogen fluoride, anhydrous	8	UN1052	I	8.6.1	3, B7, B46, B77, N86, T10, TP2	None	163	244	Forbidden	Forbidden	D	40

In at least these cases and possibly others, you would label for the primary hazard, either Division 2.2 Non-Flammable Gas for the first two, or Class 8 Corrosive for the Hydrogen

fluoride, anhydrous. This one would also need a label for the subsidiary Division 6.1 as indicated in Column 6 but here is a situation where it is not a Zone A or Zone B PIH and therefore would not be

labeled as an Inhalation Hazard, instead it would be labeled as either a Toxic or Poison and would now require the marking "Inhalation Hazard".

Latest Happenings in the Federal Register

Very Low-Level Rad Waste Scoping Study



On February 14, 21018 (83 FR 6619) the U.S. Nuclear Regulatory Commission (NRC) is conducting a very low-level radioactive waste (VLLW) scoping study to identify possible options to improve and strengthen the NRC's regulatory framework for the disposal of the anticipated large volumes of VLLW associated with the decommissioning of nuclear power plants and material sites, as well as waste that might be generated by alternative waste streams that may be created by operating reprocessing facilities or a radiological event.

The NRC is seeking stakeholder input and perspectives on this action. Respondents are asked to consider specific questions posed by the NRC staff and other Federal agencies in this notice when preparing their responses. Submit comments by May 15, 2018. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

Specification Packaging Defined



On February 5, 2018 (83 FR 5037) the Pipeline and Hazardous Materials Safety



Administration made a rule change to reinstate the definition of "specification packaging" in Title 49 of the Code of Federal Regulations, Parts 100 to 177, revised as of October 1, 2017, on page 131, in § 171.8, to read as: "Specification packaging means a packaging conforming to one of the specifications or standards for packagings in part 178 or part 179 of this subchapter."

PHMSA Promotes New Safety YouTube Video and Poster Cautioning Against Refilling DOT 39 Cylinders



PHMSA Promotes New Safety YouTube Video and Poster Cautioning Against Refilling DOT 39 Cylinders. With safety as its primary mission, the U.S. Department of Transportation's (DOT)

Pipeline and Hazardous Materials Safety Administration (PHMSA) produced, and today rolled out, a YouTube video https://youtu.be/g2_GhyAw3vM

External Links icon and poster <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/training/hazmat/56936/dot-propane-hazard-poster-final.pdf> that



cautions the public to never refill DOT 39 cylinders, such as the 1lb. cylinders used for camping. While many types of propane cylinders are designed to be refilled, a DOT 39 cylinder of any size is strictly non-refillable. Hazardous materials incidents involving refilled DOT 39 cylinders, have been reported and include one fatality.

If you have any questions about refilling any cylinder, please contact a qualified refiller, or PHMSA's HAZMAT Info Center at 1-800-467-4922.

<https://www.phmsa.dot.gov> or e-mail: infocntr@dot.gov

Latest Happenings in the Federal Register (cont.)

CMV Rental HOS/ELD Use Extended

Effective January 19, 2018 (83 FR 2868) Federal Motor Carrier Safety Administration (FMCSA) granted a limited 3-month waiver from the Federal hours-of-service (HOS) requirements for electronic logging devices (ELDs) to motor carriers and drivers operating property-carrying commercial motor vehicles (CMVs) that are rented for a period not exceeding 30 days.

The Agency takes this action in response to a waiver request from the Truck Renting and Leasing Association, Inc. (TRALA). The Agency determined that granting this waiver is in the public interest and will likely achieve a level of safety that is equivalent to the level that would be achieved absent the waiver, based on the terms and conditions imposed.

TRALA requested previous exemptions concerning the HOS requirements and received limited exceptions (see 82 FR 14789 and 82 FR 47306) and feel this additional 3-month waiver would allow rental companies and their customers “critical additional time to develop compliance strategies” to address “unique issues relating to the use of ELDs in short-term rental vehicles” and also allow time for TRALA to consider whether to petition for reconsideration of FMCSA’s action on its exemption. This waiver is effective January 19, 2018, through April 19, 2018.

Hazardous Waste Management System Changes

On January 3, 2018 (83 FR 420) the Environmental Protection Agency (EPA or the Agency) established by regulation the methodology the Agency will use to determine and revise the user fees applicable to the electronic and paper

manifests to be submitted to the national electronic manifest system (e-Manifest system) that EPA is developing under the Hazardous Waste Electronic Manifest Establishment Act. After the e-Manifest system’s implementation date, certain users of the hazardous waste manifest will be required to pay a prescribed fee for each electronic and paper manifest they use and submit to the national system so that EPA can recover the costs of developing and operating the national e-Manifest system. This final rule also announces the date when EPA expects the system to be operational and available to users. EPA will begin accepting manifest submissions and collecting the corresponding manifest submission fees on this date.

In addition, this action announces final decisions and regulations relating to several non-fee related matters that were included in the proposed rule. This includes modifying the existing regulations to: allow changes to the transporters designated on a manifest while the shipment is en route; describe how data corrections may be made to existing manifest records in the system; and amend the previous e-Manifest regulation (the One Year Rule) to allow the use, in certain instances, of a mixed paper and electronic manifest to track a hazardous waste shipment. This final rule is effective on June 30, 2018.

OOIDA Requests ELD Exemption

On January 2, 2018 (83 FR 201) Federal Motor Carrier Safety Administration (FMCSA) announced that the Owner Operator Independent Drivers Association, Inc. (OOIDA) requested an exemption from the electronic logging device (ELD) requirements for motor carriers considered to be a small transportation trucking business. OOIDA requests

this exemption to allow small trucking businesses that do not have a carrier safety rating of “unsatisfactory,” and can document a proven history of safety performance with no attributable at-fault crashes, to complete paper records of duty status (RODS) instead of using an ELD device.

OOIDA believes that the exemption would not have any adverse impacts on operational safety as motor carriers and drivers would remain subject to the hours-of-service (HOS) regulations as well as the requirements to maintain paper RODS. FMCSA requests public comment on OOIDA’s application for exemption.

Packaging Approval Numbers May Be Terminated

To standardize manufacturer and reconditioner approvals, on November 17, 2017 (82 FR 54465) the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposed to terminate any M-number and R-number approvals that were previously issued without an expiration date. The termination of these approvals will take effect one year from the publication date of this notice. Approval holders must either show cause why their approvals should not be terminated or apply for a modification of their approval prior to the effective date to avoid termination. Once terminated, requests for reconsideration of the termination must be submitted within 20 days of the date of termination. Correspondence regarding the proposed M-number and R-number terminations should be sent to approvals@dot.gov with the subject line “Termination of M-numbers/Termination of R-numbers.”

Class Schedule March 2018 – June 2018

Course	Date	Location
Federal Motor Carrier Safety Regulations for Drivers	March 1, 2018	Richland, WA
Federal Motor Carrier Safety Regulations for Managers & Supervisors	March 6-7, 2018	Richland, WA
Advanced Radioactive Material Shipper Certification Training	March 6-8, 2018	Richland, WA
Reasonable Suspicion Training for Supervisors	March 8, 2018	Richland, WA
Explosives Training for Shippers	March 13, 2018	Richland, WA
Load Securement for Drivers and Traffic Personnel	March 14, 2018	Richland, WA
Advanced Hazardous Waste Shipper Certification Training	March 20-22, 2018	Las Vegas, NV
IATA: Transportation of Dangerous Goods by Air Shipper Certification Training	March 20-22, 2018	Los Alamos, NM
Hazardous Material General Awareness Transportation Training	March 21, 2018	Richland, WA
Hazardous Materials Drivers Training	March 22, 2018	Richland, WA
Hazardous Material General Awareness Transportation Training	April 3, 2018	Richland, WA
Federal Motor Carrier Safety Regulations for Drivers	April 4, 2018	Richland, WA
Load Securement for Drivers and Traffic Personnel	April 5, 2018	Richland, WA
Advanced Radioactive Material Shipper Certification Training	April 10-12, 2018	Albuquerque, NM
Advanced Hazardous Waste Shipper Certification Training	April 10-12, 2018	Livermore, CA
Advanced Mixed Waste Shipper Certification Training	April 16-19, 2018	Richland, WA
Hazardous Material General Awareness Transportation Training	April 18, 2018	Richland, WA
Load Securement for Drivers and Traffic Personnel	April 19, 2018	Richland, WA
Advanced Radioactive Material Shipper Certification Training	April 24-26, 2018	Las Vegas, NV
Federal Motor Carrier Safety Regulations for Drivers	May 1, 2018	Richland, WA
Load Securement for Drivers and Traffic Personnel	May 2, 2018	Richland, WA
Hazardous Material General Awareness Transportation Training	May 3, 2018	Richland, WA
Basic Level Transportation Training – Module 1 – Basic Hazardous Material	May 7-8, 2018	Richland, WA
Basic Level Transportation Training – Module 2 – Basic Hazardous Waste	May 9, 2018	Richland, WA
Basic Level Transportation Training – Module 3 – Basic Radioactive Material	May 9-10, 2018	Richland, WA
Advanced Mixed Waste Shipper Certification Training	May 14-17, 2018	Las Vegas, NV
Advanced Mixed Waste Shipper Certification Training	May 21-24, 2018	Richland, WA
Load Securement for Drivers and Traffic Personnel	May 24, 2018	Richland, WA
Federal Motor Carrier Safety Regulations for Drivers	May 30, 2018	Richland, WA
Hazardous Material General Awareness Transportation Training	May 31, 2018	Richland, WA

Class dates and locations are subject to change

Online Training

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- Receive an access code.

What you Will Need:

- Access to a computer.
- Ability to print PDF files.

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Please visit our web site at www.atkinsglobal.com/energytraining for course descriptions, pricing, and registration forms.



Available Courses

Air Transport of Radioactive Materials – \$550

FMCSR for Drivers – \$450

FMCSR for Managers and Supervisors – \$675

Hazardous Material General Awareness Transportation Training – \$450

General Packaging – \$450

Hazardous Material Drivers Training – \$350

HRCQ for Drivers – \$350

Load Securement for Drivers and Traffic Personnel – \$350

Transportation of Radioactive Materials for Drivers and Carriers – \$475

Basic IATA: Transport of Dangerous Goods by Air – \$995 (includes current IATA Dangerous Goods Regulations) – \$625 (without regulations)

NRC/DOT Radioactive Waste Packaging, Transportation and Disposal Training – \$1,325

Radiological Controls Technician (RCT) – \$450