



# OHM Newsletter

Office of Hazardous Materials

DEPARTMENT OF TRANSPORTATION / OFFICE OF THE SECRETARY / WASHINGTON, D.C. 20590

VOL. II Number 18

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## NOTICES AND AMENDMENTS PUBLISHED DURING NOVEMBER

HM-96; Notice No. 72-13 (37 F. R. 25243 - 11/29/72). This Notice proposes to amend the regulations to permit shipment of small quantities of cultures of etiologic agents on passenger-carrying aircraft.

HM-96; Amendment Nos. 172-17, 173-67 (37 F. R. 25235 - 11/29/72). The mandatory effective date on new requirements for the shipment of etiologic agents has been extended from December 30, 1972 to March 31, 1972.

The closing date for filing comments in the following dockets falls during December:

HM-22	Notice No. 72-12	December 19, 1972
HM-102	Notice No. 72-7	December 5, 1972

Notice of Special Permits issued or denied during November 1972 (37 F. R. - 12/9/72).

## SHIPPER/PRIVATE CARRIER FINED

The Federal Highway Administration's Bureau of Motor Carrier Safety has announced that a shipper/private carrier was fined \$2,400 for failure to properly classify and describe shipments of hazardous materials.

The defendant pleaded guilty to three counts of violating Title 49 CFR 177.817 (a). The fine imposed was \$800 for each count.

## NOTICES AND AMENDMENTS TO THE REGULATIONS

This is a reminder to those who receive copies of Notices of Proposed Rule Making and Amendments to the Hazardous Materials Regulations contained in CFR Title 49-Transportation, Parts 100-199 via this Office's mailing list.

The Federal Register is the official means by which Government agencies publish proposals of rule making and rule changes. The copies of Notices of Proposed Rule Making and Amendments mailed out by means of our mailing list are courtesy copies and are not intended to replace or supplement the Federal Register. There is a time lag of approximately three to four weeks from when an item is published in the Federal Register to when the Federal Register excerpt is received by those on the mailing list. If it is necessary for you to obtain Notices of Proposed Rule Making and Amendments sooner you should subscribe to the Federal Register.

The Federal Register is available on a subscription basis from the Superintendent of Documents, Government Printing Office, Washington, D. C. 20402 at a cost of \$2.50 per month or \$25.00 per year. Individual copies are available at a cost of 20 cents for each issue or 20 cents for each group of pages as actually bound.

## CLASSIFICATION OF FLAMMABLE LIQUID ORGANIC PHOSPHATE COMPOUND MIXTURES

An inquiry was received recently which indicated a misunderstanding of how the list of hazardous materials (§ 172.5(a)) is to be used. A shipper had classed and described a flammable liquid organic phosphate compound mixture, n.o.s. (not otherwise specified) as a flammable liquid, n.o.s. He based his decision on the fact that the regulations appear to infer that flammability has priority over toxicity.

Except for Class A poisons and radioactive materials, there are inferences that the regulations are structured to recognize flammability as a predominant hazard when other hazards are involved. See the heading of paragraph 173.119(m) and paragraph 173.403(a). However, the regulations require the specific name of a material as shown in section 172.5 to be used. Since section 172.5 lists a specific entry for "Liquid organic phosphate compound mixtures, n.o.s." and classes these as Poisonous liquids, Class B, that description and classification must be used. If the mixture did not meet the Class B poison definition, then it would be properly described as a flammable liquid, n.o.s. and classed as a flammable liquid if it falls within the definition of § 173.115.

## TRANSPORTATION OF RADIOACTIVE MATERIALS BY "TAXICABS"

The question of the allowability of transportation of radioactive materials via passenger-carrying taxicabs has arisen from time to time. Due to the very short half-lives of most medical radioisotopes, the nature of the transportation cycle is such that shipments via fastest routings available is a goal sought by most traffic managers. For this reason, passenger-carrying aircraft are the most frequently used primary means of transport. In most cases, local deliveries from the supplier to the origin airport and from the destination airport to the consignee are by pre-arranged local cartage common carriers or in private carrier vehicles.

A serious question arises as to the propriety of using "taxicabs" for these segments of the transportation cycle. The relevant provisions for use of passenger-carrying motor vehicles for radioactive materials shipments as prescribed in 49 CFR 177.870(g) reads, in part, as follows "... no person may transport any radioactive material requiring labels under § 173.402 of this chapter in or on any motor vehicle carrying passengers for hire except where no other practicable means of transportation is available. Packages of radioactive materials must be stored only in the trunk or baggage compartment of the vehicle, and must not be stored in any compartment occupied by persons. Packages of radioactive materials must be handled and placed in the vehicle as prescribed in § 177.842."

The use of a "Taxicab" with passengers on board would in many cases constitute a violation of the Department's Hazardous Materials Regulations since it would be difficult to comply with the storage distance requirements based on the transport index, as prescribed in § 177.842. Also, it is highly questionable that a "taxicab" would be the only practicable available vehicle to provide transportation services considering the availability of transportation services designed and intended for the delivery of cargo.

Another very important consideration is that the possession of radioactive material during transportation by a taxicab operator is very probably in noncompliance with the regulations of the U. S. Atomic Energy Commission or any state which has entered into an Agreement with the USAEC for regulation of the use and possession of radioactive materials. Under their provisions, common and contract carriers and warehousemen are exempt from the requirements for a license to possess radioactive material "... to the extent that they transport or store by product material in the regular course of their business

## Transportation of Radioactive Materials by "Taxicabs" Cont.

as carriers." (10 CFR 30.13) Additionally, shippers who transport their materials as private carriers are subject to the licensing requirements of the USAEC or an Agreement State, with such licenses usually written or amended specifically to authorize transportation of radioactive materials in accordance with DOT requirements. It is highly unlikely that a taxicab operator would qualify for the USAEC or Agreement State exemption unless he holds valid operating authority to transport property as a common carrier from the Interstate Commerce Commission or a State Public Service Commission. It is equally unlikely that many taxicab operators, if any, would possess USAEC or Agreement State licenses.

### DOD RESCINDS LABEL REQUIREMENT

In July of this year, OHM advised the Department of Defense that use of Federal Standard 313 labels was in violation of 49 CFR 173.404(c) if displayed on the outside of any package containing hazardous materials regulated by DOT during the course of transportation.

On October 24, 1972, Mr. Paul H. Riley, Deputy Assistant Secretary of Defense (Supply, Maintenance, and Services), advised OHM that the Army, Navy, Air Force, and Defense Supply Agency were instructed that the labels prescribed by Federal Standard 313 were no longer to be applied to the exterior or outer shipping containers during transportation.

This is an excellent example of how Government agencies are working together in the interest of the common good so that, to the maximum extent possible, shippers and carriers are not burdened by inconsistent requirements.

### CORRECT DESIGNATION FOR THE CLASS "CORROSIVE MATERIALS"

Some persons are using an incorrect designation for the new class designation for corrosive substances. The correct description of the class for use on shipping papers is "Corrosive material." See paragraph 172.4(a) in Docket HM-57 published in the Federal Register on March 23, 1972. "Corrosive liquids" is acceptable until June 30, 1973. However, such designations as "Corrosive" or "Corrosive solid" to identify the classification are incorrect.

### HAZARDOUS MATERIALS INCIDENT REPORTS

The Federal Highway Administration's Bureau of Motor Carrier Safety advises that many motor carriers are failing to file hazardous materials incident reports.

Carriers are reminded that failure to file such reports, as required by section 177.807 of Title 49, Code of Federal Regulations could subject a carrier to the penalties prescribed in 18 U.S.C. 834.

It has been suggested by the Bureau that all carriers periodically review their reporting procedures to assure that all reportable incidents are reported and that the reports are complete. Incomplete reports are of little value in our program to safeguard the transportation of hazardous materials. As an aid to motor carriers, a "Guide to Preparing Hazardous Materials Incident Reports" may be obtained without cost from field representatives of the Bureau of Motor Carrier Safety.

### DRUM RECONDITIONERS REGISTRATION NUMBERS REVOKED

Recent inspections of DOT registered drum reconditioners in the Cleveland, Ohio area resulted in the revocation of two registration numbers due to their inability to perform testing as required by section 173.28(m)(2). The "equally sensitive" criteria was set forth on page 5 of the September 1972 issue of the OHM Newsletter. The two companies, Warshawsky and Sons Barrel and Drum Co. (R-1237), and Cleveland Barrel and Drum Co. (R-1319), have been advised that they may re-apply for registration when they are able to conduct the reconditioning tests required for Specifications 17C, 17E, and 17H steel drums.

Shippers are cautioned that hazardous materials may be shipped in reconditioned 17C, 17E, and 17H steel drums only when such drums are reconditioned as required by section 173.28(m)(2). Drums from the two companies do not meet this requirement and therefore may not be used for the transportation of hazardous materials. Use of such drums would subject the shipper to the penalties provided in section 833 of Title 18 of the United States Code.

## OHM INSPECTIONS

During October and November of this year, OHM inspectors visited approximately 70 shippers' facilities, new container manufacturers, and drum reconditioners. Of the facilities involved in shipments of hazardous materials, 75 per cent were found to be in violation of the Hazardous Materials Regulations.

Discrepancies were also noted in the container suppliers' facilities, which, if uncorrected, would result in violations of the regulations when such containers were utilized for the transportation of hazardous materials.

In order to assure compliance with the regulations, all persons and companies visited were given special instructions in the regulations so that no lack of comprehension or misunderstanding can continue to exist.

## SEMINARS--TRANSPORTATION OF HAZARDOUS MATERIALS BY AIR

More than 300 attended the four one-day seminars in Dallas and Houston in November. Among the attendees were airline representatives, air freight forwarders, fire department personnel, and representatives of the Atomic Energy Commission.

The Office of Hazardous Materials and the Federal Aviation Administration will continue to conduct these seminars. If you are involved in any phase of transportation of hazardous materials, these seminars should be of interest to you.

Persons interested in attending either of the following seminars, please contact the coordinator and make your reservation immediately:

PITTSBURGH, PENNSYLVANIA  
JANUARY 29, 1973

Mr. Arthur L. Warren, Jr.  
DOT FAA AEA-ACDO-38, Room 142  
Greater Pittsburgh International Airport  
Pittsburgh, Pennsylvania 15231  
PHONE: (412) 644-5406

PHILADELPHIA, PENNSYLVANIA  
JANUARY 31, 1973

Mr. Joseph Moretto  
DOT FAA AEA-ACDO-36  
Atlantic Aviation Office  
Building  
New Castle, Delaware 19720  
PHONE: (302) 328-6249

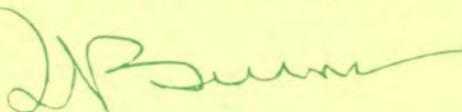
## Seminars--Transportation of Hazardous Materials by Air Cont.

NEWARK, NEW JERSEY  
FEBRUARY 5, 1973

Mr. Arthur Bostleman  
DOT FAA AEA-ACDO-35  
Room 220, Building 1  
Newark International Airport  
Newark, New Jersey 07114  
PHONE: (201) 645-2560

NEW YORK, NEW YORK  
FEBRUARY 7, 1973

Mr. Fred Duvall  
DOT FAA AEA-ACDO-31  
PONYA Building 141  
John F. Kennedy International  
Airport  
Jamaica, New York 11430  
PHONE: (212) 995-3709



W. J. Burns  
Director  
Office of Hazardous Materials

The Secretary of Transportation has determined that publication of this periodical is necessary in the transaction of the public business required by law of this Department. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through November 30, 1976.

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