



OHM Newsletter

Office of Hazardous Materials Operations

DEPARTMENT OF TRANSPORTATION / MATERIALS TRANSPORTATION BUREAU / WASHINGTON, D.C. 20590

VOL. VI Number 54

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NOTICES AND AMENDMENTS PUBLISHED DURING JUNE

HM-112; Amendment Nos. 171-32, 172-29, 173-94, 174-26, 175-1, 176-1, 177-35 (41 FR 26014), Consolidation of Hazardous Materials Regulations, Extension of Mandatory Compliance Dates. This extension provides that HM-103/112 is effective and compliance is authorized on July 1, 1976. However, between July 1, 1976 and January 1, 1977, compliance is not mandatory. Format and content requirements for shipping papers and placarding requirements of HM-103/112 are not mandatory until July 1, 1977. Under certain conditions, packages filled, marked or labeled in accordance with the old regulations before July 1, 1976, may be shipped until July 1, 1977. Where compliance is not mandatory, one may follow either the HM-103/112 provisions or the provisions of the regulations in effect June 30, 1976. This extension also provides a table of equivalent placards for use in implementing Part 174 and continues any outstanding exemptions as essentially unaffected by HM-103/112.

EXEMPTION APPLICATIONS

A significant percentage of applications for exemptions, or renewals thereof, fail to meet all the requirements of 49 CFR 107.103 or 107.105. The large majority are renewal applications. Deficiencies, usually in the areas of lack of certification and shipping experience statement (107.105(a)(4) and (5)), are cause for return of application to the applicant. Numerous applications have already been returned for these reasons.

The inadequacies of applications for exemption usually center on (A) failure to properly describe the proposal (107.103(b)(4)), (B) lack of commodity data (107.103(b)(5)), and (C) omission of or insufficient statements of safety equivalency (107.103(b)(9)).

The submission of satisfactory applications are of mutual benefit to the applicant and to the Department since they facilitate timely processing. Incomplete applications drain staff resources, and create administrative burdens which delay final action.

Exemption Applications Cont.

It is suggested that all applicants review their applications prior to submittal to the Department to assure that all requirements of 49 CFR Part 107 are addressed and satisfactorily resolved. Such a procedure will minimize costs to all concerned. Many meetings will not be necessary and travel to Washington can be significantly reduced. Last but not least, your application will be handled more expeditiously.

A SHIPPER IS A SHIPPER IS A SHIPPER.....

When incomplete Hazardous Materials Incident Reports are received, letters requesting additional information are often sent to the shippers involved. Shippers frequently reply to the effect that they purchase a particular product from another company and reship it. They request that we contact their suppliers for the needed information.

The Hazardous Materials Regulations make no distinction between shippers who tender their own products to a carrier and those who merely reship what they purchase from another company. ALL shippers of hazardous materials have the responsibility of being certain that these shipments are properly described, classed, packaged, marked, labeled, and certified according to the regulations contained in Title 49 Code of Federal Regulations. Don't execute a certificate unless it is factual.

29-GAUGE STANDARD PAIL NOT STANDARD

Hazardous Materials Incident Reports show that flammable paint (with a flash point less than 73 degrees F.) is still being shipped in five-gallon 29-gauge packagings without overpack, which is not authorized by DOT's Hazardous Materials Regulations. The so-called "standard" packagings may be used for this commodity only as an inner container overpacked in a strong outside container.

CLASS SCHEDULES OF AIR TRANSPORTATION OF HAZARDOUS MATERIALS

The Department's Transportation Safety Institute, located in Oklahoma City, Oklahoma, is offering several 5-day safety training courses on the air transportation of hazardous materials to meet the needs of air carriers and air taxi operators.

The course provides for a practical understanding of regulations governing air transportation of hazardous materials; familiarization with shipping requirements for hazardous materials; a basic background for establishing training programs for procedural manuals as required in the Federal Aviation Regulations Parts 121 and 135.

CLASS SCHEDULES OF AIR TRANSPORTATION OF HAZARDOUS MATERIALS, Cont.

Schedule of sessions is as follows:

August 30 - September 3, 1976
January 24 - 28, 1977
April 4 - 8, 1977
June 27 - July 1, 1977
August 1 - 5, 1977

Class size is limited to sixteen students. The registration fee is \$125.00. Please call (405) 686-4824 for registration forms, or write to:

Transportation Safety Institute
6500 South MacArthur Boulevard
Oklahoma City, Oklahoma 73125

We highly recommend that those persons desiring in-depth training attend the Institute training course which is funded in part by the Materials Transportation Bureau.

COMPLIANCE BRANCH IN THE OFFICE OF HAZARDOUS MATERIALS OPERATIONS

A Compliance Branch has been created within the Office of Hazardous Materials Operations. Part of the responsibility of this Branch will be the inspection of plants that are manufacturing DOT specification containers. As a part of the compliance inspection program, DOT packages, on occasion, will be sent to an independent testing agency.

Such a test facility will perform all testing, physical and chemical analysis required by Title 49 Code of Federal Regulations, and issue a report to the Department on its findings. Appropriate action will be taken when it is found that containers do not meet the specification requirements.

EXAMPLES OF DOT PENALTY ACTIONS CONCERNING THE TRANSPORTATION OF HAZARDOUS MATERIALS

<u>Company</u>	<u>Offense</u>	<u>Penalty</u>
Airlift International, Inc. (Air carrier)	Accepting shipment of flammable gas with no shipper certificate. Failing to notify pilot of hazardous materials on board. Accepting shipment of Class B poison improperly packaged and marked. Failed to report leakage of corrosive liquid.	\$ 1,550.00

Examples of DOT Penalty Actions Concerning
the Transportation of Hazardous Materials Cont.

<u>Company</u>	<u>Offense</u>	<u>Penalty</u>
Air North, Inc. (Air taxi operator)	Used service of pilots in command of flights carrying hazardous materials when said pilots had not completed a training program in the handling and carriage of hazardous materials.	1,000.00
Fred A Latteri, William V. Sumner, Paul J. Buck, Gerard W. Renaud (Pilots for Air taxi)	Acted as pilots in command for Air North, Inc., in case mentioned above.	150.00 each
Bishop Clarkson Memorial Hospital (Shipper by air)	Offered shipment of corrosive liquid, n.o.s. which was improperly packaged, marked and labeled. No shipper certificate provided.	500.00
Braniff Airways, Inc. (Air carrier)	Used persons to handle hazardous materials when they had not completed appropriate training in preceding 12 months. Failed to maintain record of initial and recurrent training of ground personnel.	1,500.00
Crown Plumbing Specialties, Inc. (Shipper by air)	Failed to properly pack, mark and label shipment of hazardous materials.	350.00
Federal Express Corporation (Air carrier)	Accepted leaking shipment of gasoline in improper container. Incorrect description on shipping paper.	200.00
Fries & Fries (Shipper by air)	Improperly prepared certification and shipping papers, improper marking and labeling of package of hazardous materials.	\$ 2,500.00
International Harvester (Shipper by air)	Offered shipment of hazardous materials, improperly marked and labeled, shipper certificate, and shipping papers improperly prepared.	1,000.00
North Central Airlines, Inc. (Shipper by air)	Accepted shipment of radioactive materials without performing required inspection. Failed to retain copy of shipper certificate.	500.00

Examples of DOT Penalty Actions Concerning
the Transportation of Hazardous Materials Cont.

<u>Company</u>	<u>Offense</u>	<u>Penalty</u>
Standard Motor Freight (Motor carrier)	Transporting poison in same vehicle with food stuffs and transporting a prohibited combination of hazardous materials.	1,038.00
Stirling Lacquer Manufacturing Company (Shipper by air)	Offered shipment of flammable liquid without marking proper shipping name on outside container.	500.00
Veratex Corporation (Shipper by air)	Offered shipment of flammable liquid with no shipper certification, improper description on shipping papers, improper marking of containers, and no labels.	2,500.00
V. W. R. Scientific (Shipper by air)	Shipped package containing titanium tetrachloride by air not properly packaged and marked, and not properly packed to prevent the escape of liquid.	3,500.00

REGULATIONS -- QUESTIONS AND ANSWERS

Since publication of Docket HM-103/112 amendments in the Federal Register on April 15, 1976, the Office of Hazardous Materials Regulations Operations (OHMO) has received numerous telephone and letter inquiries concerning the Department's Hazardous Materials Regulations. In addition, many questions were raised regarding various portions of the regulations at the Docket HM-103/112 workshops held in San Francisco, California, and St. Louis, Missouri, this past month. Many of these questions related to the regulations in 49 CFR that have been in effect for years and were essentially unaffected by the regulations published under Docket HM-103/112. Therefore, the Bureau has developed a list of questions and answers concerning the regulations in 49 CFR Parts 100-199 in order to assist the general public in understanding and complying with these regulations.

Q. Where may copies of the Department's Hazardous Materials Regulations be obtained?

A. The Department's Hazardous Materials Regulations are published in a volume entitled "Code of Federal Regulations, Title 49-Transportation, Parts 100-199" and may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D. C. 20402. The cost of the latest volume, dated October 1, 1975, is \$6.80 per copy.

Regulations -- Questions and Answers Cont.

Q. Where may copies of notices of proposed rule making, amendments to the rule making, and amendments to the Hazardous Materials Regulations be obtained?

A. All notices and amendments are published in the Federal Register. However, copies of such rule makings are available from the Office of Hazardous Materials Operations, Materials Transportation Bureau at no cost.

Q. How does a shipper determine if his material is considered a hazardous material under 49 CFR?

A. Unless covered by a specific exception noted in the regulations, a material is considered a hazardous material if it is specifically listed by name in the list of hazardous materials in Part 172, if it meets one or more of the definitions prescribed in 49 CFR Part 173, or if it would be prohibited from being offered for transportation under 49 CFR 173.21 or any other prohibiting provision of 49 CFR, Parts 172 or 173.

Q. What information is required to be shown on shipping papers when a hazardous material is being offered for transportation?

A. Unless otherwise noted in the regulations, the proper shipping name and hazard class must be shown. Abbreviations of these may not be used. In addition, the total quantity by weight, volume, or as otherwise appropriate, must be shown. The proper shipping name and the hazard class must appear on the shipping papers as they appear in the List of Hazardous Materials (172.4/172.101). Italicized entries may not be used as proper shipping names.

Q. What does it mean when certain sections provide exceptions from marking, labeling, or specification packaging requirements?

A. When a regulation provides an exception from marking, this means that the proper shipping name of the material need not appear on the outside package. A regulation that provides an exception from labeling, means that a diamond-shaped hazard warning label need not be affixed to the outside package. If a regulation provides an exception from specification packaging requirements, this means that the packaging, in which the material is placed to be shipped, need not comply with the construction requirements of any of the specifications prescribed in 49 CFR Part 178. However, all packages must comply with the requirements of 49 CFR 173.24 unless an exception applies to Part 173.

Regulations -- Questions and Answers Cont.

Q. How do the new placarding requirements apply to Canadian shipments of tank cars transported in the U.S.?

A. 49 CFR 173.8 and 174.11 authorize hazardous materials shipments, which conform to the Canadian Transport Commission requirements, to be transported from points of entry in the U.S. to their destination in the U.S., or through the U.S. en route to a point in Canada.

Future editions of the OHM Newsletter will carry similar articles containing questions and answers on the regulations.

PLACARDING OF FULL-LOAD SHIPMENTS OF LOW SPECIFIC ACTIVITY RADIOACTIVE MATERIALS

A question has recently arisen about the placarding requirements for "full-load" (sometimes referred to as "exclusive-use" or "sole-use") shipments of low specific activity radioactive materials (LSA). Under the shipper requirements of s 173.392(c) (7) such LSA shipments must be placarded by the shipper, with the same placard normally required to be applied by the carrier (pursuant to s 174.541(b) or 177.823). Some persons have apparently misinterpreted the provisions of s 173.392(c) (7), assuming that if the full-load shipment of LSA materials bears no packages with radioactive yellow-III labels, then placarding would not be required. This is not the case. In fact, the packages in such shipments are excepted from specification packaging, marking, and labeling pursuant to s 173.392(b). The requirement to placard is therefore imposed on the shipper rather than the carrier, which is certainly consistent with the higher external radiation levels of s 173.393(j) which are allowed for such full-load shipments. The reference to ss 174.541(b) and 177.823 which is found in s 173.392(c) (7) is therefore for the purpose of citing the placard format only and should not be confused with a reference to the carrier's regular placard requirement based on yellow-III labels.

REMINDER -- ATLANTA SEMINAR

To be held at the: Sheraton Inn, Atlanta Airport
1325 Virginia Avenue
East Point, Georgia 30344
TELEPHONE: (404) 768-6660

Intermodal: August 23-24, 1976; HM-103/112: August 25, 1976.
See your June edition of the OHM Newsletter for details.

INTERMODAL SEMINAR, CHICAGO, ILLINOIS

DOT's Region 5 Hazardous Materials Task Force will sponsor a two-day Intermodal Seminar at the Pick-Congress Hotel on November 2-3, 1976. Details will be published in the August Newsletter.

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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