



OHM Newsletter

Office of Hazardous Materials Operations

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

VOL. VII Number 65

November/December 1977

NOTICES AND AMENDMENTS PUBLISHED DURING NOVEMBER

(NOTE: No Proposed Rulemaking or Amendment was published during the month of October.)

- HM-139; Amdt. Nos. 172-38, 173-110, 176-3 (42 FR 57964 - 11/7/77), Conversions of Individual Exemptions to Regulations of General Applicability. These amendments incorporate into the Department's Hazardous Materials Regulations a number of changes based on the data and analysis supplied in selected exemption applications, or from existing special permits and exemptions. Effective date: November 7, 1977.
- HM-112; Amdt. 173-109 (42 FR 58524 - 11/10/77), Hydrogen Peroxide Water Solutions Transported by Vessel. This amendment corrects an administrative oversight by amending § 173.266 Hydrogen peroxide solution in water to discontinue authority to ship by vessel hydrogen peroxide water solutions of 52% concentration or less in portable tanks, and to discontinue the exception for shipments of this material by vessels. Effective date: November 10, 1977.
- HM-103/
112 Amdt. 172-39 (43 FR 58522 - 11/10/77), Extension of Placarding Compliance Date. This amendment provides that rectangular hazardous materials warning placards (and equivalent markings) formerly required to be displayed on highway vehicles carrying hazardous materials may be used in place of the square-on-point placards which have superseded them. The rule will be effective from January 1, 1978 through June 30, 1978 only, and is intended to give additional time for compliance with recent changes in placarding requirements.
- HM-139; Amdt. 173-111 (42 FR 58937 - 11/14/77), Conversion of Individual Exemptions to Regulations of General Applicability. This amendment incorporates into the Regulations changes based on the data and analysis supplied in selected exemption applications, or from existing special permits and exemptions. Effective date: November 14, 1977.

SIGNIFICANCE OF THE MANUFACTURE,
MARK AND SELL TYPE EXEMPTION

Pursuant to the Transportation Safety Act of 1974, as implemented by 49 CFR Part 107--Exemption Procedures, the Department is issuing exemptions from the Hazardous Materials Regulations that, generally, may be categorized as follows:

1. Shipper type.
2. Carrier type.
3. Manufacturer, mark and sell type.

Of these, the manufacture, mark and sell type poses administrative problems separate and distinct from the others.

Shipper and carrier oriented exemptions, although not simple, are straightforward as to their intent and application. The base holder thereof, and parties thereto, may either offer for transportation or transport the packages described, as appropriate, according to the terms specified. A party to an exemption assumes the same responsibility as the base holder of the exemption. In complying with the renewal requirements of 49 CFR 107.105, it should not be difficult for either a shipper or a carrier to comply with the certification and shipping experience requirements.

The manufacture, mark and sell type exemption allows the marketing and in some cases the use of a packaging by the holder of the exemption. When coupled with 49 CFR 173.22a, there is no need for shippers to become parties to that exemption. By issuing such an exemption to the manufacturer of a packaging for which broad use is contemplated and allowing its use by shippers in accordance with 49 CFR 173.22a, the administrative burden is greatly reduced. However, requests for additional commodities, and design or appurtenance changes, even though shipper stimulated, should be submitted by the manufacturer inasmuch as any other person, i.e., a person other than the base holder or a person party to the exemption, has no standing to make such request. There is a mutual benefit to this in that the Department has a single source contact and the manufacturer is made aware of all activity pertinent to the exemption. For this reason, such requests that have been received from other than the manufacturer have been returned.

Recently, several manufacturers submitted renewal applications indicating the number of packagings manufactured and sold, but they failed to indicate the approximate number of shipments made or packages shipped. Also, based on information received from

Significance of the Manufacture,
Mark and Sell Type Exemption Cont.

carrier incident reports, users of packagings covered by the provisions of § 173.22a are not reporting incidents involving loss of contents which is a requirement of each exemption.

The Office of Hazardous Materials Operations places great weight on shipping experience in determining whether an exemption should be renewed based on the performance of the packaging and its product retention capability. Manufacturers experiencing reporting difficulties should adopt procedures to assure the receipt of information from their shipper-customers that enables them to comply with the renewal requirements.

EXAMPLES OF DOT PENALTY ACTIONS CONCERNING
THE HAZARDOUS MATERIALS REGULATIONS

<u>Company</u>	<u>Offense</u>	<u>Penalty/ Initiating Agency</u>
M. M. Clark Company (Shipper)	Shipped hazardous materials improperly marked.	\$ 200.00 (DOT/MTB)
R. A. Corbett Transport (Motor carrier)	Operating a MC-305 cargo tank transporting hazardous materials without an operable emergency discharge control.	500.00 (DOT/FHWA)
Drumex, Inc. (Drum reconditioner)	Representing and marking containers as having been properly reconditioned without performing required testing of containers.	500.00 (DOT/MTB)
H. B. Fuller Company (Shipper by air)	Offered shipment of hazardous materials improperly packaged, marked, and certified.	500.00 (DOT/FAA)
Interstate Motor Freight System (Motor carrier)	Failure to placard a vehicle transporting hazardous materials.	300.00 (DOT/FHWA)
Kem International Corporation (Private motor carrier)	Failure to show proper shipping name and classification of hazardous materials on shipping papers.	500.00 (DOT/FHWA) Six months probation

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

<u>Company</u>	<u>Offense</u>	<u>Penalty/ Initiating Agency</u>
Lombard Bros. (Motor carrier)	Transporting hazardous materials without proper labels on containers.	\$ 500.00 (DOT/FHWA)
Lundy Electronics & Systems (Shipper by air)	Offered shipment of hazardous materials not properly described, marked, or labeled.	200.00 (DOT/FAA)
Pacelli Bros. Transportation, Inc. (Motor carrier)	Failure to properly train employees and failure to require driver to have in his possession shipping papers with proper descriptions of hazardous materials.	3,000.00 (DOT/FHWA)
Physics International (Shipper by air)	Shipped compressed gas which was improperly packaged and not properly certified on shipping paper.	500.00 (DOT/FAA)
Ross Neely Express, Inc. (Motor carrier)	Failure to placard a vehicle carrying hazardous materials; failure to clearly distinguish hazardous materials shipping papers when carried with others; improper loading of corrosive liquids.	7,500.00 (DOT/FHWA)
Safe Air Taxi, Inc. (Air Taxi Operator)	Accepting and transporting hazardous materials by personnel not properly trained.	100.00 (DOT/FAA)
Sea Airmotive, Inc. (Air Taxi Operator)	Transportation of Class A Explosives aboard an aircraft.	300.00 (DOT/FAA)
Smith's Transfer Corporation (Motor carrier)	Failure to placard a vehicle transporting hazardous materials.	500.00 (DOT/FHWA)
Western Airlines, Inc. (Air carrier)	Failure to provide recurrent training to ground personnel responsible for handling hazardous materials.	400.00 (DOT/FAA)

COMPLIANCE VIOLATIONS

Two of the more frequent violations noted during the past few months involve failure to mark the proper shipping names on packagings and the overloading of specification containers.

1. The proper shipping name, as shown in Section 172.101, must be displayed on nearly all hazardous materials packagings. There are very few exceptions to this rule.
2. The gross weight limit for a DOT 12B40 fiberboard box is 40 pounds.

TRAINING FILM ON RADIOACTIVE MATERIALS

The response to the announcement in the September/October issue of the Newsletter regarding the availability of a training film on radioactive materials has been so heavy that the mailing time for new requests may well be two months or longer. However, they will be handled in order of their receipt.

Please help others by returning the film as quickly as possible.

LOADING, BLOCKING AND BRACING

IT HAPPENED IN MONTEREY, MONTPELIER, RAHWAY, AND PADUCAH, and this is what the carriers said on their reports:

- "When doors were opened a number of boxes fell out."
- "Cause of damage was load shifted."
- "A sharp object punched a hole in the bottom of this steel drum."
- "Apparently one container was damaged by other freight falling on this."
- "Freight shifted during transit and fell on these cartons."
- "Pallets weighing 662 pounds loaded on top of pails (two high stack) and crushed pails."
- "All 12 batteries had fallen off a skid and were laying on their side in the trailer. The acid had leaked out..."
- "Pails squeezed by other shipment...improperly loaded."

Loading, Blocking and Bracing Cont.

These examples are only a few which have been taken from hazardous materials incident reports recently received. Failure to comply with the loading, blocking and bracing requirements of Title 49 Code of Federal Regulations is the leading cause of unintentional releases from packages containing hazardous materials.

Perhaps carriers do not realize that each quoted example, in addition to creating a safety problem, also indicates a probable violation of 49 CFR.

Motor Carriers: See Section 177.834(g)
Rail Carriers: See Section 174.55(a), (b), and (c)
Air Carriers: See Section 175.79.

Shippers are reminded that Section 173.30 states:

"A person who loads or unloads hazardous materials into or from a transport vehicle or vessel shall comply with the applicable loading and unloading requirements of Parts 174, 175, 176, and 177 of this subchapter."

Again we remind all involved that failure to properly load, block, and brace hazardous materials shipments is a violation of the regulations and as such may subject you to civil or criminal penalties.

INTERMODAL HAZARDOUS MATERIALS TRANSPORT AWARENESS
SEMINAR AND WORKSHOP - ROMULUS, MICHIGAN

A two-day seminar will be held on February 7 and 8, 1978 at the:

Ramada Inn
8270 Wickham Road
Romulus, Michigan 48170 (Detroit)
(Phone: (313) 729-6300)

This program is being conducted to improve the awareness of the Department's Hazardous Materials Regulations which are applicable to shippers, carriers, freight forwarders, container manufacturers, testers and vendors. This program will be conducted on an awareness basis and is not intended to take the place of in depth training necessary to comply with the regulations. Training requirements and compliance procedures will be stressed throughout the session.

Intermodal Hazardous Materials Transport Awareness
Seminar and Workshop - Romulus, Michigan Cont.

The seminar fee of \$30.00 covers lunch, coffee breaks, and handout material, including a copy of the regulations. Checks must be made payable to "U.S. Department of Transportation." No refunds will be made unless this Office receives such requests prior to February 1, 1978.

Space will be assigned as registrations are received. Those wishing to attend should complete the following form and mail it, with your check, to:

Office of Hazardous Materials Operations (Seminar)
U.S. Department of Transportation
Washington, D. C. 20590

Those desiring hotel accommodations should contact the hotel directly.

----- FORM -----

I wish to attend the Hazardous Materials Seminar at the Ramada Inn in Romulus, Michigan (Detroit) on February 7/8, 1978.

Name _____

Company or Organization _____

Address _____
(Street)

(City) (State) (Zip Code)

Telephone: _____

FUTURE SEMINARS

Seminars are being planned for Boston, New Orleans, San Francisco, and Los Angeles. Dates and locations will be announced in subsequent issues of the Newsletter.

The Secretary of Transportation has determined the 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, 1981.



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