

SAFETY ALERT



U.S. Department of Transportation

Research and Special Programs Administration

This "SAFETY ALERT" highlights five recent Federal Register publications. To receive a complete version of these publications, see page three.

Advisory Guidance: Offering, Accepting, and Transporting Hazardous Materials

In an advisory guidance document published on June 14, 1996, RSPA addressed a number of topics related to the safe transportation of hazardous materials. This action was taken to remind persons involved in the transportation of hazardous materials of their responsibilities to ensure that hazardous materials are properly identified, packaged, authorized for transportation, handled, loaded, and transported in conformance with the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

The guidance document highlights the basic requirements and common-sense reminders needed for compliance with the HMR.

Basic Requirements

- Training (required for all hazmat employees);
- Classification and Identification of Hazardous Materials (the procedures and criteria for determining the hazard class and proper shipping name, packing group, required hazard warning labels, packaging authorizations, per-package quantity limitations for passenger and cargo aircraft, and special provisions);
- Protective Packaging (the first line of defense in ensuring that the material is NOT released during transportation);
- Hazard Communication (essential elements of required hazard warning information); and
- Incident Reporting and Modal-Specific Requirements (including stowage and segregation).

Common-Sense Reminders

- Know Your Customer;
- Know the Packaging;
- Know and Verify the Proper Hazardous Material Description;
- Visually Inspect the Shipment;
- Advise Your Customer of Possible Discrepancies; and
- Report Violations. ■

Federal Register Publications:

- Advisory Guidance: Offering, Accepting, and Transporting Hazardous Materials.....p.1
- Final Rule: Hazardous Materials in Intrastate Commerce.....p.2
- Final Rule: Improvements to Hazardous Materials Identification Systems.....p.2
- Advisory Notice: Transportation of Air Carrier Company Materials (COMAT) by Aircraft.....p.3
- Final Rule: Prohibition of Oxygen Generators as Cargo in Passenger Aircraft.....p.3

Final Rule: Hazardous Materials in Intrastate Commerce

In a final rule published on January 8, 1997, RSPA amended the regulations pertaining to the intrastate transportation of hazardous materials. The rule requires that all intrastate shippers and carriers comply with the HMR with certain exceptions. This action, required by the Federal hazardous materials transportation law, is intended to raise the level of safety in the transportation of hazardous materials by applying a uniform system of safety regulations to all hazardous materials transported in commerce throughout the United States.

The final rule provides new definitions, some exceptions to the rule, and key questions and answers on the rule.

New definitions:

Agricultural product means a hazardous material, other than a hazardous waste, whose end use directly supports the production of an agricultural commodity including, but not limited to a fertilizer, pesticide, soil amendment or fuel. An agricultural product is limited to a material in Class 3, 8 or 9, Division 2.1, 2.2, 5.1, or 6.1, or an ORM-D material.

Farmer means a person engaged in the production of crops, poultry, or livestock.

Material of trade means a hazardous material, other than a hazardous waste, that is carried on a motor vehicle--

(1) for the purpose of protecting the health and safety of the motor vehicle operator or passengers;

(2) for the purpose of supporting the operation or maintenance of a motor vehicle (including its auxiliary equipment); or

(3) by a private motor carrier (including vehicles operated by a rail carrier) in direct support of a principal business that is other than transportation by motor vehicle.

Exceptions include:

- certain materials of trade transported by interstate and intrastate motor carriers;
- certain non-specification packagings in intrastate transportation;
- qualifications of inspectors of small cargo tank motor vehicles used for flammable liquid petroleum fuels in interstate and intrastate transportation; and
- certain agricultural products transported in intrastate commerce under specific conditions.

How does this rule affect CDL, FMCSR, drug testing, or insurance?

Nothing in the final rule impacts the regulations that address commercial drivers license (CDL) requirements, financial responsibility requirements, and drug testing. These are independent requirements applicable to motor carriers under the provisions of the Federal Motor Carrier Safety Regulations (FMCSR). In addition, RSPA has determined that the final rule will not subject additional motor carriers, including farmers, to the FMCSR.

What is the effective date?

The final rule takes effect October 1, 1997, with compliance authorized April 8, 1997. Certain "grandfathering" provisions have effective dates after October 1, 1997.

Final Rule: Improvements to Hazardous Materials Identification Systems

Certain requirements under the regulations for identification systems were amended in a final rule published January 8, 1997. These changes were made to amend the HMR to better identify hazardous materials in transportation.

Changes include:

- new "POISON INHALATION HAZARD" (PIH) label and placard;
- lowering the quantity for specific hazard class placarding from 2,268 kilograms (5,000 pounds) to 1,000 kilograms (2,205 pounds) of one class or division of material loaded on a transport vehicle;
- expanding requirements for transport vehicles and freight containers that have been fumigated; and
- other enhancements to the hazard communication system.

The final rule takes effect October 1, 1997, with compliance authorized February 11, 1997. ■

Advisory Notice: Transportation of COMAT by Aircraft

In a safety advisory published on December 13, 1996, RSPA provided guidance as to the extent and application of exceptions from the HMR applicable to an air carrier's transportation of its own company materials (COMAT). This action was taken to clarify the application of these provisions of the HMR and to overcome a number of apparent misunderstandings of them.

The advisory notice highlights the COMAT exceptions as they relate to application of the HMR.

It also includes a table listing HMR requirements which apply to all hazardous materials carried as items of replacement under the COMAT provisions ■

Final Rule: Prohibition of Oxygen Generators as Cargo in Passenger Aircraft

On December 30, 1996, RSPA published a final rule which prohibits the transportation of oxygen generators as cargo on passenger-carrying aircraft. This prohibition applies to both foreign and domestic passenger-carrying aircraft that are entering, leaving or operating in the United States. The rule also applies to any person offering an oxygen generator for transportation on any passenger-carrying aircraft. For purposes of this rule, an oxygen generator is defined as "a device containing chemicals that upon activation release oxygen as a product of chemical reaction."

Exceptions to the prohibition are provided for a chemical oxygen generator that:

- meets the specific safety requirements of 49 CFR 175.10(a)(7); and is for medical use of passengers in the passenger cabin; or
- is small and for personal use, and is transported as checked baggage in accordance with 49 CFR 175.10(a)(24), under certain circumstances, including approval by the air carrier.

The final rule took effect December 31, 1996. ■

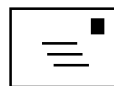
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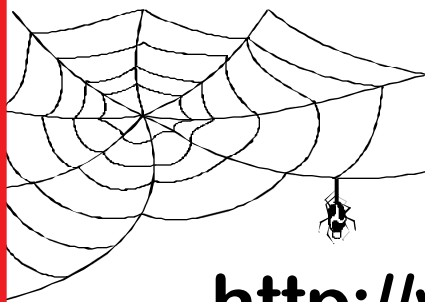
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RSPA urges all persons involved in hazardous materials transportation activities to carefully examine all of their procedures to ensure compliance with the HMR. Federal law provides for civil penalties up to \$27,500 for each violation of the HMR. An individual who willfully violates a provision of the HMR may be fined up to \$250,000, be imprisoned for not more than 5 years, or both; a business entity may be fined up to \$500,000.

New Penalties for Violations

Don't get Zapped!



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