



U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Office of Governmental, International and Public Affairs
Washington, D.C.

Enforcement Notice

PHMSA # 2-05
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PHMSA Office of Hazardous Materials Safety January 2005 Notice of Hazardous Materials Regulations Enforcement

The Pipeline and Hazardous Materials Safety Administration (PHMSA) today gave notice to the regulated industry and its stakeholders of the 15 hazardous materials civil penalty cases it closed in the month of January 2005 for violations of the Hazardous Materials Regulations (HMR) (49 Code of Federal Regulations Parts 100 – 185). It is the task of PHMSA's inspection and enforcement staff to determine compliance with the safety and training standards of the HMR by inspecting the regulated industry that offers hazardous materials for transportation. PHMSA files all of its final orders weekly into the Department's Docket Management System (DMS). Access to the DMS system is available on the DOT website at <http://dms.dot.gov>.

Company	SUMMARY	Penalty
AQUATIC CONTROL, INC., Seymour, IN (Shipper)	Offered a Packing Group I hazardous material in packaging not subjected to design qualification testing nor certified to a UN standard; failed to mark the packaging with the proper shipping name and UN identification number; failed to affix the packaging with the required subsidiary hazard warning label; offered the material accompanied by a shipping paper that failed to list the correct packing group. [173.22(a)(2), 178.516, 178.600, 172.301(a), 172.402(a)(1), 172.200(a), 172.202(a), 173.132(a)(1)(iii)(A)] Case No. 04-557-SB-SO	\$10,395
BAX GLOBAL, INC., Coraopolis, PA (Shipper/Air Carrier)	Accepted for transportation, and transported by air, resin solution, in packaging that was not authorized because it was not marked as having been hydrostatically tested to at least 80 kPa (12 psig). [173.27(c)(3)(ii), ICAO TI—Part 4, Chapter 1--1.1.16] Case No. 03-100-SP-EA	\$3,000
CANFIELD & JOSEPH, INC., Kansas City, KS (Shipper)	Offered zinc chloride, anhydrous, in unauthorized non-UN-standard packaging; offered it accompanied by a shipping paper that failed to indicate the material was hazardous and did not meet HMR shipping requirements; failed to provide general awareness and function-specific employee training, or create and retain records of training testing. [173.22(a)(2), 173.213, 172.200, 172.201, 172.202, 172.204, 172.604, 172.702(b), 172.704(a)(1) and (2), 172.704(d)] Case No. 03-247-SD-SW	\$5,400

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COASTAL SUPPLY COMPANY, INC., Knoxville, TN (Shipper)	Failed to develop and implement a security plan; failed to provide employee training, or create and retain records of training testing. [172.800, 172.802, 172.702(b), 172.704(a) and (d)] Case No. 04-562-SD-SO	\$5,700
GC AMERICA, INC., Alsip, IL (Shipper)	Failed to develop and implement a security plan, and failed to provide security awareness and in-depth security training; failed to provide function-specific employee training, or create and retain records of training testing, and transported methyl methacrylate monomer, stabilized solution, qualifying for the materials-of-trade exception without informing the driver of the requirements of that exception. [172.800(b), 172.802(a) and (b), 172.702(b), 172.704(a)(4) and (5), 172.702(b), 172.704(a)(2), 172.704(d), 173.6(c)(4)] Case No. 04-143-SB-CE	\$7,270
GRANT W. HAGBERG COMPANY, Griffith, IN (Cylinder Retester/Shipper)	Represented, marked, and certified a cylinder as meeting the requirements of a DOT exemption after the 15-year period authorized by the exemption and failed to properly condemn others that were 15 years beyond the date of manufacture; offered carbon dioxide, 2.2, when it failed to have shipping papers for some cylinders and for others the shipping papers did not list a correct shipping description; failed to maintain copies of the applicable exemptions at its facility; failed to maintain complete and accurate records of reinspection and retest. [180.205(i)(2), DOT-E 7235 and 7277, 172.201(a), 172.202(a), 180.215(a)(5), 180.215(b)(2)] Case No. 03-138-CRS-CE	\$9,350
KEEN COMPRESSED GAS COMPANY, INC., New Castle, DE (Cylinder Retester)	Developed and implemented a security plan that did not include a written assessment of possible transportation security risks and the measures to address the assessed risks; failed to create and retain records of employee training testing. [172.800(b), 172.802(a) and (b), 172.704(d)] Case No. 04-641-CR-EA	\$1,875
KITTIWAKE DEVELOPMENT, LTD., West Sussex, England, UK (Shipper)	Represented and marked a packaging as manufactured in the United States when it was not and as meeting a UN performance standard when it had not been subjected to design qualification testing; caused hazardous materials to be transported within the United States when it packaged them in a packaging not subjected to design qualification testing; marked a packaging with a manufacturer's symbol as part of the UN certification without authorization; caused hazardous materials to be transported within the United States in packaging that was not marked with the proper shipping name and UN identification number. [178.3(b)(3), 178.503(a)(7) and (8), 178.601(d), IMDG Code 6.1.3.1(e)-(f) and 7.9.1, 173.22(a)(2), 173.211(a), IMDG Code 4.1.4.1-P403, 178.3(a)(2), 172.301(a)] Case No. 04-623-FSB-EA	\$21,550

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MALLINCKRODT BAKER, INC., Phillipsburg, NJ (Shipper)	Failed to close packagings in a manner consistent with the closure used during design testing and as required by the manufacturer's closure notification; failed to maintain records relating to the requalification of intermediate bulk containers; failed to provide recurrent employee training. [173.22(a)(4), 178.602(a), 180.352(f), 172.702(b), 172.704(c)(2)] Case No. 04-619-BMS-EA	\$5,155
MALLINCKRODT BAKER, INC., Paris, KY (Shipper)	Failed to close packagings in a manner consistent with the closure used during design testing and as required by the manufacturer's closure notification. [173.22(a)(4), 178.602(a)] Case No. 04-620-BMS-EA	\$1,030
DAVID M. MERCHANT, INC., Boonsboro, MD (Shipper)	Failed to provide employee training, or create and retain records of training testing; offered hazardous materials accompanied by shipping papers that did not include the proper shipping name, hazard class or division, UN identification number, packing group, or a signed shipper's certification; failed to retain copies of shipping papers for at least 375 days; offered explosives and explosive devices accompanied by a shipping paper that listed an unauthorized emergency response telephone number. [172.702(b), 172.704(a) and (d), 172.202(a), 172.204(a), 173.22(a)(1), and 173.53 Table, 172.201(e), 172.604(b)] Case No. 04-005-SE-HQ	\$6,000
THE METHODIST HOSPITAL, Houston, TX (Shipper)	Offered regulated medical waste in packaging not filled and closed in a manner sufficient to prevent reduction of the effectiveness of the package and the release of hazardous materials to the environment; failed to provide employee training, or create and retain records of training testing. [173.24(b)(1) and (2), 172.702(b), 172.704(a) and (d)] Case No. 03-527-SB-SW	\$9,990
PENN COLOR, INC., Hatfield, PA (Drum Manufacturer/Shipper)	Offered nitrocellulose solid, flammable, (1) in reconditioned open-head drums certified to the Y1.2 performance standard, when the specific gravity was actually 1.45, (2) in new open-head drums not closed with a torque wrench so that it was not possible to assure that they were closed to the torque value listed in the manufacturer's closure notification, and (3) offered environmentally hazardous substance, liquid, n.o.s., in reconditioned open-head drums with plastic liners added that could affect the performance of the drum closure; failed to develop a security plan with a written risk assessment and without adhering to the en route security measures set forth in the plan. [173.22(a)(4), 173.22(f)(2), 173.24a(b)(1), 173.202 and 203, 178.601(b) and (d)(4)(vi), 172.800(b), 172.802(a)(3)] Case No. 04-617-DMS-EA	\$8,000
UNICHEM, INC., Greenville, SC (Shipper)	Failed to develop and implement a security plan; offered hazardous materials accompanied by a shipping paper that failed to use a proper shipping name as part of shipping description. [172.800(b), 172.802(a) and (b), 172.200(a), 172.201(a)(1)] Case No. 04-563-SD-SO	\$5,100

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Company	SUMMARY	Penalty
UNITOR SHIPS SERVICES, INC., Folcroft, PA (Shipper)	Offered hazardous materials accompanied by shipping papers that failed to list the proper shipping name, hazard class, UN identification number, and packing group; failed to develop and implement a security plan. [172.200(a), 172.202(a), 172.800, 172.802] Case No. 04-611-SC-EA	\$16,380

Total number of cases – 15

Total civil penalties – \$116,195

Hazardous Materials Initiatives and Training:

PHMSA uses a number of tools in meeting its goal to improve hazardous materials safety. Enforcement is but one useful safety tool and training is another. The PHMSA Office of Hazardous Materials Initiatives and Training (OHMIT) provides products and programs that aid the regulated industry's compliance with the HMR. Last year, the PHMSA Hazmat Safety Assistance Team reached over 10,000 individuals in the hazmat community, provided over 270 hazmat awareness presentations, and distributed nearly 30,000 standard information packets. The OHMIT training program includes Multimodal HazMat Transportation Training Seminars held throughout the country that drew more than 1,100 participants last year. The 2005 seminar schedule includes Richmond, Va., April 26-27; and Louisville, Ky., June 7-8. For more information, go to the USDOT Hazmat website at <http://hazmat.dot.gov/training.htm>.

PHMSA has public responsibilities for the safe and secure movement of hazardous materials to industry and consumers by all transportation modes, including the nation's pipelines.

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