

CHAPTER 14

TICKETING PROGRAM

§107.310

SECTION 14.1 - PURPOSE

The OHMS Field Operations Enforcement Division ticketing program was created to streamline administrative procedures, cut costs, and reduce regulatory burdens on persons subject to the Federal hazardous materials transportation law. It currently covers certain violations, most of which have no substantial or direct impact on safety, but which involve regulatory requirements mandated by Federal hazmat law. However, the Enforcement Division has discretion to modify violation criteria based on programmatic and other considerations.

The ticketing program affords a respondent the opportunity to respond to a violation of the HMR by agreeing to pay a significantly reduced penalty and waiving the right to full adjudication by the PHMSA Office of the Chief Counsel via the civil penalty process described in 49 CFR Part 107, Sections 107.311-107.327.

SECTION 14.2 - SCOPE

Some example violations which may be addressed under the Ticketing Program are listed below:

- Failure to conduct hazardous materials training or maintain records thereof.
- Failure to register as a shipper of hazardous materials when required.
- Continuing to operate under an expired special permit.
- Failure to file a hazardous material incident report.
- Failure to provide closure instructions for closing a packaging
- Failure to follow a manufacturer's closure instructions
- Failure to develop and include a risk assessment
- Failure to label a package

SECTION 14.3 - PROCEDURES

14.3.1 - Investigator Actions

Once authorization is confirmed to process an ININREPT as a Ticket, the actions taken are very similar to those for an Enforcement Report, with the following modifications:

- Select the "Ticket" option on the Interview/Investigator page in the HMIS where the drop down list is labeled Action.
- Continue with report as directed in Chapter 8 of this manual.

14.3.2 - Supervisor Actions:

After reviewing and approving an ININREPT for a ticket, the field supervisor, or his or her designee, prepares the Ticket. As a minimum this includes:

- Adding the issue date to the ticket form.
- Selecting a company type designator and the unit designator on the Approval page in HMIS. The first two sections of the ticket number (05T-0001) are automatically provided by HMIS.
- Verifying the respondent name, address and "Attn" party printed on the form by HMIS.
- Preparing a narrative of the violation[s], individual penalties and total penalty assessed.
- Indicating the full guideline penalty.
- Signing the ticket electronically.

14.3.3 - Notification

Notification involves mailing the original ticket along with a copy of the signed enforcement report to the company involved. The ticket is mailed via certified mail with a return receipt attached. If new information becomes available which necessitates a change in a ticket, a superseding ticket may be issued (see page 14-6). When this occurs the issuing unit must notify the FAA and the Enforcement Officer of the amount of the superseding ticket and any adjustment in suspense.

14.3.4 - Tracking

Tracking of a ticket involves ensuring that the HMIS has been properly completed. PHH-40.1 will enter the appropriate information in the enforcement data sets. When the return receipt is received at the issuing unit, the respondent has 45 days to respond to the ticket. Once the return receipt is received scan a copy into the HMIS and proceed as follows.

<u>Tracking Begins</u>	<u>Response Options</u>	<u>OHME Actions</u>
	Company elects to pay the ticket	Ticket and payment are sent by the company to the FAA. FAA in turn notifies PHC, which then notifies PHH-40.1, who then notifies the issuing unit
Ticket receipt date noted on U.S. Mail return receipt	Company elects to submit an informal response to PHMSA's Office of the Chief Counsel.	Issuing unit notifies the FAA so FAA does not begin collection efforts. The original ticket, signed by the company, and enforcement report are reviewed by the Enforcement Officer.
	No response received by the issuing unit within 55 days of ticket receipt.	Issuing unit notifies the company that failing to respond they have waived their right to a hearing and admitted the violation. The office then provides a copy of the letter to the FAA and collection efforts are initiated.

14.3.5 - Nonresponse

When a company fails to respond to a ticket the issuing Field Operation will send a letter via certified mail, return receipt requested, which informs the party involved that by not responding it has waived the right to a hearing and has admitted the violation[s] as set forth in the Ticket. A copy of this letter is forwarded to the FAA. This action alerts the FAA to commence collection efforts.



**U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Office of Hazardous Materials Safety Enforcement Division**

TICKET FOR NONCOMPLIANCE

DATE: September 10, 2010

TICKET NUMBER: 05T-0001-XX-XX

RESPONDENT: [Company Name]
[Company Street Address]
[City, ST, Zip]
Attn.: Mr.

STATEMENT OF VIOLATION AND PENALTY

Based on a compliance inspection conducted at your facility on March 26, 2009, [Company Name, Inc.], was found to have (1) failed to provide emergency response information printed in English, and is assessed a penalty of \$520.00; and (2) failed to register as an offeror of hazardous materials and pay a registration fee, and is assessed a penalty of \$375.00. Total penalty assessed is \$895.00. Correction actions have been considered in determining the penalty amount.

If, within 45 days of receipt of this ticket, you pay the penalty, this matter will be closed. If you submit an informal response or request a formal hearing, you may be subject to the full guideline penalty of **\$50,000.00**. If within 45 days, you do not remit the ticket amount, submit an informal response, or request a formal hearing, you will have admitted the violation and will owe the ticket penalty to the Department of Transportation. PHMSA encourages you to submit a statement, which may be included with your response, about corrective action which has been taken to remedy the stated violation.

**XXXXXXX X. XXXXXXXXXXXX
Director, XXXXXXX Region**

RESPONSE OPTIONS

Within 45 days of receipt of this ticket, please choose (check box) one of the following options:

- 1. I choose to pay the amount stated above for this ticket, and waive my right to a formal hearing.
- 2. I wish to make an informal response as authorized under 49 CFR, Section 107.317.
- 3. I am requesting a formal administrative hearing as authorized under 49 CFR, Section 107.319.

If you choose to pay the ticket, make a certified check or money order payable to the U.S. Department of Transportation, and send with a copy of this ticket to Chief, Financial Operations Division, Federal Aviation Administration, Mike Monroney Aeronautical Center, AMZ-341, P.O. Box 269039, Oklahoma City, OK 73125.

You may also pay the ticket electronically via the Internet using a credit card. To do so, visit our Website using the following address: <https://hazmatonline.phmsa.dot.gov/services/>.

Regardless of option selected, please sign below and attach any information, including a statement of corrective action, you believe relevant to the matter and mail to the Chief, XXXXXXX Region, Street Address, Suite #, City, ST Zip. If you have any questions, call the Region office at 123-456-7890.

Signature and Date

PENALTY AUTHORITY

Administrative assessment of civil penalties is authorized under 49 U.S.C., Section 5123, which provides for a penalty of not more than \$50,000 and not less than \$250 for each violation of the Hazardous Materials Regulations.