

CHAPTER 11

PURCHASING HAZARDOUS MATERIALS FOR TESTING

SECTION 11.1 - PURPOSE

The purpose of this chapter is to provide guidance for implementation of the Field Operations Hazardous Materials Testing Program. The safety considerations to take into account, how much is needed to buy for testing, how to pay for samples, how to maintain the chain of custody for samples, and other information is covered in this chapter.

SECTION 11.2 - SCOPE

Field investigators purchase or obtain samples of materials by three methods: (1) directly from a vendor at origin, with investigators taking physical possession of the samples and delivering them to laboratory facilities; (2) directly from a vendor at origin, with Enforcement Division identifying and tagging the samples it wants, and having the vendor ship them to laboratory facilities; or (3) indirectly from a vendor, by arranging with a company in the same business to order samples on field's behalf.

In determining which method to use, consider the relative risks to the public of different types of suspected violations; those risks are reflected in the baseline penalties prescribed for different types of violations in OHMS' Guidelines for Civil Penalties (Appendix A to Subpart D of 49 CFR Part 107).

SECTION 11.3 - PROCEDURES

11.3.1 - Safety

Exercise reasonable care and discretion in selecting materials for testing. When selecting materials for testing, consider the following:

- * Potential risk during transportation or storage incident to transportation due to the nature or quantity of the material involved. No RAM will be purchased for testing.
- * Previous experience with the hazardous material or regulated entity.
- * Ability to safely transport the product in question to a laboratory.
- * Cost of testing.

A regulated entity may be asked to provide a sample of one or more hazardous materials it offers for transportation. Investigators may request a sample which we believe may not be in compliance, or may request a sample solely to check the identified classification. Samples may be obtained at the manufacturer's facility, or purchased at a customer location.

Prior to accepting a hazardous material for testing, thoroughly review the Material Safety Data Sheet (MSDS) and any other available safety data concerning the material. Do not transport the specimen in a government or rental vehicle if there is any doubt with regard to its safe transportation. Under no circumstances will a hazardous material be offered or caused to be introduced for transportation in commerce, unless authorized to do so in writing by the Associate Administrator for Hazardous Materials Safety.

In those instances involving commercial transportation and where the subject entity is alleged or suspected to be in violation of any applicable rule, regulation or civil/criminal statute involving hazardous material, supervisors will evaluate the nature of the suspected offense, the investigatory steps anticipated, and the associated risk prior to any indirect purchase.

If purchasing materials through another entity is the only feasible way to purchase a material, and such purchases potentially involve the commercial transportation of hazardous material, inform the region supervisor, who will notify the Enforcement Officer or the Director in Field Operations Headquarters. All parties will discuss the logistics of the planned purchase to assure that the transportation risk is acceptable and that all safety precautions are taken.

11.3.2 - Quantity

In purchasing samples for testing, obtain only the minimum amounts necessary to conduct valid testing. Make sure to obtain materials which are packaged as they ordinarily are shipped. Purchase the material in question from a shipper or distributor, in gallon, quart, or pint quantities, packaged as sold by the shipper.

Once a product is identified for testing, request the smallest possible sample sufficient to facilitate accurate testing (usually 100 grams for solids or 100 ml for liquids is sufficient). A product packaged in the supplier's original packaging is preferred as long as the quantity is reasonable. One gallon or one pound are the maximum quantities that should be obtained for most testing.

Disposal charges are usually included in the testing contract, so large quantities of excess material are discouraged. Never draw or extract raw samples themselves since specialized clothing and safety training covering hazardous materials handling is required.

11.3.3 - Reimbursement

A company may provide the material at no cost to the government. If reimbursement is requested, pay cash for the material and claim for reimbursement on a travel voucher. Please document all transactions and obtain clearly verifiable receipts. Samples may also be paid for by using the office's credit card. In this situation, regional access and security policies relating to the office account must be utilized. With prior coordination, a purchase order can be arranged. Purchases may never be made using the Government travel credit card.

11.3.4 - Chain of Custody

Once the sample is turned over, treat it as evidence. Secure and seal the closure device with OHMS issued standard evidence tape. Identify each product with the report number and, if several products are involved, add a unique suffix, e.g. 96422050-A, 96442050-B, etc. Make sure to shield the material from extremes in temperature and light and deliver it to the lab as soon as possible. Take a photograph of the material prior to departing the inspection site, and obtain a Material Safety Data Sheet (MSDS) and sample Bill of Lading. Provide a copy of the MSDS to the testing lab for its reference and safe handling of the material.

11.3.5 - Notification

For accounting and tracking purposes, please notify the supervisor about the purchase as soon as possible. Prepare any other tracking forms according to the region's procedures. Once the contract lab performs its tests and the results indicate the material to be in probable violation, send the results to the company using the approved notification letter provided (see example below). If the material does not comply with the regulations, make arrangements with the testing lab to store the remaining material to facilitate additional or subsequent testing should the test results be challenged.

SECTION 11.4 - POLICY REGARDING ANIMAL TESTING FOR CORROSIVITY

When arranging for testing of materials for corrosivity, please inform the prospective laboratory that testing is to be conducted using the Corrositex7 testing protocol, when testing using animals is not required. Advise the laboratory that testing using animals is to be conducted only when absolutely necessary.

SECTION 11.5 - REMINDER

Keep in mind that the purpose of this program is to safely purchase packaged samples of hazardous materials. Never deliberately expose yourself to raw chemicals of any kind.



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

Office of Hazardous
Materials Safety
XXXXXXXXX Region

Region Street Address
Suite XXXX
City, ST 00000

September 10, 2010

Via Certified Mail - Return Receipt Requested

Mr./Ms.
Title
Organization
Address
City, ST Zip

Dear:

On [Date], an investigator from this office conducted a compliance inspection in accordance with 49 U.S.C. Section 5121(c) at your manufacturing facility. In question was the classification, packing group assignment, and packaging for several of your products. Following the inspection, the investigator obtained a samples of the products and submitted them to an independent testing laboratory for analysis. The results of those tests are attached and forwarded for your information, comment and action.

Your company classified the product XXXXXXXXX, as a Packing Group __ material. Laboratory analysis of the product indicates the packing group for XXXXXXXX is Packing Group __.

Please provide this office with your justification and methodology for classifying the product[s] referenced above. You may submit any documentation to support your classification, including laboratory test results and any other information you believe relevant to the matter. If you agree that your packing group classifications are incorrect, please take immediate corrective action to prevent any further violation of the Hazardous Materials Regulations and provide us with information and documentation concerning that corrective action. Please respond within five working days of receipt of this letter.

You may direct any questions concerning this correspondence to the investigator at 123-456-7890/FAX 123-456-7890, or e-mail: (investigator)@dot.gov.

Sincerely,

XXXXXXXX XXXXXXXXX
Director, XXXXXXXX Region

Enclosures

(Letterhead)
April 24, 2010

Laboratory POC Name
Laboratory Name
Laboratory Address
Lab City, ST, Zip

REQUEST FOR LABORATORY SERVICES

In accordance with the Blanket Purchase Agreement (BPA) no. 000-0000, request you perform the following laboratory analysis of the product(s) specified and return your completed report to the address above, ATTN: XXXXXXXX XXXXXXXX, Chief, XXXXXXXX Region.

PRODUCT NAME:	CURRENT CLASSIFICATION/HAZARD CLASS/ID NO./PACKING GROUP:
QUANTITY:	DESCRIPTION OF CONTAINER/PACKAGING:
REPORT NUMBER:	
DELIVERED BY:	BILL OF LADING/AIRBILL NO.:
TEST(S) REQUESTED: DETERMINATION OF FLASH POINT (TCC) (ASSIGNMENT OF PACKING GROUP): CORROSIVITY (ASSIGNMENT OF PACKING GROUP): DERMAL AND ORAL TOXICITY (ASSIGNMENT OF PACKING GROUP): OXIDIXER (ASSIGNMENT OF PACKING GROUP):	IAW 49 CFR Section: 173.120/173.121 173.136/173.137 173.132/173.133/173.134 173.127
ACCOMPANYING DOCUMENTATION: <input type="checkbox"/> MSDS <input type="checkbox"/> SHIPPING PAPERS <input type="checkbox"/> LAB REPORT <input type="checkbox"/> OTHER _____	IDENTIFYING MARKS BY COMPANY:
	IDENTIFYING MARKS BY INSPECTOR:
PHOTOGRAPHS TAKEN:	RECEIPT ACKNOWLEDGED:
DATE COMPLETED:	
COMMENTS:	