Hazardous Materials Inspection Process

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Investigator, Southern Region
Field Operations

http://phmsa.dot.gov/hazmat
Hazmat Shipments in the U.S.

The U.S. Department of Transportation (DOT) currently lists approximately 3,000 hazardous materials (hazmat) descriptions – these materials, if accidentally or intentionally released, can pose risks to public health and safety, property, or the environment.

Over 800,000 Shipments Daily

3.1 Billion Tons Shipped Annually by All Modes

Hazardous Materials Support $446 Billion of US Economy Annually
Office of Hazardous Materials Safety Mission

- “Protect the nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce” [49 U.S.C. 5101]
- Ensures and promotes the safety, security and performance of the nation's hazardous materials transportation system through its nationwide field operations.
- Operational activities that include compliance, incident and accident inspections and investigations; safety, performance and regulatory adequacy and fitness determinations; outreach, education and training activities; and reporting feedback, information and intelligence through its oversight of hazardous materials shippers, carriers and the manufacture, requalification, recondition, maintenance and use of hazardous materials packaging.
- To determine the adequacy and clarity of the regulations for which the hazardous material transportation activities are based.
PHMSA Office of Hazardous Materials Safety (OHMS) Regional Offices
Who does PHMSA Regulate?

- **Shippers/Carriers (HAZMAT)**
  - Explosives
  - Radioactive Materials
  - Select Agents and Infectious Substances
  - Lithium Batteries
  - Waste
- **Freight Forwarders**
- **Third-Party Labs**
- **Special Permit Holders**
- **Aerosol Fillers/Shippers**

- **Cylinder Requalifiers**
- **Agricultural Industry**
  - Nurse Tanks
- **Packaging Manufacturers**
  - Tanks, Drums, IBCs, Cylinders, Boxes, etc...
- **Packaging Self-Certifiers**
- **Packaging Reconditioners**
- **Distributors/Brokers**
- **High Hazard Entities**
- **Multi-Agency Strike Force Operations (MASFO)**
Why Me?

- Complaints
- High Risk (PIH/TIH)
- Investigations
- Re-Inspections
- Observations
- Incident History
- Fitness Review
- Registered Entity
- Abatements
The Inspection Process

• Introduction
  – Getting in the Door
  – General Information/Overview

• Items Reviewed
  – What are we looking for?
    • Will vary depending on type of inspection

• Evidence Gathering
  – Interviews, Documentation, Photographs, etc.

• Closing the Inspection
  – Security Inspection Report, Exit Briefing, etc.
The Inspection Process – Investigator Forms

- Inspection/Investigation Report
  - Used to notate pertinent information during inspection

- Observation Forms
  - Used to notate unique package specific markings and labeling

- Cylinder Requalification Facility Inspection Report
  - Used as a guide for high and low pressure cylinder requalification inspections

- Written Statements
  - Used to document the results of an interview
The Inspection Process - Introduction

- Identification
- Purpose of Inspection
- PHMSA Overview
- General Info Gathering
  - Representative
  - Contact Info
  - Federal Tax ID Number
- Company Profile
  - What do you do?
    - Manufacture, Test, Fill, Ship?
The Inspection Process – Items Reviewed

• Observations
  – Processes and Procedures
  – Testing Equipment
  – Manufacturing Equipment
  – Packaging
  – Marking and Labeling
  – Training
  – Registration
  – Security Plan
The Inspection Process – Evidence Gathering (Documentation)

- Package Certifications
- Production Records
- Closure Instructions
- Training Records
- Registration
- Invoices/Receiving Records
- Material Safety Data Sheets
- Requalification Records
The Inspection Process – Evidence Gathering (Documentation)

- **Shipping Papers**
  - Description/Sequence
  - Quantity and Type
    - Placards Required?
  - Certification Statement
  - Signature
  - Emergency Response #
  - Additional Information
    - Special Permits, RQ, LTD QTY, Technical Names, etc.
  - Retention (2 Years)
Shipping Paper

Bill of Lading

U.S. Department of Transportation
Pipeline and Hazardous Materials
Safety Administration

UCL Number
Date

Shipper
Company
Address
City
State/Province
Zip/Postal Code
Phone Number
Contact Name

Consignee
Company
Address
City
State/Province
Zip/Postal Code
Phone Number
Contact Name

<table>
<thead>
<tr>
<th>Pieces</th>
<th>Type</th>
<th>Mill</th>
<th>Description</th>
<th>Gross Weight</th>
<th>Total Weight</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

Terms of Delivery
Insurance
Tax
Total

Signature
Date

Any changes to company name and company logo in this document are invalid in the software for demonstration purposes only and are not intended to alter any actual organization.
The Inspection Process – Evidence Gathering (Photographs)
The Inspection Process – Closing the Inspection

- Security Inspection Report
  - Required for certain Commodities and Quantities
  - Verifies components of Security Plan
    - Risk Assessment
    - Personnel Security
    - Unauthorized Access
    - En-Route Security

- Security Awareness
  - How to recognize and respond to a threat?
  - Training Complete?
  - Within 90 Days of Hire?

- In-Depth Security
  - Training on your Security Plan
## Security Inspection Report

### Investigative Notes

**Compiled and Retained for Enforcement Purposes**

**Pipeline and Hazardous Materials Safety Administration (PHMSA) Security Inspection Report**

*Facility Name and Address:*

*Inspection Date:*

*Company Official Interrogated:*

*Title:*

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### Security Plan

Identify the material(s) below requiring a Hazardous Materials Security Plan:

<table>
<thead>
<tr>
<th>Material Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1, 1.2, 1.3</td>
<td>Any quantity.</td>
</tr>
<tr>
<td>1.4, 1.5, 1.6</td>
<td>Placarded quantity.</td>
</tr>
<tr>
<td>2.1</td>
<td>A large bulk quantity.</td>
</tr>
<tr>
<td>2.2</td>
<td>A large bulk quantity of material with an end-use subsidiary.</td>
</tr>
<tr>
<td></td>
<td>Any quantity PHE (e.g., Anhydrous ammonia).</td>
</tr>
<tr>
<td>3.3</td>
<td>Any quantity.</td>
</tr>
<tr>
<td>3</td>
<td>PG I and II in a large bulk quantity.</td>
</tr>
<tr>
<td></td>
<td>Placarded quantity detonated substances.</td>
</tr>
<tr>
<td>4.1</td>
<td>Placarded quantities detonated explosives.</td>
</tr>
<tr>
<td>4.2</td>
<td>PG I and II in a large bulk quantity.</td>
</tr>
<tr>
<td>4.3</td>
<td>Placarded quantities.</td>
</tr>
<tr>
<td>5.1</td>
<td>PG I and II in a large bulk quantity.</td>
</tr>
<tr>
<td></td>
<td>PG III pyrophoric, ammonium nitrate, ammonium nitrate fertilizers, or ammonium nitrate explosives, suspensions, or gels in a large bulk quantity.</td>
</tr>
<tr>
<td>5.2</td>
<td>Any quantity of Organic peroxide, Type II, liquid or solid, temperature controlled.</td>
</tr>
<tr>
<td>6.1</td>
<td>Any quantity PHE.</td>
</tr>
<tr>
<td></td>
<td>A large bulk quantity of a material that is not a PHE.</td>
</tr>
<tr>
<td>6.2</td>
<td>Any quantity of a select agent or toxin listed by CDC or USDA (42 CFR, Part 73 or 9 CFR, Part 121).</td>
</tr>
<tr>
<td>7</td>
<td>International Atomic Energy Agency Category 1 &amp; 2 sources.</td>
</tr>
<tr>
<td></td>
<td>Known Radioisotopes in forms listed as Quantities of Concern by the Nuclear Regulatory Commission.</td>
</tr>
<tr>
<td>8</td>
<td>PG I in a large bulk quantity.</td>
</tr>
</tbody>
</table>

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*“Large Bulk Quantity” refers to a quantity greater than 3,000 kg (6,600 lb) for solids or 3,000 L (982 gal) for liquids and given in a single packaging such as a cargo tank motor vehicle, portable tank, tank car, or other bulk container.*
The Inspection Process – Closing the Inspection

• Exit Briefing
  – A “Field Report” not a “Final Report”
  – Used to summarize the inspection and notate “probable violations” and 49 CFR cites, if any
  – Investigator will review document with company official and provide guidance with regard to deficiencies
  – Request corrective action and refer to penalty guidelines
  – Obtain signature(s) and provide copies
Exit Briefing

EXIT BRIEFING

COMPANY NAME: _________________________ DATE: ______________

ADDRESS: ______________________________________________________

COMPANY WEB ADDRESS: _________________________ TAX ID#: ______

NAME OF INDIVIDUALS RECEIVING THE BRIEFING:

Name: _________________________ Title: _________________________

Email Address: ________________________________________________

Name: _________________________ Title: _________________________

Email Address: ________________________________________________

Name: _________________________ Title: _________________________

Email Address: ________________________________________________

This has been a compliance inspection conducted in accordance with Title 49 U.S.C. Section 503(c). This exit briefing addresses only the areas noted, and is not a finding of general compliance in any other areas covered by the Hazardous Materials Regulations that were subject to the inspection.

During the course of the inspection the following probable violations of all CFR and/or quality control items were noted:

PROBABLE VIOLATIONS:

Section:

Explanation:

Office of Hazardous Materials Safety Southern Region
233 Peachtree Street NE, Suite 602
Atlanta, Georgia 30303
(404) 822-1140 Fax: (404) 822-1188

U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Investigator Feedback

- Based on Experience
  - Other Entity Comparisons (names omitted)

- Geared Toward
  - Safety
  - Overall Compliance
  - Systemic Improvements
  - Streamlining Operations
The Inspection Process – Additional Docs

- PHMSA Organization Chart
- Title 49 Code of Federal Regulations (49 CFR)
- Hazardous Materials Training Modules Version 5.1
  - Satisfies General Awareness training
- Hazmat DigiPack 7.2
  - Satisfies Security Awareness training
- Penalty Guidelines (Appendix A to Subpart D of Part 107)
- DOT Chart 15 (Marking, Labeling, and Placarding guide)
- DOT Pamphlets (Security Plan, MOTS, Does Your Hazmat Training Measure Up?, etc.)
Glad That’s Over – Now What???
The Inspection Process – Next Steps

- Investigator returns to regional office to prepare inspection report
  - Reviews inspection with Region Director
  - Formalizes interviews, photos, documentation, etc.
  - Documents facts and evidence

- Awaiting Corrective Action (within 30 Days)
  - Attach to completed report and submit to Region Director

- Region Director will review report for validity, completeness, and determine that corrective actions are sufficient to prevent future occurrences and ensure compliance
Inspection Results/Actions

- No Further Action
- Warning Letter
- Ticket for Non-Compliance
- Civil Penalty Case
  - General Council
- Criminal Case
  - General Council
  - Office of Inspector General (OIG)
Penalty Potential (per violation)

- Civil ($0 - $75,000); Up to $175,000 if death, illness or serious injury...
  - Violation of a requirement as it relates to the...
    “transporting of a hazardous material, manufacture, fabrication, marking, maintenance, reconditioning, repair or testing of a hazardous materials packaging.”

- Criminal (up to $250,000 for an individual and $500,000 for a company and/or 5 years imprisonment)
  - Willfully violating the hazardous materials regulations
  - Unlawful altering, removal, defacing, destroying or otherwise tampering with any marking, labeling, placarding or packaging requirement
Penalty Guidelines

<table>
<thead>
<tr>
<th>Violation description</th>
<th>Section or code</th>
<th>Baseline assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Inaccurate records. Failure to register as an owner or operator of hazardous materials, and pay required fees.</td>
<td>49CFR21.115(a)</td>
<td>$5,000 + $500 each additional violation</td>
</tr>
<tr>
<td>B. Training Requirements.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Failure to provide initial training to all employees.</td>
<td>49CFR21.57(a)</td>
<td>$1,000 + $500 each additional violation</td>
</tr>
<tr>
<td>2. Failure to provide annual training to all employees.</td>
<td>49CFR21.72(a)</td>
<td>$1,000 + $500 each additional violation</td>
</tr>
<tr>
<td>C. Security Plan.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Failure to develop and maintain a security plan.</td>
<td>49CFR21.105(a)</td>
<td>$1,000 + $500 each additional violation</td>
</tr>
<tr>
<td>2. Failure to maintain security plan.</td>
<td>49CFR21.105(b)</td>
<td>$1,000 + $500 each additional violation</td>
</tr>
<tr>
<td>3. Failure to update security plan.</td>
<td>49CFR21.105(c)</td>
<td>$1,000 + $500 each additional violation</td>
</tr>
<tr>
<td>4. Failure to submit security plan.</td>
<td>49CFR21.105(d)</td>
<td>$1,000 + $500 each additional violation</td>
</tr>
<tr>
<td>5. Failure to maintain security plan.</td>
<td>49CFR21.105(e)</td>
<td>$1,000 + $500 each additional violation</td>
</tr>
</tbody>
</table>

* The baseline applied to the violator shall be equal to or more than the baseline applicable to the foreign carrier or foreign agent.
Common Problems Found During Inspections

- Failure to maintain training records
- Failure to train hazmat employees
- Package Closure
- Packages not properly marked and labeled
- Incorrect shipping papers
- Failure to register with PHMSA
- Lack of/or incomplete Security Plan
OHMS Enforcement Page
(http://phmsa.dot.gov/inspect-enforce)

• “PHMSA’s primary mission under the Federal Hazmat Transportation Law is to protect the nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce”
File Complaint

- Promotes Safety
- High Priority
- Anonymous
- “What about that guy?!”, Opportunity to identify unknowns/“bad guys”
Hazardous Material Information Center

Hazardous Materials INFO-LINE

1-800-HMR49-22
(1-800-467-4922)

E-Mail: phmsa.hm-infocenter@dot.gov
PHMSA Organization Chart
Questions???

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