



Hazardous Materials Inspection Process

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<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 nations 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.**



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)

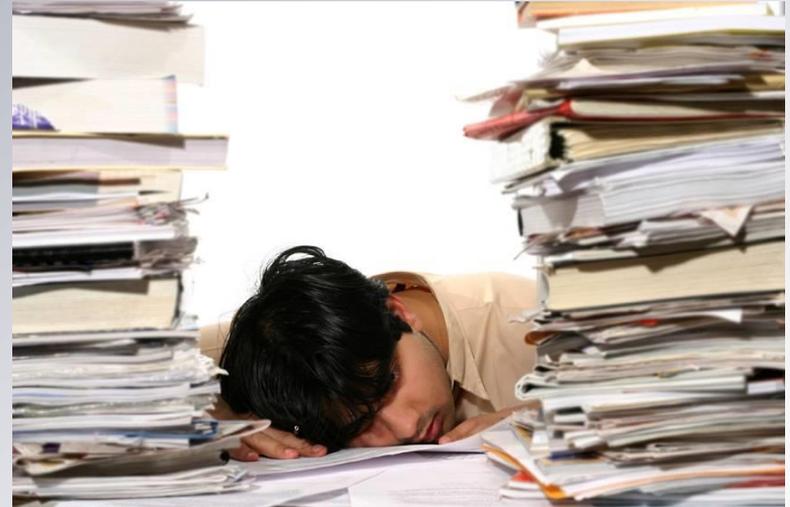
- **Package Certifications**
- **Production Records**
- **Closure Instructions**
- **Training Records**
- **Registration**
- **Invoices/Receiving Records**
- **Material Safety Data Sheets**
- **Requalification Records**





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)**





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 MATERIAL SAFETY ADMINISTRATION
HAZMAT SECURITY INSPECTION REPORT

Inspection Date: _____

Facility Name and Address: _____

Company Officials Interviewed: _____ Title: _____

SECURITY PLAN

Identify the material(s) below requiring a Hazardous Materials Security Plan:	
1.1, 1.2, 1.3	Any quantity.
1.4, 1.5, 1.6	Placarded quantity.
2.1	A large bulk quantity.
2.2	A large bulk quantity of material with an oxidizer subsidiary. Any quantity PIH (e.g. Anhydrous ammonia).
2.3	Any quantity.
3	PG I and II in a large bulk quantity. Placarded quantity desensitized explosives.
4.1	Placarded quantity desensitized explosives.
4.2	PG I and II in a large bulk quantity.
4.3	Placarded quantity.
5.1	PG I and II in a large bulk quantity. PG III perchlorates, ammonium nitrate, ammonium nitrate fertilizers, or ammonium nitrate emulsions, suspensions, or gels in a large bulk quantity.
5.2	Any quantity of Organic peroxide, Type B, liquid or solid, temperature controlled.
6.1	Any quantity PIH. A large bulk quantity of a material that is not a PIH.
6.2	Any quantity of a select agent or toxin listed by CDC or USDA (42 CFR, Part 73 or 9 CFR, Part 121).
7	International Atomic Energy Agency Category 1 & 2 sources. Highway Route Controlled Quantities. Known Radionuclides in forms listed as Quantities of Concern by the Nuclear Regulatory Commission. Placarded quantity of uranium hexafluoride.
8	PG I in a large bulk quantity.

"Large Bulk Quantity" refers to a quantity greater than 3,000 kg (6,614 lbs) for solids or 3,000 L (792 gal) for liquids; and gases in a single packaging such as a cargo tank motor vehicle, portable tank, tank car, or other bulk container.

INVESTIGATIVE NOTES
COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES



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



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

Office of Hazardous
Materials Safety
Southern Region

233 Peachtree Street NE, Suite 602
Atlanta, Georgia 30303
(404) 832-1140 Fax: (404) 832-1168

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 5121(c). This exit briefing addresses only the areas noted, and it 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 49 CFR and/or quality control items were noted:

PROBABLE VIOLATIONS:

Section: _____

Explanation: _____



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

Federal Register / Vol. 78, No. 191 / Wednesday, October 2, 2013 / Rules and Regulations 60373

the effects of the final rule to ensure that it does not cause unnecessary obstacles to foreign trade. Accordingly, this rulemaking is consistent with Executive Order 13699 and PHMSA's obligations.

L. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1996 (15 U.S.C. 272 note) directs federal agencies to use voluntary consensus standards in their regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specification of materials, test methods, or performance requirements) that are developed or adopted by voluntary consensus standard bodies. There are no voluntary consensus standards relevant

to the penalty guidelines, and as such, the revised guidelines do not include any.

IV. Revised Appendix A to Subpart D of Part 107—Guidelines for Civil Penalties

List of Subjects in 49 CFR Part 107

Administrative practices and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR chapter I is amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

■ 1. The authority citation for part 107 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–121 sections 212–213; Pub. L. 104–134 section 31001; Pub. L. 112–141 section 33006 33010; 49 C.F.R. 1.81, 1.97.

■ 2. Revise Appendix A to Subpart D of Part 107 to read as follows:

Appendix A to Subpart D of Part 107—Guidelines for Civil Penalties

1. This appendix sets forth the guidelines PHMSA uses (as of October 2, 2013) in making initial baseline determinations for civil penalties. The first part of these guidelines is a list of baseline amounts or ranges for frequently-cited probable violations. Following the list of violations are general guidelines PHMSA uses in making penalty determinations in enforcement cases.

II. List of Frequently Cited Violations

Violation description	Section or cite	Baseline assessment
General Requirements		
A. Registration Requirements: Failure to register as an offeror or carrier of hazardous material and pay registration fee:	107.608, 107.612.	
1. Small business or not-for-profit		\$1,200 + \$600 each additional year.
2. All others		\$3,500 + \$1,000 each additional year.
B. Training Requirements:		
1. Failure to provide initial training to hazmat employees (general awareness, function-specific, safety, and security awareness training):	172.702.	
a. More than 10 hazmat employees		\$1,500 for each area.
b. 10 hazmat employees or fewer		\$1,000 for each area.
2. Failure to provide recurrent training to hazmat employees (general awareness, function-specific, safety, and security awareness training):	172.702	\$1,000 for each area.
3. Failure to provide in-depth security training when a security plan is required but has not been developed.	172.702	Included in penalty for no security plan
4. Failure to provide in-depth security training when a security plan is required and has been developed.	172.702	\$3,100.
5. Failure to create and maintain training records:	172.704.	
a. More than 10 hazmat employees		\$1,000.
b. 10 hazmat employees or fewer		\$600.
C. Security Plans:		
1. Failure to develop a security plan; failure to adhere to security plan:	172.800.	
a. Section 172.504 Table 1 materials		\$9,300.
b. Packing Group I		\$7,500.
c. Packing Group II		\$5,600.
d. Packing Group III		\$3,700.
2. Incomplete security plan or incomplete adherence (one or more of four required elements missing).		One-quarter (25 percent) of above for each element.
3. Failure to update a security plan to reflect changing circumstances.	172.802(b)	One-third (33 percent) of baseline for no plan.
4. Failure to put security plan in writing; failure to make all copies identical.	172.802(b)	One-third (33 percent) of baseline for no plan.
D. Notification to a Foreign Shipper: Failure to provide a foreign offeror or forwarding agent written information of HMR requirements applicable to a shipment of hazardous materials within the United States, at the place of entry into the United States:	171.22(f).	
1. Packing Group I and §172.504 Table 1 materials		\$9,300.*
2. Packing Group II		\$5,500.*
3. Packing Group III		\$1,800.*

*The baseline applied to the importer shall be equal to or less than the baseline applied to the foreign offeror or forwarding agent.



Common Problems Found During Inspections

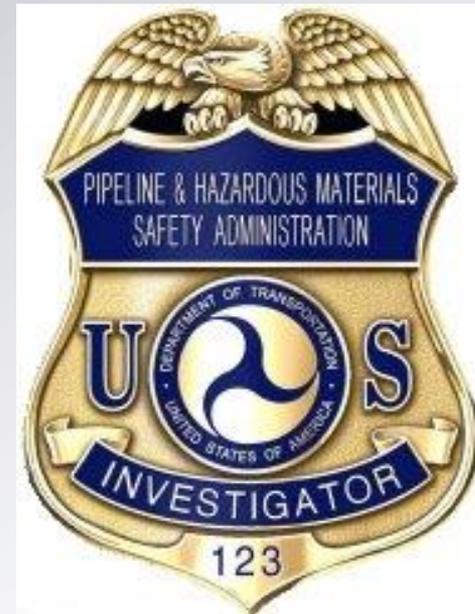
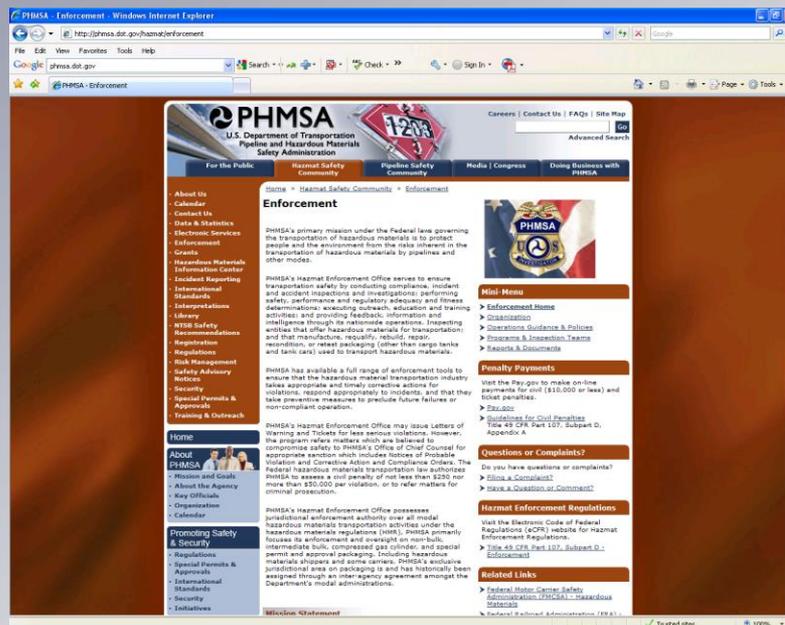
- **Failure to maintain training records**
- **Failure to train hazmat employees**
- **Package Closure**
- **Packages not properly marked and labeled**
- **Incorrect shipping papers**
- **Failure to register with PHMSA**
- **Lack of/or incomplete Security Plan**



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”



The screenshot shows a web browser window with the title "Complaints Concerning Violations of Hazardous Materials Regulations". The address bar shows the URL: <http://phmsa.dot.gov/phmsa-ent/feedback/hamat/ComplaintsRegsViolationsForm.jsp>. The page content includes instructions for filling out the form, a text area for the question/comment, and a contact information section with fields for Name, Organization, Street Address, City, State, Country, Zip Code, E-mail Address, Telephone Number, and Fax Number. The "Name" field is pre-filled with "Anonymous". At the bottom of the form are "Submit" and "Reset" buttons. The footer of the page contains links for Careers, Contact Us, No Fear, Privacy Policy, FOIA, Accessibility, FAQs, Web Policies, Site Map, and Download Acrobat.



Hazardous Material Information Center

Hazardous Materials INFO-LINE

1-800-HMR49-22

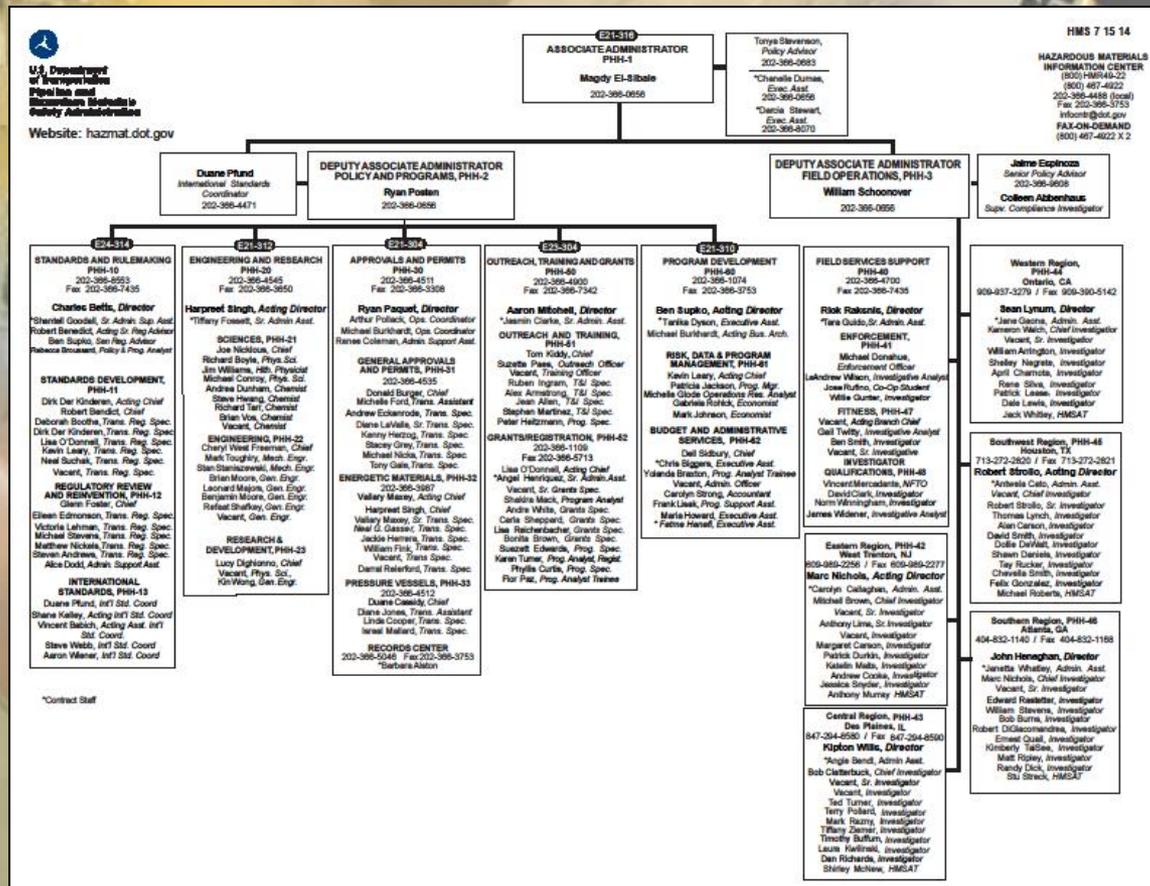
(1-800-467-4922)



E-Mail: phmsa.hm-infocenter@dot.gov



PHMSA Organization Chart





Questions???

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