

# Hazmat Shipping Best Practices

## Managing Hazmat Shipping Contractors



### Executive Summary

Even if your company hires specialists to perform some or all functions related to preparing hazardous materials for transportation, the Department of Transportation (DOT) will still hold your company responsible for any errors resulting in violations.

It's essential you understand your responsibilities to ensure compliance and avoid costly penalties. This paper will provide you with guidance in developing standard operating procedures (SOPs) for selecting, managing, and auditing your agents and contractors.



## Understand Your Responsibilities

Many companies hire outside logistics professionals to handle some functions related to preparing hazardous materials for transport. If your company uses a third party to prepare hazmat shipments, it is critical to remember that this does not relieve your business of liability for failure to follow regulatory requirements. The Department of Transportation (DOT) has stepped up enforcement and has increased fines for non-compliance. You can prevent incidents and costly penalties by understanding your responsibilities, developing standard operating procedures (SOPs), and carefully auditing your agents and contractors.

### Remember:

Your company is liable for the hazmat duties performed by others on your behalf.

## Who Is Responsible for Incidents During Transportation?

During transport, hazmat packages must withstand shocks, vibrations, humidity, changes in pressure, normal handling, and other “conditions normal to transportation.” If a package fails in transport, this failure is the responsibility of the “offeror” of hazardous materials—regardless of who prepared the package (i.e., your own employees vs. outside agents or contractors). Fines for hazmat shipping mistakes are as high as \$75,000 per day, per violation and \$175,000 per day, per violation if non-compliance results in death, severe injury or illness, or destruction of property.

Your contract with your agent or contractor provides you with some legal recourse for remedy through the court system for their errors or omissions, but that will be a matter between you and your service provider. If your company’s shipments are not in compliance, the DOT will serve a notice of violation on your company since it’s your hazardous materials going out into the cycle of transportation.

## Choose Contractors Wisely

Your company may outsource the services of hazmat packagers, a waste management service, specialists who handle explosives or radioactives, or freight forwarders. So what are your responsibilities for managing the people you hire to perform hazmat functions on your behalf? At 49 CFR 173.1(b), the DOT explicitly states:

*“It is the duty of each person who offers hazardous materials for transportation to instruct each of his officers, agents, and employees having any responsibility for preparing hazardous materials for shipment as to applicable regulations in this subchapter.”*

This means you can hire people to do the job for you, but if they fail, you fail. Whether you prepare your hazmat shipments for transportation or someone else does it on your behalf, the DOT sees this task as your responsibility!

## Ensure Your Agents Are Trained

You are not obligated to provide training to your agents, but you must ensure that anyone performing any hazmat activity for your company has received his or her initial training, recurrent training (every 3 years), and update training if the regulations change in a way that affects his or her work. This includes:

- A general-awareness section to cover the “big picture”;
- Function-specific procedures for performing things like classification and naming, packaging, marking and labeling, placarding, and filling out shipping papers;
- Security awareness to ensure workers can recognize possible security threats and the expected response;
- Safety procedures to prevent and respond to accidents and spills; and
- Security plan specifics for employees of facilities that require such a plan (see 49 CFR 172.800 (b) related to safety and security plan applicability).

When hiring agents or contractors to perform any hazmat function on your behalf, a best practice is to specify as part of your contractual agreement that they must comply with the DOT’s training requirements, including the function-specific training for actions performed on your behalf. You should also request the right to audit training documentation as proof of compliance.



## Selecting Agents and Contractors

There's a lot at stake when you hire outside agents or contractors to provide your company with hazmat services. The work must be done properly to protect people, the environment, and property from damage; to guard your company's good reputation with customers and the media; and to avoid fines and penalties.

It's imperative to use due diligence when considering agents or contractors before signing on with them. You will want to research your agents' business practices and compliance history. These resources can be a start:



1. The Pipeline and Hazardous Materials Safety Administration  
[Incident Report Search](#)
2. The Federal Motor Carrier Safety Administration (FMCSA)  
FMCSA maintains a safety and fitness electronic records (SAFER) system where you can access company safety data and related services to industry. [SAFER System](#)
3. Google Alerts  
[Click here](#) to see the Google alerts menu and enter the name of the company you'd like to receive news and updates about.
4. The American Chemistry Council  
This tool was developed the American Trucking Association and National Tank Truck Carriers, to help companies evaluate the safety fitness and regulatory compliance of motor carrier  
[Motor Carrier Assessment Protocol](#)
5. Groups and Associations  
Members of industry groups you belong to can be an excellent source for recommendations and anecdotal information about reputation and quality of service.  
[US Government Directory of Trade Associations](#)

## Working With Your Agents and Contractors

The first step to a smooth working relationship with your agents and contractors is to either jointly create standard operating procedures (SOP) or review and approve an SOP they already have in place. You should build procedures for each function that your agent and contractor will perform to prepare your shipment.

## Classification and Naming

If your agents classify and name your materials for you, they should keep documentation supporting their decisions and provide you with a copy for your records. The documentation might include laboratory analyses, chemical data and sources, Safety Data Sheets (SDSs), regulatory references used, and any other supporting evidence. A knowledgeable representative should be available for a consultation to explain the results to you.



## Packaging

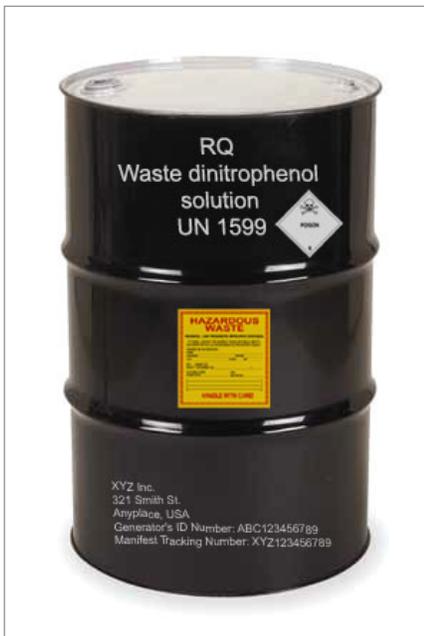
You need to determine how the packaging will be authorized and by whom and decide upon approved sellers. Your agent or contractor may also use his or her own suppliers.

Whoever assembles, fills, and closes the package must follow the manufacturer's written instructions. If the instructions are not printed or embossed on the packaging, then you (or your representative) must keep a copy of them on file and have them available for a DOT inspection. [See 49 CFR 173.22(a)(4).] The instructions should also be maintained where the packaging function takes place.

## Marking and Labeling

If the logistics of shipping your materials are complex, you may want to put together a manual for your agents and contractors to serve as a visual guide. For example, if you ship hazmat by more than one mode of transport, the rules will likely differ for ground, air, and vessel shipments. Shipping excepted or limited quantities may include specialized marking or labeling procedures.

The rules also vary for fully regulated packages in non-bulk or bulk packages. To avoid mistakes, it can be helpful to provide a tool that specifies the unique marking and labeling requirements for each mode of transportation or type of package. Consider keeping a 3-ring binder or online reference with simple graphics or photographs of what your prepared packages should look like:



## Shipping Papers

It is acceptable for an agent representing your company to sign shipping papers on your behalf. However, the DOT has stated in a May 31, 2002, Letter of Interpretation that the person signing the shipping papers must be trained in the functions of classification, naming, packaging, marking, and labeling in order to certify that (1) the package is properly prepared for shipment, (2) the hazards are identified and communicated correctly, and (3) all applicable regulatory requirements are met. This is true even if the signor's only function is to fill out shipping papers with information provided by someone else, and even if the shipment was prepared by someone else. Only the original signor may initial any changes made to a shipping paper. [See 49 CFR 172.204(a)(1) and (2) and (c)(1).]

The DOT requires the shipper to keep a copy of the shipping paper for three years. Your agent or contractor may keep these on file, forward them to you, or provide you with a duplicate copy.

## Emergency Response Information

The emergency response information required by 49 CFR 172, Subpart G must be provided by the shipper, or your representative, to the carrier. You must show an emergency response telephone number that is attended 24/7 while the shipment is in the cycle of transportation. If you contract out the emergency response service, you must ensure the person attending the telephone is knowledgeable of the hazards and properties of the hazardous material and has comprehensive emergency response and incident mitigation information for the material.

Your carrier must maintain your emergency response information throughout the cycle of transportation away from the package. You, or your agent, may provide this on the shipping paper itself, on a separate document such as a Safety Data Sheet (SDS), or by providing a photocopy of the DOT's emergency response guidebook (ERG) (with the basic description and technical name of the material added).



A third and common method of providing emergency response information is to cross-reference the guide number from the DOT's emergency response guidebook on the shipping paper. If this is your preference, what steps will you require your agent or contractor to take to ensure the driver has the actual emergency response information on the vehicle? The DOT says:

*"...These steps could include requiring the driver to sign an acknowledgement form either separate from or included on the shipping paper, a visual inspection to determine the presence of appropriate guidance material on the vehicle, or a contractual agreement between the shipper and the carrier to maintain emergency response information on the vehicle during transportation of hazardous material. However, if the driver of a vehicle does not have the required emergency response information, the shipper must ensure that a copy of the ERG or equivalent document accompanies the shipment when it is offered for transportation." [55 FR 872, January 10, 1990]*

Advise your freight forwarders that if they receive your shipment and then re-ship using new shipping papers, they must transfer the telephone number and contract number for your emergency response provider.



## Ensure Site Security

If your facility is required to have a written cargo security plan per 49 CFR 172.800 and 172.802, you'll want to make sure your agents' and contractors' own security plans or standard operating procedures mesh with your requirements.

Required components of a written security plan include the following:

1. **Personnel Security:** What measures have these contractors taken to confirm the information provided by job applicants hired for positions involving access to and handling of the hazardous materials covered by your security plan? For example, have their maritime workers with unescorted access to port areas been vetted through the US Coast Guard's Transportation Workers' Identification Credential program?
2. **Unauthorized Access:** How will the agents and contractors you've hired prevent unauthorized access to your hazardous materials?
3. **En-route Security:** If agents and contractors are performing functions at their facilities, have their plans been integrated with the carriers they use to transport your materials?

## Placarding

Whoever offers the hazardous materials into the cycle of transportation must provide placards, unless the transport vehicle is already appropriately placarded for that material. A common question, however, is who is responsible for affixing the placards on the transport vehicle. [See 49 CFR 172.508 and 172.514.]

When shipping by rail car, the shipper or an agent acting on the shipper's behalf must affix placards. The same is true for tank trucks prepared without the carrier present. Motor carriers (drivers) are required to affix placards to vehicles based on all the hazards aboard the vehicle. When tank trucks are loaded in the presence of the driver, the driver is responsible for affixing placards.

## Loading

Anyone who loads hazardous materials (including blocking and bracing) on your behalf must be trained in, and follow, applicable carrier regulations based on the mode of transportation (i.e., 49 CFR Part 177 for highway transportation and Part 174 for rail transportation). While you are not required to provide this training, you may want to contractually stipulate the specific regulations your agents and contractors must follow and set up a mutually agreeable verification protocol.



## Audit Your Agents and Contractors

It's a good management practice to regularly reassess your agents' and contractors' skills, competency, and performance. To do so, create a quality control checklist with topics tailored to the kinds of services each contractor provides. While there's no set timeframe for auditing, think about what factors might influence your auditing cycle. These might include packaging or shipping paper mistakes, downsizing that influences workload and quality control, a hiring surge that would require new-hire training, a change of management, or a merger/acquisition that might affect your working relationship.

You might set up a rating system or note anecdotal information. Whatever methodology you use, it is important to reassess the work your agents or contractors do on your behalf on a periodic basis so that over time you can ensure they maintain a high level of attention to detail.

## Successfully Manage Your Hazmat Agents and Contractors

Developing a comprehensive approach for working with your hazmat agents and contractors can help you successfully manage your regulatory compliance mandates. A carefully worded contract that's clear and standard operating procedures that are agreed upon and periodically reviewed will ensure an effective working relationship that protects people, the environment, and property—as



## Auditing Checklist

Company: \_\_\_\_\_

Date Audited: \_\_\_\_\_ Audited By: \_\_\_\_\_

### Regulatory compliance

- Is the agent's employees' training up-to-date and properly documented?
- Have you verified training?
- Are registrations, permits, ID numbers, etc. current?
- Has your agent adhered to your security plan requirements?
- Did your company receive a notice of violation based on your agent's work?

### Emergency response

- Did the "person in possession" (PIP) call the NRC to report a DOT emergency?
- Did the PIP follow up with a written report on DOT Form 5800.1?
- Did your carrier notify you promptly of an incident involving your material?
- Were contracted emergency response services provided as stated?

### Communication

- Did your agent follow standard operating procedure (SOP) guidelines?
- Were any deficiencies uncovered?
- Were your concerns handled professionally and in a timely manner?
- How were deficiencies corrected?

### Carriers

- Did drivers follow loading protocol? (i.e., remain within 25 ft. of the vehicle when loading a cargo tank truck)
- Were the vehicles properly placarded when leaving your facility?
- Did drivers chock their vehicles' wheels and set handbrakes?
- Was the driver well versed in separation and segregation requirements?

### Comments/Follow-up Action:



## Building Confident Compliance Teams

Effective training is the key to a confident and productive work force. To help you and your team **build a strong compliance program** and understand the regulations that affect your business, Lion Technology designs training to empower as well as educate. Since 1977, two out of three Fortune 500 companies in manufacturing, chemical, and transportation—as well as Federal and State government agencies—have trusted Lion for expert training delivered by full-time instructors. At Lion's **nationwide, interactive workshops**, industry professionals get the knowledge and tools to succeed, and keep their sites in compliance.

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