

PHMSA's Hazardous Materials Inspection Process

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Field Operations**

phmsa.dot.gov/hazmat

**IPANA/RIPA - Austin, TX
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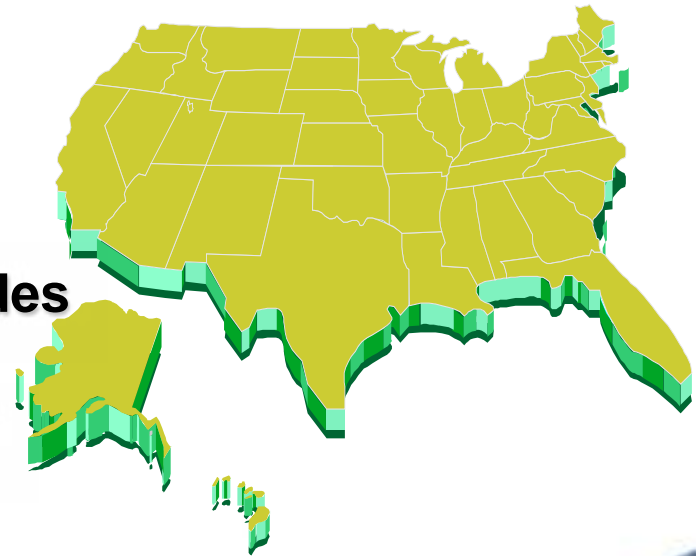
Hazmat Shipments in the U.S.

The 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.

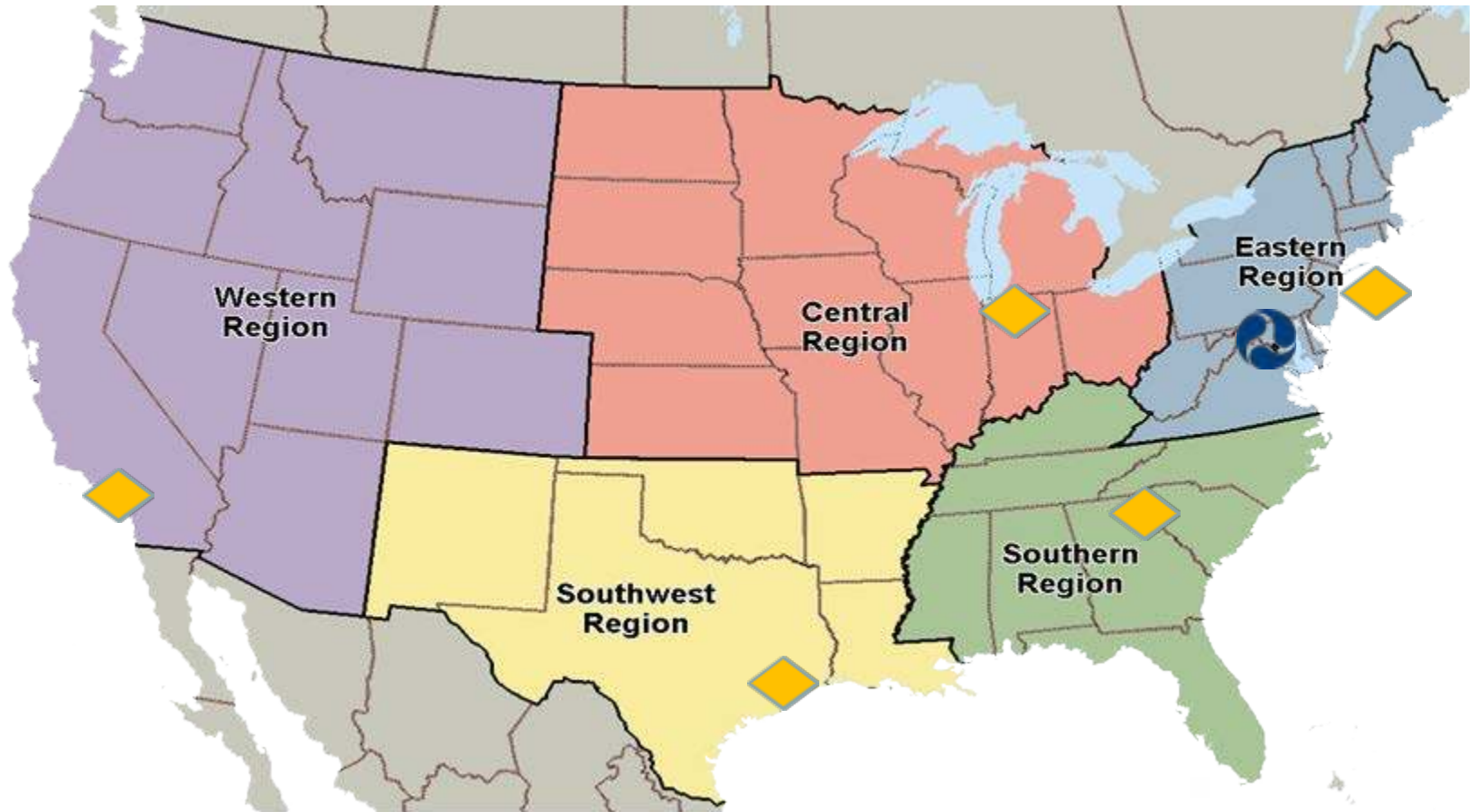
Over 1,000,000 Shipments Daily

2.2 Billion Tons Shipped Annually by All Modes

Hazardous Materials Support \$1.5 Trillion of U.S. Economy Annually



OHMS Field Operations Regions



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**
- **Cylinder Requalifiers**
- **Aerosol Fillers/Shippers**
- **Agricultural Industry**
- **Packaging Manufacturers**
 - Tanks, Drums, IBCs, Cylinders, Boxes, etc...
- **Packaging Self-Certifiers**
- **Distributors/Brokers**
- **High Hazard Entities**



Why Me?

- Complaints
- High Risk
- Investigations
- Re-Inspections
- Observations
- Incident History
- Fitness Review
- Registered Entity



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

■ Information Gathering

- Interviews, Documentation, Photographs, etc.

■ Closing the Inspection

- Security Inspection Report, Exit Briefing, etc.



The Inspection Process - Introduction

- Identification
- Purpose of Inspection
- Inspection Overview
- General Info Gathering
 - Representative
 - Contact Info
 - 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
- Shipping Papers/BOL
- Marking and Labeling
- Training
- Registration
- Security Plan



The Inspection Process – Information Gathering (Documentation)

- Package Certifications
- Production Records
- Test Records
- Closure Instructions
- Invoices/Receiving Records
- Training Records
- Safety Data Sheets
- Registration



The Inspection Process – Information Gathering (Photographs)



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 references, if any
- Investigator will review document with company official and provide guidance with regard to deficiencies
- Request corrective action
- Obtain signature(s) and provide copies



Exit Briefing



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

Office of Hazardous
Materials Safety
Southwest Region

9701 S. Gessner Road, Suite 900
Houston, Texas 77074
(713) 212-2820
Fax: (713) 212-2821

EXIT BRIEFING

COMPANY NAME _____ DATE _____

ADDRESS _____

COMPANY WEB ADDRESS _____ TAX ID# _____

NAME OF INDIVIDUALS RECEIVING THE BRIEFING:

Name: _____ Title: _____

E-mail Address: _____

Name: _____ Title: _____

E-mail Address: _____

Name: _____ Title: _____

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: _____

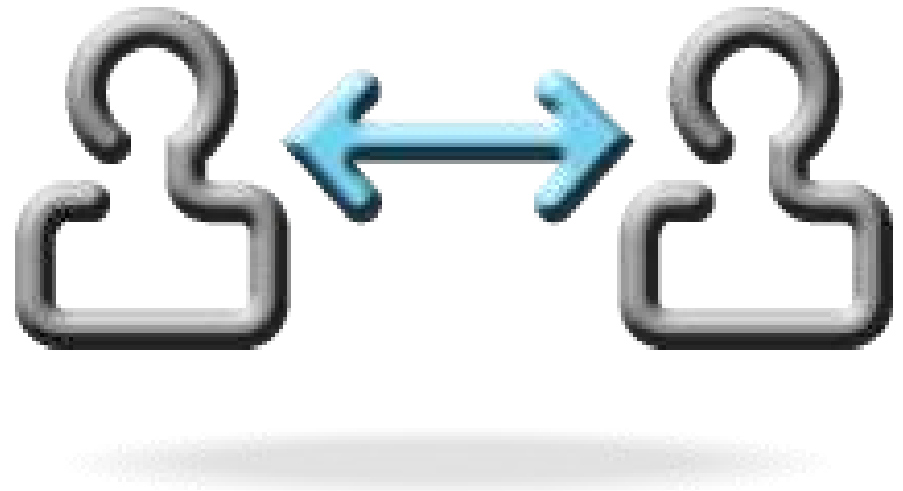
Explanation: _____

Page ___ of ___



Investigator Feedback

- **Based on Experience**
 - Other Entity Comparisons (names omitted)
- **Geared Toward**
 - Safety
 - Overall Compliance
 - Systemic Improvements
 - Streamlining Operations



Additional Documents

- PHMSA Organization Chart
- Hazmat Compliance Assistance Packet
- Hazmat DigiPack 7.2
- DOT Chart 15
- DOT Pamphlets
 - (Training, Security Plan, MOTS)
- Title 49 Code of Federal Regulations (49 CFR)
 - Penalty Guidelines
 - (Appendix A to Subpart D of Part 107)



Glad That's Over – Now What???



The Inspection Process – Next Steps

- **Investigator returns to regional office to prepare inspection report**
 - Reviews inspection with Chief Investigator or Region Director
 - Formalizes interviews, photos, documentation, etc.
 - Documents facts and evidence
- **Awaiting Corrective Action (within 30 Days)**
 - Attach to completed report and submits report for approval
- **Chief Investigator or Region Director will review report for validity and completeness, and determine if corrective actions are sufficient to prevent future occurrences and ensure compliance**



Inspection Results/Actions

- **No Further Action**
- **Warning Letter**
- **Ticket for Non-Compliance**
- **Enforcement Case**
 - General Council
- **Criminal Referral**
 - General Council
 - Office of Inspector General (OIG)



Penalty Potential (per violation)

- **Civil (\$77,114; up to \$179,933 if death, serious illness or 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; or 10 years if the violation involves a release resulting in death or injury)**
 - Willfully violating the hazardous materials regulations
 - Unlawful altering, removal, defacing, destroying or otherwise tampering with any marking, labeling, placarding or packaging requirement



Penalty Guidelines – Subpart D of Part 107

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 title	Penalty assessment
General Requirements		
A. Registration Requirements: Failure to register as an offeror or carrier of hazardous material and pay registration fee:	107.609, 107.612.	
1. Small business or not for profit		\$1,200 + \$600 each additional year
2. All others		\$3,600 + \$1,800 each additional year
U. 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 year
b. 10 hazmat employees or fewer		\$1,000 for each year
2. Failure to provide recurrent training to hazmat employees (general awareness, function-specific, safety, and security awareness training)	172.702	\$1,000 for each year
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	\$3,000.
5. Failure to create and maintain training records	172.704	
a. More than 10 hazmat employees		\$1,000
b. 10 hazmat employees or fewer		\$670
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	172.800(b)	One-third (33 percent) of baseline for no plan.
U. Notification to a Foreign Shipper: Failure to provide a foreign offeror or forwarding agent written information of HMT requirements applicable to a shipment of hazardous materials within the United States, at the place of entry into the United States:	171.207.	
1. Packing Group I and §172.504 Table 1 materials		\$9,300.*
2. Packing Group II		\$5,600.*
3. Packing Group III		\$1,000.*
*The baseline applied to the importer shall be equal to or less than the baseline applied to the foreign offeror or forwarding agent.		



Inspection Statistics

- **1,891 Inspections, and 170 Incident Investigations conducted in FY 2015**
 - **Compliance 48%**
 - **100 Packaging Inspections**
 - **Tested 35 Design Types**

Source: OHMS Hazmat Intelligence Portal/HIP



FY-17 Focus Areas

- Packaging Inspections (non-bulk & IBC)
- Package Test Labs & Requalifiers
- Cylinder Manufacturers & Requalifiers (domestic & international)
- Explosive/Firework Approval Holders
- Special Permit Holders
- Select Agent Labs



Where to Find More Information...

PHMSA
Pipeline and Hazardous Materials
Safety Administration

U.S. Department of Transportation

Contact Us | FAQs | Site Map

PHMSA Home | Pipeline Safety | Hazardous Materials Safety

Go Advanced Search

Hazmat News | **Most Viewed Info**

Safety Advisories

- ▶ [PHMSA Continues Push to Clarify & Update Hazmat Rules](#)
- ▶ [2011 Hazmat Penalty Action Report](#)
- ▶ [Hazmat Harmonization Rule on Air Packaging Issued](#)
- ▶ [PHMSA seeks comment on transportation of lithium batteries](#)
- ▶ [PHMSA Proposes Updating Hazmat Rules to Better Balance Safety Standards and Regulatory Requirements](#)

2012 EMERGENCY RESPONSE GUIDEBOOK

DOT Distributes Over 2 Million New Hazardous Materials Emergency Guidebooks to Nation's First Responders

1 2 3 4 5

Find PHMSA Offices

Key Officials
Regional Offices

PHMSA/Hazmat Resources

Regulations & Rulemakings
PHMSA regulates and ensures the safe movement of hazardous materials.

Data & Reports
PHMSA tracks data on the frequency of failures, incidents and accidents.

Permits & Approvals

hazmat.dot.gov



OHMS Enforcement Page

“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”



The screenshot shows the PHMSA website's "Inspections & Enforcement" page. The header includes the PHMSA logo, "U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration", and navigation links like "Home", "About PHMSA", "Promoting Safety & Security", and "Encouraging Compliance". The main content area features a large image of a PHMSA investigator in a blue uniform with a "U.S. DOT INVESTIGATOR" badge, standing next to a hazardous materials container. Text on the page describes the agency's mission and lists various enforcement activities such as field inspections, programmatic inspections, and accident investigations.



phmsa.dot.gov/inspect-enforce



File Complaint

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



The screenshot shows the PHMSA website header with the logo and a diamond-shaped sign with the number 1203. Below the header is the title "Complaints Concerning Violations of Hazardous Materials Regulations". The form instructions state: "Please fill in all of the following form fields (required fields are indicated by an *). If you would like your contact information to be identified, simply replace the pre-filled fields (i.e. name, email address, and phone) and other fields with your contact information. If entering anonymously, please give as much detail as possible (e.g.- product(s), packaging(s), person(s), and location(s) involved), since the investigators will be unable to contact you to ensure the validity of the complaint. For text only browsers submit your question/complaint by standard email (please include your telephone number in your email)." The form includes a large text area for the question/comment, and a "Contact Information" section with fields for Name, Organization, Street Address, City, State, Country (International Only), Zip Code, E-mail Address, Telephone Number, and Fax Number. The "Name" field is pre-filled with "Anonymous".

phmsa.dot.gov/feedback/hazmat-complaints-violations



Hazardous Material Info-Center

1-800-HMR-4922
(1-800-467-4922)

E-mail: infocntr@dot.gov

Hours of Operation: 9 am – 5 pm ET



- Obtain answers to HMR questions
- Request copies of Federal Register, special permits or training materials
- Report HMR violations
- Fax on Demand



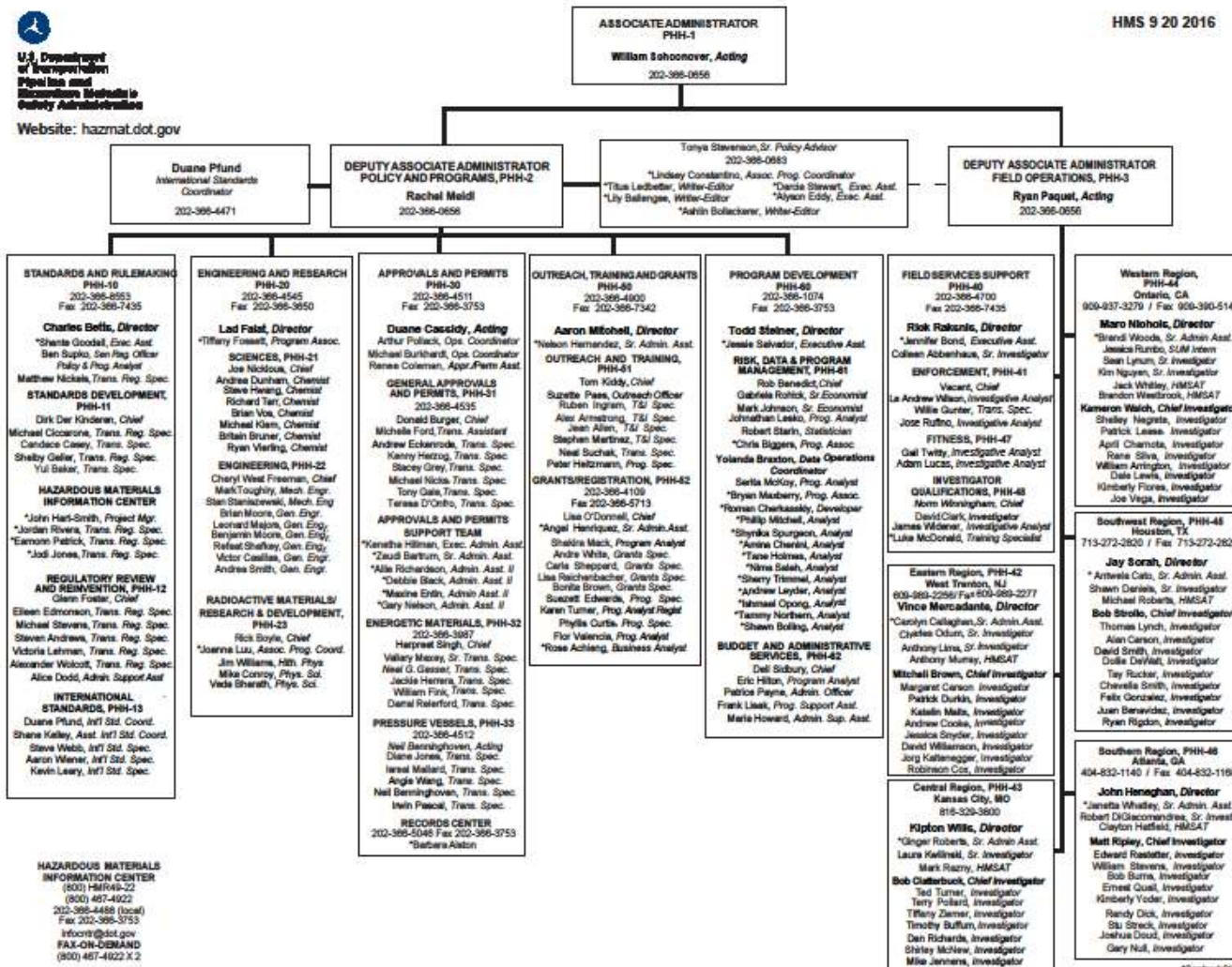
PHMSA Organization Chart



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

Website: hazmat.dot.gov

HMS 9 20 2016



*Contract Staff



Questions?



Bob Strollo

Chief Investigator

**United States Department of Transportation
Pipeline & Hazardous Materials Safety
Administration**

**Office of Hazardous Materials Safety
Field Operations – Southwest Region**

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