



150 South Street
Suite 103-B
Annapolis, Maryland 21401
TEL (301) 577-3786/FAX (301) 577-6476
www.reusablepackaging.org

SPECIAL BULLETIN 2021 – 16

June 10, 2021

DOT Appears to be Stepping Up Enforcement Activity

It has come to RIPA's attention that DOT is making an unusual number of enforcement visits to reconditioning facilities in several parts of the U.S. We are aware of several visits in the past two weeks to facilities located in the East and Mid-West U.S.

We do not know if these are just random visits or part of a larger effort on the part of the Agency.

We urge all RIPA members to go over with their key administrative and plant supervisory staff the basic procedures related to a DOT inspection visit. For your convenience, we have attached a copy of our DOT inspection "to do" list below.

We know the agency is looking at employee training, testing (if you perform design tests at your facility) and record-keeping requirements. (Note: IBC facilities should have a record of the number of composite IBCs produced each day.) Be sure several members of your staff know where these documents are kept. Also, be certain that key plant personnel (e.g. leakproofness test machine operator) are able to explain the basic elements of their job

If you want help from RIPA – even during an inspection – feel free to call C.L. Pettit or Paul Rankin.

RIPA DOT Inspection Checklist

2021

- (1) **Make sure you, your staff and DOT inspectors comply with any COVID procedures you have in place.** Although we are hopefully nearing the conclusion of the COVID pandemic, many

companies still have in place specific COVID-19 compliance procedures for staff and visitors. Make certain these procedures are complied with during a DOT visit.

- (2) **Ask the DOT inspectors for identification.** Look at the inspector's credentials and record the person's name, the location of his office, phone, and e-mail address.
- (3) **Ask why the Inspector is at your plant.** Determine in advance of the inspection why the inspection is taking place. Has someone raised a problem about your operation? Has an employee filed a complaint. Or is this just a routine visit because the inspector(s) are in your area?
- (4) **Keep Copies of all your required DOT records in one location.** Inspectors are likely to ask for the following:
 - (i) Current hazmat employee training records; retraining is required every 36 months. New employees must be trained within 90-days of employment.
 - (ii) Copies of up-to-date annual design qualification test reports for remanufactured packagings.
 - (iii) Closure instructions and evidence that you have sent them to all hazmat customers.
 - (iv) Hazardous waste transportation; keep manifests for 3 years; if hazardous waste loads are placarded you should be registered with DOT and pay the annual registration fee. If you are registered with DOT, have those records handy.

Keep this information on file in your office. It should be in a plainly marked file: "DOT Regulatory Information." Other key management personnel should be aware of this file, what is in it, and where it is in the office.

- (5) **Customer information.** DOT inspectors have the right to ask you for information about your customers; usually they ask you to provide customer invoices. You are required to comply with this request, but you do not have to give the inspectors more than three or four invoices. And, importantly, you are permitted to redact sensitive information, such as pricing. If you have concerns about protecting customer information, you may mark each page of the invoice "CONFIDENTIAL" and it will be protected from public release under the Freedom of Information Act.
- (6) **Make sure your employees can answer basic training and/or operation-specific questions from the inspector.** DOT inspectors are supposed to verify that the employees who perform key safety functions (e.g., leakproofness testing) are trained and actually know what they are doing. All employees should be able to explain basic steps to take in the event of a hazmat inspection.
- (7) **Make sure you or a designated management employee accompanies the inspector during the plant tour.** It is important for you to know everything the inspector sees as s/he conducts the site tour. Because you are able to answer the inspector's questions immediately during an inspection, your participation will likely result in a more productive post-inspection exit interview. Remain polite, no matter how aggravating the inspector may be.
- (8) **Prepare in advance for an inspection.** DOT inspectors are trained to look at the following items during a plant visit:
 - (i) Are packagings inspected upon receipt for the capability to be reconditioned or remanufactured? Is this backed up by employee training?

- (ii) Is the leakproofness test being performed on packaging for liquids? Is the equipment operational?
 - (iii) Are reconditions and remanufactured packagings being properly marked?
 - (iv) Are packagings in compliance with all DOT requirements, such as minimum thickness for reconditioned units?
- (9) **Create your own written record of what was observed during the inspection.** Make a list of any photographs taken, samples taken, and statements made by the inspector or taken from employees, as well as any specific packagings purchased for outside testing. You may want to take a picture of the same items the inspector takes a picture of. Save these picture as they could be valuable to you if potential violations are identified.
- (10) **On-site testing.** If the inspector offers to have you test the packagings at your site, respectfully decline the invitation, unless you have your own test lab on site. This may prompt the inspector to ask if s/he can buy some containers for testing. This is allowed. Do not give containers away; you are allowed to charge full value.
- (11) **Keep the exit briefing form.** At the end of each inspection, DOT will normally conduct an “exit briefing” to inform you about any concerns the inspector may have, and to answer any questions you may have about the visit. Take careful notes during this exit briefing about what was said to you and your own responses. It is more important to listen at this stage rather than to talk. However, respond at that time to anything you think the inspector might have misunderstood about your operations.
- (12) **Call Your lawyer or the association if it appears a problem has been found.** Do not wait until the enforcement action moves to the next stage and becomes more visible –it has already begun with the inspection!
- (13) **Fix the problem.** Remedy the problem(s) identified by the inspector as soon as possible. Importantly, document exactly what you do, including employee training, establishment of new operating policies, purchases of new equipment, etc.
- (14) **Respond to the exit briefing.** Well within the 30 days offered by DOT on printed portion of the exit briefing form, fax or e-mail the inspector information about the corrective actions you have taken to address the concerns he identified during the inspection. Also, be certain to identify any issues you plan to dispute – inspectors are not always right. The association can help you if you do not fully understand how to respond.

RIPA is always ready to help its members. If, during or after an inspection, you would like to talk about an issue or concern, please call staff at any time. Member inquiries are always confidential.