

# SPECIAL Report



NATIONAL ROOFING CONTRACTORS ASSOCIATION

June 25, 1997

Dear Member:

This Special Report provides information regarding the transportation of hazardous materials. The Hazardous Materials in Intrastate Commerce and Improvements to Hazardous Materials Identification Systems rule was published in the Federal Register on January 8, 1997.

In order to raise the level of safety in the transportation of hazardous materials, the U.S. Department of Transportation's (DOT), Research and Special Programs Administration's (RSPA) Hazardous Materials Regulations (HMR) will be applied to all hazardous materials being transported, with certain exceptions. The permissive compliance date was April 8, 1997, and the effective date for the final rule is October 1, 1997.

## BACKGROUND

The current Hazardous Materials Regulations do not apply to intrastate (within a state) highway transportation. In most cases, state departments of transportation have adopted the federal regulations and motor carriers have been subject to them anyway; but DOT decided, as a result of a report from the Office of Technology Assessment, that there is a need for uniform regulations in all states in order to enhance safety and consistency. DOT requested comments on a notice of proposed rulemaking (NPRM) in 1993. Based on the numerous comments received, the current standards, and RSPA research, the final changes, as described below, have been made to 49 CFR 171,173, and 180.

## SUMMARY OF REGULATORY AMENDMENTS

As of 10/1/97 the Hazardous Materials Regulations will apply to all hazardous materials transported in inter- and intrastate commerce throughout the United States, except in the following circumstances:

1. when "materials of trade" are transported by interstate and intrastate motor carriers;
2. when certain non-specification cargo tank motor vehicles are used in intrastate transportation; and
3. when certain agricultural products are transported in intrastate commerce.

A change has also been made in the requirements to become a registered inspector for small cargo tank motor vehicles used in the transport of petroleum fuels.

### A. Exceptions for Materials of Trade

Materials of trade are basically items that have some specific use for the carrier's trade. That is, if *transporting* the materials is not the carrier's (contractor's) main purpose, but *using* them is then the transported items are considered materials-of-

trade. HMRS were created with bulk carriers in mind, who may or may not have any substantive knowledge about the packaging and contents of their loads. However, carriers of materials of trade, e.g., roofing contractors, tend to transport smaller amounts of hazardous materials, the materials are packaged in the manufacturer's containers in accordance with DOT specifications, and the drivers are generally very familiar with the materials and their hazards. These differences persuaded RSPA to make this exception.

Materials of trade include the following:

- ▣ Hazardous materials carried on a motor vehicle for protecting the health and safety of the operator (e.g., insect repellent, self-contained breathing apparatus)
- ▣ Hazardous materials used for the support or maintenance of a motor vehicle (e.g., spare battery, engine starting fluid, window washing fluid)
- ▣ Certain hazardous materials carried by a private-motor carriers engaged in a principal business which is other than transportation (e.g., roofing)

#### Allowable Quantities

The *maximum gross weight* of all materials being transported is 200 kg (440 lbs). Although the maximum is 440 pounds, there are specific allowable amounts for the various classes of materials (refer to chart).

1. A Class 3, 8, 9, Division 4.1, 5.1, 6.1, or ORM-D material must not exceed:
  - 0.5 kg (1 pound) or 0.5 L (1 pint) in a Packaging Group I container;
  - 30 kg (66 pounds) or 30 L (8 gallons) in a Packaging Group II or III container or in any ORM-D material container; or
  - 1500 L (400 gallons) of a diluted solution, and cannot have higher than a 2% concentration of a Class 9 material.
2. A Division 2.1 or 2.2 material in a cylinder may have a gross weight of 100 kg (220 pounds) or less.
3. A Division 4.3 material in a Packing Group I or II container must have a gross capacity of 30 ml (1 ounce) or less.

A packaging group indicates the degree of danger presented by the hazardous material. Packaging Group I indicates great danger, Packaging Group II indicates medium danger, and Packaging Group III indicates minor danger. This information is indicated on the shipping papers and can be determined by using the Hazardous Materials Table found in 49 CFR 173 or by calling NRCA.

Class	Division	Name of Class or Division
None	.....	Forbidden Materials
None	.....	Forbidden Materials
1	1.1	Explosives (with mass explosion hazard)
1	1.2	Explosives (with a projection hazard)
1	1.3	Explosives (with predominantly a fire hazard)
1	1.4	Explosives (with no significant blast hazard)
1	1.5	Very insensitive explosives; blasting agents
1	1.6	Extremely insensitive detonating substances
2	2.1	Flammable gas
2	2.2	Non-flammable compressed gas
2	2.3	Poisonous gas
3	.....	Flammable and combustible liquid
4	4.1	Flammable solid
4	4.2	Spontaneously combustible material
4	4.3	Dangerous when wet material.
5	5.1	Oxidizer
5	5.2	Organic peroxide
6	6.1	Poisonous materials
6	6.2	Infectious substances (etiologic agent)
7	.....	Radioactive material
8	.....	Corrosive material
9	.....	Miscellaneous hazardous material
None	.....	Other regulated material: ORM-D

### Packaging

Materials of trade do not need to be extensively labeled. It is sufficient that the manufacturer has labeled the contents of each container and an "RQ" (Reportable Quantity) has been marked on any package containing a reportable quantity of a hazardous substance. If for some reason it is not labeled on the container, RQ's for hazardous materials can be found in the appendix to 49 CFR §172.101 or by calling NRCA.

Containers have to be leak-tight for liquids and gases, and sift-proof for solids. They must also be securely closed, secured against movement, and protected against damage. Gasoline containers must be made of metal or plastic and conform to requirements of 49 CFR Part 173.6(b)(4) or to OSHA guidelines in 29 CFR 1926.106.

RSPA requires manufacturers to package hazardous materials in DOT-authorized containers or their equivalent. If the original packaging is not available, the roofing contractor may refer to the HMR to determine what type of packaging would be acceptable, or call NRCA for further information.

Gauges can remain on cylinders and protective caps are not required, but valves do need to be closed. RSPA has stated that manifolding is allowed.

B. Exceptions for Certain Non-Specification Packagings Used in Intrastate Transportation

Small non-specification cargo tank motor vehicles (less than 35,000 gallons) transporting flammable liquid petroleum products may only be operated intrastate in a state that allows their use, and then only according to the regulations of that state. Each contractor operating a small cargo tank should check with their state DOT regarding the rules in their state. This exception allowing these vehicles applies only to vehicles put on the road before July 1, 1998 -- no non-specification cargo tanks may be *placed in service* after that date. They can be used, however, until June 30, 2000.

After June 30, 2000 the exception will no longer exist, and all tanks will have to meet the same requirements as those for the MC 306 cargo tank motor vehicles found in 49 CFR Part 180 (except for §180.405(g) which deals with manhole assemblies).

C. Exceptions for Agricultural Operations

This section of the final rule is not applicable to the roofing contractor.

D. Exception for Use of a Registered Inspector

A number of commentors complained to RSPA regarding the use of registered inspectors for cargo tanks. Their objections were aimed not at the requirement for using registered inspectors, but to the difficulty in becoming one. RSPA responded by providing an exception from the education and years of experience requirements for becoming a registered inspector. These "excepted" inspectors must still register under 49 CFR 107, but can only perform the annual external visual inspection and leak test on cargo tanks that they own or operate.

## CONCLUSION

RSPA concluded that, based on its research, there will be a minimal adverse economic impact on small businesses because every state has already adopted the hazardous materials regulations in some form. Roofing contractors will benefit greatly from this new rule because, typically, all of the hazardous materials they transport fall under the definition of materials of trade. This final rule, in essence, specifies that there is no need for a roofing contractor to comply with the paperwork requirements (e.g., shipping papers) for hazardous materials as long as the standards for weight and packaging are followed.