

TRANSPORTING HAZARDOUS MATERIALS ***(SURVIVING THE ROADSIDE INSPECTION)***

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Do you use a motor vehicle in your business to transport hazardous materials? If so, the movement of that vehicle may be subject to the federal hazardous materials transportation regulations found in chapter 49 of the Code of Federal Regulations. These regulations are numerous and complex, covering such topics as shipping papers, placarding and cargo tank requirements. This article will focus on the requirements of these regulations and, more specifically, the things that Department of Transportation Motor Carrier Compliance officers will be looking for during a roadside inspection of a cargo tank vehicle transporting petroleum products such as gasoline and diesel fuel. There may be exceptions to some of the requirements if you operate strictly in intrastate commerce. This will be discussed in the article. Additionally, some useful internet websites are included at the end.

IS IT A CARGO TANK VEHICLE?

For the materials most commonly transported by FPMA members, a cargo tank vehicle can generally be defined as a vehicle with a permanently or temporarily attached tank, designed for the transportation of liquids, which has a capacity of greater than 119 gallons. The type of vehicle would be irrelevant. A pickup truck with such a tank attached to it would be considered a cargo tank vehicle for the purposes of the hazardous materials regulations.

SHIPPING PAPERS

The first thing we are going to look for when inspecting the vehicle is going to be the shipping papers. Nearly all shipments of hazardous materials are required to be accompanied by documentation that gives specific information on the material being transported. There is no specified form required. However, the manner in which the information is presented on the shipping paper is specified. The shipping paper must contain the "basic description" of the material. The "basic description" consists of:

1. The proper shipping name of the material;
2. The hazard class of the material;
3. The four digit "UN" or "NA" number of the material;
4. The packing group.

These items are all provided by the hazardous materials table in the regulations. The basic description for gasoline would be:

GASOLINE, 3, UN 1203, PGII

Either before or after this basic description, the total amount of the hazardous material must be shown. For a cargo tank, this may be done by indicating the number of gallons, or by entering the generic "one cargo tank". This amount does not have to be changed on the shipping paper to reflect a decrease in the amount actually in the tank as the vehicle makes deliveries.

The final item we will look for on the shipping paper is an emergency response telephone number. The shipper of the material is required to provide this number for use in the event of an emergency involving the material and it should be entered on the shipping paper immediately following the required basic description or in a location on the shipping paper that is clearly visible and is clear that the number is for use in emergencies. The phone number must be monitored at all times the material is in transportation and must reach someone who knows how to deal with

emergencies involving the material or has immediate access to someone who does.

Further emergency response information is required. This is material that can be used in the mitigation of an incident involving the hazardous material being transported and must contain such information as health hazards, methods for handling spills and immediate first aid measures. This emergency response information can take the form of a material safety data sheet (MSDS), an emergency response guidebook or other document that provides the required information. If the information is not given directly on the shipping paper, it must be carried in the same manner as the shipping papers.

When the driver is at the controls of the vehicle, the shipping papers are required to be within their immediate reach and clearly visible to someone entering the cab, or in a pouch on the driver's side door. If the driver leaves the vehicle for any reason, the shipping papers must be placed in the driver's seat or in the pouch on the driver's side door.

One final and very important word about shipping papers. When dealing with hazardous materials in a cargo tank, shipping papers are required whether the tank is loaded or empty. Either the shipping papers for the last load should accompany the vehicle, or a new shipping paper with the notation "empty, last contained..." preceding the basic description. Shipping papers would not be required only if the tank has been cleaned and completely purged of all dangerous vapors or has been loaded with a material not subject to the hazardous materials regulations to an extent that there is no longer a hazard associated with the load.

PLACARDING AND MARKING

The next thing we will look at is the placarding and marking requirements. Placards are the identifying devices required on the outside of the vehicle, which indicates the hazard class of the material being transported. The marking requirement is usually taken care of by using placards containing the four-digit id number for the specific material. If the placards do not contain this number, it must be displayed on orange panels placed on each side and end of a cargo tank of 1000 gallons capacity or more, or on each side for tanks less than 1000 gallons capacity. In the case of petroleum distillate fuels, if the cargo tank is transporting different fuels at the same time in a compartmented tank, or transports one fuel on one trip, then a different fuel on another, the id number for the fuel with the lowest flash point may be used. We generally see this requirement complied with by the use of the 1203 ID number for gasoline unless the vehicle only transports diesel fuel, NA1993, and never gasoline.

A properly placarded vehicle will have placards on all four sides. In the case of a combination vehicle, the front placard may be placed either on the front of the tractor or the front of the trailer. If it is placed on the front of the trailer, it does not have to be visible from the front while it is attached to the tractor. Placards must be displayed in the square-on-point configuration with the wording or ID number displayed horizontally and reading right to left. Placards must be maintained so that the shape, color, legibility and visibility are not reduced due to fading, damage or obscurement by dirt or other matter. A cargo tank must remain placarded when empty unless cleaned and purged of all vapors or reloaded with a material not subject to the regulations.

CARGO TANKS

Some materials are required to be transported in cargo tanks built to USDOT specifications while other materials may be transported in non-specification tanks. Diesel fuel is an example of a material that may be transported in a non-specification cargo tank. Gasoline must be transported in a specification cargo tank. This is one of the things we will look for. If the material being transported requires the use of a specification cargo tank, we will inspect the tank to ensure such a tank is being used by looking at the manufacturer's specification plate. Specification cargo tanks are required to be maintained properly and inspected by a licensed inspection facility periodically. Upon such an inspection, the tank is marked indicating the type of inspection performed and the month and year the inspection was

made. These markings should be visible either on the tank shell near the specification plate or anywhere on the front head.

We will conduct a visual inspection of the cargo tank to ensure it is free of leaks, has the necessary specification and inspection markings if required, and is generally being operated in accordance with the regulations. Some of the general items we will look for include open manhole covers, internal valves in the open position, dents, scrapes and gouges in the tank metal, and condition of any emergency shutoff devices.

REGISTRATION – HAZARDOUS MATERIALS/MOTOR CARRIER

Federal regulations require shippers and transporters of certain types or amounts of hazardous materials to register with the USDOT. For typical petroleum products such as gasoline and diesel fuel, registration is required if shipping or transporting hazardous materials in amounts that require placards. This is an annual registration requirement accompanied by a fee based on the whether or not the business is classified as a “small business”. A “small business” is assessed a \$300 annual registration fee. Multiple year registrations are provided for and registration can be accomplished on-line. Proof of the registration must be carried on each vehicle operated by a motor carrier subject to the registration requirements.

A motor carrier operating in interstate commerce is required to obtain a USDOT number. A Florida carrier operating solely in intrastate commerce is required to obtain a Florida DOT number. The motor carrier’s name and dot number are must be displayed on both sides of the power unit, with letters and numbers that contrast with the background color, legible from 50 feet. There is no fee to obtain a USDOT or Florida DOT number.

DRIVER

Finally, we will inspect the driver for a proper commercial driver's license with the necessary endorsements. Since a cargo tank vehicle is required to be placarded, the hazardous materials endorsement will be required. The tank endorsement may also be required. In Florida, this requirement has a problem because of a discrepancy between Florida law and federal regulations. Under the federal commercial driver's licensing requirements, the tank endorsement is required for a cargo tank regardless of the size of the tank, except in the case of a portable tank. Florida law, on the other hand, requires the tank endorsement only when the tank capacity is 1000 gallons or more. Since the federal regulations preempt state law on the subject of commercial driver's licenses, it is recommended that the tank endorsement be obtained regardless of the size of the tank. We are, however, enforcing the requirement as written in Florida statutes for drivers who operate solely in intrastate commerce until the conflict is resolved.

INTRASTATE EXCEPTIONS

At this point, a brief mention of some intrastate exceptions is in order. Currently, Florida Statute 316.302 contains an exception for vehicles transporting petroleum products when the declared (registered) gross vehicle weight is less than 26,000 pounds. This exception allows such a vehicle to transport these materials in intrastate commerce without having to obtain a Florida DOT number. Additionally, an exception for intrastate motor carriers is found in the federal hazardous materials regulations. This allows a carrier to continue transporting gasoline and other flammable liquid petroleum products in a non-specification cargo tank with a capacity of less than 3,500 gallons, provided that the cargo tank was in service prior to October 1, 1998. This exception is designed for the smaller single unit cargo tanks that may have been in service for years before the federal regulations were applied to intrastate carriers. All other hazardous materials transportation regulations still apply to these vehicles.

THE BOTTOM LINE

There are a number of possible outcomes resulting from a roadside hazardous materials cargo tank inspection. If no

defects or violations are found, we may issue a CVSA decal indicating that a violation free inspection has been performed. Defects or violations that do not warrant placing the vehicle out of service will be written up on our inspection form, a copy of which will be given to the driver. These violations must be corrected and certification of repairs or corrections made within 15 days. Some defects or violations will require us to place the vehicle out of service. In such a case, the defect or violation must be corrected or removed before the vehicle is allowed to depart under its own power.

On the subject no one likes to hear about, monetary penalties can be assessed for hazardous materials violations found in a roadside inspection. These penalties begin at \$250.00 for shipping paper or placarding violations, up to \$500.00 for any hazardous materials violation that meets the Commercial Vehicle Safety Alliance Uniform Out-of-Service Criteria. These penalties are assessed in much the same way as overweight penalties. When a citation is issued, the carrier must make payment of the penalty to the DOT within 20 days. There is a review process in the event a carrier wishes to protest the assessment of a civil penalty.

IN CONCLUSION

This has been a limited discussion of a complex issue, which involves much more than space will allow in a single article. There are many more aspects to the transportation of hazardous materials as well as to the operation of a commercial motor vehicle in general. The motor carrier compliance office is here to assist you. Any questions concerning the items discussed here or any other commercial vehicle subjects can be addressed to any of our 12 field offices around the state, or to headquarters in Tallahassee. We also attend seminars and conferences sponsored by organizations such as FPMA, the Florida Trucking Association, and others to answer questions and provide assistance. It is essential that you have, at the very least, a current copy of the regulations. There are commercial sources, such as J.J. Keller, Labelmaster, and the American Trucking Association, for material such as the federal regulations and other publications that can assist you in complying with the regulations. Additionally, all of the regulations are now found on the websites of the appropriate regulatory agency.

The ultimate goal of the motor carrier compliance office in enforcing the safety and hazardous materials transportation regulations is the safe movement of commercial vehicles and a safe environment for all users of the public highways.

USEFUL WEBSITES:

www.fmcsa.dot.gov Federal Motor Carrier Safety Administration - safety regulations, interstate motor carrier registration requirements, forms & instructions

<http://hazmat.dot.gov> Research and Special Programs Administration - HAZMAT regulations, registration and forms, security, training

www11.myflorida.com/mcco Florida DOT/Motor Carrier Compliance Office – intrastate motor carrier registration requirements, forms & instructions, MCCO contact information, general information, links to Florida Statutes and other websites