

Hazardous Materials Update

What's happening in hazmat !

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Docket HM- 216B

Final Rule
32 pages



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Part II

Department of Transportation

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, 173, et al.

Hazardous Materials: Incorporating Rail Special Permits Into the Hazardous
Materials Regulations; Final Rule

Highlights from Docket HM-216B

- Effective July 25, 2012
- The docket incorporates rail special permits into the HMR. Special Permits are issued by PHMSA & allows a company/railroad to ship HM in a manner that varies from the HMR, provided that an equivalent level of safety is maintained.
- Removes AAR-600 registration/standards applicable to portable tanks shipped by rail – §174.63(c) & Chp. 4 (M-1002).
- Permits alternative start-to-discharge pressure requirements for certain DOT specification tank cars.
- Authorizes certain DOT & AAR tank specification stamping to be placed on identification plates (*stub sill*) vs. the tank head.
- Revises §179.13(b) - (*Tank car capacity & gross wt. limitation*) to authorize GWR to exceed 263,000 lbs. up to 286,000 lbs.

Highlights from Docket HM-216B

- PIH/TIH tank cars exceeding 263,000 GWR require approval from FRA - HQ, *some exceptions apply*.
- Authorizes Electronic Data Interchange (*EDI*) of hazmat shipping papers by rail.
- Permits loading of Anhydrous Ammonia to be measured using metering devices *vs.* measuring the car by weight.
- Amends §174.26 to clarify that the train crew must have a written document reflecting the current position in their train of HM rail cars (*i.e., electronically generated train consists are not acceptable to satisfy this requirement*).
- Clarifies that electronically generated HM shipping description /information is a separate requirement & the requirement may be provided electronically.

Highlights from Docket HM-216B

Impact on Tank Car Facilities / Tank Car Owners

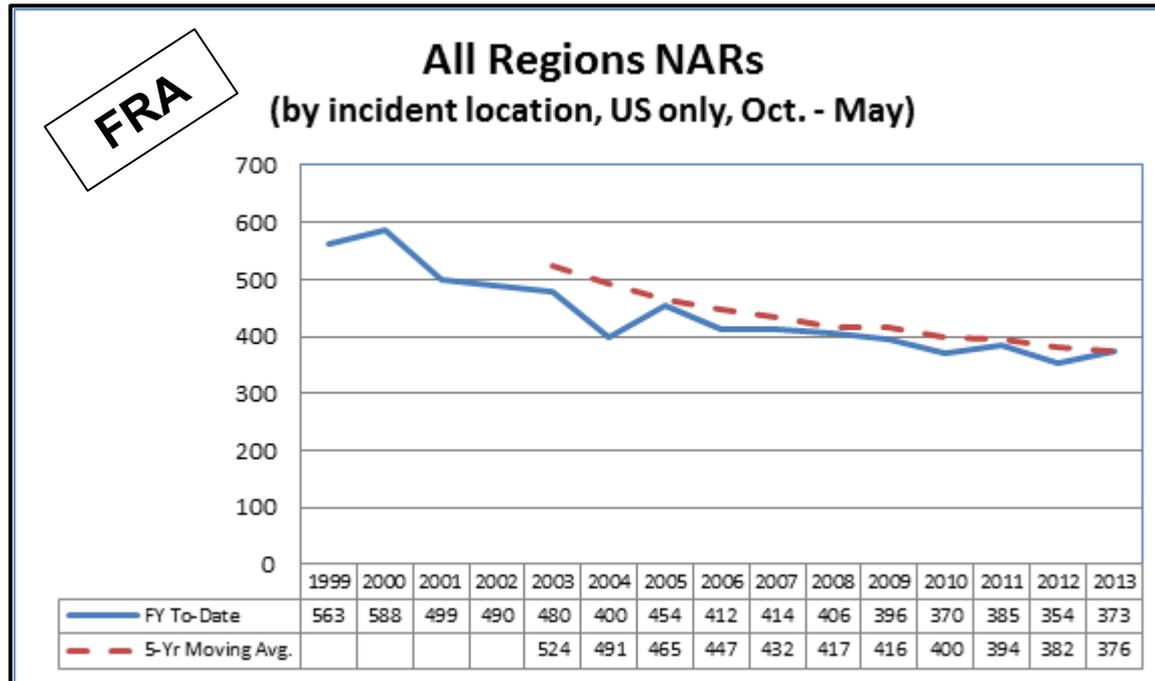
- Requires all reports of inspection/tests to be sent to the tank car owner, including the owner of tank coatings/linings.
- Tank car owners must provide written instructions on the criterion to be used in requalifying their tank cars for service. The tank car facility is required to maintain these written instructions.
- Requires that tank car owners or owners of the service equipment arrange for the service equipment (*filling, discharge, PRD, venting, heating devices*) to be requalified at least once every 10 years - *no alternative procedure is permitted beyond 10 years.*

Highlights from Docket HM-216B

- Simplifies the “Allowable Shell Thickness Reduction Table” for a tank car service life.
- Permits FRA to declare a tank car to be in “unsafe operating condition” requiring a tank car to be inspected & tested, based on the existence of an “objectively reasonable & articulable belief”, instead of a probable cause.
- Reiterates that hydrostatic testing of tank car tanks is no longer required to requalify a tank car for continued service, replaced with Non-destructive Testing (*NDT*) methods
- HM-216B is a topic for training during the upcoming HM Recurrency course in 2014.

Preventing Non- Accident Releases (*NAR's*)

FRA Goal – Reduce Non-Accident Releases (NAR's)



Reducing NAR's thru Education

- **FRA Hazmat Seminar – Reno, NV (June 24 – 28, 2013)**
 - 420+ registered attendance + 16 sponsors
 - Focus – eliminate NAR's
- **FRA Shipper Training Seminar – Billings, MT (Sept. 17-19, 2013)**
 - 245+ registered attendance

Possible New Rulemakings

Part 174 – Carriage by Rail *(Hazmat)*

- Revamp carrier requirements, including HM train placement.
- Incorporate several DOT Special Permits affecting transportation by rail into the HMR.
- PHMSA meeting in Wash., D.C.
Aug. 27-28, 2013 on revising Part 174

Part 179 – Specifications for Tank Cars

- Review unnecessary or outdated tank specification standards.

FRA One-Time Movement Approvals (OTMA)

OTMA Application

 Information Necessary to Obtain Federal Railroad Administration Movement Approval Approval Number <u>09030128</u> <small>(Assigned by FRA)</small>	
<small>[Collection of this information is authorized under OMB Control Nos. 2137-0557 and 2137-0559.]</small>	
Date of Application:	(Month) <u>MARCH</u> (Day) <u>26</u> (Year) <u>2009</u>
Company Name:	<u>GEORGIA GULF CHEMICALS & VINYL, LLC</u>
Mailing Address:	<u>PO BOX 629</u> (City) <u>PLAQUEMINE</u> (State) <u>LA</u> (Zip) <u>70765-0629</u>
Company Fax (facsimile) Number:	<u>225-687-7802</u>
Company Contact:	<u>LOUIS OSMER</u>
Title / Position	<u>TRANSPORTATION ANALYST</u>
Contact Telephone Number	<u>225-685-1267</u>
Car Reporting Marks & Number	<u>UTLK 901 933</u> Type of Rail Car: <u>TANK CAR</u>
If tank car, DOT (or other, specify) Specification:	<u>105 J 300W</u>
Complete Hazardous Materials Description:	(DOT Shipping name): <u>VINYL CHLORIDE, STABILIZED</u> (DOT Hazard class) <u>2.1</u> (UN/NA Identification Number) <u>UN 1086</u> P.G. Number <u>NA</u> ***** NOTE: Attach or forward with this Application a copy of the original shipping paper *****
Where did this shipment originate (Facility):	<u>GEORGIA GULF</u> (City): <u>WESTLAKE (LANG CHARLES)</u> (State): <u>LA</u>
Origin shipper point of contact: (Name)	<u>ARCHIE FRUGE</u> (Phone Number): <u>337-708-5029</u>
Present location of car: (facility or carrier):	<u>UP LIVONIA YARD</u> (city): <u>LIVONIA</u> (state): <u>LA</u>
Planned destination of this move: (facility):	<u>GEORGIA GULF</u> (city): <u>PLAQUEMINE</u> (state): <u>LA</u>
Planned rail route	<u>UP DIRECT</u>
Approximate total mileage of this movement:	<u>35</u> miles
If more than 30 days will be required to complete movement sought under this approval, please explain:	
Descriptive: What is wrong with this car?	<u>OVERWEIGHT, GROSS WEIGHT IS 267300</u>
From what regulation is relief sought?	49 Code of Federal Regulations Section: <u>173.26</u> ***** NOTE: If car load is overweight, please provide a copy of the scale weight ticket, if available, car loading documentation and any other information used to determine the actual weight of the car. *****
Explain, with supporting documentation, the measures you are taking to ensure the safe movement of this car:	<u>A GEORGIA GULF REPRESENTATIVE CHECKED THE CAR TO ENSURE IT WAS BELOW THE 2% VAPOR OUTGAS RESTRICTION. THE LEVEL IS ACTUALLY AT 4.6%. THE UNION PACIFIC LIVONIA YARD WILL DO AN INSPECTION OF THE CAR TO ENSURE RAILWORTHINESS BEFORE IT IS MOVED.</u>
Submit your request for approval to : Federal Railroad Administration, Office of Safety Assurance and Compliance, Hazardous Materials Division, 1120 Vermont Avenue, NW, Mail Stop 25, Washington, DC 20590, or send a facsimile to (202) 493-6478. Should you have any questions, please call the Hazardous Materials Division at (202) 493-6244, for assistance. <i>Be sure to submit above requested attachments!</i> INCOMPLETE INFORMATION MAY RESULT IN DELAYED PROCESSING!	

FRA One-Time Movement Approvals (OTMA)



U.S. Department
of Transportation
Federal Railroad
Administration

1200 New Jersey Ave., SE
Washington, D.C. 20590

FRA-13080569

EXPIRATION DATE: September 20, 2013

1. **GRANTEE:** Tesoro Refining and Marketing
19100 Ridgewood Parkway
San Antonio, Texas 78259
2. **PURPOSE:** This approval authorizes the one-time movement of a DOT specification tank car that meets all DOT requirements except there was vapor leakage through the vapor induction valve. The car was off-loaded, the pressure reduced to less than 30 p.s.i., and the valve port closure plug applied/secured stopping the leakage. The residue car will be moving to a certified repair facility. This approval addresses non-conformities under the Hazardous Materials Regulations only and provides no relief from any regulation other than as specifically stated.
3. **REGULATIONS AFFECTED:** 49 CFR §171.2(g); §173.22(a)(2)(i) and (ii); §173.24(d)(1); §173.29(a); §173.31(a) & (d); and §179.100-13(a) [as to the disclosed condition]. This approval provides no relief from the regulatory requirement that a hazardous material package offered for transportation retain its contents during transportation.
4. **BASIS:** This authorization is based on the Grantee's written application dated June 7, 2013, submitted in accordance with 49 CFR §174.50.
5. **HAZARDOUS MATERIALS** (49 CFR 172.101):

Hazardous Materials Description			
Proper Shipping Name	Hazard Class/Division	Identification number	Packing Group
Residue - Last Contained: Liquefied Petroleum Gas	2.1	UN 1075	N/A

6. **REPORTING MARK, NUMBER AND SPECIFICATION(S):**
SHPX 221832, a DOT 112J340W specification tank car.
7. **ROUTING, MOVEMENT and OPERATIONAL CONTROLS:**
 - a. Movement for tank car SHPX 221832 is authorized from its current location at Tesoro Refining and Marketing at Avon, California to the American Railcar Industries repair facility in Longview, Texas routed via the Union Pacific Railroad (UP) direct, traveling a distance of approximately 2,182 miles.
 - b. Prior to transportation under the conditions of this approval, the Grantee shall ensure that the tank car is inspected by a person in its employ, qualified in a manner similar to that established in 49 CFR §215.11, and/or by a qualified railroad inspector designated in accordance with 49 CFR §215.11, to determine that the car complies with all other applicable regulatory requirements and is in safe condition for transportation.

Continuation of FRA-13080569

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Nothing in this approval limits the hauling railroad's authority to inspect pursuant to Federal regulation, the Interchange Rules, or company policy.

- c. The shipping papers shall bear the notation "FRA-13080569" in a location that clearly associates the notation with the shipping description to which it applies.
- d. The Grantee shall ensure that the car has been stenciled, decaled (in a contrasting color or on a contrasting background) near the car reporting marks on both sides of the car in an appropriate manner: "HOME SHOP FOR REPAIRS - DO NOT LOAD" (or words and markings conveying a similar message). In addition, the defective valve or fittings must be tagged with the above wording or wording that conveys a similar message.
- e. The Grantee of this approval shall ensure that the facility where the car is currently located, the tank car owner, the repair facility and the rail carrier involved in the movement of this car each is provided with a copy of this movement approval.
8. **COMPLIANCE:** Failure by any person to comply with any of the terms of this approval may result in penalties prescribed by Federal hazardous materials transportation law, 49 U.S.C. 5101 *et seq.* and potential denial of future Movement Approval requests. Nothing in this approval limits the Federal Railroad Administration from pursuing enforcement, including the collection of civil penalties, for any violations which pre-date this approval.
9. **REPORTING REQUIREMENTS:**
 - a. Each person in physical possession of the hazardous material is required to report any incident involving loss of packaging contents or packaging failure to the Associate Administrator for Hazardous Materials Safety (AAHMS), Pipeline and Hazardous Materials Safety Administration (49 CFR §171.15 and §171.16 apply to any activity undertaken under this approval), when such loss or failure occurs.
 - b. The Grantee shall notify the Federal Railroad Administration, via telephone, of any unusual occurrence affecting the movement by contacting the Hazardous Materials Division at (202) 493-6245 or (202) 493-6248.

Issued at Washington, D.C.:


Robert C. Lauby
Acting Associate Administrator
for Railroad Safety/Chief Safety Officer

August 20, 2013
(DATE)

Approval

One-Time Movement Approvals (OTMA)

- Outlined in HMG-127 - available via FRA website: www.fra.dot.gov 1st published: Jan. 31, 2012, 2nd revision – Oct. 3, 2012. New revision due in late 2013.
- *Purpose* - provide safe movement & tracking of non-compliant bulk packages by rail & identify systemic safety problems.
- *Authority* - §174.50 (*Nonconforming or leaking packages*)
- Creates three procedures for obtaining FRA approval: OTMA-1, OTMA-2, OTMA-3.
- Recommended to use the “Reverse 3-2-1 process”
- Determine if the defect meets any of the defect situations defined for OTMA-3 category. *If not*, is the defect due to an overloaded condition ~ OTMA-2? *If not*, its automatically an OTMA-1.

One-Time Movement Approvals (OTMA)

OTMA Categories

OTMA-3 Applicability : Standing Approval (*low-risk*)

- Notification to FRA & railroad carrier via email: HMASSIST@dot.gov . Written response from FRA is not required, providing the conditions in HMG-127 are met.
- Not applicable to tanks containing PIH materials (*load or residue*).
- *Examples:*
 - ✓ Missing or damaged service equipment (*no leakage*)
 - ✓ Damaged protective housings
 - ✓ Cleaned tanks having a defective valve
 - ✓ Cleaned tank cars moving for dismantling
 - ✓ Damaged pkgs (*no leak*) loaded on flatcars or in gondolas

OTMA-2 Applicability : Overloads

- Rail cars overloaded by weight only. Cars overloaded by volume generally are NOT granted approval.
- Additional product information is required to determine if the car exceeds its maximum filling limit standard.

OTMA-1 Applicability : Traditional

- Standard written application required.
- Covers all non-complying conditions that are NOT covered by OTMA-3 or OTMA-2.
- *Examples:*
 - ✓ Damage to tank shell or head
 - ✓ Stub sill crack
 - ✓ Bottom outlet valve damaged (no leakage)
 - ✓ Valve leaking thru secondary closure, where the primary closure remains functional.

OTMA Basics

- Verbal authorization from FRA can be obtained, followed by any necessary paperwork.
- Railroads are NOT obligated to honor an approval issued by FRA.
- Most OTMA's require that a written response to a defective condition on any remedial action be sent to HQ within 60 days following its issuance.
- The fact that FRA issues a OTMA does not mean that a violation (*civil penalty*) will not be generated.
- In 2012, FRA issued 2,318 OTMA's & for 2013 it's anticipated that the number will rise to 6,000.
- Civil penalty guidelines for failure to obtain a OTMA= \$7,500
Failure to follow the OTMA directives= \$5,000
- The main contact for OTMA in the Hazmat Division (HQ) is:
Kurt Eichenlaub – HM Specialist, (202) 493-6050.

49 CFR vs. International Standards

§171.12 (Canada) &
§171.22 (International)

Rule of Thumb

May be shipped International, if 49 CFR does not apply !

Must be shipped 49 CFR, if International does not apply !

1. Applicable if any part of the transportation is in accordance with IMDG, TDG, ICAO, IAEA – *subject to the limitations in 49 CFR, Part 171 Subpart C !*
2. The Agreement of Reciprocity with Canada incorporates HM shipments regulations & the act of transporting HM shipments within the U.S.
3. If the offeror opts to use TDG *or* IMDG, they must fully comply with ALL of the international requirements, *plus any applicable conditions & limitations defined in 49 CFR.*

Example

Hazmat Shipping Paper Description Sequence

49 CFR – The basic description sequence became mandatory on 1-1-2013 (*i.e., ID number, Proper Shipping Name, Hazard Class, Packing Group*).

TDG (Canadian Regulations) – Section 3.5.7 :
The Canadians have not yet adopted the international standard for shipping paper (documentation). The old sequence (*i.e., PSN, Hazard Class, ID number, PG*) remains in effect. Since, the Agreement of Reciprocity (§171.22) states that DOT will accept HM shipments from Canada that are in compliance with TDG (*no limitation applicable*), DOT is obligated to accept the old description sequence on Canadian shipments.

Hazmat Inspector's Jurisdiction

- Docket HM-223, *final rule effective June 1, 2005*
- Provides a definition of “transportation” of hazardous materials & defines DOT’s jurisdiction:
 - ✓ “Pre-transportation function”
 - ✓ “Loading incidental to movement”
 - ✓ “Storage incidental to movement”
 - ✓ “Movement” – physical transfer from one location to another
 - ✓ “Unloading incidental to movement”
- *With some exception, “consignee conducted unloading on private property (after the carrier has departed the facility) is not regulated by DOT”.*

Hazmat Inspector's Jurisdiction

- “Transloading” – transfer of a HM from one package to another for the purpose of continuing the movement, meets the definition of “unloading incidental to movement” – thus the operation is regulated by DOT.
- §173.31(g) – Tank car loading & unloading remains in effect at any time (*e.g., caution sign, hand brakes, wheel chocks, denied access*).