Hazardous Materials Inspection Process

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Field Operations

http://phmsa.dot.gov/hazmat

2014

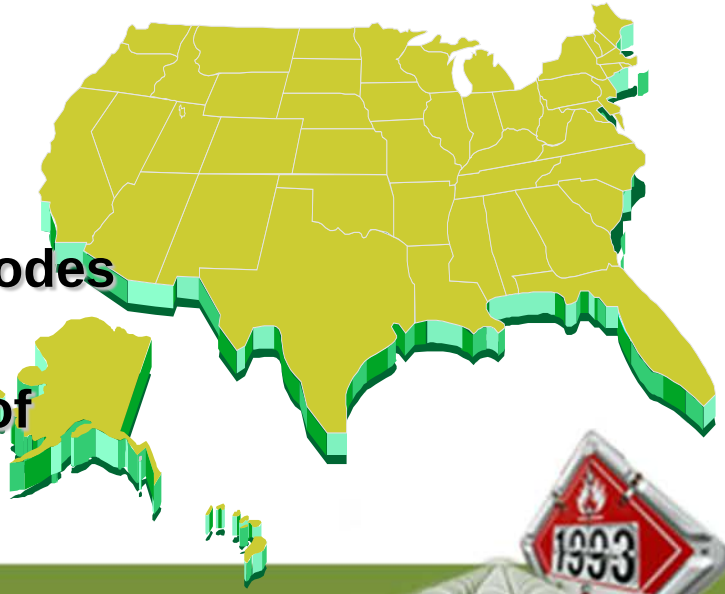
Hazmat Shipments in the U.S.

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

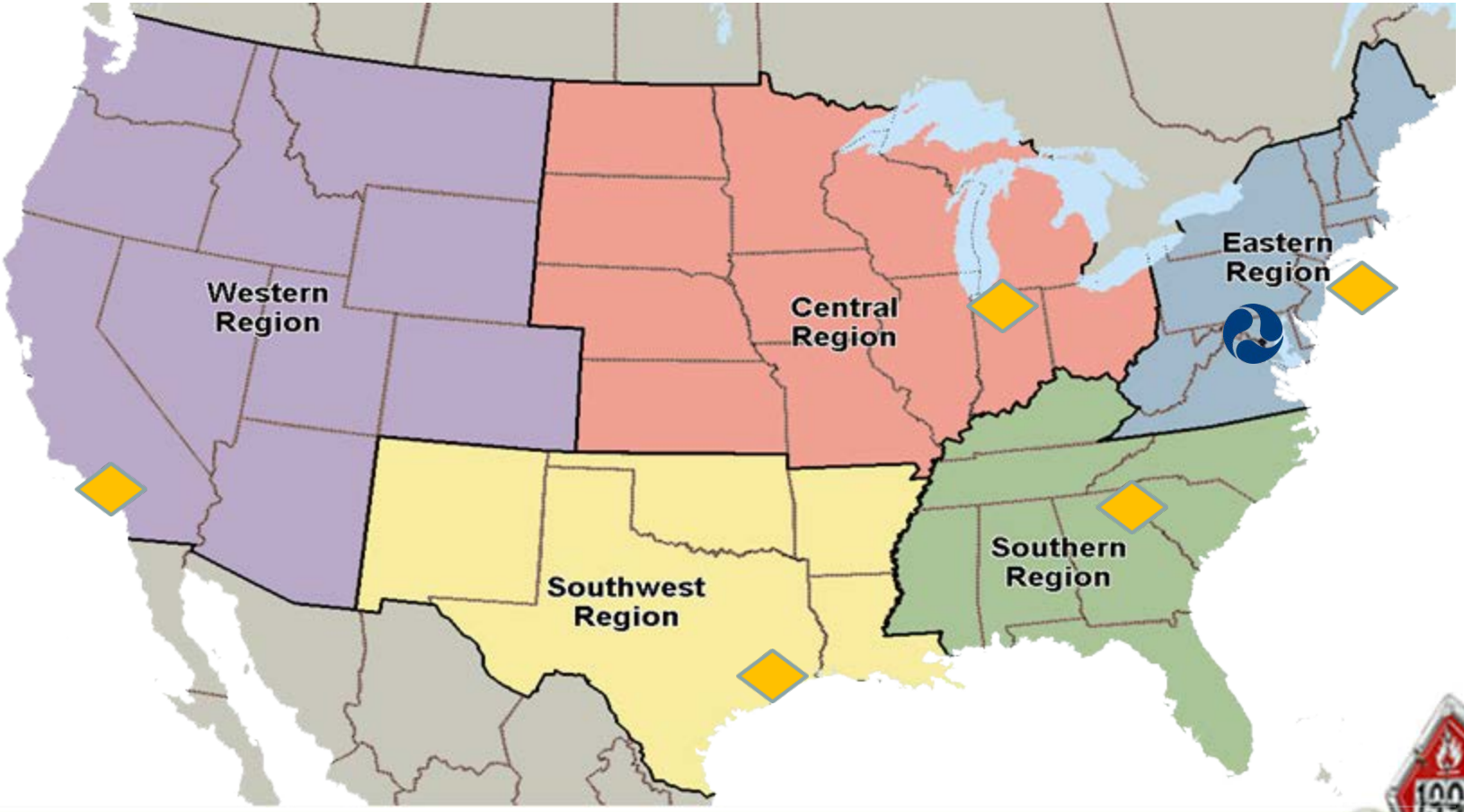
Hazardous Materials Support $1.5 Trillion of US Economy Annually



Office of Hazardous Materials Safety (OHMS)

- "Protect the nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce" [49 U.S.C. 5101]
- Ensures and promotes the safety, security and performance of the nations hazardous materials transportation system through its nationwide field operations.
- Operational activities that include compliance, incident and accident inspections and investigations; safety, performance and regulatory adequacy and fitness determinations; outreach, education and training activities; and reporting feedback, information and intelligence through its oversight of hazardous materials shippers, carriers and the manufacture, requalification, recondition, maintenance and use of hazardous materials packaging.
- To determine the adequacy and clarity of the regulations for which the hazardous material transportation activities are based.

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**
  - Nurse Tanks
- **Packaging Manufacturers**
  - Tanks, Drums, IBCs, Cylinders, Boxes, etc…
- **Packaging Self-Certifiers**
- **Distributors/Brokers**
- **High Hazard Entities**
- **Multi-Agency Strike Force Operations (MASFO)**

Why Me?

- Complaints
- High Risk (PIH/TIH)
- Investigations
- Re-Inspections
- Observations
- Incident History
- Fitness Review
- Registered Entity
- Abatements

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
- **Evidence Gathering**
  - Interviews, Documentation, Photographs, etc.
- **Closing the Inspection**
  - Security Inspection Report, Exit Briefing, etc.

The Inspection Process – Investigator Forms

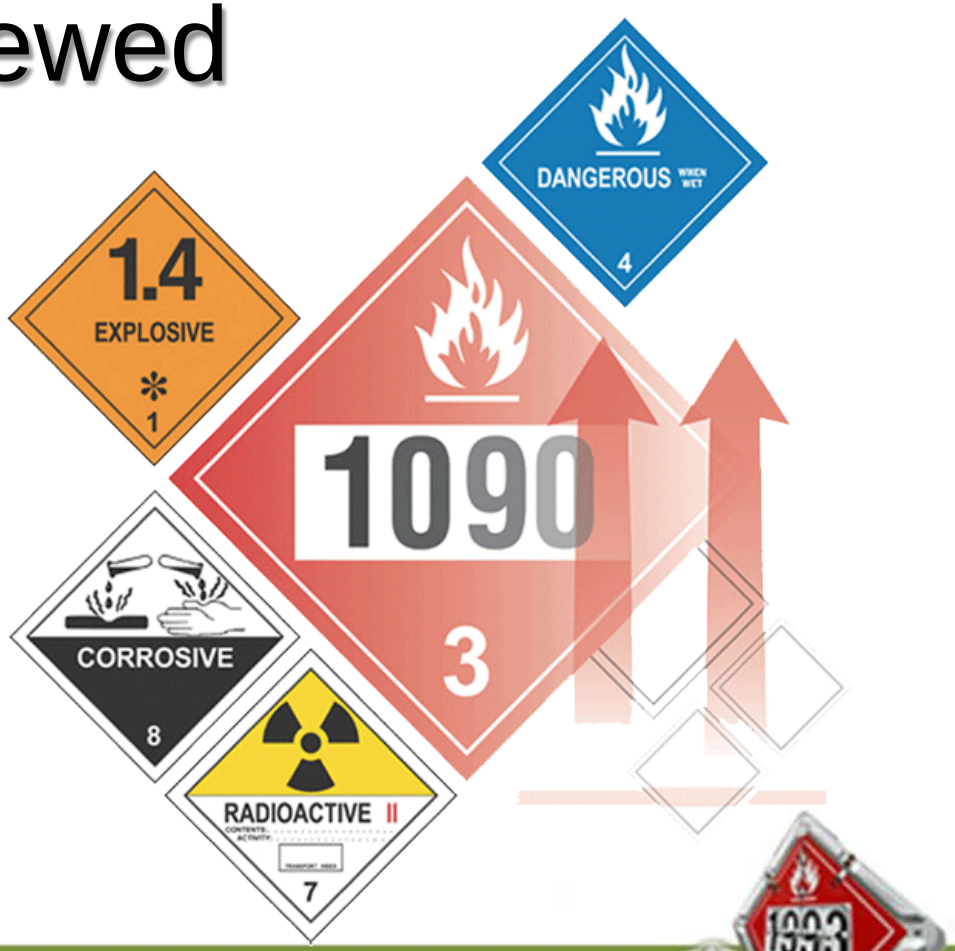
- **Inspection/Investigation Report**
  - Used to notate pertinent information during inspection
- **Observation Forms**
  - Used to notate unique package specific markings and labeling
- **Cylinder Requalification Facility Inspection Report**
  - Used as a guide for high and low pressure cylinder requalification inspections
- **Written Statements**
  - Used to document the results of an interview

The Inspection Process - Introduction

- **Identification**
- **Purpose of Inspection**
- **PHMSA Overview**
- **General Info Gathering**
  - Representative
  - Contact Info
  - Tax ID Number
- **Company Profile**
  - What do you do?
    - o Manufacture, Test, Fill, Ship?

The Inspection Process – Items Reviewed

- **Observations**
  - Processes and Procedures
  - Testing Equipment
  - Manufacturing Equipment
  - Packaging
  - Marking and Labeling
  - Training
  - Registration
  - Security Plan



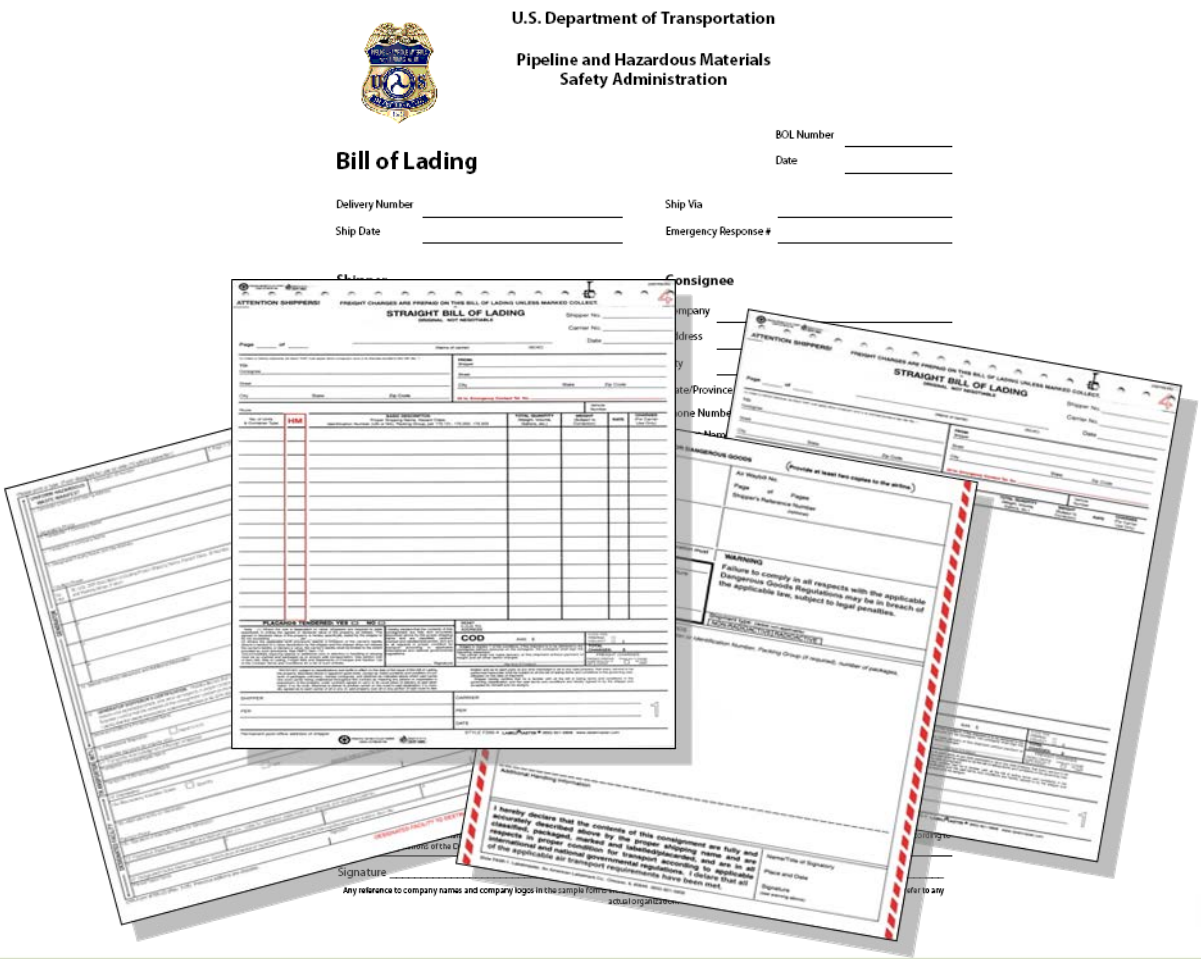
The Inspection Process – Evidence Gathering (Documentation)

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

The Inspection Process – Evidence Gathering (Documentation)

- **Shipping Papers**
  - Description/Sequence
  - Quantity and Type
    - Placards Required?
  - Certification Statement
  - Signature
  - Emergency Response #
  - Additional Information
    - Special Permits, LTD QTY, RQ, Technical Names, etc.
  - Retention (2 Years)

Shipping Paper


U.S. Department of Transportation

Pipeline and Hazardous Materials
Safety Administration

Bill of Lading

BOL Number _____

Date _____

Delivery Number _____

Ship Date _____

Ship Via _____

Emergency Response # _____

Consignee

STRAIGHT BILL OF LADING

Signature _____

Any reference to company names and company logos in the sample form

The Inspection Process – Evidence Gathering (Photographs)

The Inspection Process – Closing the Inspection

- **Security Inspection Report**
  - Required for certain Commodities and Quantities
  - Verifies components of Security Plan
    - Risk Assessment
    - Personnel Security
    - Unauthorized Access
    - En-Route Security
- **Security Awareness**
  - How to recognize and respond to a threat?
  - Training Complete?
  - Within 90 Days of Hire?
- **In-Depth Security**
  - Training on your Security Plan

Security Inspection Report

INVESTIGATIVE NOTES
COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES

PIPELINE AND HAZARDOUS MATERIAL SAFETY ADMINISTRATION
HAZMAT SECURITY INSPECTION REPORT

Inspection Date: _____

Facility Name and Address: _____

_____

_____

Company Officials Interviewed: _____ Title: _____

_____ _____

SECURITY PLAN

Identify the material(s) below requiring a Hazardous Materials Security Plan:		
	1.1, 1.2, 1.3	Any quantity.
	1.4, 1.5, 1.6	Placarded quantity.
	2.1	A large bulk quantity.
	2.2	A large bulk quantity of material with an oxidizer subsidiary. Any quantity PIH (e.g. Anhydrous ammonia).
	2.3	Any quantity.
	3	PG I and II in a large bulk quantity. Placarded quantity desensitized explosives.
	4.1	Placarded quantity desensitized explosives.
	4.2	PG I and II in a large bulk quantity.
	4.3	Placarded quantity.
	5.1	PG I and II in a large bulk quantity. PG III perchlorates, ammonium nitrate, ammonium nitrate fertilizers, or ammonium nitrate emulsions, suspensions, or gels in a large bulk quantity.
	5.2	Any quantity of Organic peroxide, Type B, liquid or solid, temperature controlled.
	6.1	Any quantity PIH. A large bulk quantity of a material that is not a PIH.
	6.2	Any quantity of a select agent or toxin listed by CDC or USDA (42 CFR, Part 73 or 9 CFR, Part 121).
	7	International Atomic Energy Agency Category 1 & 2 sources. Highway Route Controlled Quantities. Known Radionuclides in forms listed as Quantities of Concern by the Nuclear Regulatory Commission. Placarded quantity of uranium hexafluoride.
	8	PG I in a large bulk quantity.

"Large Bulk Quantity" refers to a quantity greater than 3,000 kg (6,614 lbs) for solids or 3,000 L (792 gal) for liquids and gases in a single packaging such as a cargo tank motor vehicle, portable tank, tank car, or other bulk container.

INVESTIGATIVE NOTES
COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES

1

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

Exit Briefing

U.S. Department of Transportation

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety
Southern Region

233 Peachtree Street NE, Suite 602
Atlanta, Georgia 30303
(404) 832-1140 Fax: (404) 832-1168

EXIT BRIEFING

COMPANY NAME _____ DATE _____

ADDRESS _____

COMPANY WEB ADDRESS _____ TAX ID# _____

NAME OF INDIVIDUALS RECEIVING THE BRIEFING:

Name: _____ Title: _____

Email Address: _____

Name: _____ Title: _____

Email Address: _____

Name: _____ Title: _____

Email Address: _____

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:

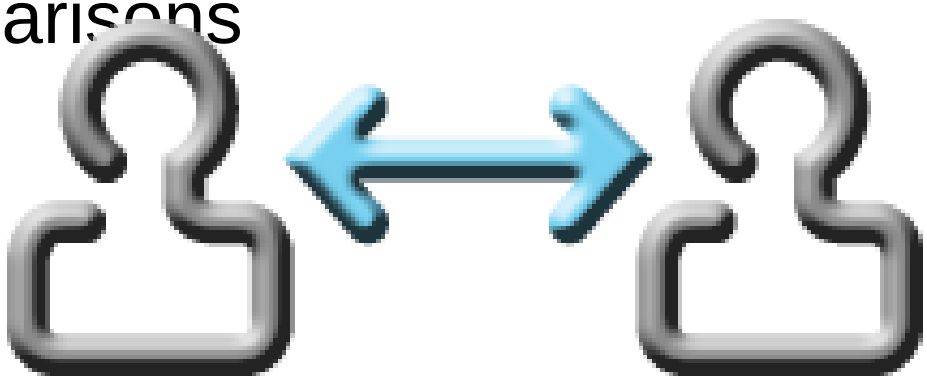
PROBABLE VIOLATIONS:

Section:

Explanation:

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
- Penalty Guidelines
  - (Appendix A to Subpart D of Part 107)
- Title 49 Code of Federal Regulations (49 CFR)
- DOT Chart 15
- DOT Pamphlets
  - (Security Plan, MOTS)

Glad That's Over – Now What???

The Inspection Process – Next Steps

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

Inspection Results/Actions

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

Penalty Potential (per violation)

- **Civil ($75,000); Up to $175,000 if death, illness or serious 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)**
  - Willfully violating the hazardous materials regulations
  - Unlawful altering, removal, defacing, destroying or otherwise tampering with any marking, labeling, placarding or packaging requirement

Penalty Guidelines

APPENDIX A TO SUBPART D OF PART 107—GUIDELINES FOR CIVIL PENALTIES

I. 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 cite	Baseline assessment
General Requirements		
A. Registration Requirements: Failure to register as an offeror or carrier of hazardous material and pay registration fee:	107.608, 107.612.	
1. Small business or not-for-profit		$1,200 + $600 each additional year.
2. All others		$3,500 + $1,000 each additional year.
B. 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 area.
b. 10 hazmat employees or fewer		$1,000 for each area.
2. Failure to provide recurrent training to hazmat employees (general awareness, function-specific, safety, and security awareness training).	172.702	$1,000 for each area.
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	$3,100.
5. Failure to create and maintain training records:	172.704.	
a. More than 10 hazmat employees		$1,000.
b. 10 hazmat employees or fewer		$600.
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.
D. Notification to a Foreign Shipper: Failure to provide a foreign offeror or forwarding agent written information of HMR requirements applicable to a shipment of hazardous materials within the United States, at the place of entry into the United States:	171.22(f).	
1. Packing Group I and §172.504 Table 1 materials		$9,300.*
2. Packing Group II		$5,500.*
3. Packing Group III		$1,800.*
*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

- **2365 Nationwide inspections conducted in CY 2013**
  - 1065 Compliance 54.7%
  - 881 Non-Compliance 45.3%
- **626 Southern Region inspections conducted in CY 2013**
  - 389 Compliance 57.8%
  - 284 Non-Compliance 42.2%

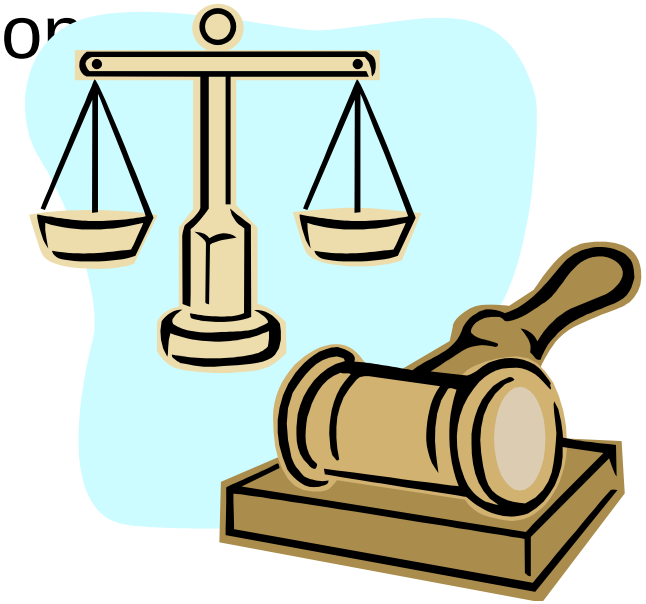
Source: OHMS Hazmat Intelligence Portal/HIP

Inspection Statistics

- **CY2013 Non-Compliance Statistics**

  Nationwide/Southern Region

  - 109/34 WL
  - 482/136 Tickets
  - 425/66 Civil Penalties
  - 0/0 Criminal Referrals



Source:
OHMS Hazmat Intelligence Portal/HIP

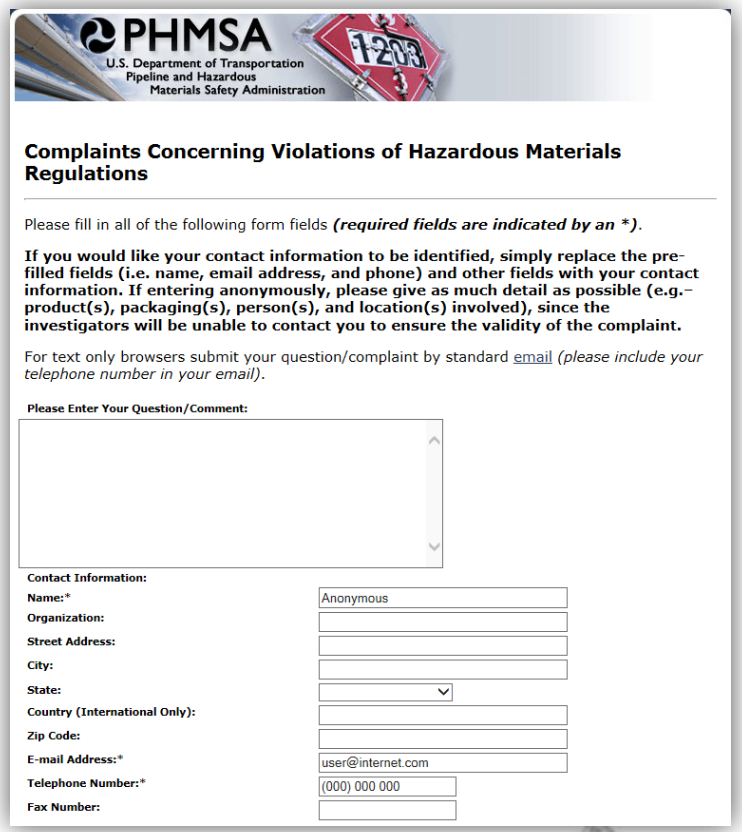
OHMS Enforcement Page

"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"

http://phmsa.dot.gov/inspect-enforce

File Complaint

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



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

Complaints Concerning Violations of Hazardous Materials Regulations

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)*.

Please Enter Your Question/Comment:

Contact Information:

Name:*	Anonymous
Organization:	
Street Address:	
City:	
State:	
Country (International Only):	
Zip Code:	
E-mail Address:*	user@internet.com
Telephone Number:*	(000) 000 000
Fax Number:	

http://www.phmsa.dot.gov/phmsa-ext/feedback/hazmatComplaintsRegsViolationsForm.jsp

Where to Find More Information…

http://hazmat.dot.gov

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

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

Website: hazmat.dot.gov

HMS 7 15 14

HAZARDOUS MATERIALS INFORMATION CENTER
(800) HMR49-22
(800) 467-4922
202-366-4488 (local)
Fax 202-366-3753
infocntr@dot.gov
FAX-ON-DEMAND
(800) 467-4922 X 2

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Ted Turner, *Investigator*
Terry Pollard, *Investigator*
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Shelley Negrete, *Investigator*
April Charnota, *Investigator*
Rene Silva, *Investigator*
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