



# Preparing Hazardous Materials Shipping Papers

Insights

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The Federal Motor Carrier Safety Administration enforces the Hazardous Materials Regulations on our nation's highways, requiring anyone who offers, ships, or transports a hazardous material to include shipping papers that describe the hazardous materials. Shipping paper regulations are some of the most frequently violated hazardous materials regulations because they apply so broadly. The two most common mistakes that lead to violations:

1. A business doesn't believe that it is an "offeror" under the regulations.
2. A business assumes that a bill of lading with general information satisfies the standard.

Carriers can comply with the regulations using shipping papers provided with a shipment. This sometimes prompts the FMCSA to investigate businesses connected with a business that violates the shipping paper rules because the investigator assumes that the related business' shipping papers are also non-compliant. Failing to maintain and carry proper shipping papers can cause issues for your business, but also your suppliers, clients, and customers.

## Who Needs Shipping Papers?

Anyone who offers a hazardous material for transportation in commerce, causes a hazardous material to be transported in commerce, transports a hazardous material in commerce, or performs or is responsible for performing a pre-transportation function must carry and maintain shipping papers. Under the federal standards for shipping papers, the names "offeror" and "shipper" are synonymous. Most functions that include transporting a hazardous material will require shipping papers. In other words if you touch a hazardous material that you do not use, there's a good chance that you should have shipping papers for that material.

To "offer" a hazardous material means that a carrier performs tasks under the regulations including both transportation and pre-transportation functions. Common pre-transportation functions include:

- packing hazardous materials;
- selecting packaging for hazardous materials;
- preparing a shipping paper;
- marking or labeling hazardous materials packages;

- loading, blocking and bracing a hazardous material; and
- selecting, providing, or affixing placards for a freight container or transport vehicle to indicate that it contains a hazardous material.

The standard at 49 C.F.R. 171.1(b) lists other pre-transportation functions, but it is not a comprehensive list. Other pre-transportation functions may also require using shipping papers.

“Transportation functions” begin when a carrier takes possession of a hazardous material to transport it and continues until it arrives at the final destination that the shipping papers should indicate. They include the:

- movement;
- loading incidental to movement;
- unloading incidental to movement; and
- storage incidental to movement of hazardous materials.

These functions apply broadly, meaning that “incidental to movement” includes most functions until a hazardous material reaches its destination. Performing one pre-transportation or transportation function means that carriers must carry shipping papers.

Something that construction, blasting, and other companies that do not transport goods as a primary business must remember is that if they move a hazardous material from one location to another, or from their warehouse to a jobsite, the chain begins again. That hazardous material is back in transportation and requires new shipping papers.

### **Is My Bill Of Lading Enough?**

Sometimes a bill of lading qualifies as a shipping paper. The hazardous materials regulations do not require a specific form to identify hazardous materials. The carriers can include hazardous materials information on bills of lading, shipping manifests, invoices, or any other medium that they choose. But the regulations specifically provide what information a shipping paper includes, the order of that information, and specifically designating and highlighting the hazardous material information.

Using a bill of lading or other paper as a shipping paper has obvious benefits: minimizing documents that drivers must carry and review, making the shipping paper harder to forget or misplace, and supplying all important information in one location. Despite this flexibility of the form of shipping papers, the regulations require that a shipping paper uniformly present hazardous materials information.

### **What Must Shipping Papers Include?**

Shipping papers must include several items in order to comply with hazardous material regulations.

## ***Sequence***

When hazardous materials information shares a form with other materials or cargo, the paper must distinguish between hazardous materials and other materials by either:

- Listing the hazardous material **first**; or
- **Highlighting** the hazardous material; or
- Listing the hazardous material in a **different, distinctive color font**; or
- Including a **column for hazardous materials** and marking that column for the hazardous material.

The best practice is including **all four of these strategies** to identify the hazardous material, or at least more than one.

Each entry for hazardous materials on a shipping paper must also begin with a “Basic Description” of the material that follows a specific sequence that the FMCSA refers to as “**ISHP**.” All the information that a Basic Description includes is specific to each hazardous material and is available in the Hazardous Materials Table at 49 C.F.R. § 172.101. The shipping paper must list the information, which is identified by its column in the Hazardous Materials Table, in the following order:

1. Hazardous Materials **I**dentification number (Column 4)
2. Proper **S**hipping Name (Column 2)
3. **H**azard Class (Column 3)
4. **P**acking Group (when applicable) (Column 5).

Materials with a Subsidiary Hazard (Column 6) must list that hazard directly after the Hazard Class, and materials with Technical Names (Column 7) should also follow the Basic Description. After the Basic Description, every shipping paper should list the quantity of hazardous material (with measurement), the type of packaging used, an emergency contact telephone number, and a shipper’s certification.

Shipping papers also require a plethora of other information depending upon the type of hazardous material, the class of hazardous material, the amount of hazardous material, required permits, and the hazards that a material poses. All this information must be listed after the Basic Description.

Remember: after preparing and using shipping papers, carriers must also retain those papers.

## ***Emergency Response Information***

Emergency response information is not part of a shipping paper, but anyone who must have a shipping paper also must have ERI. Motor carriers should attach it to every shipping paper and keep a copy of it and the shipping paper in a central location or system to access during an emergency.

ERI focuses upon information that could mitigate an adverse incident concerning the hazardous materials that a motor carrier transports or prepares for transportation, with specific requirements at 49 C.F.R. 172.602.

## **Conclusion**

This article describes the basics of shipping papers; preparing shipping papers is just one of many regulations pertaining to transporting hazardous materials. The specificity that the hazardous materials regulations require for shipping papers indicates the detail and seriousness of those regulations. Before transporting hazardous materials, be prepared to comply with the Department of Transportation and its agencies' regulations.

Contact [the author](#), any member of our [Workplace Safety and Catastrophe Management Practice Group](#), or your Fisher Phillips attorney with questions about these FMCSA programs or other workplace safety matters.

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