Managing NonCompliant HazMat in Your Supply Chain
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If you ship and receive HazMats, chances are that eventually you will receive a shipment that does not meet DOT’s standards for HazMat packages, whether they are undeclared, mis-declared or damaged. HazMat shipping mistakes are especially common in the reverse logistics supply chain, since customers may not have the training needed to identify their HazMat shipping responsibilities before returning a product by mail. If you do receive a noncompliant HazMat package, it is important that you are prepared to deal with the situation correctly to prevent an incident or a subsequent compliance violation at your facility.

Your reaction to receiving noncompliant HazMat will depend on a number of factors. Before taking steps to remedy the situation, you should know:
• what is wrong with the package;
• when you first discover something is amiss;
• what you plan to do with it.

What Could be Wrong With the Package?
• Undeclared HazMat: Sometimes, HazMat enters the supply chain without being declared as such. If the HazMat isn’t declared, the sender may not be aware of the dangers this package poses. Therefore, the shipment was likely packaged incorrectly and may have been mishandled. If these oversights lead to an incident in the transportation cycle, emergency personnel will not have the information needed to properly respond to the situation.

  If you discover an undeclared shipment of HazMat, you must notify DOT on a HazMat Incident Report (Form 5800.1). You should also discuss the matter with your supplier and the transporter. It may have been a simple mistake, but steps should be taken to prevent it from happening again.

• Mis-declared HazMat: Sometimes, HazMat is offered for transportation without being packaged correctly or with inaccurate hazard communications (marks, labels, paperwork, etc.) that don’t match the hazards of the material. In the event of an incident, first responders will again lack the information needed. Shipping mis-declared or improperly labeled HazMat is just as much a violation of the DOT’s Hazardous Materials Regulations (HMR) as an undeclared shipment (49 CFR 171.2).

  If you receive an improperly labeled or mis-identified HazMat package, you should speak with your supplier or the customer who sent the package and make the transporter aware of the situation.

• Damaged/Leaking package: HazMat packages are sometimes damaged during transport. If a transporter attempts to deliver a damaged or leaking package of HazMat, or even one that’s been cleared up in a salvage packaging, you have several options:
1) Refuse to accept the shipment.
2) Accept the shipment, just like accepting a regular package, and do what you normally do with your HazMat.
3) Accept the shipment, then repack it and ship it out with your hazardous wastes.

**Discovery After the Fact**

So far, we’ve discussed what to do if you discover a problem right away, as the goods are being delivered. What about if you only find out about it later? In that case, your options are more limited.

You can’t just refuse to accept the shipment, because it is already in your possession. You can either find a use for it or get rid of it. If you get rid of it, either as a waste, return-to-sender or resale, it is important to remember that you are now offering a new shipment of HazMat. It is now your responsibility to ensure that any mistakes made classifying, packaging or labeling the shipment are corrected before you reship the package.

Keep in mind that if you decide to dispose of the HazMat, you must treat it as a waste and must follow all of the applicable RCRA Subtitle C laws and regulations for hazardous waste management.

**Reshipping Problem HazMat**

Reshipping a package of HazMat that was received as damaged, mis-declared or undeclared can be problematic. First, if the package was undeclared or misidentified, you may not know what material or hazard you are dealing with. This makes packaging and labeling for reshipment very difficult.

If it’s an unknown material, and you’re not managing it as waste, then you’ll have to take steps to figure out what the material is. The easiest thing to do is contact the original consignor for a safety data sheet or any other information he or she can provide. You can also send out a small sample and have it analyzed. If you do decide to manage it as a waste, there is a little flexibility. See 49 CFR 172.101(c)(11) and 173.11.

If you do know what it is, but it is not in the right kind of sturdy packaging, then it is your responsibility to determine authorized packaging, correct markings and labels, and prepare new shipping papers and emergency response information before resending the package.

Identify your HazMat shipping responsibilities under the latest DOT regulations and be prepared for any shipping situation. At Lion’s HazMat Transportation Certification workshops, presented nationwide, you will gain the knowledge and skills needed to classify, package, mark, label and document HazMat shipments.