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AUTHORITY: 49 U.S.C. 5101–5127; 49 CFR 1.53.

Subpart A—General Information and Regulations

§ 177.800 Purpose and scope of this part and responsibility for compliance and training.

(a) *Purpose and scope.* This part prescribes requirements, in addition to those contained in parts 171, 172, 173, 178 and 180 of this subchapter, that are applicable to the acceptance and transportation of hazardous materials by private, common, or contract carriers by motor vehicle.

(b) *Responsibility for compliance.* Unless this subchapter specifically provides that another person shall perform a particular duty, each carrier, including a connecting carrier, shall perform the duties specified and comply with all applicable requirements in this part and shall ensure its hazmat employees receive training in relation thereto.

(c) *Responsibility for training.* A carrier may not transport a hazardous material by motor vehicle unless each of its hazmat employees involved in that transportation is trained as required by this part and subpart H of part 172 of this subchapter.

(d) *No unnecessary delay in movement of shipments.* All shipments of hazardous materials must be transported without unnecessary delay, from and including the time of commencement of the loading of the hazardous material until its final unloading at destination.

[Amdt. 177–79, 57 FR 20954, May 15, 1992, as amended by Amdt.177–86, 61 FR 18933, Apr. 29, 1996]

§ 177.801 Unacceptable hazardous materials shipments.

No person may accept for transportation or transport by motor vehicle a forbidden material or hazardous material that is not prepared in accordance with the requirements of this subchapter.

[Amdt. 177–87, 61 FR 27175, May 30. 1996]

§ 177.802 Inspection.

Records, equipment, packagings and containers under the control of a motor carrier, insofar as they affect safety in transportation of hazardous materials by motor vehicle, must be made available for examination and inspection by a duly authorized representative of the Department.

[Amdt. 177–71, 54 FR 25015, June 12, 1989]

§ 177.804 Compliance with Federal Motor Carrier Safety Regulations.

(a) *General.* Motor carriers and other persons subject to this part must comply with 49 CFR part 383 and 49 CFR parts 390 through 397 (excluding §§ 397.3 and 397.9) to the extent those regulations apply.

(b) *Prohibition against texting.* In accordance with § 392.80 of the FMCSRs a person transporting a quantity of hazardous materials requiring placarding under 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73 may not engage in, allow, or require texting while driving.

(c) *Prohibition against the use of handheld mobile telephones.* In accordance with § 392.82 of this chapter, a person transporting a quantity of hazardous materials requiring placarding under Part 172 of this chapter or any quantity

of a material listed as a select agent or toxin in 42 CFR part 73 may not engage in, allow, or require use of a hand-held mobile telephone while driving.

[68 FR 23842, May 5, 2003, as amended at 76 FR 10778, Feb. 28, 2011; 76 FR 75485, Dec. 1, 2011]

§ 177.810 Vehicular tunnels.

Except as regards Class 7 (radioactive) materials, nothing contained in parts 170–189 of this subchapter shall be so construed as to nullify or supersede regulations established and published under authority of State statute or municipal ordinance regarding the kind, character, or quantity of any hazardous material permitted by such regulations to be transported through any urban vehicular tunnel used for mass transportation.

[Amdt. 177–52, 46 FR 5316, Jan. 19, 1981, as amended by Amdt. 177–78, 55 FR 52710, Dec. 21, 1990; 62 FR 51561, Oct. 1, 1997]

§ 177.816 Driver training.

(a) In addition to the training requirements of § 177.800, no carrier may transport, or cause to be transported, a hazardous material unless each hazmat employee who will operate a motor vehicle has been trained in the applicable requirements of 49 CFR parts 390 through 397 and the procedures necessary for the safe operation of that motor vehicle. Driver training shall include the following subjects:

(1) Pre-trip safety inspection;

(2) Use of vehicle controls and equipment, including operation of emergency equipment;

(3) Operation of vehicle, including turning, backing, braking, parking, handling, and vehicle characteristics including those that affect vehicle stability, such as effects of braking and curves, effects of speed on vehicle control, dangers associated with maneuvering through curves, dangers associated with weather or road conditions that a driver may experience (e.g., blizzards, mountainous terrain, high winds), and high center of gravity;

(4) Procedures for maneuvering tunnels, bridges, and railroad crossings;

(5) Requirements pertaining to attendance of vehicles, parking, smoking, routing, and incident reporting; and

(6) Loading and unloading of materials, including—

(i) Compatibility and segregation of cargo in a mixed load;

(ii) Package handling methods; and

(iii) Load securement.

(b) *Specialized requirements for cargo tanks and portable tanks.* In addition to the training requirement of paragraph (a) of this section, each person who operates a cargo tank or a vehicle with a portable tank with a capacity of 1,000 gallons or more must receive training applicable to the requirements of this subchapter and have the appropriate State-issued commercial driver's license required by 49 CFR part 383. Specialized training shall include the following:

(1) Operation of emergency control features of the cargo tank or portable tank;

(2) Special vehicle handling characteristics, including: high center of gravity, fluid-load subject to surge, effects of fluid-load surge on braking, characteristic differences in stability among baffled, unbaffled, and multi-compartmented tanks; and effects of partial loads on vehicle stability;

(3) Loading and unloading procedures;

(4) The properties and hazards of the material transported; and

(5) Retest and inspection requirements for cargo tanks.

(c) The training required by paragraphs (a) and (b) of this section may be satisfied by compliance with the current requirements for a Commercial Driver's License (CDL) with a tank vehicle or hazardous materials endorsement.

(d) Training required by paragraph (b) of this section must conform to the requirements of § 172.704 of this subchapter with respect to frequency and recordkeeping.

[Amdt. 177–79, 57 FR 20954, May 15, 1992, as amended by Amdt. 177–79, 58 FR 5852, Jan. 22, 1993]

§ 177.817 Shipping papers.

(a) *General requirements.* A person may not accept a hazardous material for transportation or transport a hazardous material by highway unless that person has received a shipping paper prepared in accordance with part

172 of this subchapter or the material is excepted from shipping paper requirements under this subchapter. A subsequent carrier may not transport a hazardous material unless it is accompanied by a shipping paper prepared in accordance with part 172 of this subchapter, except for §172.204, which is not required.

(b) *Shipper certification.* An initial carrier may not accept a hazardous material offered for transportation unless the shipping paper describing the material includes a shipper's certification which meets the requirements in §172.204 of this subchapter. Except for a hazardous waste, the certification is not required for shipments to be transported entirely by private carriage and for bulk shipments to be transported in a cargo tank supplied by the carrier.

(c) *Requirements when interlining with carriers by rail.* A motor carrier shall mark on the shipping paper required by this section, if it offers or delivers a freight container or transport vehicle to a rail carrier for further transportation:

(1) A description of the freight container or transport vehicle; and

(2) The kind of placard affixed to the freight container or transport vehicle.

(d) This subpart does not apply to a material that is excepted from shipping paper requirements as specified in §172.200 of this subchapter.

(e) *Shipping paper accessibility—accident or inspection.* A driver of a motor vehicle containing hazardous material, and each carrier using such a vehicle, shall ensure that the shipping paper required by this section is readily available to, and recognizable by, authorities in the event of accident or inspection. Specifically, the driver and the carrier shall:

(1) Clearly distinguish the shipping paper, if it is carried with other shipping papers or other papers of any kind, by either distinctively tabbing it or by having it appear first; and

(2) Store the shipping paper as follows:

(i) When the driver is at the vehicle's controls, the shipping paper shall be: (A) Within his immediate reach while he is restrained by the lap belt; and (B) either readily visible to a person entering the driver's compartment or in a holder which is mounted to the inside of the door on the driver's side of the vehicle.

(ii) When the driver is not at the vehicle's controls, the shipping paper shall be: (A) In a holder which is mounted to the inside of the door on the driver's side of the vehicle; or (B) on the driver's seat in the vehicle.

(f) *Retention of shipping papers.* Each person receiving a shipping paper required by this section must retain a copy or an electronic image thereof, that is accessible at or through its principal place of business and must make the shipping paper available, upon request, to an authorized official of a Federal, State, or local government agency at reasonable times and locations. For a hazardous waste, the shipping paper copy must be retained for three years after the material is accepted by the initial carrier. For all other hazardous materials, the shipping paper copy must be retained for one year after the material is accepted by the carrier. Each shipping paper copy must include the date of acceptance by the carrier. A motor carrier (as defined in §390.5 of subchapter B of chapter III of subtitle B) using a shipping paper without change for multiple shipments of one or more hazardous materials having the same shipping name and identification number may retain a single copy of the shipping paper, instead of a copy for each shipment made, if the carrier also retains a record of each shipment made that includes shipping name, identification number, quantity transported, and date of shipment.

[Amdt. 177–35, 41 FR 16130, Apr. 15, 1976, as amended by Amdt. 177–35A, 41 FR 40691, Sept. 20, 1976; Amdt. 177–48, 45 FR 47670, Nov. 10, 1980; Amdt. 177–65, 50 FR 11055, Mar. 19, 1985; Amdt. 177–72, 53 FR 17160, May 13, 1988; 67 FR 46128, July 12, 2002; 67 FR 66574, Nov. 1, 2002; 68 FR 19277, Apr. 18, 2003; 68 FR 57633, Oct. 6, 2003; 70 FR 73165, Dec. 9, 2005]

§177.823 Movement of motor vehicles in emergency situations.

(a) A carrier may not move a transport vehicle containing a hazardous material unless the vehicle is marked and placarded in accordance with part 172 or as authorized in §171.12a of this subchapter, or unless, in an emergency:

(1) The vehicle is escorted by a representative of a state or local government;

(2) The carrier has permission from the Department; or

(3) Movement of the transport vehicle is necessary to protect life or property.

(b) *Disposition of contents of cargo tank when unsafe to continue.* In the event of a leak in a cargo tank of such a character as to make further transportation unsafe, the leaking vehicle should be removed from the traveled portion of the highway and every available means employed for the safe disposal of the leaking material by preventing, so far as practicable, its spread over a wide area, such as by digging trenches to drain to a hole or depression in the ground, diverting the liquid away from streams or sewers if possible, or catching the liquid in containers if practicable. Smoking, and any other source of ignition, in the vicinity of a leaking cargo tank is not permitted.

(c) *Movement of leaking cargo tanks.* A leaking cargo tank may be transported only the minimum distance necessary to reach a place where the contents of the tank or compartment may be disposed of safely. Every available means must be utilized to prevent the leakage or spillage of the liquid upon the highway.

[Amdt. 177–35, 41 FR 16130, Apr. 15, 1976, as amended by Amdt. 177–67, 50 FR 41521, Oct. 11, 1985; Amdt. 177–86, 61 FR 18933, Apr. 29, 1996]

Subpart B—Loading and Unloading

NOTE: For prohibited loading and storage of hazardous materials, see §177.848.

§ 177.834 General requirements.

(a) *Packages secured in a motor vehicle.* Any package containing any hazardous material, not permanently attached to a motor vehicle, must be secured against shifting, including relative motion between packages, within the vehicle on which it is being transported, under conditions normally incident to transportation. Packages having valves or other fittings must be loaded in a manner to minimize the likelihood of damage during transportation.

(b) Each package containing a hazardous material bearing package orientation markings prescribed in §172.312 of this subchapter must be loaded on a transport vehicle or within a freight container in accordance with such markings and must remain in the correct position indicated by the markings during transportation.

(c) *No smoking while loading or unloading.* Smoking on or about any motor vehicle while loading or unloading any Class 1 (explosive), Class 3 (flammable liquid), Class 4 (flammable solid), Class 5 (oxidizing), or Division 2.1 (flammable gas) materials is forbidden.

(d) *Keep fire away, loading and unloading.* Extreme care shall be taken in the loading or unloading of any Class 1 (explosive), Class 3 (flammable liquid), Class 4 (flammable solid), Class 5 (oxidizing), or Division 2.1 (flammable gas) materials into or from any motor vehicle to keep fire away and to prevent persons in the vicinity from smoking, lighting matches, or carrying any flame or lighted cigar, pipe, or cigarette.

(e) *Handbrake set while loading and unloading.* No hazardous material shall be loaded into or on, or unloaded from, any motor vehicle unless the handbrake be securely set and all other reasonable precautions be taken to prevent motion of the motor vehicle during such loading or unloading process.

(f) *Use of tools, loading and unloading.* No tools which are likely to damage the effectiveness of the closure of any package or other container, or likely adversely to affect such package or container, shall be used for the loading or unloading of any Class 1 (explosive) material or other dangerous article.

(g) [Reserved]

(h) *Precautions concerning containers in transit; fueling road units.* Reasonable care should be taken to prevent undue rise in temperature of containers and their contents during transit. There must be no tampering with such container or the contents thereof nor any discharge of the contents of any container between point of origin and point of billed destination. Discharge of contents of any container, other than a cargo tank or IM portable tank, must not be made prior to removal