



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

JUL 20 2017

Ms. Dolly Welk
US Dangerous Goods Specialist
US Dangerous Goods Department
DHL Global Forwarding
1905 Raymond Ave. SW
Renton, WA 98057

Reference No. 16-0070

Dear Ms. Welk:

This responds to your March 25, 2016, email requesting clarification on the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) and the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions) applicable to various scenarios involving accepting and inspecting hazardous materials shipments for transport by aircraft. Specifically, you ask whether an aircraft operator (operator) may contract with a freight forwarder to complete the acceptance checks required by the ICAO Technical Instructions and what level of training would be required for acceptance personnel.

The functions of inspecting shipments and completing the acceptance check may be carried out by a third party acting on behalf of the air operator. The HMR in § 175.30 require an operator inspect each package, outside container, or overpack immediately before placing it onboard an aircraft, or in a unit load device, or on a pallet prior to loading aboard the aircraft. The ICAO Technical Instructions in Part 7; Chapter 1, section 1.3 require the operator verify by use of a checklist that each hazardous materials shipment complies with the applicable requirements including documentation, quantity limits, package markings, hazard warning labels and package integrity. As noted in U.S. State Variations 1 and 13 to the ICAO Technical Instructions, Part 175 of the HMR applies to all operators transporting hazardous materials in commerce to, from, or within the U.S. Therefore, even operators and freight forwarders accepting hazardous materials in accordance with the ICAO Technical Instructions (or corresponding International Air Transport Association Dangerous Goods Regulations) must *also* adhere to acceptance requirements in the HMR.

Please also note that individuals inspecting packages, outside containers, or overpacks are considered hazmat employees and are subject to the training requirements in part 172, subpart H. The training must include general awareness, function-specific, safety, and security awareness training as specified in § 172.704(a) of the HMR. An individual operator may also require function specific training in accordance with their Federal Aviation Administration (FAA) approved training program.

Your four scenarios are paraphrased and answered below along with the following assumptions:

- 1) All "freight" is assumed to consist of hazardous material;
- 2) The operator is responsible for ensuring compliance with the HMR and the ICAO Technical Instructions and the freight forwarder is prohibited from accepting freight that is not in compliance with the HMR and the ICAO Technical Instructions;
- 3) Any acceptance activity performed is by the freight forwarder and is on behalf of the operator with appropriate written agreements between the entities to memorialize this relationship; and in accordance with those portions of the operator's FAA-accepted operations manual and training program; and
- 4) The § 175.30(b) inspection is performed at the same time as the § 175.30(a) acceptance check, unless otherwise specified.

Scenario 1: Freight is consigned to a freight forwarder at the airport where both the operator and freight forwarder are located. The freight forwarder receives the freight at their facility, performs the acceptance check in accordance with § 175.30(a) and then transports it directly to the operator at that same airport.

Under the inspection requirement in § 175.30(b), the freight must be immediately either placed aboard an aircraft, or placed in a unit load device (ULD) or on a pallet prior to loading aboard the aircraft following inspection of the package, outside container, or overpack. In this scenario, provided the freight forwarder conducts the § 175.30(b) inspection and immediately places the freight in a ULD or on a pallet at the airport (and the loaded ULD or pallet configuration remains unchanged), this scenario would comply with § 175.30 (acceptance and inspection). Otherwise, an additional § 175.30(b) inspection of the elements in § 175.30(c) would be required immediately prior to loading (either into the aircraft, ULD, or on the pallet).

Scenario 2: Freight is consigned to a freight forwarder. The freight forwarder takes the freight to their dock, ensures the package(s) have the appropriate marks and labels and the package, outside container, or overpack has no holes, leakage or other indication that its integrity has been compromised. The freight forwarder then delivers the shipment to the operator and the operator completes the acceptance check at their facility.

The distinction between this scenario and the first scenario is that in this scenario the 175.30(a) acceptance check is performed later in the process, i.e., at the airport after the 175.30(b) inspection was performed.

As with the response to scenario 1, the suitability of the acceptance check completed by the freight forwarder would depend on whether the freight was placed in a ULD or on pallet prior to delivery to the operator. If the hazardous material was not in the ULD or on the pallet that will be loaded onto the aircraft, then the operator would be required to conduct the § 175.30(b) inspection.

Scenario 3: The freight is sent (by means other than air transportation) directly to the aircraft operator and terminated. The freight forwarder has one of their trained employees complete the acceptance check at the operator facility.

The freight forwarder's trained employee may perform the acceptance check of each package, outside container, or overpack immediately before placing it onboard an aircraft, or in a unit load device or on a pallet prior to loading aboard the aircraft. The operator is responsible for ensuring that the acceptance check is performed in compliance with the HMR.

Scenario 4: An interline agreement exists between multiple air operators. The freight forwarder employee completes the acceptance check per ICAO Acceptance Procedures in Part 7; Chapter 1, Section 1.3, Note 4 for subsequent operators to transport the freight to the final destination.

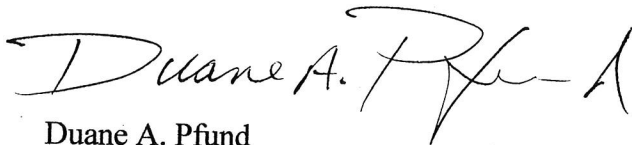
The acceptance check required in Part 7; Chapter 1, Section 1.3 is only required to be completed when the shipment is first accepted for carriage by the operator. In accordance with § 175.30(b), the operator must ensure that inspections conducted prior to loading on any subsequent aircraft used as part of the same journey are performed and in compliance with the HMR. A third party acting on behalf of the operator may complete the inspections. Also, note that the ICAO Technical Instructions and the HMR both require operators to confirm on each notification to pilot-in-command that no damaged or leaking packages were placed aboard the aircraft (see § 175.33(c)).

Finally, you ask (for any of the scenarios) whether "CAT 3 training" is sufficient for persons who only perform the acceptance check.

Under the ICAO Technical Instructions and the HMR, persons performing the acceptance check would require training in acceptance, which in Table 1-4 of the ICAO Technical Instructions, is considered category 6. Category 6 is the only category to require training in acceptance procedures. Moreover, freight forwarder (or other third party) employees acting on behalf of Part 121 or Part 135 operators must have function specific training in accordance with the operator's FAA approved training program.

I hope this answers your inquiry. If you need additional assistance, please contact the Standards and Rulemaking Division at (202) 366-8553.

Sincerely,

A handwritten signature in black ink, appearing to read "Duane A. Pfund". The signature is fluid and cursive, with a large, stylized "P" and "F".

Duane A. Pfund
International Standards Coordinator
Standards and Rulemaking Division

Goodall, Shante CTR (PHMSA)

From: Betts, Charles (PHMSA)
Sent: Tuesday, April 19, 2016 12:41 PM
To: Hazmat Interps
Cc: Foster, Glenn (PHMSA)
Subject: FW: Acceptance Checklist for DG

Heary
175-30
Inspecting Shipment
16-0070

Please log assign this request for interpretation to someone in PHH-13.

Thanks,
Charles

From: Angel.Collaku@faa.gov [mailto:Angel.Collaku@faa.gov]
Sent: Tuesday, April 19, 2016 12:26 PM
To: Foster, Glenn (PHMSA)
Cc: Kenneth.Miller@faa.gov; Betts, Charles (PHMSA)
Subject: FW: Acceptance Checklist for DG

Glenn,

The attached email was submitted to us by DHL Global Forwarding. We believe that it needs to be forwarded to PHMSA for response, as it seeks interpretation of the HMR. Please let us know the "Interpretation No." so that we can forward that to the requester. Also, please let me know who at PHMSA they can contact with any questions. As with other interpretations involving the air mode, please forward a draft response for our review. We also stand ready to discuss the issue prior to anyone beginning drafting of a response. Please let us know.

Thanks.

Angel

From: Dolly Welk (DHL US) [mailto:Dolly.Welk@dhl.com]
Sent: Tuesday, April 19, 2016 11:51 AM
To: Miller, Kenneth (FAA)
Subject: RE: Acceptance Checklist for DG

Ken, Just wanted you to know that I have not received a response to my email below yet. Can you check and advise? Thanks.

Best Regards,

Dolly Welk
US Dangerous Goods Compliance Specialist
US Dangerous Goods Department

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From: Kenneth.Miller@faa.gov [<mailto:Kenneth.Miller@faa.gov>]
Sent: Friday, March 25, 2016 12:41 PM
To: Dolly Welk (DHL US)
Subject: RE: Acceptance Checklist for DG

Dolly,

Thank you for the email. As mentioned over the phone, I'll circulate your questions within my office. Please feel free to follow-up with me if you don't hear anything in the next week

Best regards,

Ken Miller

Federal Aviation Administration
Office of Hazardous Materials Safety
Hazardous Materials Safety Specialist
Office: (202) 267-9460

From: Dolly Welk (DHL US) [<mailto:Dolly.Welk@dhl.com>]
Sent: Friday, March 25, 2016 1:46 PM
To: Miller, Kenneth (FAA)
Subject: Acceptance Checklist for DG

Ken, Thanks for calling me yesterday. Below is what I was inquiring about.

We are looking into the possibility of a forwarder contracting with a cargo airline to do the final Acceptance Checklist just for certain forwarder's customers.

Is it possible for a forwarder to have a contract with an airline in regards to doing the Acceptance Checklist before a specific customer's DG freight is loaded onto the plane? The forwarder employees have the IATA Cat 3 training which covers everything except the Cat 6 training for storage, loading and pilot notification which would be done by the airline and not the forwarder.

The Cat 3 does not require the "Acceptance Procedures" but the forwarder employees are already trained in acceptance procedures and use the same Acceptance Checklist that the airlines use before tendering freight to any airline.

This would be for a **Cargo only airline** and the situation would be:

1 Freight from US cities would be consigned to the forwarder at the airport where both the airline and forwarder are located. The forwarder would receive the freight at their own facility and perform the final Acceptance Checklist there and then transport it directly

to the airline in that same city;

#2 – If # 1 is not feasible, then freight would still be consigned to the forwarder, they would take to their dock, make sure package/s are checked for DG marks, labels and damage and then deliver to the airline and do the final Acceptance checklist at the airline facility;

3 - The freight would be sent directly to the airline and terminated and the forwarder would have one of their DG trained employees do the Acceptance Checklist at the airline facility or

4 - If an interline agreement exists with airlines concerned, the forwarder employee would do the checklist per ICAO Acceptance Procedures Chapter 1, Section 1.3, Note 4 for marks, labels and damage.

So in summary, can an airline contract with a forwarder to do the final Acceptance checklist and will the Cat 3 training be sufficient to do only the Acceptance Checklist? And if so, which scenario would be approved.

Thank you.

Best Regards,

Dolly Welk
US Dangerous Goods Compliance Specialist
US Dangerous Goods Department

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