

March 3, 1998

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Mr. Alan I. Roberts
Associate Administrator for Hazardous Materials Safety
Research and Special Programs Administration
U. S. Department of Transportation - DHM-1
400 Seventh Street, SW
Washington, D.C. 20590

Dear Mr. Roberts:

In an attempt to increase the safety of handling hazardous material United Parcel Service of America, Inc. has petitioned for amendments to the regulations governing the markings required for packages classified as ORM-D (49 CFR 172.316). These amendments are sought to improve visibility of such markings, in an effort to improve safety in the handling of such packages, particularly when they are mistakenly tendered for air transportation. The safety of our people and of the general public is of utmost importance to us.

Enclosed you will find a copy of the complete petition detailing the amendment and an example of the label.

If we may assist in any appropriate manner, please feel free to contact anyone of us.

Sincerely,



Mr. Aubrey Holmes
Public Affairs Manager
United Parcel Service
316 Pennsylvania Avenue, SE
Washington, D.C. 20003
Phone: 202- 675-4243

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98 MAR -3 AM 11:10

Before The
Research and Special Programs Administration
U.S. Department of Transportation
Washington, D.C.

Research and Special Programs Administration
For Hazardous Materials:

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Petitions For Amendments To The Regulations Governing The
Markings Required For Packages Classed As ORM-D
(49 CFR 172.316).

Docket No.

Comments of
United Parcel Service of America, Inc. (UPS)

Communications with respect to Comments should be addressed to:

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March 3, 1998

RSPA - 200-1998-121009-1

Before The
Research and Special Programs Administration
U.S. Department of Transportation
Washington, D.C.

Research and Special Programs Administration
For Hazardous Materials:

Petitions For Amendments To The Regulations Governing The
Markings Required For Packages Classed As ORM-D
(49 CFR 172.316).

Docket No.

United Parcel Service of America, Inc. (UPS) hereby petitions for amendments to the regulations governing the markings required for packages classed as ORM-D (49 CFR 172.316). These amendments are sought to improve visibility of such markings, in an effort to improve safety in the handling of such packages, particularly when they are mistakenly tendered for air transportation.

Background

The differences between ground and air regulations for shipments classed as ORM-D are significant and pose a constant challenge to companies that do business in both modes. Packages weighing no more than 30 kg and bearing an appropriate proper shipping name, together with the marking "ORM-D" within a rectangle, are suitable for ground shipment within the U.S. For such packages no shipping papers are required.

By contrast, however, if a package classed as ORM-D is to be shipped by air, it must still weigh no more than 30 kg but have the distinctive marking consisting of the letters “ORM-D-AIR” within a rectangle. This distinctive marking signifies compliance with the additional inner packaging requirements of §173.27, and the shipment must be accompanied by a shipping paper and shipper’s certification.

UPS offers both surface and air transportation services. We engage in constant internal and external education and screening efforts to prevent the inadvertent air shipment of ORM-D packages that are correctly marked for ground service, but ineligible for air shipment. This challenge is enormous, and as in any human enterprise, there are failures, including some documented by FAA enforcement actions.

There are two reasons for these failures. One is the relatively inconspicuous nature of the standard “ORM-D” marking, which makes it hard to detect with total success. There is no prescribed color or size for an ORM-D marking. Since such markings are commonly printed on a carton at the same time as other commercial markings, the ORM-D marking is very often printed in the same color ink and is hard to distinguish from other lettering on a package. In fact, in one instance, the UPS air operation located such markings adjacent to and in the same color ink as the box maker’s certificate on the *bottom* of boxes weighing over 40 pounds.

Another reason that packages displaying the ground ORM-D marking may so often be improperly offered for air shipment is that the marking is relatively uncommunicative.

Members of the general public, or untrained shippers, would have little reason to suspect

that the marking signifies the presence of a hazardous material. It lacks the familiar diamond shape or explanatory icons and legends of hazard labels.

Desired Changes

The purpose of this petition is to draw attention to the need for more prominent markings, and to make the markings more informative to users who may not be fully trained. We seek to standardize these markings through amendments that would require them to be at least four inches wide and to utilize a vivid background, such as alternating blue and yellow stripes. Such a change is needed to improve the visibility of the ORM-D markings, which will increase the ability of package handlers to locate the markings and prevent the inadvertent air shipment of packages suitable only for ground transportation. In addition, we wish to add a statement to ground ORM-D markings that indicates the packages are not suitable for air shipment.

The currently inconspicuous markings are not in the public interest, especially when failure to detect such a marking may result in a violation for both shipper and carrier. Indeed -- by virtue of possible non-compliance with provisions of §173.27 -- the inconspicuous nature of ground ORM-D markings could create an unsafe condition aboard an aircraft.

The addition of the statement we propose here for ground ORM-D markings will have the welcome benefit of educating untrained shippers of such packages, including consumers who may re-send the packages, by alerting them to the inability to send such packages by air.

The necessary adjustment to the regulations to make such markings more visible could be accomplished with relatively small text changes in §172.316. To assist RSPA in preparation of a rulemaking responding to this petition, we enclose a suggested text change that would accomplish the goal we seek, with a pair of illustrations for the proposed text changes, which we believe will enhance the visibility of the ORM-D and ORM-D-AIR markings.

We emphasize that there is no intent in this petition to change the conditions applicable to the ground or air shipment of ORM-D materials, other than to improve the visibility and clarify the meaning of the marking. Therefore, possible objections of shippers who rely on the distinct relief applicable to ORM-D materials should be minimal. We seek only to make their packages more readily identifiable as hazardous materials and to enable more successful screening of such packages from the hundreds of thousands or even millions of other packages tendered for air shipment every night.

Conclusion

The change we seek in this petition is straightforward. We wish to make the marking required for ORM-D materials easier to see, so that incorrectly prepared ORM-D shipments are easier to detect and eliminate from air commerce. In addition, we wish to make clear, by way of the marking, that ORM-D packages prepared and marked for ground shipment are not suitable to be sent by air.

In doing so, we seek to improve the success rate for our own airline employees in rejecting incorrectly offered shipments; however, there is a public benefit to this proposal,

since other air carriers and even shippers will benefit from these changes. Perhaps at least as important as the visibility of the marking is the self-contained educational step that would be accomplished by the additional legend we seek on ground packages. After all, an ORM-D marking is essentially an encoded hazard warning, and only those parties with knowledge of the regulations understand the meaning of the code. Members of the public and untrained commercial shippers may well have no clue as to the meaning of the ORM-D marking, and from that ignorance carriers and the public suffer through inadvertent violations. We seek to reduce those inadvertent violations with this petition.

Proposed Amendments - Marking Requirements for ORM-D Materials

§ 172.316 Packaging-containing materials classed as ORM-D.

(a) Each nonbulk packaging containing a material classed as ORM-D must be marked on at least one side or end with the ORM-D designation immediately following or below the proper shipping name of the material. The ORM designation must be placed within a blue rectangle that is approximately 6.3 mm (0.25 inches) larger on each side than the designation surrounded by a field of diagonal blue and yellow stripes. The designation for ORM-D must be at least 100 mm (4 inches) wide by 50 mm (2 inches) high, with alternating blue and yellow background stripes. The following text in must be included, as indicated:

(1) The black letters “ORM-D-AIR” on a yellow background for an ORM-D that is prepared for air shipment and packaged in accordance with the provisions of § 173.27 of this subchapter. The proper shipping name may appear in white letters placed within the top horizontal blue line of the rectangle, as follows:

[Insert ORM-D-AIR Illustration]

(2) The black letters “ORM-D” on a yellow background for an ORM-D other than as described in paragraph (a)(1) of this section. The proper shipping name may appear in white letters placed within the top horizontal blue line of the rectangle. The words “Not for Air Shipment” must appear in the lower horizontal line of the rectangle in white letters, as follows:

[Insert Marking Illustration]

(b) When the ORM-D marking including the proper shipping name can not be affixed on the package surface, it may be on an attached tag.

(c) The marking ORM-D is the certification by the person offering the packaging for transportation that the material is properly described, classed, packaged, marked and labeled (when appropriate) and in proper condition for transportation according to the applicable regulations of this subchapter. This form of certification does not preclude the requirement for a certificate on a shipping paper when required by subpart C of this part.

