

Alert 14-02: Regulatory Advisory – Notice of Probable Violation Concerning the Use of Overpacks

This is an advisory concerning a recent enforcement action taken against a steel drum user (filler) that was cited for violating Title 49 of the Code of Federal Regulations (CFR), §173.25, relating to authorized packagings and overpacks. Specifically, field operations staff of the Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a notice of probable violation (NOPV) to the filler for arranging four loaded, open-head steel drums on a shipping pallet with their locking ring closures and two-inch cover fittings nested toward the center of the pallet array. In this orientation, the specification labels (durable marks) on the packages were not visible. Consequently, the NOPV cited the firm for using an overpack not marked as such.

49 CFR §171.8 – Definitions and abbreviations states that an overpack “means an enclosure that is used by a single consignor to provide protection or convenience in handling of a package or to consolidate two or more packages. Overpack does not include a transport vehicle, freight container, or aircraft unit load device. Examples of overpacks are one or more packages:

- (1) Placed or stacked onto a load board *such as a pallet* and secured by strapping, shrink wrapping, stretch wrapping or other suitable means;” *[emphasis added]*

Under this circumstance, PHMSA’s field operations representative issued the NOPV because the consignor had not marked the pallet array in question with the word “OVERPACK” in accordance with the provisions of 49 CFR §173.25. This section, in part, requires that an overpack be marked with the word “OVERPACK,” contain the proper shipping name and identification number, when applicable, and labeled, as required by Hazardous Materials Regulations, for each hazardous material contained therein, unless markings and labels representative of each hazardous material (and specification markings – the durable marks – on the packages).

We are unaware of any previous enforcement action relating to a consignor’s loading of packages in this configuration. Individual ISDI member manufacturers are encouraged to alert their customers to the provisions of the HMR at issue here and the potential for sanctions.

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The information above is intended to provide interpretative and authoritative information as a service to our members and has been offered in good faith based on the information provided to us. We do not guarantee the accuracy or completeness of any such interpretation or information.

