

Hazardous Materials Bulletin

HM CDL ISSUES

December 2007

USA Patriot Act

On Oct. 26, 2001, the United States enacted the USA PATRIOT Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act).

Beginning Jan. 31, 2005 the Act prohibits any state from issuing original hazardous materials endorsements unless the driver has passed a federal [Security Threat Assessment](#), which is a background record check. As part of the background record check, applicants are also required to submit their fingerprints through a designated [fingerprinting location](#).

Beginning May 31, 2005 the Act prohibits any state from renewing a driver's hazardous materials endorsement or transferring a hazardous materials endorsement from another state, unless that driver has passed the background check. The federal Transportation Security Administration (TSA) administers this program. The TSA strongly encourages you to begin applying for the background record check 45-60 days before your current driver's license expires.

If you allow your license to expire, **you will lose your hazardous materials endorsement** until TSA completes its assessment. You will also have to return to a Secretary of State office and pay a correction fee in addition to the endorsement renewal fee to add the hazardous materials endorsement back to your license.

Hazardous Materials Endorsement ("H")

The Hazardous Materials Endorsement is required on any commercial vehicle, regardless of gross vehicle weight rating (GVWR) that is required to be placarded under 49 CFR, Parts 100-180. There are two placarding tables in 49 CFR, 172.504. Table 1 materials, below, requires placards regardless of the amount transported:

Explosives 1.1, 1.2, & 1.3	Radioactive 7 (Yellow III label)
Poison Gas 2.3	Poison 6.1, PG I, Inhalation Hazard, Zone A and B
Dangerous When Wet 4.3	Organic Peroxide, 5.2, Type B, liquid or solid, temperature controlled

Table 2, which includes all other hazard classes and materials not in Table 1, generally does not require placarding until a vehicle or freight container transports material that has an aggregate gross weight of 1,001 lbs. or more. Placards are generally always required, however, when transporting any Table 2 material in a package meeting the definition of a bulk package (See Section 171.8), and for those materials requiring a subsidiary placard (See Section 172.505). In these two cases, the 1,000 lbs. rule does not apply.

The regulations (placarding is covered in Part 172, Subpart F) should always be consulted regarding specific materials. The point to be noted here is that if the vehicle is not required to be placarded, then no "H" endorsement is necessary. It is possible the driver may need a Group "A" or "B" license or no CDL at all, depending on the GVWR of the vehicle.

It should also be noted that only drivers of vehicles which are required to placard need the "H" endorsement so the fact that placards are present is not necessarily an indication that the endorsement is required. Class 9 placards are a common example of this situation. Even though Class 9 placards may be displayed, they are not required in domestic transportation or for that portion of international transportation that takes place in the U.S., therefore no "H" endorsement is required.

Note: Do not confuse markings, such as "HOT" and the Marine Pollutant Symbol, for placards. Markings are found in Part 172, Subpart D. A vehicle displaying markings does not require the "H" endorsement.

Tank Endorsement ("N")

According to Act 300 of the Public Acts of 1949, Section 257.312e(2), an "N" endorsement is required of anyone operating a "tank vehicle." Section 257.67a(2) defines a tank vehicle as:

"... any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle. Tank vehicle does not include a vehicle attached to a portable tank having a rated capacity less than 1,000 gallons."

By this definition, the 1,000 gallon qualification only applies to portable tanks, not tanks permanently mounted. Therefore, a "cargo tank" of any size requires an "N" endorsement (NOTE: Do not confuse the definition of "tank vehicle" with the definition of a "cargo tank" in 49 CFR). Further, a tank endorsement is required for tank vehicles regardless of the product transported. A hazardous material is not needed to trigger the requirement of an "N" endorsement.

EXAMPLE 1

A permanently mounted, 119 gallon (or less) tank on a vehicle with a GVWR or CGVWR under 26,001 lbs.:
a. If the tank does not contain a hazardous material, the driver is not subject to the CDL requirements.
b. If the tank contains a combustible liquid such as fuel oil, the vehicle is not subject to placarding (§172.500 (b)(5)). The driver is not subject to the CDL requirements.
c. If the tank contains a flammable liquid such as gasoline, the vehicle is not subject to placarding (§172.504 (c)), if this is the only hazardous material being transported. The driver is not subject to the CDL requirements.

EXAMPLE 2

A permanently mounted, 119 gallon (or less) tank on a vehicle with a GVWR or CGVWR over 26,001 lbs.:
a. The driver is subject to CDL and would require an "A" or "B" vehicle group designator, as appropriate, as well as a tank endorsement ("N"), even if the product is not a hazardous material.
b. If transporting a Table 1 hazardous material, the vehicle is subject to placarding, and an "H" endorsement would also be required.
c. If transporting a Table 2 material, the vehicle is not subject to placarding, and an "H" endorsement would not be required.

EXAMPLE 3

A permanently mounted, 120 gallon (or more) tank on a vehicle with a GVWR or CGVWR under 26,001 lbs.
a. If the tank does not contain a hazardous material, the driver is not subject to the CDL requirements.
b. If the tank contains a hazardous material, the vehicle must be placarded (§172.504 (a)). The driver must have at least a "C" vehicle group designator with the "H" and "N" endorsements (or just the "X" endorsement).

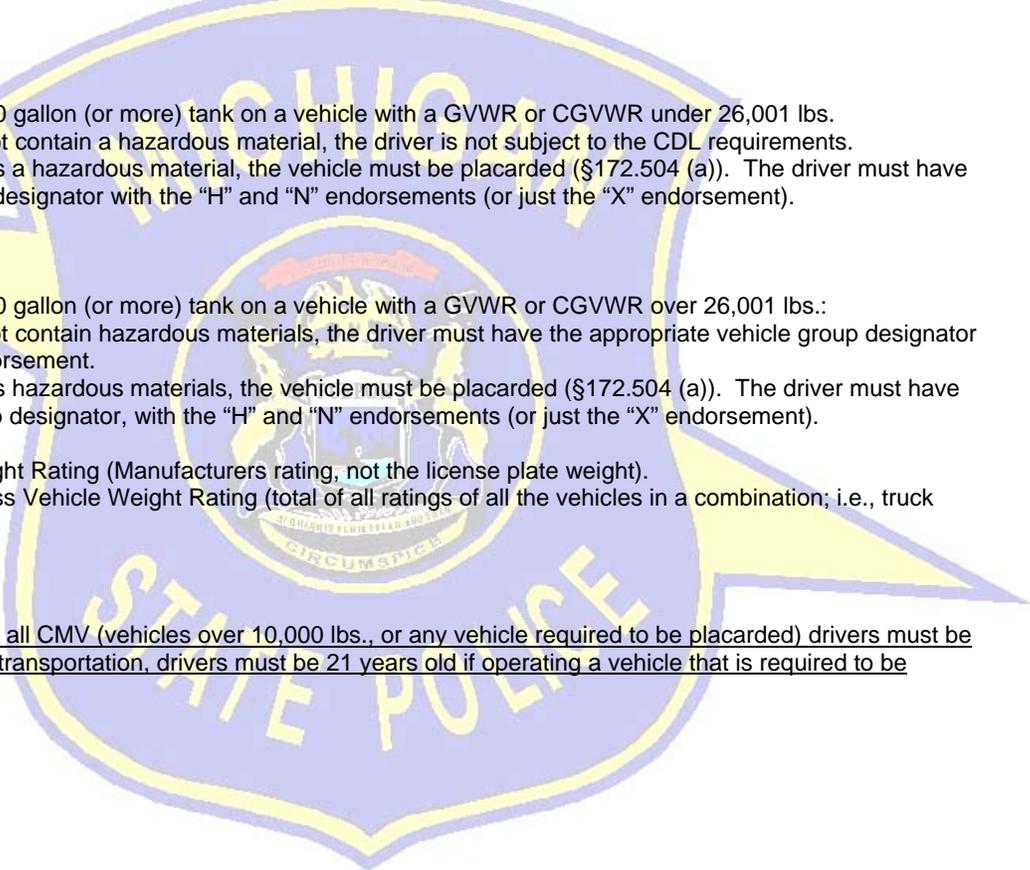
EXAMPLE 4

A permanently mounted, 120 gallon (or more) tank on a vehicle with a GVWR or CGVWR over 26,001 lbs.:
a. If the tank does not contain hazardous materials, the driver must have the appropriate vehicle group designator ("A" or "B"), with an "N" endorsement.
b. If the tank contains hazardous materials, the vehicle must be placarded (§172.504 (a)). The driver must have an appropriate vehicle group designator, with the "H" and "N" endorsements (or just the "X" endorsement).

GVWR: Gross Vehicle Weight Rating (Manufacturers rating, not the license plate weight).
CGVWR: Combination Gross Vehicle Weight Rating (total of all ratings of all the vehicles in a combination; i.e., truck tractor and semi trailer).

Age Requirements

For interstate transportation, all CMV (vehicles over 10,000 lbs., or any vehicle required to be placarded) drivers must be 21 years old. For intrastate transportation, drivers must be 21 years old if operating a vehicle that is required to be marked or placarded.



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Michigan State Police – Traffic Safety Division, www.michigan.gov/motorcarrier

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