

The Potential Costs of Undeclared HazMat: Uninformed Companies May Be Subject to \$100,000+ Penalties

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Companies not familiar with the Department of Transportation's Hazardous Materials Regulations requiring shippers to properly declare and package hazardous materials prior to offering them for shipment by air—including some electronic products—could find themselves subject to stiff civil penalties. More importantly, improperly packaged hazardous materials can cause significant harm to property and people.

One incident highlights the perils a company could face if its employees do not know how to comply with the Hazardous Materials Regulations. The Federal Aviation Administration (FAA) has recently proposed a \$175,000 civil penalty against the Massachusetts Institute of Technology (MIT) for various violations of the Hazardous Materials Regulations. An MIT employee allegedly offered a cardboard box containing 33 electronic devices that contained lithium batteries to FedEx for shipment without declaring that the shipment contained hazardous materials. Subsequently, two of the devices heated and melted, igniting the packaging.

Companies often run afoul of the Hazardous Material Regulations when employees unfamiliar with these regulations offer undeclared packages of hazardous materials for shipment by air. Generally, such employees are unaware of the requirements accompanying the shipment of hazardous materials because the employee, or the company itself, is an infrequent shipper or handler of hazardous materials. As FAA can assess civil penalties up to \$50,000 per violation, a company should ensure that its employees are familiar with what materials actually are considered hazardous and the

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proper procedures that should be followed for shipping those materials.

If a company does receive a Letter of Investigation from FAA regarding a possible undeclared shipment of hazardous materials, it should consult with appropriate legal counsel to determine the proper response.