



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

MAR - 6 1998

400 Seventh Street, S.W.
Washington, D.C. 20590

Mr. Paul M. Bomgardner
Hazardous Materials Specialist
American Trucking Association
2200 Mill Road
Alexandria, VA 22314-4677

Dear Mr. Bomgardner:

This is in response to your letter concerning how to determine eligibility for the placarding exception provided in § 172.504(c). I apologize for the delay in responding and hope it has not caused any inconvenience.

Paragraph (c) of § 172.504 provides a placarding exception for a transport vehicle or freight container containing less than 454 kilograms (1,001 pounds) aggregate gross weight of hazardous materials covered by Table 2 of § 172.504(e). The exception does not apply to Table 2 materials contained in bulk packagings or to Table 2 materials which are required, under the provisions of § 172.505(a), to be placarded with POISON INHALATION HAZARD or POISON GAS placards.

Neither the weight of Table 2 materials contained in bulk packagings nor the weight of Table 2 materials which are required, under the provisions of § 172.505(a), to be placarded with POISON INHALATION HAZARD or POISON GAS placards are included in determining the aggregate gross weight of hazardous materials covered by Table 2, for purposes of eligibility for the exception. For example, 400 kg of a Class 3 material (which is neither inhalation toxic nor packaged in a bulk package) is eligible for the placarding exception even if transported on the same vehicle with 500 kg of a Class 8 material which is inhalation toxic and subject to § 172.505. In this example, the vehicle would be placarded with CORROSIVE placards (under § 172.504(e)) and POISON INHALATION HAZARD placards (under § 172.505(a)).

I trust this satisfies your inquiry. If we can be of further assistance, please contact us.

Sincerely,

Edward T. Mazzullo
Director, Office of Hazardous
Materials Standards



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Sincerely,


Edward T. Mazzullo
Director, Office of Hazardous
Materials Standards

AMERICAN TRUCKING ASSOCIATIONS



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Handwritten:
Table
Title 172.504
SC: 270, 272

November 6, 1996

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

Re: Clarification of intent of Title 49 Part 172 Subpart F Section 172.504(c).

Dear Mr. Roberts, *AL*

There appears to be some confusion as to the intent of paragraph (c) of section 172.504, especially as it affects the placarding of non-bulk Table 2 materials that are not covered by section 172.505. This is evidenced by the conflicting memoranda sent to associate TSI staff dated July 1, 1994 and August 28, 1996 (copies attached). The bottom-line question is: "Are the weights of materials subject to section 172.505 and other Table 2 materials combined in order to determine the need for placarding non-bulk Table 2 materials that are not covered by section 172.505?"

Section 172.505, paragraph (c) states: "Exception for less than 454 kg (1001 lbs.). Except for bulk packagings and hazardous materials subject to § 172.505, when hazardous materials covered by Table 2 of this section are transported by highway or rail, placards are not required on- (1) A transport vehicle or freight container which contains less than 454 kg (1001 lbs.) aggregate gross weight of hazardous materials covered by Table 2 of paragraph (e) of this section; or (2) A rail car..." [emphasis added]. It is quite clear that neither bulk packagings nor materials subject to section 172.505 can take advantage of the 454 kg (1001 lbs.) exception. It also appears clear that, once these materials are removed from the equation, the 454 kg (1001 lbs.) exception applies only to non-bulk Table 2 materials not subject to section 172.505. Therefore, the logical conclusion that one must make is that the weights of bulk packagings and materials subject to section 172.505 are not combined with other non-bulk Table 2 materials in order to determine eligibility for the exception.

Evidently, Research and Special Programs Administration believed this to be the case in both 1992 and 1994. On Thursday, October 1, 1992 in the Federal Register, Vol. 57, No. 191 at page 45448 - 45449, RSPA stated: "Section 172.504. Paragraph (c) is revised to allow the 454 kg (1001 pounds) placarding exception for any material covered in Table 2 other than those materials which are poisonous by inhalation. This will eliminate the requirement to placard for other Table 2 hazardous materials which are on a transport vehicle, but have an aggregate gross weight of less than 454 kg (1001 pounds). For example..." Then, on July 1, 1994, a memorandum which reinforced the 1992 statement was sent to all TSI HM Staff and Associate Staff. Since July of 1994, all instruction on section 172.504 has been based on the October 1992 and July 1994 instructions and guidance.

However, on August 28, 1996, RSPA issued a second memorandum on this subject which completely disregards the Federal Register guidance and the memorandum of July 1, 1994. Apparently, this newest interpretation of paragraph (c) is based on an answer to a placarding question which appeared on page 7 of the HAZMAT Safety News, Volume 96 No. 1 (Summer 1996). The question/answer referred to is the last question on page 7 and is contained in the article "Ask DOT... Answers to Your HMR Questions" by Edward T. Mazzullo, Director, Office of Hazardous Materials Standards, RSPA.

I find it difficult to comprehend how RSPA can interpret paragraph (c) as it did in the HAZMAT Safety News article and in its August 28, 1996 letter. Clearly, the newest interpretation is incorrect. Because paragraph (c) begins with the words, "Except for bulk packagings and hazardous materials subject to § 172.505," the only conclusion that one can draw is that you eliminate these materials from your calculations for placarding of non-bulk Table 2 materials. And, once you have done that, you start at zero with the remaining non-bulk Table 2 materials that are left in the shipment in order to determine if any additional placarding is required.

Literally, thousands of people have been trained in the original (correct) interpretation of § 172.504 paragraph (c). To change now only serves to confound compliance and just plain provide information that is incorrect. The August 28, 1996 memorandum needs to be rescinded in order to allow instructors to teach students correct placarding procedures.

I have attached copies of all memoranda, Federal Register, and HAZMAT Safety News information referred to in this letter. As this has an impact on a very critical part of hazardous materials communications requirements, we would appreciate an expedited response to this situation. Thank you for your concern.

Sincerely,



Paul M. Bomgardner
Hazardous Materials Specialist
Associate Staff - TSI

Attachments: Federal Register pp. 45448 - 45449 - October 1, 1992
Memorandum - July 1, 1994
Memorandum - August 28, 1996
HAZMAT Safety News - September 1996

cc: Paul Reamy, TSI
Carrie Taranta, TSI Associate Staff
Michael Hagen, TSI Associate Staff