



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

March 28, 2023

Thomas Gaudet
President
Service Transport Group, Inc.
58 Pyles Lane
New Castle, DE 19720

Reference No. 22-0115

Dear Mr. Gaudet:

This letter is in response to your October 26, 2022, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the requirements for the transportation of regulated asbestos containing material (RACM).

We have paraphrased and answered your question as follows:

- Q1. You ask whether a common carrier (as opposed to a for-hire contract carrier) is authorized to transport RACM classified as “NA2212, Asbestos, 9, PG III, RQ”.
- A1. The answer is yes. However, please note that bags and other non-rigid packagings for asbestos are only authorized when transported in motor vehicles that are loaded by—and for the exclusive use of—the consignor and unloaded by the consignee. See § 173.216(c)(2).

For your awareness, in accordance with § 172.102(c)(1) Special Provision 156, asbestos that is immersed or fixed in a natural or artificial binder material—such as cement, plastic, asphalt, resins, or mineral ore, or contained in manufactured products—is not subject to the requirements of the HMR.

You ask eight (8) additional questions related to the brokerage and carriage of RACM. These questions are beyond the scope of the HMR, and this Office cannot provide any information related to these questions.

The Federal Motor Carrier Safety Administration (FMCSA) is the lead federal government agency responsible for regulating and providing safety oversight of commercial motor vehicles. You may wish to contact the FMCSA should you require clarification on requirements for contractual relationships between freight carriers and brokers, and requirements applicable to specific kinds of highway motor carriers.

Further, the Environmental Protection Agency (EPA) prescribes requirements for RACM subject to the Clean Air Act, the National Emissions Standards for Hazardous Air Pollutants, and the Toxic Substances Control Act. You may wish to contact your local EPA regional office for clarification on the “chain of custody” requirements applicable to the brokerage of RACM.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dirk Der Kinderen". The signature is fluid and cursive, with a prominent initial "D".

Dirk Der Kinderen
Chief, Standards Development Branch
Standards and Rulemaking Division

SERVICE TRANSPORT GROUP, INC.

58 PYLES LANE
NEW CASTLE, DE 19720



PHONE: (302) 778-5930
FAX: (302) 778-0446

October 25, 2022

Mr. William S. Schoonover
Associate Administrator for Hazardous Materials Safety
US Department of Transportation
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Ave., SE
Washington, DC 20590

Re: Clarification of FMCSA Regulations

Dear Mr. Schoonover,

Service Transport Group, Inc. is a for-hire contract carrier engaged in the business of transporting regulated asbestos containing material ("RACM"). We ask that you please clarify the following interpretations and questions pertaining to the transportation of RACM bearing the US DOT description: NA2212, Asbestos, 9, PG III, RQ, and subject to HMR; 49CFR 171-180. We believe the law is clear that a generator/shipper of RACM retains ownership of, and responsibility for, shipped RACM until it reaches its final disposal site. This raises some compliance issues under federal motor carrier laws.

Given our belief that the authorities cited above make clear that a RACM generator/shipper retains ownership and responsibility for the RACM until proper disposal, we ask you to consider the following questions:

1. Is a common carrier (as opposed to a for-hire contract carrier) authorized to transport RACM bearing the shipping description NA2212, Asbestos, 9, PG III, RQ, and subject to HMR; 49CFR 171-180?
2. Can a generator/shipper of RACM contract with a Broker to arrange for the transportation of RACM with a for-hire contract motor carrier in the business of carrying general freight and household goods after receiver/consignee (landfill) unloads the RACM?
3. Can a broker arrange for the transportation of RACM with a common carrier in the business of carrying household goods?
4. Can a broker arrange the transportation with a 2nd Broker, and that broker arrange for the transportation of RACM, through a common carrier in the business of carrying household

goods? Would this be considered improper double brokering if the generator/shipper was aware of the use of the 2nd broker?

5. Can a for-hire contract carrier act as shipper and sub-contract a common carrier to transport the for-hire carrier contracted load?
6. Can a for-hire contract carrier accept a shipment of RACM from the shipper/generator and then use the for-hire carrier's brokerage authority to broker the load to a common carrier and/or another broker? Does the fact that the shipper/generator does or does not know of the use of a 2nd broker change your answer?
7. If a generator/shipper's designated receiver/consignee refuses the shipper's RACM, is the shipper required to make every effort to find another receiver/consignee of the RACM and reimburse carrier fair and reasonable costs for additional transportation, equipment demurrage and, to the extent necessary, unloading of their property as per 49 USC 14103(a)?
8. If a shipper refuses to pay or reimburse for-hired contract carrier and carrier is forced to unload generator/shipper's RACM outside the terms of any contract, is Shipper subject to 49 USC 14103(b)?
9. If Shippers, Brokers, Contract, and Common Carriers continue to demonstrate a pattern of non-compliance of FMCSA Regulations, at which point are their actions subject to civil and criminal penalties under 49 USC Ch. 149?

The FMCSA's guidance is greatly appreciated and please let me know if you have any questions regarding the above.

Sincerely,



Thomas Gaudet

President

Service Transport Group, Inc.

58 Pyles Lane

New Castle, DE 19720

302-601-6116 office / 267-962-9742 cell

tajkn@msn.com email

Attachments:

US DOT April 22, 1997 correspondence from Delmer F. Billings, Chief, Regulations Development, Office of Hazardous Materials Standards

US DOT November 3, 2005 correspondence from Ginny Ridenour, Office of Hazardous Materials Standards

US DOT January 6, 2006 correspondence from John A. Gale, Chief, Standards Development, Office of Hazardous Materials Standards, Ref. No. 05-0286

PA State Police October 28, 2005 correspondence from James Weakland, Hazardous Materials/Truck Access, and Sgt. Mark P. Fulton, Staff Services Section Supervisor, Hazmat Brain Teaser



RETURN FAX NUMBER (202) 366-3012

NUMBER OF PAGES (INCLUDING COVER) 3

DATE 11/3/2005 TIME 11:42 AM

ADDRESSEE Tom Gaudet

FAX NUMBER 3027780446

INITIATOR Ginny Ridenour

PHONE 215-668-2195

PHONE 1-800-467-4922

MESSAGE It appears you have asked this
question before?

YOU ARE RECEIVING A TELEFAX FROM
THE HAZARDOUS MATERIALS INFORMATION CENTER
OFFICE OF HAZARDOUS MATERIALS STANDARDS

FOR INFORMATION ON HAZARDOUS MATERIALS TRANSPORTATION
PLEASE VISIT OUR WEBSITE AT

<http://hazmat.dot.gov>



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

APR 22 1997

Mr. Thomas Gaudet
Summit Transport Group, Inc.
P. O. Box 1023
Morrisville, PA 19067

Dear Mr. Gaudet:

This is in response to your letter regarding the requirements, including placarding, for transporting asbestos in friable and non-friable form under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). I apologize for the delay in responding and hope it has not caused any inconvenience.

Asbestos is subject to the HMR as a Class 9 material regardless of quantity or commercial value. Friable asbestos is listed as a hazardous substance in "Table 1 of Appendix A" of the Hazardous Materials Table in § 172.101, with a reportable quantity of one pound per package. The packaging requirements for asbestos are found in § 173.216. Paragraph (b) of this section excepts asbestos immersed or fixed in a natural or artificial binder (such as cement, plastic, resins or mineral ore) and manufactured products containing asbestos from the HMR.

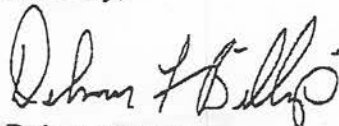
A Class 9 placard is not required on a vehicle in domestic transportation. A bulk packaging, such as a roll-off container or dump trailer, containing a Class 9 material, such as asbestos, must be marked with the identification number displayed either on a Class 9 placard, an orange panel, or a white square-on-point configuration (See § 172.504(f)(9)). Although not required, there is no prohibition against marking or labeling the liner of a bulk packaging, (e.g., roll-off container or dump trailer).

The correct marking on non-bulk packagings containing asbestos is "Asbestos, NA2212," and for non-commercial, friable asbestos that equals or exceeds its reportable quantity, the letters "RQ" must also be displayed (See §§ 172.301 and 172.324). The Class 9 label is required on non-bulk packagings containing asbestos (See § 172.400(a)(1)).

Your understanding of the size, 3-1/2" X 3-1/2", of a placard, such as the Class 9, is incorrect. A placard must be at least 273 mm (10.8 inches) on each side, and a label must be at least 100 mm (3.9 inches) on each side. The label and placard specifications are found in §§ 172.407 and 172.519. The Class 9 label and placard must be as shown in §§ 172.446 and 172.560, respectively.

I hope this information is helpful. If I can be of further assistance, please contact us.

Sincerely,



Delmer F. Billings
Chief, Regulations Development
Office of Hazardous Materials Standards

AP 2072
8161



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

JAN - 6 2006

Mr. Thomas Guadet
Service Transport Group Inc.
58 Pyles Lane
New Castle, DE 19720

Ref. No. 05-0286

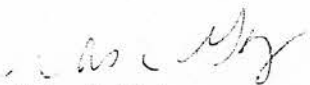
Dear Mr. Guadet:

This is in response to your November 17, 2005 letter requesting clarification of the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to shipments of asbestos contained in manufactured articles.

As provided in § 172.102, Special Provision 156, asbestos contained in manufactured articles, (for example, vinyl floor tiles or roofing papers), or immersed or fixed in a natural or artificial binder material (for example, cement or asphalt) is not subject to the HMR. However, asbestos containing material that has been subject to abrading, sanding or cutting such that the asbestos is no longer contained in the manufactured article is subject to the HMR.

I hope this information is helpful. Please contact us if you require additional assistance.

Sincerely,


John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards

SERVICE TRANSPORT GROUP, INC.

58 PYLES LANE
NEW CASTLE, DE 19720



PHONE: (302) 778-5930
FAX: (302) 778-0446

**NESHAP AND U.S. DOT
ASBESTOS TRANSPORTATION RULES AND REGULATIONS
NOVEMBER 22, 2005**

The U.S. DOT Hazardous Materials Regulations (HMR) set forth in 49 CFR Parts 171 - 180 apply to both Shippers and Transporters as explained in Section 171.1. In the Asbestos Abatement Industry, the asbestos abatement contractor is usually the authorized agent for the waste generator pertaining to Shipper's Responsibility as defined in 49 CFR Section 173.22 and therefore are subject to the U.S. DOT HMR. As a guidance, we offer the following information for your review.

DEFINITIONS

The EPA's position regarding Asbestos NESHAP's labeling and shipping requirements applies to material that meets all of the following requirements:

1. The material must contain more than one percent (1%) of asbestos.
2. The amount of the material must be at least 260 linear feet, 160 square feet, or 35 cubic feet.
3. The material must meet the definition of regulated asbestos containing materials (RACM).

The Asbestos NESHAP defines RACM in 40 CFR 61.141 as friable asbestos material; Category I non-friable asbestos containing material (ACM) that has become friable; Category I non-friable asbestos material that will be or has been subject to abrading, sanding, grinding, cutting; or Category II non-friable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this subpart. If the material fails to meet any one of the above requirements, then the Asbestos NESHAP that includes the labeling and shipment requirements do not apply.



**NESHAP AND U.S. DOT
ASBESTOS TRANSPORTATION RULES AND REGULATIONS
NOVEMBER 22, 2005**

DEFINITIONS (continued)

The U.S. DOT HMR defines Asbestos in 49 CFR 172.101 Table 1 with the symbol ☐☐ and a Reportable Quantity (RQ) of 1 pound. In the footnote to this table, the symbol ☐☐ states the RQ for asbestos is limited to friable forms only.

The U.S. DOT HMR further defines Asbestos in 49 CFR 173.216 as Asbestos, blue, brown or white, includes each of the following hydrated mineral silicates: chrysolite, crocidolite, amosite, anthophyllite asbestos, tremolite asbestos, actinolite asbestos, and every product containing any of these materials.

The above U.S. DOT HMR definitions are the equivalent to NESHAP's Regulation 40 CFR 61.141 definition of RACM.

WASTE SHIPMENT RECORDS/SHIPPING PAPERS

As per NESHAP 40 CFR 61.150 (d)(1), all Asbestos-Containing Waste Material (including RACM) transported off the facility site must maintain waste shipment records using a form similar to that shown in Figure 4 Waste Shipment Record (WSR). Box number 8, Special handling instructions and additional information, is provided to indicate special transportation, treatment, storage or disposal or Bill of Lading information (i.e. proper US DOT Shipping Description). Box number 9, Generator or Operator's Certification, certifies that the contents of this WSR consignment are fully and accurately described above by proper shipping name and are classified, packed marked and labeled, and are in all respects in proper condition for transport by highway according to applicable international and government regulations. The WSR must be filled out completely and accurately.

As per U.S. DOT HMR 49 CFR Parts 171-180, ACM subject to Asbestos NESHAP Regulations is subject to the HMR as a Class 9 material and is listed as a hazardous substance in Table 1 of Appendix A of the Hazardous Materials Table in Section 172.101 with an RQ of 1 pound per package. The proper U.S. DOT shipping description for ACM subject to Asbestos NESHAP Regulations located in the Hazardous Materials Table in Section 172.101 is RQ Asbestos,9, NA 2212, PG III.



**NESHAP AND U.S. DOT
ASBESTOS TRANSPORTATION RULES AND REGULATIONS
NOVEMBER 22, 2005**

WASTE SHIPMENT RECORDS/SHIPPING PAPERS (continued)

As per U.S. DOT HMR 49 CFR 177.817 (a)(b)(e) and (f), a person may not accept a hazardous material for transportation or transport a hazardous material by highway unless that person has received a shipping paper prepared in accordance with 49 CFR 172 Subpart C: Shipping Papers and Subpart G: Emergency Response Information. A Shippers Certification must meet the requirements in 49 CFR 172.204(a) and (d).

PACKAGING/LABELING FOR WASTE CONTAINERS

As per OSHA Regulations 29 CFR 1910.1001(j)(4) (i) and (ii) Labeling Specifications, DANGER, CONTAINS ASBESTOS FIBERS, AVOID CREATING DUST, CANCER AND LUNG DISEASE HAZARD warning labels shall be affixed to all raw materials, mixtures, scrap, waste, debris, and other products containing asbestos fibers, or to their containers. In addition, these labels should be printed in such a manner that they are visible and legible using a contrasting background.

As per NESHAP 40 CFR 61.150 (a)(v), for asbestos containing waste material to be transported off the facility site, label containers or wrapped materials with the name of the waste generator and the location at which the waste was generated.

The U.S. DOT packaging requirements for asbestos are found in 49 CFR 173.216, 172.324, 172.301(a)(1) and 172.400(a)(1), and state that each person who offers a hazardous material for transportation in a non-bulk packaging (i.e. bags, drums) must mark the package with the proper shipping name and identification number specific for the material in the 49 CFR 172.101 table (i.e. RQ Asbestos, 9, NA 2212, PG III).

LABELING/MARKINGS/PLACARDS FOR TRANSPORT VEHICLES

As per 49 CFR 172.301(a)(3), a transport vehicle or freight container containing only a single hazardous material in non-bulk packages must be marked, on each side and each end as specified in Section 172.332 or Section 172.336, with the identification number specified for the Hazardous Material Table in Section 172.101 (i.e. 2212). The label and placard specifications are found in 172.407 and 172.519. The class 9 label and placard must be shown as 172.446 and 172.560 respectively. Section 172.606(a) and (b) or (c) also applies.



**NESHAP AND U.S. DOT
ASBESTOS TRANSPORTATION RULES AND REGULATIONS
NOVEMBER 22, 2005**

BULK PACKAGING/HAZARDOUS MATERIALS REGISTRATION

As per 49 CFR 107.601 (a) (4), a Hazardous Materials Certificate of Registration is required for the transportation of RACM in bulk packaging (i.e. bladder bags, lined roll-off containers) having a capacity equal to or greater than 13,248 L (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet / 17.34 cubic yards) for solids. Sections 172.504(a) and (f)9 and 172.331 require the transport container or freight container to be marked as required by 172.332 on each side and each end with the identification number specified for the material in the 172.101 table. The label and placard specifications are found in 172.407 and 172.519. The class 9 label and placard must be as shown in 172.446 and 172.560, respectively.

ADDITIONAL REQUIREMENTS

Emergency Response Information as per 49 CFR Section 172 Subpart G.

Training as per 49 CFR Section 172 Subpart H.

Security Plans as per 49 CFR Section 172 Subpart I.

In addition to Federal Regulations, many state and local regulations apply. For example, many state and local agencies require solid waste transportation permits with additional vehicle labels and markings.

EXCEPTIONS

The above US DOT HMR do not apply to asbestos that is immersed or fixed in a natural or artificial binder material, such as cement, plastic, asphalt, resins or mineral ore, or contained in manufactured products, as per 49 CFR 172.102 Special Provision Number 156. This definition is the equivalent to NESHAP's 40 CFR 61.141 definition of Category I and Category II Non-friable ACM which does not meet the definition of RACM.

The above is for informational purposes only. If you have any questions regarding this information, please call Tom Gaudet at 1-302-778-5930.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Via Fax
Mr. Tom Gaudet
Service Transport Group
58 Pyles Lane
New Castle, DE 19720

NOV 14 2005

Dear Mr. Gaudet:

This letter is in response to your request to clarify the labeling requirements as set forth in the Asbestos NESHAP. In order to determine if the labeling requirements apply, you must determine if the material meets all of the following conditions:

1. The material must contain more than one percent (1%) of asbestos.
2. The amount of the material must be at least 260 linear feet, 160 square feet, or 35 cubic feet.
3. The material must meet the definition of regulated asbestos containing materials (RACM). The Asbestos NESHAP defines RACM as friable asbestos material; Category I nonfriable asbestos containing material (ACM) that has become friable; Category I nonfriable asbestos material that will be or has been subject to abrading, sanding, grinding, cutting; or Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this subpart.

If the material fails to meet one of the conditions, the Asbestos NESHAP's labeling requirement does not apply. If the material meets all of the above conditions, the Asbestos NESHAP labeling requirement does apply.

According to the Asbestos NESHAP, it requires the owners and operators of manufacturing, fabricating, demolition, renovation, and spraying operations to comply with labeling requirements as set forth in 40 CFR 61.150. The labeling requirement states that the containers or wrapped materials must be labeled in accordance with the Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administrator (OSHA) under 29 CFR 1910.1001(j) or 1926.1101(k)(8). In addition, these labels should be printed in a such manner that they are visible and legible using a contrasting background. Therefore, the label should contain the following information:

DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD

for all manufacturing, fabricating, demolition, renovation, and spraying operations as required by Asbestos NESHAP.

EPA is aware that the Department of Transportation has labeling requirements. Please refer to the Department of Transportation regarding their regulations. As always, EPA encourages the affected sources or regulated communities to comply with all applicable regulations regarding asbestos from other federal agencies. Please note that the information contained in this letter addresses EPA's asbestos requirements. EPA's asbestos requirements do not supersede any other federal agency, local, county, and state requirements. Therefore, EPA suggests that you contact these agencies to ensure compliance with all applicable asbestos regulations. If you have any further questions, please contact me at (215) 814-2164.

Sincerely,



Tia Chambers

Asbestos Programs Coordinator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Via Fax
Mr. Tom Gaudet
Service Transport Group
58 Pyles Lane
New Castle, DE 19720

NOV 23 2005

Dear Mr. Gaudet:

This letter is a follow-up to our conversation dated November 24, 2005 regarding labeling of the bags. During our conversation, you stated that the asbestos contractors are using the bags labeled "Danger, Contains Asbestos Fibers, Avoid Creating Dust, and Cancer and Lung Disease Hazard" for asbestos containing materials not subject to the Asbestos NESHAP. By using these bags, the asbestos contractors are declaring that materials contained in the bags are subject to the Asbestos NESHAP.

The Asbestos NESHAP specifically states that if asbestos material subject to Asbestos NESHAP than the bags should be labeled, manifested, and disposed in an asbestos landfill. If the asbestos material is not subject to the Asbestos NESHAP, then the bags are not required to be labeled, manifested, and disposed in an asbestos landfill. Therefore, an asbestos contractor can use plain bags and dispose of them into a non-asbestos landfill. If the asbestos contractor chooses to use the labeled bags for asbestos material not subject to the Asbestos NESHAP, then the contractor are subjecting the asbestos material to the requirements as required by the Asbestos NESHAP.

Therefore, EPA suggests that the asbestos containing material is not subject to the Asbestos NESHAP, then the labeled bags should not be used. If you have any questions, you can call me at (215) 814-2164.

Sincerely,

A handwritten signature in cursive script that reads "Tia Chambers".

Tia Chambers

Asbestos Programs Coordinator





U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

APR 22 1997

Mr. Thomas Gaudet
Summit Transport Group, Inc.
P. O. Box 1023
Morrisville, PA 19067

Dear Mr. Gaudet:

This is in response to your letter regarding the requirements, including placarding, for transporting asbestos in friable and non-friable form under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). I apologize for the delay in responding and hope it has not caused any inconvenience.

Asbestos is subject to the HMR as a Class 9 material regardless of quantity or commercial value. Friable asbestos is listed as a hazardous substance in "Table 1 of Appendix A" of the Hazardous Materials Table in § 172.101, with a reportable quantity of one pound per package. The packaging requirements for asbestos are found in § 173.216. Paragraph (b) of this section exempts asbestos immersed or fixed in a natural or artificial binder (such as cement, plastic, resins or mineral ore) and manufactured products containing asbestos from the HMR.

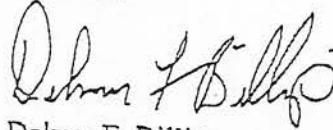
A Class 9 placard is not required on a vehicle in domestic transportation. A bulk packaging, such as a roll-off container or dump trailer, containing a Class 9 material, such as asbestos, must be marked with the identification number displayed either on a Class 9 placard, an orange panel, or a white square-on-point configuration (See § 172.504(f)(9)). Although not required, there is no prohibition against marking or labeling the liner of a bulk packaging, (e.g., roll-off container or dump trailer).

The correct marking on non-bulk packagings containing asbestos is "Asbestos, NA2212," and for non-commercial, friable asbestos that equals or exceeds its reportable quantity, the letters "RQ" must also be displayed (See §§ 172.301 and 172.324). The Class 9 label is required on non-bulk packagings containing asbestos (See § 172.400(a)(1)).

Your understanding of the size, 3-1/2" X 3-1/2", of a placard, such as the Class 9, is incorrect. A placard must be at least 273 mm (10.8 inches) on each side, and a label must be at least 100 mm (3.9 inches) on each side. The label and placard specifications are found in §§ 172.407 and 172.519. The Class 9 label and placard must be as shown in §§ 172.446 and 172.560, respectively.

I hope this information is helpful. If I can be of further assistance, please contact us.

Sincerely,



Delmer F. Billings
Chief, Regulations Development
Office of Hazardous Materials Standards

AP 2072
8161

FW: Hazmat Brain Teaser

Fulton, Mark P <mafulton@state.pa.us>

Fri 10/28/2005 1:03 PM

To: tajkn@msn.com <tajkn@msn.com>

-----Original Message-----

From: Weakland, James

Sent: Friday, October 28, 2005 1:30 PM

To: Fulton, Mark P

Subject: RE: Hazmat Brain Teaser

- 1) Asbestos that is friable is easily crumbled. As such, materials where the asbestos is fixed, (i.e. vinyl floor tiles, resins, plastics) are not considered friable and are not subject to the regulations. Friable asbestos, even in EPA-regulated bags is considered hazardous for transportation and requires shipping papers and ID marking on exterior of vehicle.
- 2) Drivers are not required to have a hazmat endorsement because the vehicle is not required to be placarded.
- 3) If the asbestos is bagged, then they do not meet any of the criteria under 107.601 for registering. If the asbestos was shipped as a bulk load in a container greater than 468 cubic feet with no intermediate packaging, then they would be required to be registered under 107.601(a)(4)

Hopefully this answers you questions.

James Weakland

Hazardous Materials/Truck Access

PA State Police

(717) 346-7331

-----Original Message-----

From: Fulton, Mark P

Sent: Friday, October 28, 2005 11:43 AM

To: Krol, Robert J; Stewart, Kevin; Weakland, James

Subject: Hazmat Brain Teaser

Bob, Kevin & Jim,

I received a call from an individual who is a transporter of asbestos (friable), 2212, PG III, Class 9, RQ (truckload). The material is packaged in EPA-regulated bags and is normally generated at waste clean-up sites. He claims that he always runs with proper shipping papers and he displays the "2212" marking on all of his vehicles. He alleges that there are other companies in the same business who are circumventing the Hazmat rules by interpreting that the rules regarding friable asbestos apply "ONLY" to mineral, raw or mined asbestos, and not to friable waste asbestos in EPA-regulated bags. He added that they are doing this to avoid DOT inspections by not displaying the 2212 marking on their trucks. I did some research and found the below interpretations and I could find no such exemption. Do you know of any?

Question 2: Since the vehicles are displaying the class 9 marking and not a placard, I assume that the drivers are not required to possess a hazmat endorsement on their CDL?

Question 3: Last, but not least, is a Hazardous Material Registration required for this type of transport or would they be exempt from the registration?

Thanks for any help that you can provide.....Mark

-----Original Message-----

From: Fulton, Mark P

Sent: Friday, October 28, 2005 8:11 AM

To: Raykovitz, James P

Subject:

Rank Path/Page Excerpt

10 **IDOT 980220** [hit count: 2]

Asbestos contained in manufactured articles, (e.g. vinyl floor tiles or roofing papers) or immersed or fixed a natural or artificial binder material (e.g. cement or asphalt) is not subject to the HMR (173.216(b) You stated in your letter that all of the asbestos containing materials that you offer for transportation are in manufactured products. Therefore, these products are not subject to the HMR. Asbestos contained in manufactured articles, (e.g. vinyl floor tiles or roofing papers) or imm...

10 **IDOT 08161** [hit count: 2]

A Class 9 placard is not required on a vehicle in domestic transportation. A bulk packaging, such as a roll-off container or dump trailer, containing a Class 9 material, such as asbestos, must be marked with the identification number displayed either on a Class 9 placard, an orange panel, or a white square-on-point configuration (See § 172.504(f)9) Although not required, there is no prohibition against marking or labelin the liner of a bulk packaging, (e.g. roll-off container or dump trailer) A...

10 **IDOT 08161** [hit count: 2]

Asbestos is subject to the HMR as a Class 9 material regardless of quantity or commercial value. Friable asbestos is listed as a hazardous substance in "Table 1 of Appendix A" of the Hazardous Materials Table in 172.101, with a reportable quantity of one pound per package. The packaging requirements for asbestos a found in § 173.216. Paragraph (b) of this section excepts asbestos immersed or fixed in a natural or artific binder (such as cement, plastic, resins or mineral ore) and manufact...

10 **IDOT 07623** [hit count: 2]

Asbestos is subject to the HMR as a Class 9 material regardless of quantity or commercial value. Friable asbestos is listed in Appendix A to § 172.101 as a hazardous substance with a reportable quantity of one pound per package. Section 173.216(b) excepts asbestos immersed or fixed in a natural or artificial binder (such as cement, plastic, resins or mineral ore) and manufactured products containing asbestos from the HMR. When asbestos contamination has been removed from uniforms by vacuuming or...

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