



U.S. Department
of Transportation

DEC 14 2017

1200 New Jersey Avenue, SE
Washington, DC 20590

Pipeline and Hazardous
Materials Safety
Administration

Allen Grantham
3M Cottage Grove
10746 Innovation Road
Building 145-2
Cottage Grove, MN 55016

Reference No. 17-0106

Dear Mr. Grantham:

This letter is in response to your September 26, 2017, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the shipping description of a hazardous material. You provide the following scenario:

- An isotainer is being sent to a facility for cleaning and reconditioning.
- The isotainer contains the residue of a hazardous material that is also a hazardous waste.
- The trucking company responsible for transport is requesting the hazardous waste manifest accompany the shipping paper.
- As a hazardous waste, the manifest includes the shipping description "UN3161, Waste liquefied gas, flammable, n.o.s., (1-CHLOR-1, 1-DIFLUOROETHANE), 2.1, DOT-SP 12074, RQ (D001)."

It is your understanding that the isotainer would meet the requirements in 40 CFR 261.7, which except an empty container from 40 CFR Parts 261-267. As such, this material would no longer be considered a hazardous waste under the HMR because the hazardous waste manifest requirements of 40 CFR Part 262 would no longer apply. Based on the scenario provided, you ask if a hazardous waste manifest is required and whether the appropriate shipping description for the residue is "UN3161, Liquefied gas, flammable, n.o.s., (1-CHLOR-1, 1-DIFLUOROETHANE), 2.1, DOT-SP 12074." Additionally, you seek confirmation of your understanding that the term "tank car" refers only to a rail car as described in § 172.203.

A material, by definition, is only subject to the HMR as a hazardous waste if it is subject to 40 CFR Part 262 hazardous waste manifest requirements. The shipping description must not include terms that indicate it is a hazardous waste or hazardous substance unless applicable. Furthermore, you are correct in your understanding that the term "tank car" refers to a rail car.

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

Sincerely,

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

Baker
§ 173.29
Package & General
17-0106

Dodd, Alice (PHMSA)

From: Patrick, Eamonn CTR (PHMSA)
Sent: Wednesday, September 27, 2017 3:12 PM
To: Hazmat Interps
Subject: FW: Request for interpretation

Hi Alice,

Please submit this as a letter of interpretation. Mr. Grantham spoke with me in the Info Center. Let me know if you have any questions.

Thank you,
Eamonn

From: Allen Grantham [mailto:agrantham@mmm.com]
Sent: Tuesday, September 26, 2017 8:32 AM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: Request for interpretation

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651-768-1680

Request for interpretation of 173.29

Dear Sir:

We have an isotainer that is to be sent for cleaning and reconditioning. The residue remaining in it is from a shipment of hazardous waste. Regulation 40CFR173.29(a) says it must be offered for transportation the same as when it held a greater quantity of the hazardous material. The trucking company believes that it must therefore be shipped as a hazardous waste. They are asking that the manifest used for the last shipment be included with the shipping papers, which will make the shipping description UN3161, Waste Liquefied gas, Flammable, N.O.S., (1-CHLOR-1,1-DIFLUOROETHANE) 2.1, DOT-SP12074 RQ (D001).

According to 40CFR261.7 a RCRA empty container is not subject to 40CFR parts 261-268. That includes part 261, which means the waste code D001 no longer applies, and the waste is not a reportable quantity. It also includes part 262 which means a manifest is not required. If a manifest is not required, the word waste should not be in the shipping description. Therefore, I believe the shipping description should be UN3161, Liquefied gas, Flammable, N.O.S., (1-CHLOR-1,1-DIFLUOROETHANE) 2.1, DOT-SP12074. I don't believe that a copy of the manifest used on the previous shipment is necessary. This would be consistent with 49CFR173.29(b)(3).

Can you please tell me which of the shipping descriptions in the two paragraphs above is correct under the circumstances?

Secondly, 49CFR172.203 states that the shipping paper for a tank car containing the residue of a hazardous material must include the phrase "RESIDUE: LAST CONTAINED". Am I correct that the term "tank car" refers only to a rail road car?

Thank you for your assistance.

Kind Regards,

Allen Grantham
EHS Engineer