



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

OCT 11 2018

Steve Hawks  
Hawks Logistics  
1120 Bank Side Circle  
Edmond, OK 73012

Reference No. 18-0046

Dear Mr. Hawks:

This letter is in response to your March 23, 2018, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to Special Provision (SP) 387 for substances requiring stabilization prior to transportation.

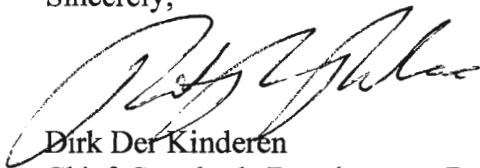
We have paraphrased and answered your questions as follows:

- Q1. You ask whether the carrier may rely on the shipper to ensure that the stabilized material will be such that the material will not become unstable at temperatures of 50 °C (122 °F) or less.
- A1. The answer is yes. In accordance with § 173.22 of the HMR, it is the responsibility of the shipper, or “person who offers,” to properly classify and describe a hazardous material, as well as to determine whether the packaging or container is authorized for the hazardous material that is being offered for transportation.
- Q2. You ask whether a carrier may rely on information provided on a material’s Safety Data Sheet (SDS) that states a hazardous material does not require temperature stabilization while in transportation.
- A2. An SDS may be a useful reference document for information pertaining to a hazardous material; however, PHMSA does not verify or certify transportation information provided in an SDS. Therefore, an SDS may not reflect all requirements of, or exceptions from, the HMR—in your case, SP 387 and § 173.21(f). However, § 173.22 of the HMR places primary responsibility on the shipper, or “person who offers,” to properly classify, communicate the hazard of a hazardous material, and determine that the packaging is authorized for the hazardous material. Pursuant to § 171.2(f) of the HMR, a carrier may rely on information provided by the shipper, unless the carrier knows that the information provided is incorrect.
- Q3. You ask whether the HMR require the shipper to provide the self-accelerated polymerization temperature (SAPT) or self-accelerated decomposition temperature (SADT) for self-reactive materials.

- A3. The answer is no. SAPT and SADT values are defining characteristics used for the classification of certain Division 4.1 hazardous materials. However, the HMR currently do not require that the shipper provide that information to the carrier or on a shipping paper for transportation.
- Q4. You ask why there is a sunset date on the provisions added in SP 387.
- A4. PHMSA included a “sunset” provision of January 2, 2019, for all amendments concerning polymerizing substances. PHMSA intends to review and research the implications of the polymerizing substance amendments and readdress the issue in the next international harmonization rulemaking. The HM-215N Harmonization With International Standards (RRR) Final Rule (82 FR 15796; March 30, 2017) further discusses PHMSA’s decision to include a sunset date. The final rule may be accessed online at: <https://www.gpo.gov/fdsys/pkg/FR-2017-03-30/pdf/2017-04565.pdf>

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

Casey  
173.21(f)  
Special Provisions  
18-0046

## January, Ikeya CTR (PHMSA)

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**From:** INFOCNTR (PHMSA)  
**Sent:** Friday, March 23, 2018 3:59 PM  
**To:** Hazmat Interps  
**Subject:** FW: Special Provision 387

Hi Alice and Ikeya,

Please submit the email below as a letter of interpretation. Mr. Hawks spoke with Breanna. Please let me know if you have any questions.

Thanks,  
Jodi

**From:** steve [mailto:shawks@hawkslogistics.com]  
**Sent:** Friday, March 23, 2018 12:22 PM  
**To:** PHMSA HM InfoCenter <PHMSAHMInfoCenter@dot.gov>  
**Subject:** Special Provision 387

My company is Hawks Logistics, inc. We do logistics consulting. We have noticed a lot of confusion about Special Provision and are requesting a letter of interpretation on this provision.

The provision reads:

387 When materials are stabilized by temperature control, the provisions of §173.21(f) of this subchapter apply. When chemical stabilization is employed, the person offering the material for transport shall ensure that the level of stabilization is sufficient to prevent the material as packaged from dangerous polymerization at 50 °C (122 °F). If chemical stabilization becomes ineffective at lower temperatures within the anticipated duration of transport, temperature control is required and is forbidden by aircraft. In making this determination factors to be taken into consideration include, but are not limited to, the capacity and geometry of the packaging and the effect of any insulation present, the temperature of the material when offered for transport, the duration of the journey, and the ambient temperature conditions typically encountered in the journey (considering also the season of year), the effectiveness and other properties of the stabilizer employed, applicable operator controls imposed by regulation (e.g. requirements to protect from sources of heat, including other cargo carried at a temperature above ambient) and any other relevant factors. The provisions of this special provision will be effective until January 2, 2019, unless we terminate them earlier or extend them beyond that date by notice of a final rule in the FEDERAL REGISTER.

The first sentence is understand; if temperature control is used to stabilize the material, §173.21(f) applies.

The second sentence tells me that the person offering chemically stabilized material shall ensure the stabilization will be such that the material will not become unstable at a temperature <50°C (122° F).

First Question: Is the carrier receiving the material supposed to rely on the shipper to ensure this?

Second Question: If paragraph 10 or 14 in the Safety Data Sheet states that the material is safe for transportation without temperature stabilization, does this make it acceptable?

Third Question: Is there a requirement for the shipper to provide a SAPT or SADT number to the material?

Forth Question: Why is there a sunset to this provision?

Last have you any additional words of wisdom to add that might help the lack of common understanding between the carriers and the shippers?

Thanks you.

Steve

Steve Hawks

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