



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

MAR 04 2019

Andrei Lazourenko
First Vice President
Atlantic Ro-Ro Carriers, Inc.
95 River Street 3rd Floor
Hoboken, NJ 07030

Reference No. 18-0128

Dear Mr. Lazourenko:

This letter is in response to your October 5, 2018, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the transportation of Class 7 radioactive material via vessel. Specifically, you provide images of a “hardtop” container used for vessel shipment and ask whether it may be considered a “closed freight container” for purposes of § 176.704 and a “closed container” for the purposes of chapter 7.1.4.5.3 of the International Maritime Dangerous Goods (IMDG) code.

It is the shipper’s responsibility to determine whether the packaging or container is authorized for the hazardous material that is being offered for transportation (see § 173.22(b)). However, based on the images provided and without firsthand inspection of the container, it is the opinion of this Office that the “hardtop” container shown in the images would meet the intent of a closed freight container for shipment of Class 7 radioactive material. Section 173.403 defines a “closed freight container” as “a freight container which totally encloses its contents by permanent structures.” See Interpretation Letter 14-0143 for additional clarification on this subject. You also ask if the “hardtop” container could be considered a “closed container” for the purposes of chapter 7.1.4.5.3 of the IMDG code. Although the IMDG code does not define the term “closed container” based on the images provided, it is the opinion of this Office that the “hardtop” container shown in the images would also be considered a “closed container” for the shipment of Class 7 radioactive material for purposes of the IMDG code.

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

Sincerely,

Dirk Der Kinderen
Chief, Standards Development
Standards and Rulemaking Division

Carley
§176.704
18-0128

Dodd, Alice (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Thursday, October 11, 2018 12:13 PM
To: Hazmat Interps
Subject: FW: hard top containers

Hello Alice and Ikeya,

Below is a request for a letter of interpretation regarding hard top containers.
I have discussed with Steve Webb about this issue.

Thanks,
Jonathon, HMIC

From: ARRC Andrei Lazourenko [mailto:andrei@arrcm.com]
Sent: Friday, October 05, 2018 9:56 AM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Cc: CISN George Kargopolov <kargopolov@cisnav.com>
Subject: Re: hard top containers

Hi, Jodi!

In addition to below mentioned request I would like to clarify my question. In IMDG code which we need to comply with as well as we are in the international maritime business, the parameters for max CSI and TI indices that could be carried per conveyance and per container are based on definition of **closed freight** container contrary to CFR 49 §176.704 where it is specified that the limitations for CSI and TI indices are applicable for large freight containers without indication that these large freight containers to be of "closed" type.

Definition of closed freight container is as foll:

49 CFR 176.2

Closed freight container means a freight container which totally encloses its contents by permanent structures. A freight container formed partly by a tarpaulin, plastic sheet, or similar material is not a closed freight container.

So, I would like to rephrase my question to get clarification on whether hardtop containers are considered as closed freight containers from perspectives of CFR 49.

Thanks in advance,
Regards,

Andrei Lazourenko
1st VP

ATLANTIC RO-RO CARRIERS, INC.

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On Oct 4, 2018, at 4:13 PM, ARRC Andrei Lazourenko <andrei@arrcm.com> wrote:

Hi, Jodi!

Hope you are doing fine. We finally received written clarification from DOT about our question for usage of enlarge labels on containers with cl.7. thanks a lot for your assistance.

Meanwhile, I have another question that I need to get an answer.

According to CFR 49 §176.704 there are limitations on max allowed CSI and TI indices per conveyance and freight containers that could be shipped. Our particular interest is shipment of CSI indices in large freight containers per vessel where it says that there is no limit per vessel as long as each group of 50 indices (non-exclusive use) or 100 indices (under exclusive use) are separated from each other 6 m or more.

Please advise if **hardtop** containers that we intend to use are considered as "large freight containers" as far as compliance to sub para §176.704. So, if we use hardtop containers for shipment of cl.7 with CSI value, may we benefit from carriage of unlimited quantity of CSI indices subject to maintaining proper segregation on board?

As per § 173.403 Definitions.....

Freight container means a reusable container having a volume of 1.81 cubic meters (64 cubic feet) or more, designed and constructed to permit it being lifted with its contents intact and intended primarily for containment of packages in unit form during transportation. A "small freight container" is one which has an internal volume of not more than 3.0 cubic meters (106 cubic feet). All other freight containers are designated as "large freight containers."

It seems like hardtop containers should fall under above mentioned definition but we need to get official clarification to make sure we would be in compliance of CFR 49 regulations for carriage of cl.7 cargo as far as limitations on CSI indices per vessel using hardtop containers that are classified as large freight containers.

Thanks in advance,

Regards,

Andrei Lazourenko

1st VP

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From: ARRC Andrei Lazourenko

Sent: Thursday, February 01, 2018 3:13 PM

To: 'INFOCNTR (PHMSA)' <INFOCNTR.INFOCNTR@dot.gov>

Subject: RE: class 7 placards on large freight containers

Jodi, hi!

I just would like to follow up on our last correspondence. 3 months past but we have not received the reply yet.

Thanks,
Regards,

Andrei Lazourenko

1st VP

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From: INFOCNTR (PHMSA) [<mailto:INFOCNTR.INFOCNTR@dot.gov>]

Sent: Monday, October 30, 2017 3:36 PM

To: ARRC Andrei Lazourenko <andrei@arrcm.com>

Subject: RE: class 7 placards on large freight containers

Dear Andrei,

We have received your request for a written letter of interpretation regarding the hazardous materials regulations (49 CFR Parts 171-180). The hazardous materials regulations are available at the following URL:

<http://phmsa.dot.gov/regulations>

Please allow a minimum of 8 weeks before contacting the Office of Hazardous Materials Standards (OHMS) for a status on written letters of interpretations. Delivery time of a written interpretation can vary markedly based on topic complexity and the depth of review necessary by OHMS Divisions and modal administrations (e.g., FAA) to ensure an appropriate response.

Sincerely,

Jodi, Hazardous Materials Specialist

An e-mail response from this office is considered informal guidance. Formal guidance may be requested in accordance with 49 CFR 105.20. <http://phmsa.dot.gov/hazmat/regs/interps>

From: ARRC Andrei Lazourenko [<mailto:andrei@arrcm.com>]

Sent: Thursday, October 26, 2017 2:08 PM

To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>

Subject: RE: class 7 placards on large freight containers

Dear Madam/Sir,

Add to below mentioned correspondence and to our phone conversation where you pointed out that as per sub para 171.25 (b) (1) of CFR49 the placards should be in accordance with subpart F of **part 172** of CFR, please note that this placarding is mentioning in relation to the motor vehicle or rail car but not to the container itself, so, since CFR authorizes transportation of hazmat materials in accordance with international regulations , it seems like the large labels instead of placards could be used on the containers as regulated by international regulations like IMDG and IAEA (SSR-6 [543] states "Instead of using both labels and placards, it is permitted, as an alternative, to use enlarged labels only, where appropriate").

So, just visually here is the label that could be used as placards (just enlarged version to meet size parameters of the placards).

<image001.gif>

Please confirm that above mentioned placards (the enlarged labels) as shown above could be used on containers while inland transportation within USA. If not, please advise where it is stipulated in CFR so we would inform the clients accordingly.

Thanks in advance,
Regards,

Andrei Lazourenko
1st VP

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From: ARRC Andrei Lazourenko

Sent: Monday, October 16, 2017 12:48 PM

To: 'infocntr@dot.gov' <infocntr@dot.gov>

Subject: RE: class 7 placards on large freight containers

Dear Madam/Sir,

In addition to below mentioned request and the follow up phone call from your supporting group, please note that 49CFR 171.22 provides authorization and conditions for use of the international standards and regulations.

49CFR 171.22(a) specifically authorizes IAEA and IMDG Regulations.

IAEA SSR-6 Regulations 543 states: Instead of using both labels and placards, it is permitted, as an alternative, to use enlarged labels only”

IMDG code specifies:

Special provisions for class 7

5.3.1.1.5.1

Large freight containers carrying packages other than excepted packages, and tanks, shall bear four placards which conform with the model No. 7D given in the figure. The placards shall be affixed in a vertical orientation to each side wall and each end wall of the large freight container or tank. Any placards which do not relate to the contents shall be removed. Instead of using both labels and placards, it is permitted as an alternative to use enlarged labels only, as shown in label model Nos. 7A, 7B and 7C, except having the minimum size shown in the figure under 5.3.1.2.2.

Label models 7A, 7B and 7C are shown in attached PDF file.

Under the circumstances it seems that usage of enlarge labels for cl.7 cargo instead of placards is permitted from CFR stand point.

Please verify.

Thanks in advance,

Regards,

Andrei Lazourenko

1st VP

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<image002.jpg>

From: ARRC Andrei Lazourenko
Sent: Thursday, September 28, 2017 5:02 PM
To: 'infocntr@dot.gov' <infocntr@dot.gov>
Subject: class 7 placards on large freight containers

US DOT Pipeline and Hazardous Materials Safety Administration

Dear Madam/Sir,

Hereby, I would like to get some clarification on placarding provisions for cl.7 cargo transportation.

As per International IMDG CODE there is sub para 5.3.1.1.5.1 which indicates:

Special provisions for class 7

5.3.1.1.5.1

Large freight containers carrying packages other than excepted packages, and tanks, shall bear four placards which conform with the model No. 7D given in the figure. The placards shall be affixed in a vertical orientation to each side wall and each end wall of the large freight container or tank. Any placards which do not relate to the contents shall be removed. Instead of using both labels and placards, it is permitted as an alternative to use enlarged labels only, as shown in label model Nos. 7A, 7B and 7C, except having the minimum size shown in the figure under **5.3.1.2.2**.

Label models 7A, 7B and 7C are shown in attached PDF file.

The problem is that we carry cl.7 containers to USA from abroad by our vessels and these containers are placarded in accordance with international regulations, namely IMDG code, and the placards that are applied on the containers are basically enlarged labels with indication of Category Group, activity, transport index etc... (see attached picture as example)

The local trucking company who arranges inland transportation on US territory requires to change these enlarged labels to comply with CFR49 placard appearance as shown in sub para 172.556, where neither category group nor transport index nor any other info is to be written, but only plain placard (see below).

<image003.png>

So, my question is if there is any special provision for placarding of cl.7 cargo provided in CFR 49 where enlarged labels could be used instead of placards similar to IMDG sub para 5.3.1.1.5.1 provision, so we

would avoid replacing the placards and use original ones (as shown on the attached picture) and still comply with CFR 49 regulations.

Thanks in advance,
Regards,

Andrei Lazourenko
1st VP

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Cardez, Eugenio (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Tuesday, November 13, 2018 9:44 AM
To: Cardez, Eugenio (PHMSA)
Subject: FW: hard top containers

Hey Eugenio,

The photos came in while you were away

Cheers,

Jonathon

From: ARRC Andrei Lazourenko [mailto:andrei@arrcm.com]
Sent: Tuesday, November 06, 2018 9:50 AM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: RE: hard top containers

Jonathan,

In addition to my conversation to one of your colleagues, please find attached images of hard top containers from internet to have an idea what are we talking about.





Thanks in advance,
Regards,

Andrei Lazourenko
1st VP

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From: ARRC Andrei Lazourenko
Sent: Tuesday, October 09, 2018 12:14 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: RE: hard top containers

Jonathan,

Add to our telcon last week please advise if any updates with my below inquiry. Was it sent for obtaining written letter of interpretation?

Thanks in advance,
Regards,

Andrei Lazourenko
1st VP

ATLANTIC RO-RO CARRIERS, INC.