



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

AUG 26 2019

John Moors
C. Steinweg, Inc.
1201 Wallace Street
Baltimore, MD 21230

Reference No. 19-0072

Dear Mr. Moors:

This letter is in response to your January 29, 2019, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to packaging requirements for "UN1408, Ferrosilicon, 4.3 (6.1), PG III." Specifically, you note that the § 172.101 Hazardous Material Table (HMT) entry for UN1408 has IP Code IP7 (IP7) assigned to it in Column (7). You additionally note that the text of IP7 in § 172.102(c)(4) does not list UN1408 as an authorized material.

We have paraphrased and answered your questions as follows:

- Q1. You ask whether the addition of IP7 in Column (7) of the HMT for UN1408 without the corresponding reference to UN1408 in the text of IP7 in § 172.102(c)(4) was an oversight.
- A1. The answer is yes. In the notice of proposed rulemaking (NPRM) for HM-215G (69 FR 34724; 6/22/2004), RSPA (PHMSA's predecessor agency) proposed to add Special Provision "IP7" to UN1408 to align with the International Maritime Dangerous Goods (IMDG) Code. However, we failed to make the corresponding edit to the description of IP7. We received no comments on the proposal in the NPRM and adopted it as proposed in the HM-215G final rule (69 FR 76044; 12/20/2004). This was not our intent and we will address this as an editorial correction in a future rulemaking.
- Q2. You ask whether IBCs are required to meet IBC performance testing requirements when used to transport UN1408 into the United States.
- A2. The answer is no, for shipments in compliance with the IMDG Code. Provided all or part of the transportation is by vessel, the HMR authorizes compliance with the requirements of the IMDG Code, provided the applicable requirements of §§ 171.22, 171.23 and 171.25 are met. As you correctly note in your request, the IMDG Code packing instructions for this material do not require that IBCs meet performance testing requirements. Therefore, provided all or part of the transportation (i.e., until the material

is delivered to its final destination indicated on a shipping paper) is by vessel, and the shipment is in compliance with applicable IMDG Code requirements, IBCs used to transport UN1408 are not required to meet performance testing requirements.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Dirk Der Kinderen', written in a cursive style.

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

Patrick

19-0072

Dodd, Alice (PHMSA)

From: Kelley, Shane (PHMSA)
Sent: Thursday, June 06, 2019 1:39 PM
To: Hazmat Interps
Subject: FW: FerroSilicon Packaging requirements according to CFR 49
Attachments: LETTER TO DOT REGARDING FERROSILICON PACKAGING 20190129.docx

Alice and Ikeya –

Is this letter already in our system? Please let me know if it is and if so let me know who is assigned. If not please log in and assign and let me know when complete.

Thanks

From: John Moors [mailto:j.moors@us.steinweg.com]
Sent: Thursday, June 6, 2019 1:27 PM
To: Kelley, Shane (PHMSA) <shane.kelley@dot.gov>; Bomgardner, Paul (FMCSA) <paul.bomgardner@dot.gov>
Subject: RE: FerroSilicon Packaging requirements according to CFR 49

Dear Paul,

Many thanks for putting me in contact with Shane.

Dear Shane,

Thanks for your prompt reply. Yes I send this letter by regular mail in January. Unfortunately this might have just been around the time of the government shutdown for which I figured it might not have been handled.

I look forward hearing in due time and appreciate your assistance on the matter.

Kind regards,

John Moors

Phone: +1 410 864 1925
Mobile: +1 410 9778646
E-mail: j.moors@us.steinweg.com



C. Steinweg (USA) Inc.

Address: 1201 Wallace Street • Baltimore • MD 21230 USA
FTZ# 74 • FMC OTI LICENSE# 021537F • www.steinweg.com

From: Kelley, Shane (PHMSA) [mailto:shane.kelley@dot.gov]
Sent: Thursday, June 06, 2019 1:13 PM

To: Bomgardner, Paul (FMCSA); John Moors
Subject: Re: FerroSilicon Packaging requirements according to CFR 49

Thank you Paul!

Mr. Moors - we will process this as a request for interpretation. I noticed the date on the letter is January- was this sent to us previously? If so I will check status of a response.

Best

Shane

From: Bomgardner, Paul (FMCSA) <paul.bomgardner@dot.gov>
Sent: Thursday, June 6, 2019 1:05 PM
To: j.moors@us.steinweg.com; Kelley, Shane (PHMSA)
Subject: FW: FerroSilicon Packaging requirements according to CFR 49

Good Afternoon, Shane:

Please see attached letter from Mr. Moors, who sent this to me after speaking with his contact at USGS (see below). I have also cc'd Mr. Moors on this email.

Regards,
Paul

From: John Moors [<mailto:j.moors@us.steinweg.com>]
Sent: Thursday, June 06, 2019 12:37 PM
To: Bomgardner, Paul (FMCSA) <paul.bomgardner@dot.gov>
Subject: FerroSilicon Packaging requirements according to CFR 49

Dear Paul,

Nice meeting you this way. I was referred to you by Elizabeth from the USGS whom contacted you this morning.

I hope you will be able to direct me to the right place regarding subject matter.

Please find attached letter which is self-explanatory.

Many thanks in advance for any assistance you could provide us.

Kind regards,

John Moors

Phone: +1 410 864 1925
Mobile: +1 410 9778646
E-mail: j.moors@us.steinweg.com



C. Steinweg (USA) Inc.

Address: 1201 Wallace Street • Baltimore • MD 21230 USA
FTZ# 74 • FMC OTI LICENSE# 021537F • www.steinweg.com

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C. Steinweg (Baltimore) Inc.

Regional Head Office

FTZ#74-1201 Wallace Street

Baltimore MD 21230 - U.S.A.

Phone: 1-410-752-8254

Fax: 1-410-752-8292

E-mail: steinweg@us.steinweg.com

Website: www.steinweg.com

Baltimore, 29 January 2019

Mr. Shane Kelley
 Director, Standards and Rulemaking Division
 U.S. DOT/PHMSA (PPH-10)
 1200 New Jersey Avenue, SE East Building, 2nd Floor
 Washington, DC 20590

Dear Mr. Kelley,

I'm requesting a formal letter of Interpretation regarding below.

Regarding Ferro Silicon UN1408 in CFR49 par 172.101 under special provision the refer to par. 172.102 IP7, however under this special provision the ID # 1408 is NOT specifically mentioned. Why would the provision "IP7" be mentioned in "par. 172.101 if it is not applicable.

In other words, according to this special provision "IP7" one would expect that for Ferrosilicon Class 4.3 UN1408, IBCs are not required to meet the IBC performance tests specified in part 178, subpart N, of this subchapter.

UN	Hazardous materials description and proper shipping names	Haz class or div	ID#	PG	LC	Spec prov §172.102	Packaging §173			Qty limit		Vessel	
							Excep	Non Bulk	Bulk	Pass air/rail	Cargo air only	Loc	Other
	Ferrosilicon, with 30 percent or more but less than 90 percent silicon	4.3	UN1408	III	4.3, 6.1	A1, B6, A19, IB8, IP4, IP7, T1, TP33	151	213	240	25 kg	100 kg	A	13, 40, 52, 53, 85, 103

IP7 For UN identification numbers 1327, 1363, 1364, 1365, 1386, 1841, 2211, 2217, 2793 and 3314, IBCs are not required to meet the IBC performance tests specified in part 178, subpart N, of this subchapter.



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Regional Head Office
 FTZ#74-1201 Wallace Street
 Baltimore MD 21230 - U.S.A.
 Phone: 1 - 410 - 752 - 8254
 Fax: 1 - 410 - 752 - 8292
 E-mail: steinweg@us.steinweg.com

Website: www.steinweg.com

FURTHER;

International regulations IMDG specifically exclude UN1408 (see below extract of the IMDG regulations)

△ 1408	FERROSILICON with 30% or more but less than 90% silicon	4.3	6.1	III	39 223 932	1 kg	E1	P003	PP20 PP100	IBC08	B4 B6
△ 1409	METAL HYDRIDES.	4.3	-	I	274	0	F0	P403	PP31	-	-

IBC08	PACKING INSTRUCTION	IBC08
	The following IBCs are authorized, provided the general provisions of 4.1.1, 4.1.2 and 4.1.3 are met: (1) Metal (11A, 11B, 11N, 21A, 21B, 21N, 31A, 31B and 31N); (2) Rigid plastics (11H1, 11H2, 21H1, 21H2, 31H1 and 31H2); (3) Composite (11HZ1, 11HZ2, 21HZ, 21HZ2 and 31HZ1); (4) Fibreboard (11G); (5) Wooden (11C, 11D and 11F); (6) Flexible (13H1, 13H2, 13H3, 13H4, 13H5, 13L1, 13L2, 13L3, 13L4, 13M1 or 13M2).	
	Additional provisions: Where the solid may become liquid during transport see 4.1.3.4.	
	Special packing provisions: B3 Flexible IBCs shall be sift-proof and water-resistant or shall be fitted with a sift-proof and water-resistant liner. B4 Flexible, fibreboard or wooden IBCs shall be sift-proof and water-resistant or shall be fitted with a sift-proof and water-resistant liner. B6 For UN Nos. 1327, 1363, 1364, 1365, 1386, 1408, 1841, 2211, 2217, 2793 and 3314, IBCs are not required to meet the IBC testing provisions of chapter 6.5.	
△ B21	For substances, UN Nos. 1374 and 2590 in IBCs other than metal or rigid plastics IBCs, the IBCs shall be carried in closed cargo transport units or in freight containers/vehicles, which shall have rigid sides or fences at least to the height of the IBC.	

We are trying to determine if the UN1408 was intentionally omitted in IP7 of the CFR 49 or is this merely an oversight



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E-mail: steinweg@us.steinweg.com

Website: www.steinweg.com

and thus for DOT the IBCs are or are not required to meet the IBC performance tests when bringing this product into transportation in the USA?

Pleased to receive yours.

Sincerely Yours

For C. Steinweg(Baltimore), Inc.

Jan H. Moors

1201 Wallace Street

Baltimore MD 21230

410-752-8254

j.moors@us.steinweg.com