



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

December 7, 2020

Mr. Sean M. Pluta
Polsinelli
1401 I St NW
Washington, DC 20005

Reference No. 20-0075

Dear Mr. Pluta:

This is in response to your September 10, 2020, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to solid materials that may become liquid during transportation.

In your letter, you state that you represent a client who has a solid substance with a melting point of 25.6°C to 29°C. You state that the solid substance will be stored and transported in climate-controlled containers with a temperature range from -5°C to 10°C. The transportation containers will be outfitted with several safeguards to monitor temperatures and, in the event of a loss of temperature control, alert the driver to initiate a response by dispatch. You note that on-loading and off-loading times for the material will be minimal. You ask whether the scenario you describe is in compliance with § 173.24(e)(5), which states that “packagings used for solids, which may become liquid at temperatures likely to be encountered during transportation, must be capable of containing the hazardous material in the liquid state.” Additionally, you seek clarification whether the restrictions on the use of Intermediate Bulk Containers (IBCs) in §§ 173.240(d)(1)(ii) and (d)(2) apply.

The answer is yes. The term “temperatures likely to be encountered during transportation” includes temperatures incident to the transportation, or those naturally expected to occur over the course of the planned transportation. These temperatures would also include temperatures incident to on-loading and off-loading the product (the amount of time spent out of climate control, etc.). A transporter does not need to consider unlikely, unplanned scenarios, such as serious accidents or breakdowns leading to a loss in climate control for extended periods of time. The shipping conditions, as described in your letter, appear to be capable of maintaining the hazardous material in a solid state under its normal transport conditions; therefore, the

requirements in § 173.24(e)(5) for being capable of maintaining the hazardous material in a liquid state would not apply. In addition, provided the temperature-controlled conditions described in your letter are maintained throughout transportation, the restrictions on the use of IBCs in §§ 173.240(d)(1)(ii) and (d)(2) would not apply.

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

Sincerely,

A handwritten signature in blue ink that reads "T. Glenn Foster". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Andrews

From: [INFOCNTR \(PHMSA\)](#)
To: [Dodd, Alice \(PHMSA\)](#); [Hazmat Interps](#)
Subject: FW: Request for Letter of Interpretation
Date: Friday, September 11, 2020 3:01:20 PM
Attachments: [Request for Letter of Interpretation-c.pdf](#)
[image003.png](#)
[image002.png](#)

20-0075

Dear Alice,

Please see attached for a letter of interpretation request.
Please contact our office with any questions.

Thank you,

Sarah (HMIC)

From: Sean Pluta [mailto:SPluta@Polsinelli.com]
Sent: Thursday, September 10, 2020 10:55 AM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Cc: Marissa Curran <MCurran@Polsinelli.com>
Subject: Request for Letter of Interpretation

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hello,

Attached is a Request for a Letter of Interpretation addressed to Mr. Shane Kelley per the instructions on <https://www.phmsa.dot.gov/standards-rulemaking/hazmat/hazardous-materials-information-center>.

Please let me know if you need any other information to process the Request.

Thank you,

Sean Pluta

Associate

spluta@polsinelli.com

314.552.6890

100 S. Fourth Street, Suite 1000
St. Louis, MO 63102



Polsinelli PC, Polsinelli LLP in California

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