



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

June 22, 2021

Mr. Rex C. Railsback
HazMat Specialist
Railsback HazMat Safety Professionals, LLC
312 Lawrence Ave.
Lawrence, KS 66049

Reference No. 21-0008

Mr. Railsback:

This is in response to your January 28, 2021, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to Department of Transportation (DOT) Special Permit (SP) 16365. Specifically, you ask whether an Intermediate Bulk Container (IBC) that complies with DOT-SP 16365 and all other applicable requirements of the HMR may be marked and labeled instead of placarded if it is marked in conformance with § 172.301 and labeled in conformance with §§ 172.400(a) and 172.514(c)(4).

Section 7(c)(6) of DOT-SP 16365 states that each tank must be marked and placarded in accordance with the requirements for IBCs. The HMR requires bulk packages to be placarded on each side and each end in accordance with Subpart F of Part 172. However, § 172.514(c) allows authorized packagings to be placarded on only two opposite sides or, alternatively, labeled instead of placarded in accordance with Subpart E of Part 172. Additionally, § 172.514(c)(4) provides that an IBC that is labeled instead of placarded may display the proper shipping name and United Nations (UN) identification number in accordance with the requirements of § 172.302(a)(1) in lieu of the UN number on an orange panel or placard (and white square-on-point).

Finally, § 172.336(d) states that when a bulk packaging is labeled instead of placarded in accordance with § 172.514(c), identification number markings may be displayed on the package in accordance with the marking requirements of § 172.301(a)(1).

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

From: [INFOCNTR \(PHMSA\)](#)
To: [Hazmat Interps](#)
Subject: FW: Request for Written Letter of Clarification ref. DOT-SP 16365
Date: Friday, January 29, 2021 4:11:49 PM

Hello,

Please see below for LOI request.

Thank you,
Kathryn

From: Rex Railsback [mailto:rex@hazmatgeek.com]
Sent: Thursday, January 28, 2021 12:17 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: Request for Written Letter of Clarification ref. DOT-SP 16365

To whom it may concern,

I respectfully request written clarification reference DOT-SP 16365.

Section 7 (Safety Control Measures), Paragraph c (6), which states that “Each tank must be marked and placarded in accordance with the requirements for IBCs”

With the above and working through the regulations, I come to 172.514(c)(4), which allows “For an IBC labeled in accordance with subpart E of this part, the IBC may display the proper shipping name and UN identification number markings in accordance with § 172.301(a)(1) in place of the UN number on an orange panel, placard or white square-on-point configuration as prescribed in § 172.336(d)”

Since 172.400(a) states “...each person who offers for transportation or transports a hazardous material in any of the following packages or containment devices, shall label the package or containment device with labels specified for the material in the § 172.101 table and in this subpart”

Per 172.400(a)(1) states that a non-bulk package shall be labeled. The package in DOT-SP 16365 is not allowed to have a capacity greater than 95 gallons, which per 171.8 meets the definition of a non-bulk package.

Additionally, 172.400(a)(2) states “A bulk packaging, other than a cargo tank, portable tank, or tank car, with a volumetric capacity of less than 18 m³ (640 cubic feet), unless placarded in accordance with subpart F of this part”. 95 gallons = 12.69 cubic feet.

With the above stated information and, per 172.400(a)(1) & (2), placarding a non-bulk package is optional, per 172.502(c) and placarding a smaller IBC, is an allowable option to the requirement to label said package and not a requirement, ref. 172.400(a)(2).

Since the first regulatory requirement is to label the package in question and the DOT-SP states that the package needs to be “marked and placarded in accordance with the requirements for IBCs”, then if this package is marked per 172.301 and labeled per 172.400(a), then I have met the regulatory requirement for the package to be “marked and placarded in accordance with the requirements for IBCs”.

Furthermore DOT-SP 11911’s Safety Control Measures, (7)(c)(5), allows for the use of 172.514 and this DOT-SP is for a similar type of fuel delivery system which allows for a package of greater.

In short, if a package, covered under DOT-SP 16365, is marked per 172.301 and labeled per 172.400(a) and meeting the requirements for 172.514(c)(4), have I met the requirements of Section 7(c)(6) of DOT-SP 16365, since I have met all regulatory requirement to mark and placard, the package?

I am requesting a written response and my contact information is below.

Respectfully

Rex C. Railsback
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