



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

1200 New Jersey Avenue, SE  
Washington, DC 20590

September 29, 2023

Technical Trooper Nick Wright, K-100  
Kansas Highway Patrol  
Troop I, Commercial Vehicle Enforcement  
1220 S. Enterprise  
Olathe, KS 66061

Reference No. 23-0012

Dear Mr. Wright:

This letter is in response to your February 15, 2023, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to shipping papers that describe hazardous materials and materials not subject to the requirements of the HMR. You ask about a scenario in which a shipping paper describes both fully regulated hazardous materials and a hazardous material that is not subject to regulation—including not subject to shipping paper requirements—when transported by motor vehicle. Specifically, you provide a scenario of a shipping paper for motor vehicle transportation that lists and describes the following materials in this order: “UN1090, Acetone, 3, PG II”; “UN1845, Carbon dioxide, solid, 9”; and “UN1263, Paint, 3, PG II” and includes an “HM” column to distinguish hazardous material from non-hazardous material.

We have paraphrased and answered your questions as follows:

- Q1. You ask, as provided in § 172.201(a)(1) for preparation of shipping papers, whether the “UN1845, Carbon dioxide, solid, 9” should be distinguished from the regulated hazardous materials (e.g., by placing an “X” in the “HM” column for the other two materials) given that it is only regulated as a hazardous material by air or vessel transportation, and not for shipment by motor vehicle.
- A1. PHMSA is unable to provide a definitive response in the absence of additional necessary information about the way the material is transported. That said, in the § 172.101 Hazardous Materials Table, “UN1845, Carbon dioxide, solid *or* Dry ice” is assigned an “A” and a “W” in Column 1 indicating the material is only regulated when transported by aircraft or vessel. Moreover, in accordance with § 172.101(b)(2) and (6), a shipping description entry preceded by a “A” or “W”, respectively, may be used to describe a

material for other modes of transportation *provided all applicable requirements for the entry are met* (emphasis added). Thus, for motor vehicle only transportation one may not use the description “UN1845, Carbon dioxide, solid” unless meeting all requirements of the HMR. Note that for multi-modal transportation, § 172.201(a)(1) would not apply to shipping papers for the motor vehicle portion of transportation in association with aircraft or vessel transportation.

- Q2. You ask whether the answer would change if the shipping paper simply listed “dry ice” instead.
- A2. The answer is yes. For motor vehicle-only transportation, simply listing “dry ice” between the descriptions of the hazardous materials would result in § 172.201(a)(1) applying and necessitating either: the use of a contrasting color for any description on the shipping paper pertaining to a material that is not subject to the requirements of the HMR or adding an “X” in the “HM” column for the two hazardous materials in the example you provide.

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

Sincerely,

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

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

**From:** [INFOCNTR \(PHMSA\)](#)  
**To:** [Dodd, Alice \(PHMSA\)](#)  
**Cc:** [Hazmat Interps](#)  
**Subject:** FW: Request for official letter of interpretation  
**Date:** Friday, February 17, 2023 11:42:26 AM  
**Attachments:** [image002.png](#)

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Hi Alice,

Please see the below interpretation request.

Let me know if you need anything from us.

Regards,

-Breanna

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**From:** Nicholas Wright [KHP] <Nicholas.Wright@KS.GOV>  
**Sent:** Wednesday, February 15, 2023 8:48 AM  
**To:** INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>  
**Subject:** Request for official 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.

Greetings,

I am seeking an official PHMSA interpretation on a scenario regarding shipping papers used for both hazardous materials and non-hazardous materials.

49 CFR 172.201(a)(1) states:

(1) When a hazardous material and a material not subject to the requirements of this subchapter are described on the same shipping paper, the hazardous material description entries required by [§ 172.202](#) and those additional entries that may be required by [§ 172.203](#):

(i) Must be entered first, or

(ii) Must be entered in a color that clearly contrasts with any description on the shipping paper of a material not subject to the requirements of this subchapter, except that a description on a reproduction of a shipping paper may be highlighted, rather than printed, in a contrasting color (the provisions of this paragraph apply only to the basic description required by [§ 172.202\(a\)\(1\)](#), [\(2\)](#), [\(3\)](#), and [\(4\)](#)), or

(iii) Must be identified by the entry of an "X" placed before the basic shipping description required by [§ 172.202](#) in a column captioned "HM." (The "X" may be replaced by "RQ," if appropriate.)

The question is when a shipping paper contains hazardous materials that **ARE** subject to the requirements of the subchapter, and other hazardous materials that are **NOT** subject to the subchapter due to an exception or exemption. For example, if a shipping paper contains fully regulated hazardous materials and another material that is a haz-mat by definition, but excepted from the shipping paper requirement such as “UN1843, Carbon dioxide, solid, 9” when transported by highway.

In the example above, if the shipper (i.e., “person who offers”) opts to declare the carbon dioxide solid on the shipping paper for ground transportation, and assuming it is not a hazardous substance, hazardous waste, or marine pollutant, may the entry for the carbon dioxide solid appear between other hazardous materials, and be considered “not subject to this subchapter,” thereby requiring the other fully regulated hazardous materials on the shipping paper to be subject to the requirements of 172.201(a)(1)?

For example:

# OF PKGS	TYPE	HM	PROPER SHIPPING NAME	WEIGHT
1	drum		UN1090, Acetone, 3, PGII	55 gallons
1	box		UN1845, Carbon dioxide, solid, 9	20 lbs
1	pail		UN1263, Paint, 3, PGII	5 gallons

Using the example above, is the UN1263, Paint subject to the requirements in 172.201(a)(1)? In other words, is the paint required to have an “X” in the HM column or appear in a contrasting color? If the answer is no, since the carbon dioxide contains all proper hazardous materials shipping description information, does the answer change if it was simply listed as “dry ice” in between the acetone and paint?

Thank you for attention to this request.

Technical Trooper Nick Wright, K-100  
 Kansas Highway Patrol

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