



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave., SE
Washington, DC 20590

NOV 19 2008

Mr. Jack Currie
Currie Associates, Inc.
10 Hunter Brook Lane
Queensbury, NY 12804

Ref. No.: 08-0225

Dear Mr. Currie:

This responds to your e-mail transmission to Mr. Bob Richard requesting clarification of various questions concerning the requirements for the authorization to use international standards and regulations under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Your questions are paraphrased and answered as follows:

Q1. Section 171.22(f)(2) states that May 4, 2009 is the compliance date for the requirement to provide a shipper's certification. What does this mean considering the requirement was already specified in §172.204?

A1. Prior to the publication of the final rule, HM-215F, published on May 3, 2007 (72 FR 25162), the requirement did not apply to Canada's Transport of Dangerous Goods Regulations (TDG Regulations). In HM-215F, we adopted the requirement to include all international standards, including the TDG Regulations. Based on comments received to HM-215F, we agreed to give industry an extended compliance date to comply with this requirement. Because of the considerable reformatting of the international sections, we thought it was necessary to include the requirement in § 171.22 to emphasize the inclusion of the TDG Regulations.

Q2. Section 171.23(b)(7) states that "Except for marine pollutants transported in accordance with the International Maritime Dangerous Goods Code (IMDG Code), marine pollutants in bulk packages must meet the shipping paper requirements in 172.203(l) and the package marking requirements in 172.322 of this subchapter." Does this apply to bulk packagings transported by vessel?

A2. No. Section 171.23 is not specific to transportation by vessel. The section addresses requirements for specific materials and packagings transported under the International Civil Aviation Organization's Technical Instructions (ICAO TI), IMDG Code, Transport Canada TDG Regulations, and the International Atomic Energy Agency's (IAEA) Regulations. Paragraph (b)(7) addresses shipments other than the IMDG Code ("other than those transported in accordance with the IMDG Code").

Q3. In §171.25(b)(1), the second sentence states, "For transportation by rail or highway prior to or subsequent to transportation by vessel, a shipment must conform to the applicable

requirements of parts 174 and 177 respectively, of this subchapter, and the motor vehicle or rail car must be placarded in accordance with subpart F of part 172 of this subpart.” The word “subpart” should read “subchapter.”

A3. We made this correction in the October 1, 2008 rulemaking, HM-244A, an annual direct final rule that addresses minor corrections and clarifications.

Q4. The previous authorization for use of IMDG Code compliant placards is not included in § 173.25. Has the authorization been removed?

A4. The authorization for use of placards conforming to the specifications in the IMDG Code placards remains in § 172.519(f).

Q5. Section 171.25(b)(1) states: “When a hazardous material regulated by this subchapter for transportation by highway is transported by motor vehicle on a public highway under the provisions of this subpart, the segregation requirements of Part 7, Chapter 2 of the IMDG Code are authorized.” The requirement refers only to transportation by highway; what about freight containers being transported by rail?

A5. The intent of § 171.25 is to authorize the stowage and segregation requirements in Part 7 of the IMDG Code in lieu of the stowage and segregation requirements in Part 176 of the HMR. This provision includes freight containers transported by rail. We clarified the wording in § 171.25 in the HM-244A final rule.

Q6. In §171.25(b)(1) “Part 7, Chapter 2” (of the IMDG Code) should read “Part 7, Chapter 7.2” (Chapter 2 would be a classification chapter).

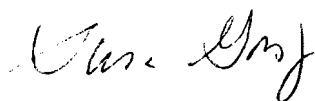
A6. We corrected the wording in the HM-244A final rule.

Q7. Section 176.3(a) states: “A carrier may not transport by vessel any shipment of a hazardous material that is not prepared for transportation in accordance with parts 172 and 173 of this subchapter.” Why is Part 171, Subpart C omitted from this statement?

A7. Section 176.3 is specific to hazardous materials transported in accordance with the HMR and is not an appropriate section for reference to the international standards. Section 176.11 addresses exceptions to the HMR and references Part 171, Subpart C with respect to use of the IMDG Code.

I hope this information is helpful. Please contact this office if you have additional questions.

Sincerely,



Susan Gorsky
Regulations Officer
Office of Hazardous Materials Standards

McIntyre

§ 171.22

§ 171.23

§ 171.25

Applicability/Corrections
08-0224

Errors, Misprints, and oversights

§171.22(f)(2) May 4, 2009 for initial carrier receiving shipper's certification? Doesn't the current 172.204 require it?

§171.23(b)(7) "Except for marine pollutants transported in accordance with the IMDG Code, marine pollutants in bulk packages must meet the shipping paper requirements in 172.203(1) and the package marking requirements in 172.322 of this subchapter."

Why only in bulk packagings when we're talking vessel transport? 49 CFR would also apply to non-bulk by vessel. (Also, since 171.23 ONLY applies to shipments offered for transportation or transported under the ICAO, IMDG Code, TDG Regulation, and IAEA so why would an additional requirement be needed?)

§171.25(b)(1) – For transportation by rail or highway to or subsequent to transport by vessel, a shipment must conform to parts 174 and 177 respectively and the motor vehicle or rail car must be placarded in accordance with subpart F of this subpart." (Subpart should read "subchapter".) and what about the authorization for use of IMDG Code compliant placards as previously authorized?

§171.25(b)(1) – When HM subject to this subchapter for transport by highway the segregation requirements of Part 7 of the IMDG code are authorized. What about rail transport of freight containers? This would be a HUGE problem if taken literally!

§171.25(b)(1) "Part 7, Chapter 2 of the IMDG Code" should read "Part 7, Chapter 7.2" (Chapter 2 would be a classification chapter)

§176.3(a) "A carrier may not transport by vessel any shipment of a hazardous material that is not prepared for transportation in accordance with parts 172 and 173 of this subchapter." What about those in compliance with Part 171, Subpart C ?