



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

NOV 30 2001

400 Seventh Street, S.W.
Washington, D.C. 20590

Mr. T.L. Nebrich
Technical Director
Waste Technology Services, Inc.
640 Park Place
Niagara Falls, NY 14301

Ref. No. 01-0273

Dear Mr. Nebrich:

This is in response to your October 23, 2001 letter and subsequent telephone conversation with a member of my staff requesting clarification of the provisions in §§ 173.506 and 177.848 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

Your questions are paraphrased and answered as follows:

Q1. Are shippers who offer less than placardable amounts of hazardous materials, in non-bulk packagings, accountable for the materials previously loaded on the vehicle and required to provide placards to the carrier if the transport vehicle contains a placardable amount of hazardous material?

A1. The answer is no. According to § 172.506(a)(1), the requirement for a shipper to provide placards is limited to the material being offered by that shipper. However, the carrier may not transport the hazardous material unless the vehicle is properly placarded. See § 172.506(a)(2).

Q2. Would the segregation requirements apply to the shipper, provided the transport vehicle arrives loaded with other hazardous materials?

A2. It is the carrier's responsibility to comply with the segregation requirements. However, it is possible for shippers to conduct functions of a carrier, such as loading a vehicle trailer. In the event a shipper



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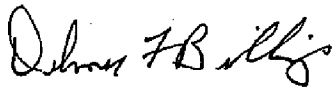
172.506

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conducts or participates in the loading process of a hazardous material onto a transport vehicle, they must comply with the applicable requirements in § 177.848. (See § 173.30).

I hope this satisfies your request.

Sincerely,



Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards



WASTE TECHNOLOGY SERVICES INC.

BAH
§ 172.504
Placarding
01-0273

October 23, 2001

Mr. Edward Mazzullo
Director of Office of Hazardous Material Standards
US Department of Transportation - RSPA (DHM - 10)
400 Seventh Street, S.W.
Washington, DC 20590-0001

Dear Mr. Mazzullo:

I am writing to request an interpretation regarding the general placarding requirements outlined in 49 CFR 172. The questions concerns non-bulk containers shipped on a box van, in domestic transport, over the road only. Assume a transport vehicle is making multiple stops, picking up less than truckload quantities of multiple hazard classes in varying quantities, both above and below the thresholds for placarding requirements. To whom does the placarding responsibility fall in the case of a shipper offering less than 454Kg (1001 pounds) of a single hazard class and less than 1001 pounds aggregate gross weight of hazardous materials, which would be exempt from the general placarding requirement assuming there was not additional hazardous materials ether previously or subsequently loaded onto the transport vehicle that would then negate the exemption.

For example (1):

A transport vehicle first stops at a shipper where 306 pounds of class 8 hazardous materials were loaded, only. The transport vehicle departs without a hazard class 8 placard per the less than 1001-pound exemption. The transport vehicle then travels to a different shipper where 4,250 pounds of hazard class 4.1, and 1,800 pounds of hazard class 3 are loaded. The second shipper insures the transport vehicle departs properly placarded for the materials loaded there, hazard classes 4.1 and 3. Who is responsible for insuring the class 8 placard is properly displayed on the transport vehicle?

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For example (2):

All is identical to example one, except there is one stop prior to the first stop where 3,700 pound of class 3 hazardous material was loaded. In this example the truck would (presumably but not assuredly) be placarded with a class 3 placard. Would a shipper offering, an otherwise exempted, 306 pounds of class 8 hazardous materials be held responsible to know what was previously loaded onto the transport vehicle and provide the appropriate class 8 placard? What if the vehicle with the 3,700 pounds of class 3 hazardous material was not properly placarded upon arrival at the second stop?

While, undoubtedly, great care should be exercised by all to insure proper placarding, it seems reasonable that the responsibility for knowing and accounting for what has been previously loaded onto a transport vehicle can not fall onto a shipper whom has not loaded the previous hazardous material. Likewise, the responsibility for knowing that a vehicle will subsequently be loaded with additional hazardous material, thusly causing the placard exempted amount of hazardous material loaded by a shipper to require a placard at some point in the future can not fall on the shipper who originally and correctly offers exempted quantities of hazardous material without a placard.

As a final point, these same scenarios can be tweaked slightly to pose an entirely different question that bears asking. Suppose the above listed scenarios concern the proper segregation of hazardous materials (such as shipping a PIH zone A with hazard class 4.3) instead of placarding requirements?

If you have any further questions, please do not hesitate to contact me.

Very truly yours,
WASTE TECHNOLOGY SERVICES, INC.



T.L. Nebrich, Jr., CHMM, QEP, REM
Technical Director

TLN/thn