



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

FEB 26 2003

Mr. Cliff Bartley
Corporate Manager Hazardous
Materials/Maintenance
CSX Lines LLC
5800-1 William Mills Street
Jacksonville, FL 32226

Ref. No. 02-0328

Dear Mr. Bartley:

This is in response to your letter dated October 7, 2002, to Commandant (G-MSO-3), U. S. Coast Guard, in which you requested guidance on the intent of the provisions found in § 176.69(a) and (c) of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). In essence, you asked whether those provisions require stowage of packages of hazardous materials near the door end of a freight container when the container contains a mixed load of hazardous and non-hazardous goods.

The answer is no, the provisions in § 176.69(a) and (c) do not address the location of cargo within a container. In addition, there is no explicit requirement elsewhere in the HMR that would require stowage of hazardous materials at the door end of a container. In particular, § 176.76 provides detailed provisions for the stowing and securing of cargo within containers but does not require stowage of hazardous materials at the door end. Other considerations, including the need to effect proper weight distribution within a container, make it difficult to impose such a restriction. Section 176.39 provides additional provisions for the inspection by vessel personnel of cargo while it is on board a vessel but again that section does not impose such a requirement and states in part: "However, freight containers or individual barges need not be opened." None of the foregoing is intended to limit compliance inspections of cargo, however, and when such inspections are conducted, the Coast Guard or another enforcement agency may require devanning cargo to inspect the hazardous materials, especially where packages of those materials may not be readily accessible.

The corresponding provision in the International Maritime Dangerous Goods (IMDG) Code, however, differs from the HMR. Paragraph 7.5.2.3 of the IMDG Code contains a provision that reads: "When a dangerous goods consignment forms only part of the load of a cargo transport unit, it should, preferably, be packed so as to be accessible (such as packing near the doors of the cargo transport unit)." A similar recommendation is



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contained in the IMO/ILO/UN ECE Guidelines for Packing of Cargo Transport Units found in the Supplement to the IMDG Code. Paragraph 4.3.7 of those guidelines states: "Dangerous cargoes consignments which form only part of the load of a CTU (cargo transport unit) should, whenever possible, be packed adjacent to the doors with markings and labels visible. Particular attention is drawn to 3.3.1 concerning the securing of cargo by the doors of a unit."

I hope you find this information responsive and helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,



Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards



CSX Lines, LLC
5800-1 William Mills Street
Jacksonville, FL 32226
October 7, 2002

Stevens
§ 176.69(a)
Vessel
02-0328

Commandant (G-MSO-3)
U.S. Coast Guard
2100 2nd Street S.W.
Room 1210
Washington, DC 20593-0001
Fax 202-267-4570

Subject: 49CFR176.69(a) - Cargo Inspection

Dear Sir:

CSX Lines has had several loads of containerized hazardous cargo placed on a USCG hold because upon opening the container to inspect the cargo, the inspector noted that it was not stowed at the rear of the container next to the door and could not be seen. The shipment was then placed on hold until the cargo could be reworked in a manner that would facilitate inspection. This causes our customers a lot of grief because in some cases, our customer may have 250-300 customers represented by a particular shipment. We, CSX Lines, would have a service failure with our customer but they are faced with a service failure for 250-300 customers. The reference for this "Container on Hold" action centered on the provision in 49CFR176.69(a) and (c).

I have a problem with this provision because with the design of cellular vessels today, it is virtually impossible to inspect cargo that has been stowed in the hatch. The cell guides prevent the opening of the doors in the hold. In addition there are considerations of weight distribution and DOT over the road axle weight restrictions that must be taken into consideration in the placement of cargo in a container.

Please provide an interpretation on this section of the regulations. It is not our intention to obstruct you in meeting your mission but we both have customers to satisfy. I too support the safe handling of all hazardous materials.

Respectfully yours,


Cliff Bartley
Corporate Manager Hazardous Materials/ Maintenance
CSX Lines, LLC
Cb

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