



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

JAN 31 2005

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

Mr. John F. Martin
General Manager
J & R Brokerage, Inc.
2641 Greenleaf Avenue
Elk Grove Village, IL 60007

Ref No.: 04-0260

Dear Mr. Martin:

This responds to your November 4, 2004 letters asking several questions related to the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Your questions are paraphrased and answered as follows:

- Q1. What is the meaning of the phrase "not adjacent to" as used in the segregation and separation requirements specified in § 177.848(e)(3)?
- A1. The requirement for non-adjacent loading is considered satisfied if the packages are separated in such a manner (for example, by using barriers, packages of non-hazardous materials, or intervening space) that their contents would not commingle in the event of leakage.
- Q2. Does a driver require a hazardous materials endorsement on his license for a load consisting of 25 pounds of a Table 2 material?
- A2. The requirements for a Commercial Drivers License (CDL) or a hazardous materials endorsement on a CDL are found in 49 CFR Parts 383 and 391. They fall under the jurisdiction of the Federal Motor Carrier Safety Administration (FMCSA; <http://www.fmcsa.dot.gov/>). For information on hazardous materials endorsements please contact the Hazardous Materials Division of the FMCSA at (202) 366-6121.
- Q3. If a carrier temporarily stores a load of hazardous materials on his property is the shipment in "transportation" and subject to the HMR?
- A3. For the purposes of the HMR, the term "transportation" refers to the movement of property and the loading, unloading, or storage incidental to that movement. "Storage incidental to movement" means storage that takes place between the time a hazardous material is offered for transportation to a carrier and the time it reaches its destination. Thus, a hazardous material stored temporarily on a carrier's property is subject to all applicable HMR requirements.
- Q4. Section 172.500(b)(6) indicates that the subpart does not apply to combustible liquids in non-bulk packagings. Does this provide relief only from the placarding requirements?

172.504
172.500
171.1
177.848

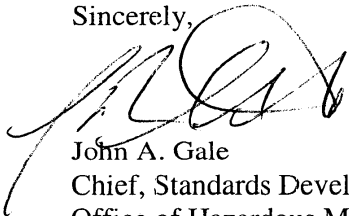


040260

- A4. Yes. Note that § 173.150(f)(2) excepts a combustible liquid from all requirements of the HMR (referred to as “the subchapter”) when it is in a non-bulk package and does not meet the definition of a hazardous substance, hazardous waste, or marine pollutant. A combustible liquid in a bulk package or a combustible liquid that is a hazardous substance, hazardous waste, or marine pollutant may follow the exception provided in § 173.150(f)(3).
- Q5. Are limited quantities and ORM-D shipments listed in § 172.500(b) excepted from placarding requirements?
- A5. Yes. The provisions of § 172.500(b) except limited quantities and ORM-D materials from placarding requirements. However, the HMR also provide additional exceptions for limited quantity and ORM-D materials. Section references to those exceptions are provided in Column 8A of the Hazardous Materials Table (HMT; § 172.101), as applicable.
- Q6. Is a bulk packaging containing only the residue of a hazardous material subject to placarding requirements?
- A6. In accordance with § 173.29(a), a packaging containing only the residue of a hazardous material must be offered for transportation and transported in the same manner as when it previously contained a greater quantity of that hazardous material. Generally, bulk packagings containing the residue of a hazardous material will require placarding.

I hope this information is helpful. Please contact us if you require additional assistance.

Sincerely,



John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards

J & R Brokerage, Inc.
2641 Greenleaf Avenue
Elk Grove Village, IL 60007
Phone # 847-640-5250

Supko
§ 177.848
Segregation
04-0260

November 4, 2004

RE: Request for clarification of hazardous materials regulations.

To: Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S. DOT/RSPA (DHM-10)
400 7th Street S.W.
Washington, D.C. 20590-001

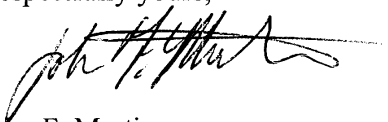
Dear Sir,

I am writing to you to request clarification of Part 177.848, Segregation of hazardous materials. Specifically in paragraph e, part 3 which outlines the meaning of the letter "O" in the segregation table. It states that "Notwithstanding the methods of separation employed, Class 8 liquids may not be loaded above or adjacent to Class 4 or Class 5 materials; except that shippers may load truckload shipments of such materials together when it is known that the mixture of contents would not cause a fire or a dangerous evolution of heat or gas." Our question comes in the definition of "adjacent to". Does this mean the materials cannot be on the same pallet, or on pallets next to each other, or within ten feet of each other, and so on? Is it also possible that this should be understood to mean that these materials should not be loaded together on a trailer at all unless the shipper loads a truckload shipment of such materials...etc.? If a shipper is allowed to load a less than truckload shipment of these materials together, what if another shipment is loaded of a different Class 8 material from a different shipper?

Please help clarify this issue and thank you in advance for your help.

Please fax a response at your convenience to 847-228-1215.

Respectfully yours,


John F. Martin
General Manager
J & R Brokerage, Inc.

J & R Brokerage, Inc.
2641 Greenleaf Avenue
Elk Grove Village, IL 60007
Phone # 847-640-5250

November 4, 2004

RE: Request for clarification of hazardous materials regulations.

Sapko
§171.1
Applicability
04-0280

To: Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S. DOT/RSPA (DHM-10)
400 7th Street S.W.
Washington, D.C. 20590-001

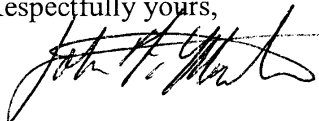
Dear Sir,

I am writing to you to request clarification on a hazardous materials issue. If a carrier is hauling a load of freight, for example, that has 25 pounds of Table 2 material from 172.504 is the driver required to have a hazardous materials endorsement on his license?

Also, if a carrier is hauling a load of hazardous materials and the trailer is dropped in the dock door (but not being loaded or unloaded) or parking lot of the carrier's facility or is dropped at the carrier's fenced and secured drop yard is the freight considered "in transit" and DOT regulations apply?

Please fax a response at your convenience to 847-228-1215.

Respectfully yours,



John F. Martin
General Manager
J & R Brokerage, Inc.

J & R Brokerage, Inc.
2641 Greenleaf Avenue
Elk Grove Village, IL 60007
Phone # 847-640-5250

November 4, 2004

RE: Request for clarification of hazardous materials regulations.

Supko
§172.500 (b)(6)
§172.500 (b)(3) - (E)
Placarding
04-0260

To: Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S. DOT/RSPA (DHM-10)
400 7th Street S.W.
Washington, D.C. 20590-001

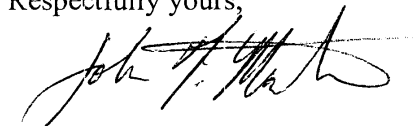
Dear Sir,

I am writing to you to request clarification of an issue regarding 172.500 b, 6 which states that "this subpart does not apply to – combustible liquids in non-bulk packaging." Is this only referring to the placarding subpart? Is the driver still required to carry the hazardous materials endorsement on his license and do all other hazmat regulations apply? Or is this similar to the exception for wet batteries under 49 CFR 173.159?

If the driver is required to be endorsed and all other regs apply, then does the same hold true for "limited quantity" and "ORM-D" shipments as well since they are treated equally under 172.500 b, 3 and 2, respectively?

Please fax a response at your convenience to 847-228-1215.

Respectfully yours,



John F. Martin
General Manager
J & R Brokerage, Inc.

J & R Brokerage, Inc.
2641 Greenleaf Avenue
Elk Grove Village, IL 60007
Phone # 847-640-5250

November 4, 2004

RE: Request for clarification of hazardous materials regulations.

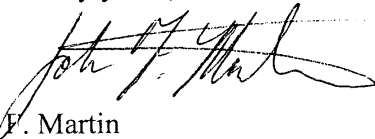
To: Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S. DOT/RSPA (DHM-10)
400 7th Street S.W.
Washington, D.C. 20590-001

Dear Sir,

I am writing to you to request clarification of an issue regarding 172.504 Table 2. If a shipper is shipping a flammable liquid in bulk totes (300 gallon capacity) to a customer, and then the customer is returning the totes to the shipper how should we treat the empty totes? I know that only non-bulk packagings containing residue of a hazardous material are excepted from placarding requirements but while the weight of 3 totes is 1,500 pounds the weight of the residue inside, although difficult to determine, is probably only 200 to 300 pounds. Would this shipment be excepted from placarding requirements?

Please fax a response at your convenience to 847-228-1215.

Respectfully yours,



John F. Martin
General Manager
J & R Brokerage, Inc.

Sup 120
§172.504
Placarding
04-0260