



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

1200 New Jersey Ave, S.E.  
Washington, D.C. 20590

**AUG 07 2013**

Mr. Tom Forbes  
Hazardous Materials Specialist  
Public Utilities Commission of Ohio  
Transportation Department  
180 E Broad Street, 4<sup>th</sup> Floor  
Columbus, OH 43215

Ref. No. 13-0127

Dear Mr. Forbes:

This responds to your June 12, 2013 email seeking clarification of the shipping paper and placarding requirements for waste hazardous materials under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, in your email you indicate that a mixture of bulk waste hazardous materials (1,270 gallons of UN1263, RQ, Waste Paint Related Material, 3, PGII, and 150 gallons of UN1992, RQ, Waste Flammable Liquid, Toxic, n.o.s., 3 (6.1), PG II (Methanol/Acetnitrile)) is vacuum loaded in a single compartment DOT 412 cargo tank.

You indicate that during a roadside inspection of this single compartment DOT 412 cargo tank, it was noted that the truck was displaying flammable placards with ID Number UN1263 on all four sides. In addition the driver provided the inspector with six hazardous waste manifests for material in the cargo tank. Five of the waste manifests identified the material as UN1263, with a total of 1,270 gallons. The other manifest identified the material as UN1992 with a total of 150 gallons. Your questions are paraphrased and answered below.

Q1. Is the UN1263 marking inside the flammable liquid placard the proper hazard communication for the mixture contained in the cargo tank?

A1. No. Section 172.334(d) requires that a placard bearing an identification number may not be used to meet the requirements of subpart F of part 172 unless it is the correct identification number for all hazardous materials of the same class in the transport vehicle or freight container on which it is displayed. Since the cargo tank contained a new material consisting of a mixture of two hazardous materials, waste paint related material and waste flammable liquid, toxic, n.o.s., the identification number UN1263 displayed on the cargo tank did not accurately communicate the new material in the tank and, consequently, did not comply with § 172.334(d). If the cargo tank contained only the UN1263, waste paint related material, then the UN1263 identification number marking on the flammable hazard warning placard would be in compliance with the

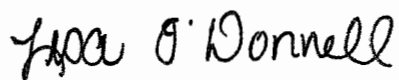
identification marking requirements specific to cargo tanks in § 172.328, and the marking on placards specifications in § 172.332(c).

Q2. Is it permissible to use the original waste manifests for the mixture of materials loaded into the cargo tank as the shipping paper, or is the shipping paper for the mixture required?

A2. Yes. A shipping paper for the mixture is required. Section 172.205(a) specifies that no person may transport a hazardous waste unless a hazardous waste manifest is prepared in accordance with 40 CFR 262.20 and is signed, carried and given as required of that person. Section 172.200(a) requires each person who offers a hazardous material for transportation to describe the hazardous material on a shipping paper. Commingling and subsequent transportation of separately manifested hazardous wastes must be reflected on a shipping paper that accurately describes the hazardous material in its revised state. By mixing the materials together, the driver has created a different material, with potentially different hazard properties than the properties the materials exhibited separately. The hazard class is determined through analysis of the chemical composition and hazard properties of the combined material. Section 172.200(a) further requires that the total quantity and type of packaging be indicated on the shipping paper (e.g., 1 cargo tank, 1,420 gallons vs. 5 IBCs 1,270 gallons and 3 drums 150 gallons). The shipper is responsible for properly classifying, packaging, marking and labeling a hazardous material for transportation in commerce. In this instance, the driver has assumed functions of the shipper by mixing these materials. As such, as provided in § 173.22, the driver is responsible for complying with all applicable shipper functions.

I hope this answers your inquiry. If you need additional assistance, please contact this office at 202-366-8553.

Sincerely,



for Robert Benedict  
Chief, Standards Development Branch  
Standards and Rulemaking Division

O'Donnell  
§ 172.101  
§ 173.22

**Drakeford, Carolyn (PHMSA)**

**From:** INFOCNTR (PHMSA)  
**Sent:** Wednesday, June 12, 2013 2:50 PM  
**To:** Drakeford, Carolyn (PHMSA)  
**Subject:** FW: PHMSA Interpretation Request

Applicability  
13-0127

Hi Carolyn,

This caller requested we submit this e-mail as a formal letter of interpretation.

Thanks,  
Victoria

**From:** Forbes, Tom [<mailto:Tom.Forbes@puc.state.oh.us>]  
**Sent:** Wednesday, June 12, 2013 9:39 AM  
**To:** PHMSA HM InfoCenter  
**Subject:** PHMSA Interpretation Request

Dear Sir or Madame:

I am requesting a written interpretation/clarification on the Hazardous Materials Regulatory Requirements for the following situation an Ohio Inspector encountered during a roadside inspection.

A single compartment DOT 412 vacuum loaded Cargo Tank was stopped for inspection. The truck was displaying flammable placards with ID Number 1263 in the placard on all four sides. The driver provided the inspector six hazardous waste manifests for materials he had picked up from other packages at several stops and vacuum loaded on this cargo tank. Five of the Waste Manifests identified the material as UN1263, RQ, Waste Paint Related Material, 3,PGII (No name or code listed for hazardous substance as required), 1 TT with a total of 1270 gallons the other manifests identified the material as UN1992, RQ, Waste Flammable Liquid, Toxic, NOS, 3(6.1), PGII (Methanol/Acetonitrile), 1 TT, 150 Gallons.

I have two basic questions.

1. Is the cargo tank properly marked and placarded while displaying the flammable placards with 1263 ID number inside the placard? IF not how should have it been placarded/marked?
2. Is it permissible to use the original waste manifests for the material loaded as the shipping paper or is a shipping paper for the mixture required?

Thanks you for your assistance on this matter.

**Tom Forbes**  
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