



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

JAN 16 2014

Mr. William Gramer
Packaging Engineering, Dangerous Goods
3M Center, 216-02N-08
St. Paul, MN 55144

Ref. No.: 13-0221

Dear Mr. Gramer:

This is in response to your email dated November 14, 2013, requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) relating to the § 172.313(b) requirement that each non-bulk plastic outer packaging used as a single or composite packaging for materials meeting the definition of Division 6.1 shall be permanently marked, by embossment or other durable means with the word "POISON." You present a scenario where solid Division 6.1 poison materials are sealed inside an impermeable plastic bag. The sealed plastic bag is placed into either a UN 1H plastic drum or a UN 6HA composite drum. You contend that since the poisonous materials are contained within the impermeable plastic bag and do not directly contact the interior of the 1H plastic drum or the liner of the 6HA composite drum that the § 172.313(b) "POISON" marking is not required.

You are correct. The described packagings meet the definition of combination packagings. The marking requirement of § 172.313(b) does not apply to combination packagings.

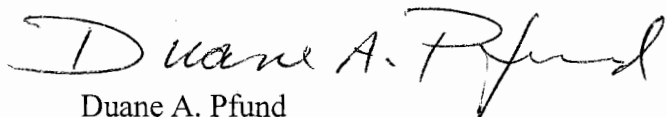
Section 171.8 defines a receptacle as a containment vessel for receiving and holding materials, including any means of closure. It is the opinion of this office that a plastic bag meets the definition of a plastic receptacle and may be used, where suitable, as the inner packaging of a combination package.

An authorized single packaging for a hazardous material, such as the UN 6HA composite drum, may contain inner receptacles, such as the sealed plastic bag, that are compatible with the lading as long as the inner receptacles would not adversely affect the level of performance of the packaging. The packaging would remain marked as a single packaging.

A package consisting of an outer packaging and a separate inner receptacle placed within the outer packaging is defined as a combination packaging. Therefore, both the UN 1H plastic drum and the UN 6HA composite drum containing the separate inner receptacle (the sealed plastic bag) would meet the definition of a combination packaging.

I trust this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Duane A. Pfund".

Duane A. Pfund
International Standards Coordinator
Standards and Rulemaking Division

Babich
§172.313
Marking

Drakeford, Carolyn (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Friday, November 15, 2013 4:37 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Clarification requested for 49CFR §172.313

13-0221

Hi Carolyn,

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

Thanks,
Victoria

From: wgramer@mmm.com [mailto:wgramer@mmm.com]
Sent: Thursday, November 14, 2013 6:09 PM
To: INFOCNTR (PHMSA)
Subject: Clarification requested for 49CFR §172.313

Mr. Gramer would like his email submitted for a formal interpretation

Completed by AE via phone on 11/15/13 at 12:48 left vm

Clarification requested for Poison Marking aspect of 49CFR §172.313

USDOT PHMSA:

The text of 172.313 appears consistent with alerting users of Plastics packagings which may have had poison materials permeate or penetrate the polymeric walls of the package that the plastic is potentially contaminated as a result - thus, "Poison" is to be indelibly marked to protect later users from this potential contamination.

Now, Our question has to do with using plastics drums or composite drums which also have an inner impermeable plastic liner into which toxic solid is placed, sealed and then this bag is placed into a UN 1H1, 1H2 with or without a bung opening, or 6HA1 drum with or without smaller bung in metal lid, (Any 6H*# really from 178.522), and further, there is never contact between the poison and the plastic drum wall. The liners are disposed of properly not re-used. The drums can be re-used with new clean liners.

We believe the intent of 172.313 would not require the "Poison" marking on openings of these drums, as it is implicit that the Poison mark is only required when permeation/contamination may have happened due to direct contact with drum wall. However the letter of the text is not explicit as to that interpretation - thus our Question:

May we use 1H1 or 2 or 6HXx containers without the 'Poison' mark from 313(b) being applied near the opening(s), when we use bags/liners to contain poison material and such liners prevent any toxic/poison from ever contacting the the walls of the packagings?

Again, The text of 172.313 appears consistent with an intent to allow us to do so. As text seems to require clear alert via the 'Poison' marking to users of Plastics packagings which may have earlier been used for carrying toxic/poison material and thus had poison materials permeate or penetrate the polymeric walls of the package. Thus the purpose of the text is to prevent later users from unknowingly use a package where the plastic is potentially contaminated and could affect food for human or animal consumption. As such, we believe our plastic packages are not contaminated due to liners preventing contact with the hazardous material and that in this specific scenario we should not have to indelibly mark our packages as having been contaminated by 'poison'. However, if so, the text seems to require this clarification.

Please let me know if you need further detail before answering.
Bill Gramer



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49CFR §172.313 Poisonous hazardous materials.

In addition to any other markings required by this subpart:

(a) A material poisonous by inhalation (see §171.8 of this subchapter) shall be marked “Inhalation Hazard” in association with the required labels or placards, as appropriate, and shipping name when required. The marking must be on two opposing sides of a bulk packaging. (See §172.302(b) of this subpart for size of markings on bulk packages.) When the words “Inhalation Hazard” appear on the label, as prescribed in §§172.416 and 172.429, or placard, as prescribed in §§172.540 and 172.555, the “Inhalation Hazard” marking is not required on the package.

(b) Each non-bulk plastic outer packaging used as a single or composite packaging for materials meeting the definition of Division 6.1 (in §173.132 of this subchapter) shall be permanently marked, by embossment or other durable means, with the word “POISON” in letters at least 6.3 mm (0.25 inch) in height. Additional text or symbols related to hazard warning may be included in the marking. The marking shall be located within 150 mm (6 inches) of the closure of the packaging.

(c) A transport vehicle or freight container containing a material poisonous by inhalation in non-bulk packages shall be marked, on each side and each end as specified in §172.332 or §172.336, with the identification number specified for the hazardous material in the §172.101 table, subject to the following provisions and limitations:

(1) The material is in Hazard Zone A or B;

(2) The transport vehicle or freight container is loaded at one facility with 1,000 kg (2,205 pounds) or more aggregate gross weight of the material in non-bulk packages marked with the same proper shipping name and identification number; and

(3) If the transport vehicle or freight container contains more than one material meeting the provisions of this paragraph (c), it shall be marked with the identification number for one material, determined as follows:

(i) For different materials in the same hazard zone, with the identification number of the material having the greatest aggregate gross weight; and

(ii) For different materials in both Hazard Zones A and B, with the identification number for the Hazard Zone A material.

(d) For a packaging containing a Division 6.1 PG III material, "PG III" may be marked adjacent to the POISON label. (See §172.405(c).)

§ 105.20 Guidance and interpretations.

(a) *Hazardous materials regulations.* You can obtain information and answers to your questions on compliance with the hazardous materials regulations (49 CFR parts 171 through 180) and interpretations of those regulations by contacting PHMSA's Office of Hazardous Materials Safety as follows:

(1) Call the Hazardous Materials Information Center at 1-800-467-4922 (in Washington, DC, call (202) 366-4488 (202) 366-4488 . The Center is staffed from 9 a.m. through 5 p.m. Eastern time, Monday through Friday except Federal holidays. After hours, you can leave a recorded message and your call will be returned by the next business day.

(2) **E-mail the Hazardous Materials Information Center at infocntr@dot.gov.**

(3) Obtain hazardous materials safety information via the Internet at <http://www.phmsa.dot.gov>.

(4) Send a letter, with your return address and a daytime telephone number, to: Office of Hazardous Materials Standards, Pipeline and Hazardous Materials Safety Administration, Attn: PHH-10, U.S. Department of Transportation, East Building, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(b) *Federal hazardous materials transportation law and preemption.* You can obtain information and answers to your questions on Federal hazardous materials transportation law, 49 U.S.C. 5101 *et seq.*, and Federal preemption of State, local, and Indian tribe hazardous material transportation requirements, by contacting PHMSA's Office of the Chief Counsel as follows:

(1) Call the office of the Chief Counsel at (202) 366-4400 (202) 366-4400 from 9 a.m. to 5 p.m. Eastern time, Monday through Friday except Federal holidays.

(2) Access information from the Office of the Chief Counsel via the Internet at <http://www.phmsa.dot.gov>.

(3) Send a letter, with your return address and a daytime telephone number, to: Office of the Chief Counsel, Pipeline and Hazardous Materials Safety Administration, Attn: PHC-10, U.S. Department of Transportation, East Building, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) Contact the Office of the Chief Counsel for a copy of applications for preemption determinations, waiver of preemption determinations, and inconsistency rulings received by PHMSA before February 1, 1997.



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