



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

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

Mr. Gerard Guillaume  
Head of Logistics Competence  
Deputy Post-Holder, Ground Ops  
Cargolux Airlines International SA  
Luxembourg Airport  
L-1360 Luxembourg City  
LUXEMBOURG

JUL 01 2016

Reference No. 15-0059

Dear Mr. Guillaume:

This letter is in response to your March 30, 2015, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the information required on shipping papers. Specifically, you ask whether foreign air carriers engaged in international transportation must comply with the requirements found in §§ 175.33(a)(1)(i) or (a)(1)(ii) of the HMR.

Section 175.33(a) requires that a hazardous material subject to the provisions of the HMR be accompanied by the shipping paper for that material when carried aboard an aircraft and that the operator of the aircraft provide the pilot-in-command with accurate and legible information about the hazardous material shipment as early as practicable before departure of the aircraft. Section 175.33(a) further specifies that the information required on the notification of the pilot-in-command (NOPIC) must be as specified in either § 172.101 of the HMR or the International Civil Aviation Organization (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air (Technical Instructions). If the operator of the aircraft chooses to prepare the NOPIC in conformance with § 172.101, § 175.33(a)(1)(i) requires that this information must comply with any additional applicable requirements prescribed in §§ 172.202 and 172.203; however, it does not require the type of package to be included on the shipping paper. If the operator of the aircraft chooses to prepare the NOPIC in conformance with the ICAO Technical Instructions, § 175.33(a)(1)(ii) requires that this information be described by the proper shipping name, hazard class, and identification number that appears in the ICAO Technical Instructions and include any additional information required to be shown on shipping papers in accordance with Part 171, Subpart C, of the HMR.

In your letter, you also ask if the following interpretation is correct:

Whenever a substance or material is listed by proper shipping name and UN identification number in the International Civil Aviation Organization (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air (Technical Instructions), or the International Air Transport Association (IATA) Dangerous Goods Regulations (DGR), and is transported as authorized under 49 CFR Part 171, Subpart C, the provisions of § 175.33(a)(1)(ii) apply and the provisions of § 175.33(a)(1)(i) do not. Further, § 171.23(b)(5) requires that the shipping paper, hence the notification-of-pilot-in-command (NOPIC), must also include the additional description required in § 172.203(c) only.

As stated previously, we agree that NOPICs prepared in conformance with the ICAO Technical Instructions must comply with § 175.33(a)(1)(ii). However, they are also subject to all the applicable requirements prescribed in 49 CFR Part 171, Subpart C—such as the requirement to list a hazardous substance on a shipping paper as prescribed in § 172.203(c) and to include other notations and information specific to the material being shipped.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,



for

T. Glenn Foster  
Chief, Regulatory Review and Reinvention Branch  
Standards and Rulemaking Division

Edmonson  
§175.33  
Shippers Papers  
15-0059

**Dodd, Alice (PHMSA)**

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**From:** Ciccarone, Michael CTR (PHMSA)  
**Sent:** Monday, March 30, 2015 12:03 PM  
**To:** Hazmat Interps  
**Subject:** FW: Interpretation letter for 175.33  
**Attachments:** CV letter.pdf

Shante/Alice,

Please submit this for a formal letter of interpretation.

Thanks,

Mike

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**From:** Clements Roxanne [<mailto:Roxanne.Clements@cargolux.com>]  
**Sent:** Friday, March 27, 2015 4:07 PM  
**To:** PHMSA HM InfoCenter  
**Subject:** Interpretation letter for 175.33

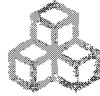
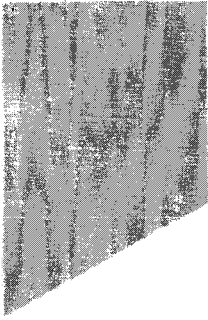
Dear Sir or Madam,  
Cargolux Airlines International submits the attached letter for an interpretation of 49 CFR 175.33.  
Regards,

Roxanne S. Clements  
Compliance Officer, the Americas

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Mr. Charles Betts  
Director, Standards & Rulemaking  
US Department of Transportation  
Pipeline & Hazardous Materials Safety  
Administration  
East Building  
1200 New Jersey Avenue, SE  
Washington, DC 20590

13 March, 2015

**Subject:** 49CFR175.33 - Notification to Pilot-in-Command (NOPIC)

Dear Mr. Betts,

Cargolux Airlines herewith is seeking formal interpretation of the provisions of 49CFR175.33. Specifically, is it required for Foreign Air Carriers engaged in international transportation to comply with the provisions of §175.33 (a) (1) (i) or §175.33 (a) (1) (ii)?

***Background:***

In May 2007, the HMRs were amended to clarify, revise and consolidate the requirements pertaining to shipments under ICAO TI among other international regulatory schemes. As a result of this rulemaking, three significant changes with respect to NOPIC requirements were made and/or discussed. First, Part 175.33(a)(1)(ii) was added. Second, Part 171 was amended to clarify which specific requirements applied to shipments under ICAO TI, including the incorporation of some (but not all) requirements of Parts 172.202 and 172.203. Third, the proposed amendment requiring shippers to identify which set of regulations applied (e.g., HMR or ICAO TI) was not adopted because it was unnecessary and burdensome. As a result, the NOPIC for goods shipped under the HMRs must contain the additional requirements listed in 172.202 and 172.203 whereas the NOPIC for goods shipped under ICAO TI must contain the additional requirements listed in Part 171 Subpart C even though there is no specific requirement to list on the NOPIC whether the goods are being transported under the HMRs or ICAO TI.

Cargolux Airlines thus respectfully requests an interpretation on the following sections:

***49CFR175.33 - Shipping paper and notification of pilot-in-command***

(a) When a hazardous material subject to the provisions of this subchapter is carried in an aircraft, a copy of the shipping paper required by §175.30(a)(2) must accompany the shipment it covers during transportation aboard the aircraft, and the operator of the aircraft must provide the pilot-in-command with accurate and legible written information as early as practicable before departure of the aircraft, which specifies at least the following:

**Logistics Competences**

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(1) The proper shipping name, hazard class and identification number of the material, including any remaining aboard from prior stops, as specified in §172.101 of this subchapter or the ICAO Technical Instructions. In the case of Class 1 materials, the compatibility group letter also must be shown. If a hazardous material is described by the proper shipping name, hazard class, and identification number appearing in:

(i) Section 172.101 of this subchapter. Except for the requirement to indicate the type of package or technical name, any additional description requirements provided in §§172.202, and 172.203 of this subchapter must also be shown on the notification.

(ii) The ICAO Technical Instructions (IBR, see §171.7 of this subchapter), any additional information required to be shown on shipping papers by subpart C of part 171 of this subchapter must also be shown in the notification.


***Our interpretation:***

CARGOLUX Airlines interprets the provisions of 49CFR175.33 (a) (1) as follows:

Whenever a substance or material is listed by Proper Shipping Name and UN Number in the ICAO Technical Instructions (or IATA Dangerous Goods Regulations Manual) and is transported as authorized by Subpart C of Part 171, the provisions of 49CFR175.33 (a) (1) (ii) apply and not those of (i).

More specifically, 49CFR171.23 (b) (5) requires that the shipping paper, hence the NOPIC, must also include the additional description as required in 49CFR172.203 (c) only.

Thank you very much for your consideration and your prompt clarification of this matter.  
Yours sincerely,

  
Gerard GUILLAUME  
Head Of Logistics Competence  
(Ground Standards & Procedures, Ground Training & Ground Publications)  
Deputy Post-Holder, Ground Ops  
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