



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

APR 06 2017

Mr. Jason Kob
Director of Environmental Regulatory Compliance
Infotrac, Inc.
200 N. Palmetto St.
Leesburg, FL 34748

Reference No. 16-0054

Dear Mr. Kob:

This responds to your March 31, 2016 e-mail requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask several questions concerning requirements for domestic transportation by vessel of aerosols that also meet the definition of a marine pollutant. Your questions are paraphrased and answered below:

Q1. Are aerosols and gases that are being shipped by domestic vessel included in the marine pollutant exception offered in § 171.4(c)(2), or are they prohibited from taking advantage of this marine pollutant exception? You present an example consisting of a package of flammable gas aerosols that qualify as limited quantities, but also contain 30% heptane, a material listed in Appendix B to § 172.101.

A1. The answer to your question is no. The exceptions provided in § 171.4(c)(2) apply to single or combination packagings containing a net quantity per single or inner packaging of 5 L or less for liquids or having a net mass of 5 kg or less for solids. Gases that are listed marine pollutants in Appendix B to § 172.101 may not utilize these exceptions.

Q2. You ask if you may take the marine pollutant exception in § 171.4(c)(2) for “UN 1950 Aerosols, 2.1, Limited Quantity” to receive exception from the marine pollutant requirements for domestic vessel transportation.

A2. No. See A1 above.

Q3. Are aerosols as defined in § 171.8 liquids, solids or gases?

A3. Section § 171.8 defines an aerosol as “any non-refillable receptacle containing a gas compressed, liquefied or dissolved under pressure, the sole purpose of which is to expel a nonpoisonous (other than a Division 6.1 Packing Group III material) liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.” While

aerosols may contain a liquid, paste, or powder, they are considered gases for the purposes of the HMR.

Q4. You ask if you can take the marine pollutant exception in § 171.4(c)(2) for transportation by domestic vessel of gases that meet the definition of a marine pollutant. You present an example of “UN 1064, Methyl Mercaptan, 2.3 (2.1).”

A4. No. See A1.

Q5. If I can take the exception in § 171.4(c)(2) for domestic vessel transportation of limited quantity aerosols that also meet the definition in § 171.8 of a marine pollutant, what are all the hazardous material markings, labels, placards, and shipping paper description requirements that are required for domestic vessel transportation?

A5. No. See A1.

Q6. If I cannot take the exception in § 171.4(c)(2) for domestic vessel transportation of limited quantity aerosols that also meet the definition in § 171.8 of a marine pollutant, what are the hazardous material marking, labeling, placarding, and shipping paper description requirements that are required for domestic vessel transportation?

A6. All hazard communication requirements of the HMR that generally apply to vessel shipments of limited quantity and marine pollutants apply.

Q7. The IMDG Code in 2.10.2.7 has a similar exception for marine pollutants to the HMR § 171.4(c)(2) exception. Are the HMR exceptions related to aerosols and gases consistent with this exception in the IMDG Code?

A7. Yes. The HMR is consistent with the IMDG Code exception for marine pollutants.

Q8. You present a scenario consisting of a package that contains a substance that meets the definition of a hazardous substance and a marine pollutant in § 171.8 that also meets the criteria to be offered as a limited quantity, and ask what are the hazardous materials marking,

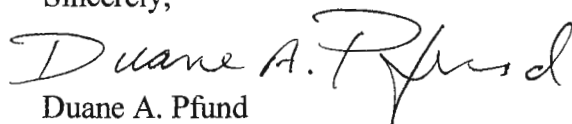
labeling, placarding, and shipping paper description requirements when this package is offered for transportation by domestic vessel. Specifically, you state you have a combination package containing “UN3077, Environmentally hazardous substance, solid, n.o.s., 9, III,” containing 30% Carbaryl, a marine pollutant, and 70% Trifluralin, a hazardous substance.

A8. All hazard communication requirements of the HMR that generally apply to vessel shipments of limited quantity, marine pollutant, and environmentally hazardous substance shipments apply. Marking requirements include the general marking requirements for non-bulk

packagings (i.e. proper shipping name and UN identification number), see § 172.301, the marking of the name of the components in the mixture that are a hazardous substance and a marine pollutant, see §§ 172.324 and 172.322, the marking of the package with the letters “RQ”, see § 172.324, the limited quantity marking on both the package and the cargo transport unit, see § 172.315, and the marine pollutant marking on both the package and the cargo transport unit, see §172.322. This package would require a Class 9 label, see § 172.400. For domestic transportation of Class 9 material no placard is required, see § 172.504. Several of the additional description requirements required on shipping papers are authorized to be placed in multiple locations, either before or after or in association with the basic description. An example of one appropriate shipping paper description would be “RQ, UN3077, Environmentally hazardous substance, solid, n.o.s. (Carbaryl, Trifluralin), 9, III, Limited Quantity, Marine Pollutant,” but as noted some of the additional description requirements required for this shipment are authorized to be placed in other locations, see § 172.203.

I hope this information is helpful. Please feel free to contact this Office if we can be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Duane A. Pfund". The signature is written in dark ink and is positioned above the printed name.

Duane A. Pfund
International Standards Coordinator
Standards and Rulemaking Division

Webb
§171.4(c)(2)
Marine Pollutant
16-0107

Dodd, Alice (PHMSA)

From: Geller, Shelby CTR (PHMSA)
Sent: Thursday, March 31, 2016 2:05 PM
To: Hazmat Interps
Subject: FW: Request for Letter of Interpretation for 49 CFR 171.4(c)(2) for UN1950 Aerosols that are Marine Pollutants
Attachments: UN1950 Aerosol Marine Pollutant Request for Letter of Interpretation 20160331.docx

Dear Shante and Alice,

Forwarded is a request for a formal letter of interpretation. Mr. Kob spoke with Isaac Taylor in the HMIC.

Thanks,
Shelby

From: Jason Kob [<mailto:jason.kob@infotrac.net>]
Sent: Thursday, March 31, 2016 9:04 AM
To: INFOCNTR (PHMSA)
Subject: Request for Letter of Interpretation for 49 CFR 171.4(c)(2) for UN1950 Aerosols that are Marine Pollutants

Request for letter of interpretation.

I am submitting a request for a **letter of interpretation**.
Please forward this email/attachment to the appropriate people.

Thank you,

Jason Kob
Director of Environmental Regulatory Compliance
jason.kob@infotrac.net

Infotrac
200 N. Palmetto St.
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3/31/2016

Jason Kob
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Leesburg, FL 34748
352-323-3500
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U.S. DOT
PHMSA Office of Hazardous Materials Standards
Attn: PHH-10
East Building
1200 New Jersey Avenue, S.E.
Washington, DC 20590-0001

Dear U.S. DOT:

I am writing today to receive a letter of interpretation on the **marine pollutant exception in 49 CFR 171.4(c)(2)**. I contacted the Hazardous Materials Information Center on two occasions and received different answers regarding the applicability of the marine pollutant exception in 49 CFR 171.4(c)(2) for the transportation by domestic water of UN1950, Aerosols, 2.1, Limited Quantity or UN1950, Aerosols, 2.2, Limited Quantity that also meets the definition of a marine pollutant as listed in 172.101 Appendix B.

49 CFR 171.4(c) Exceptions states:

(1) Except when all or part of the transportation is by vessel, the requirements of this subchapter specific to marine pollutants do not apply to non-bulk packagings transported by motor vehicle, rail car or aircraft.

(2) **Single or combination packagings containing a net quantity per single or inner packaging of 5 L or less for liquids or having a net mass of 5 kg or less for solids**, are not subject to any other requirements of this subchapter provided the packagings meet the general requirements in §§173.24 and 173.24a. This exception does not apply to marine pollutants that are a hazardous waste or a hazardous substance. In the case of marine pollutants also meeting the criteria for inclusion in another hazard class, all provisions of this subchapter relevant to any additional hazards continue to apply.

As noted above in 171.4(c)(2), liquids or solids are eligible for the marine pollutant exception, but I need clarification if **aerosols and gases** are also eligible for this marine pollutant exception since they are NOT explicitly mentioned.

Question 1: Specifically, are **aerosols and gases (e.g. cylinders)** that are being shipped by **domestic water included** in the marine pollutant exception offered in 171.4(c)(2) **or** are they **prohibited** from taking advantage of the marine pollutant exception?

For example, if I have a case of 12 x 12-ounce cans (.34 kg) of UN1950, Aerosols, 2.1, Limited Quantity that contain a known marine pollutant (30% Heptane) as listed in the 49 CFR 172.101 Appendix B.

Answer:

Question 2: May I take the marine pollutant exception in 171.4(c)(2) for UN1950, Aerosols, 2.1, Limited Quantity to get out of the marine pollutant requirements for domestic water?

As a result, I would not need to declare the marine pollutant technical name(s) "(Heptane)" and the words "Marine Pollutant" on the vessel shipping paper, I would not need the marine pollutant marking and the marine pollutant technical name(s) on the package markings, and I would not need the marine pollutant marking on the freight container.

Answer:

U.S. DOT

[Recipient Name]

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Aerosols are defined in 49 CFR 171.8 as “Aerosol means any non-refillable receptacle containing a gas compressed, liquefied or dissolved under pressure, the sole purpose of which is to expel a nonpoisonous (other than a Division 6.1 Packing Group III material) liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.”

Question 3: Are aerosols as defined in 171.8 liquids, solids, or gases?

Answer:

Question 4: May I take the marine pollutant exception in 171.4(c)(2) for transportation by domestic water of **gases** that meets the definition of a **marine pollutant**? For instance, if I have a 5 lb. cylinder containing a gas that is a marine pollutant as listed in 49 CFR 172.101 Appendix B, such as UN1064, Methyl Mercaptan, 2.3 (2.1)?

Answer:

Question 5: If I **CAN** take the exception in 171.4(c)(2) for water transportation of UN1950, Aerosols, 2.1, Limited Quantity, what are all the hazardous material markings, labels, placards, and shipping paper description requirements that are required for domestic vessel shipments?

For example, the limited quantity marking on the package and freight container, a dangerous goods document that declares it as UN1950, Aerosols, 2.1, Limited Quantity.

Answer:

Question 6: If I **CANNOT** take the exception in 171.4(c)(2) for water transportation, what are all the hazardous material markings, labels, placards, and shipping paper description requirements that are required for domestic vessel shipments?

For example, the limited quantity marking on the package and freight container, the marine pollutant marking on the package and freight container, the marine pollutant technical name(s) “(Heptane)”, proper shipping name, UN Number on the package, a hazardous material shipping paper that declares it as “UN1950, Aerosols (Heptane), 2.1, Limited Quantity, Marine Pollutant”.

Answer:

Question 7: IMDG Code 2.10.2.7 basically includes the same information as 49 CFR 171.4(c)(2), are the exceptions related to aerosols and gases consistent with this provision in the IMDG Code.

Answer:

Question 8: If my **limited quantity** by water also meets the definition of a **hazardous substance** “RQ” as define in 49 CFR 171.8 and 172.101 Appendix A, what are all the hazardous material markings, labels, placards, and shipping paper description requirements that are required for domestic vessel shipments for a 42 lb. combination packaging containing 4 x 10 lb. plastic inner packagings of UN3077, Environmentally Hazardous Substance, Solid, N.O.S., 9, III, Limited Quantity, where 30% Carbaryl is the marine pollutant and where 70% Trifluralin is the hazardous substance? For example, the limited quantity marking on the package and freight container, the marine pollutant marking on the package and freight container, the marine pollutant technical name(s), proper shipping name, UN Number on the package, a hazardous material shipping paper that declares it as “UN3077, Environmentally Hazardous Substance, Solid, N.O.S. (Carbaryl, Trifluralin), 9, III, Limited Quantity, Marine Pollutant”.

Answer:

If you have any questions or need additional information, please let me know.
I appreciate your help in answering these questions.

Sincerely,

Jason Kob
Director of Environmental Regulatory Compliance
Infotrac, Inc.