



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

MAY 22 2017

Mr. John E. Lehman and
Mr. Samuel M. Essak
Schuster Metals, LLC
2206 North 30th Street
Milwaukee, WI 53208

Reference No. 17-0007

Dear Mr. Lehman and Mr. Essak:

This letter is in response to your January 24, 2017, and January 27, 2017, letters requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to non-specification bulk packagings. Specifically, you ask several questions related to § 172.102(c)(3), Special provision B115, and its applicability to UN3170, Aluminum smelting by-products *or* Aluminum remelting by-products, 4.3, PG II *or* III, when packaged in a non-specification bulk packaging, such as a closed bulk bin trailer or a metal tote.

We have paraphrased and answered your questions as follows:

- Q1. You ask if the HMR permit placing the material directly on the floor of a highway trailer that is a closed bulk bin under the conditions prescribed in § 172.102(c)(3), Special provision B115.
- A1. The answer is yes, provided the conditions prescribed in § 172.102(c)(3), Special provision B115 are met.
- Q2. You ask if the HMR permit placing the material in non-structural, non-integral, non-specification containers, such as a metal tote, as a means to sift-proof a bulk packaging as prescribed in § 172.102(c)(3), Special provision B115.
- A2. The answer is yes. A rail car, highway trailer, roll-on/roll-off bin, or other non-specification bulk packaging may be rendered sift-proof in any manner that effectively accomplishes the performance requirement of the special provision.
- Q3. You ask if the HMR permit the display of a DANGEROUS WHEN WET label as prescribed in § 172.423 on a non-structural, non-integral inner package contained within an outer non-specification bulk packaging.

- A3. The answer is yes. Because the sift-proof, non-structural, non-integral inner package is considered an additional component of the non-specification bulk outer package, a label is not required. If a label is displayed on an inner package, it must be consistent with the hazardous material contained therein in accordance with § 172.401(a)(2). Further, the total quantity of hazardous materials covered by each description on the shipping paper must be identified as the outer non-specification bulk packaging (e.g., 1 highway trailer) and not any inner packages, whether or not they are labeled.
- Q4. Assuming the general packaging requirements in § 173.24 are met, you ask if the HMR permit the use of a non-specification bulk metal tote that is 41-inches wide x 49-inches long x 40-inches high and rated for 5,000 pounds gross weight and over 150 gallons capacity under the criteria prescribed in § 172.102(c)(3), Special provision B115.
- A4. The answer is yes, provided: (1) the tote is sift-proof; (2) it prevents liquid water from reaching the hazardous material; (3) it is provided with sufficient venting to preclude dangerous accumulation of flammable, corrosive, or toxic gaseous emissions such as methane, hydrogen, and ammonia; and (4) the material must be loaded dry.
- Q5. You ask if the HMR permit the use of plastic wrap as the closure for a non-specification bulk metal container.
- A5. The answer is yes, provided it has sufficient venting to preclude dangerous accumulation of flammable, corrosive, or toxic gaseous emissions such as methane, hydrogen, and ammonia in the container.
- Q6. You ask if the HMR permit the use of a non-specification bulk metal container without a top closure if the solid material itself cannot be released under the normal conditions of transportation (e.g., the top of the container is encapsulated with the material).
- A6. The answer is yes, provided there is no identifiable release of hazardous materials to the environment from the open top of the container under conditions normally incident to transportation.

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

Sincerely,



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

Stevens
8173.242
Special Provision
17-0007

Dodd, Alice (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Tuesday, January 24, 2017 1:39 PM
To: Hazmat Interps
Subject: FW: Formal Interpretation Request
Attachments: Ltr for Bulk Shipment of 3170.pdf; Ref 3374 Formal Interpretation.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Shante/Alice,

Please submit this as a letter of interpretation. Mr. Essak spoke with Eamonn.

Please let me know if you have any questions.

Thanks,
Jordan

From: sam.essak@schustermetals.com [mailto:sam.essak@schustermetals.com]
Sent: Tuesday, January 24, 2017 12:46 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Cc: Mannikko, Michael (FMCSA) <michael.mannikko@dot.gov>; John Lehman <John.Lehman@SchusterMetals.com>
Subject: Formal Interpretation Request

Please find the attached letter requesting formal interpretations and a reference document. We previously spoke to Eamonn who suggested we request a formal interpretation.

Samuel M. Essak
Schuster Metals

www.SchusterMetals.com

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PHMSA Office of Hazardous Materials Standards
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Washington, DC 20590-0001

To whom it may concern:

We request a formal Interpretation in regards to the transport and packaging of 4.3, UN3170 Pg II or III material.

Item 1

Under special provision B115 of the hazardous shipping regulations it states that "Rail cars, highway trailers, roll-on/roll-off bins or other non-specification bulk packagings are authorized. Packagings must be sift proof, prevent liquid water from reaching the hazardous material, and be provided with sufficient venting to preclude dangerous accumulation of flammable, corrosive, or toxic gaseous emissions such as methane, hydrogen, and ammonia. The material must be loaded dry." *Based on above we would like a formal interpretation to confirm that we can put the material on the floor of the trailer which is a closed bulk bin as long as the conditions set forth in special provision B115 are met?*

Item 2

In a formal interpretation letter dated May 2nd, 1994, (reference No. 3374), it states that "A vehicle, bin or rail car may be rendered sift-proof in any manner that effectively accomplishes the performance requirement. This may include use of structural features, such as integral gaskets or liners, or non-structural additional packaging materials, such as non-integral liners, bins or inner packagings. Therefore, sift-proof bulk bags or drums may be used to render a vehicle, bin or rail car sift proof. Obviously, if the inner bulk bags or drums were to release any of their contents in transportation, the requirement would not be satisfied." We interpret that a non-structural container means a non-spec container, as a specification containers has structural components that define it. A non-spec container does not affect the integrity of the bulk container nor our ability to meet the intent of the regulations (it simply enhances sift proof loading and unloading and reduce the likelihood of spills). *Therefore, we would like a formal interpretation on a bulk shipment of 4.3, UN3170 Pg II or III material, to confirm that we may put non-structural, non-integral, non-specification containers as a means of sift proofing a vehicle, bin or rail car?*

Item 3

Reference No. 3374 states that "Because the sift proof inner drums or bulk bags are considered additional components of the bulk packaging (i.e., vehicle, bin or rail car), the drums are not required to display package markings or labels." *Finally, we would like a formal interpretation to define if 3170 stickers are prohibited on non-structural additional packaging materials such as bins or drums?*

We appreciate your response to these items and please call us (414-265-2550) or email us (info@schustermetals.com) with any question.

Sincerely,

John E. Lehman and Samuel M. Essak
Members, Schuster Metals, LLC



U.S. Department
of Transportation

Research and
Special Programs
Administration

A. Bennett Smith, S.A.
Washington, D.C. 20591

MAY 2 1994

Mr. Donald E. Gordon and
Mr. Eric Hyatt
QC Corporation
Executive Centre at Hooks Lane
4 Reservoir Circle, Suite 105
Baltimore, MD 21208

Dear Mr. Gordon and Mr. Hyatt:

This is in response to your March 1, and March 21, 1994 letters concerning the transport of closed bulk bags containing more than 1000 pounds of Ferrous sulfate material (Environmentally hazardous substance, solid, n.o.s., 9, UN3077, III, RQ) that are loaded into dump trucks, enclosed truck trailers, intermodal shipping containers or enclosed rail box cars.

You asked whether the above packaging configuration would satisfy the requirement for non-DOT specification sift-proof closed vehicles, closed bulk bins and closed cars in 49 CFR 173.240. You also asked for our confirmation that the bulk bags are not subject to marking and labeling requirements. Your March 21 letter asks whether these bulk bags may be carried onto flat bed trucks.

A vehicle, bin or rail car may be rendered sift-proof in any manner that effectively accomplishes the performance requirement. This may include use of structural features, such as integral gaskets or liners, or non-structural additional packaging materials, such as non-integral liners, bins, or inner packagings. Therefore, sift-proof bulk bags or drums may be used to render a closed vehicle, bin or rail car sift-proof. Obviously, if the inner bulk bags or drums were to release any of their contents in transportation, the performance requirement would not be satisfied.


With regard to hazard communication requirements, the closed vehicle, bin or rail car is not required to display a Class 9 placard for domestic transportation, as provided in § 172.504(f)(9). However, the closed vehicle, bin, or rail car must be properly marked with the identification number displayed on an orange panel, a plain white square-on-point configuration, or on a Class 9 placard in accordance with § 172.331. Because the sift-proof inner drums or bulk bags are considered additional components of the bulk packaging (i.e., vehicle, bin or rail car), the drums and bags loaded therein are not required to display package markings or labels. The total quantity shown on the shipping paper, as required by § 172.202(a)(5), should address the authorized bulk packaging rather than the inner drums or bulk bags. To reduce confusion by enforcement personnel, the total quantity may be shown as "1 truck trailer", "1 bulk bin", or "1 rail car" to differentiate that the truck trailer, bulk bin, or rail car is the bulk packaging rather than the bags. This information may be entered either before or after the basic description.

Page 2

A dump truck covered with a tarpaulin or steel cover is considered a "closed vehicle" under § 173.240. Therefore, as previously stated, sift-proof bulk bags loaded into closed vehicles satisfy the requirements of § 173.240. A flat bed truck is not a "closed vehicle" and, therefore, is not authorized for use under § 173.240. However, the transport of bulk bags containing ferrous sulfate that are loaded onto a flat bed truck is authorized under § 173.510 of the HMR, 1990 edition. In this case, the bulk bags must be marked in accordance with §§ 172.302 and 172.331. Also, under the transitional provisions in § 171.14, this packaging authorization under § 173.510 may no longer be used beginning on October 1, 1996.

If we can be of further assistance, please feel free to contact us.

Sincerely,


Edward T. Mazzullo
Director, Office of Hazardous
Materials Standards

Dodd, Alice (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Friday, January 27, 2017 4:33 PM
To: Hazmat Interps
Subject: FW: Request formal Letter of Interpretation
Attachments: Letter for Bulk Containers.pdf

Hi Shante/Alice,

Please submit this as a letter of interpretation. Mr. Essak spoke with Eamonn.

Please let me know if you have any questions.

Thanks,
Jordan

From: sam.essak@schustermetals.com [mailto:sam.essak@schustermetals.com]
Sent: Thursday, January 26, 2017 4:59 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Cc: Mannikko, Michael (FMCSA) <michael.mannikko@dot.gov>; John Lehman <John.Lehman@SchusterMetals.com>
Subject: Request formal Letter of Interpretation

Please find the attached letter requesting a formal letter of interpretation. We previously spoke to Eamonn who suggested we submit these questions for formal interpretation. We submitted another set of questions a couple days ago.

Samuel M. Essak
Schuster Metals

www.SchusterMetals.com

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Washington, DC 20590-0001

To whom it may concern:

We request a formal Interpretation in regards to the transport and packaging of 4.3, UN3170 Pg II or III material under special provision B115.

Item #1

Is a 41" wide x 49" long x 40" high metal totes capable of holding 5000 lbs and over 150 gallons an acceptable non-dot spec container for 4.3 UN3170 pg II or III. Assuming it meets the packaging requirements of 173.24?

Item #2

Can we have a non-dot spec bulk metal container with plastic wrap over the top for the packaging of 4.3 UN3170 PG II or III (as the closure)?

Item #3

Can we have a non-dot spec bulk metal container without a top for the package since the material is of such a solid nature that the material will not be released from the container under normal shipping conditions (the top of the container is encapsulated with the solid material)?

We appreciate your response to these items and please call us (414-25-2550) or email us (info@schustermetals.com) with any question.

Sincerely,

John E. Lehman and Samuel M. Essak
Members, Schuster Metals, LLC