



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

AUG 24 2009

Mr. Aubrey R. Campbell
Baker Hughes
12645 West Airport Boulevard
Sugar Land, Texas 77478

Ref. No.: 09-0168

Dear Mr. Campbell:

This responds to your July 15, 2009 letter regarding the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to the highway shipment of non-bulk drums containing only the residue of a hazardous material. You ask whether your shipment is eligible for the exceptions provided in § 173.29(c) and § 172.504(d).

The answer is yes. Generally, packagings containing a residue of a hazardous material must be transported in the same manner as when they previously held a greater quantity of the material. However, in accordance with § 173.29(c), a non-bulk packaging containing only the residue of a hazardous material covered by Table 2 of § 172.504 is excepted from shipping paper and placarding requirements when collected and transported by a contract or private carrier for reconditioning, remanufacture, or reuse. Furthermore, in accordance with § 172.504(d), except for hazardous materials subject to § 172.505, a non-bulk packaging that contains only the residue of a hazardous material covered by Table 2 of § 172.504 need not be included in determining placarding requirements. Provided your shipments meet these requirements, then you are eligible to utilize the exceptions provided in § 173.29(c) and § 172.504(d).

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Mitchell', written over a horizontal line.

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards

Nickels
§172.504(d)
§173.29
Placarding Empty
Packages
09-0168



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Baker Petrolite

July 15, 2009

Office of Hazardous Materials Standards
Pipeline and Hazardous Materials Safety Administration, (PHMSA)
Attn: PHH-10
U.S. Department of Transportation
East Building, 1200 New Jersey Avenue, SE
Washington, DC 20590-0001

Re: Letter of Interpretation

Dear Office of Hazardous Materials Standards:

Baker Petrolite Corporation (BPC) requests a letter of interpretation regarding the provisions specified in Title 49 Code of Federal Regulation (CFR) Part 172.504(d), Exception for empty non-bulk packages and 173.29, Empty packages.

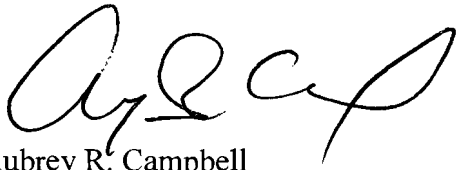
On our drivers was cited by a law enforcement officer for not having placards affixed to the transport vehicle when carrying the residue of flammable liquids and corrosive materials in 16 non-bulk 55 gallon drums (please see attached shipping paper). The drums were loaded on a flatbed trailer and clearly visible to the officer. BPC challenged this citation by filing a DATAQ report on FMCSA website (please see attached challenge and response). We asked the law enforcement agency for clarity of 173.29 and 172.504(d). We do not agree with the response and request PHMSA clarify the meaning of 173.29 and 172.504(d). As stated in our complaint, the drums were empty but not cleaned and purged, which meant we were required to properly describe, mark, and label the non-bulk packages according to the HMR. If these drums were full, we understand the requirement to affix placards to the transport vehicle because the aggregate gross weight of the 16 drum would have exceeded the 1001 pound exception.

All of the drums contained residue only and the entire shipment weighed less than 300 pounds. We understand that empty non-bulk packages that contain the residue of a hazardous material covered by Table 2 need not be included in determining placarding requirements according to 172.504(d). According to the officer, we should have placarded the shipment because of the way 173.29 reads in that residue of hazardous materials must be offered in the **same manner** as when it previously contained a **greater quantity** of the hazardous material.

The officer understood this to mean that (16) 55 gallon drums (880 gallons) previously contained an aggregate gross weight of $880 \times 7 = 6160$ pounds, which meant the shipment should have had placards affixed to the transport vehicle. Please provide clear guidance on 173.29 and 172.504(d) so we can comply with Federal, state, and local laws accordingly.

Sincerely,

Baker Petrolite Corporation

A handwritten signature in black ink, appearing to read 'A.R. Campbell', written in a cursive style.

Aubrey R. Campbell
Senior Transportation Specialist