



U.S. Department
of Transportation

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

**Pipeline and Hazardous
Materials Safety
Administration**

Mr. Thomas H. Snyder
DOT Field Specialist
Austin Power Company
25800 Science Park Drive
Cleveland, OH 44122

JAN 16 2013

Reference No.: 12-0266

Dear Mr. Snyder:

This is in response to your November 5, 2012 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) as they pertain to the highway transportation of mining vehicles containing hazardous residue in commerce. You indicate that the vehicles are equipped with sift proof cargo bins and non-specification cargo tanks containing residue quantities of either Division 1.5 Blasting Agent or Division 5.1 Oxidizer. These vehicle are not licensed for transportation in commerce and are only operated on mine property, however they occasionally require emergency repair at an off-site location. Problems with scheduling a qualified company to clean and purge the cargo bins and cargo tanks of all hazardous materials, including residue, can lead to downtime affecting daily work. You ask whether the vehicles may be transported in accordance with the HMR by highway if the non-specification cargo tanks and bins are cleaned, but still contain hazardous residue.

The answer to your question is yes, providing that the empty packaging is in accordance with § 173.29(b). A provision that may apply in this case is § 173.29(b)(2)(iii). This provision states that an empty packaging that is refilled with a material which is non-hazardous to such an extent that any residue remaining in the packaging no longer poses a hazard is not subject to the requirements of the HMR .

If compliance with § 173.29(b) is not feasible, then the hazardous material residue would be fully regulated as identified in 173.29(a) requiring specification packaging and therefore not authorized for transport. It may be possible to seek additional regulatory relief under the terms of a special permit. Special permits are granted on a case-by-case basis and the application procedures are set forth in 49 CFR 107.105. Our Approvals and Permits Division may be reached at (202) 366-4535.

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

Sincerely,

Delmer Billings
Senior Regulatory Advisor
Standards and Rulemaking Division

Wiener
\$173.60
Explosive/Highway
12-0266

November 5, 2012

Standards and Rulemaking Division
Pipeline and Hazardous Materials Safety Administration
Attn: PHH-10
U.S. Department of Transportation
East Building
1200 New Jersey Ave., SE
Washington, DC 20590-0001

I am respectfully requesting a clarification from the agency concerning the occasional transportation on public highways of mine-operated, straight bulk trucks (Mine Trucks) equipped with sift-proof cargo bins and non-specification cargo tanks containing residue quantities of either Division 1.5 Blasting Agent or Division 5.1 Oxidizer (Bulk Materials) for the specific purpose of emergency repair or special maintenance. These Mine Trucks would be transported on a trailer or towed by a qualified, hired motor carrier.

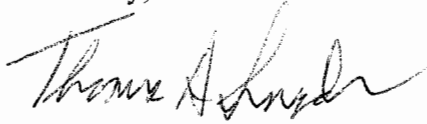
These Mine Trucks are neither registered motor vehicles nor are they licensed for transportation in commerce, as they are only operated on mine property. The non-specification cargo tanks of the Mine Trucks are not required to undergo V-I-P-K inspection, testing and certification, as they are never used in transportation in commerce.

These Mine Trucks occasionally require emergency repair due to the nature of their work environment on mine sites. Generally, these non-specification cargo tanks and cargo bins would be cleaned or purged of all Bulk Materials, including residue, by a qualified, third-party environmental service before arranging the services by a qualified, hired motor carrier for transportation on public highways. One of the problems we face is scheduling the timely services of a qualified environmental company. This causes significant downtime of our Mine Trucks, which are needed to perform daily work.

I am requesting clarification to determine the feasibility of transporting or towing these Mine Trucks on public highways by a qualified, hired motor carrier where the non-specification cargo tanks and bins would be cleaned, as much as practicable, but would contain residue quantities of Bulk Materials. Since residue would be contained in the non-specification cargo tanks and bins, the Mine Trucks would display both the appropriate type and number of hazardous material placards and markings required for transportation. The qualified, hired motor carrier's driver, transporting the Mine Trucks, would possess a current and valid CDL/ HME, and we would provide shipping paper with shipper's certification and appropriate emergency instructions. Upon completion of the repair, the Mine Truck would be transported in a like manner back to the mine.

Your clarification assistance is appreciated.

Sincerely,

A handwritten signature in black ink that reads "Thomas H. Snyder". The signature is written in a cursive style with a prominent initial "T" and "S".

Thomas H. Snyder
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