



U.S. Department  
of Transportation

Pipeline and Hazardous Materials  
Safety Administration

1200 New Jersey Ave., SE  
Washington, DC 20590

FEB - 6 2009

Ms. Lisa K. Winter  
National Motor Freight Traffic Association, Inc.  
1001 North Fairfax Street, Suite 600  
Alexandria, VA 22314

Ref. No. 08-0137

Dear Ms. Winter:

This responds to your request for clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) and its applicability to a scenario involving a motor carrier accepting a shipment that contains hazardous materials packages and non-hazardous materials packages in one handling unit, such as a pallet. The shipment is received with instructions from the shipper (offeror) to keep the unit intact. You state that there are incidences when the motor carrier accepts a unit that weighs more than indicated on the received shipping documents and you are concerned that the weight discrepancy may alter applicable requirements, such as those for placarding. Specifically, you ask how this problem should be rectified.

A carrier with knowledge of incorrect information may not continue to use that information (see § 171.2(e) and (f)) and must resolve any discrepancies pertaining to the shipment before it is accepted for transportation. A carrier who knowingly continues to use inaccurate information, as well as a person who knowingly or willfully provides incorrect information to a carrier, is in violation of the HMR. As specified in § 172.202(a)(5), the total quantity of hazardous materials covered by the shipping description must be indicated (by mass or volume) on the shipping papers. Discrepancies in the weight of the hazardous materials may impact compliance with other HMR requirements. For example, whether a carrier may take advantage of the placard exceptions provided in § 172.504 for certain non-bulk packaging shipments of less than 1,001 lbs.

Communication between the applicable parties is essential in cases where discrepancies and confusion exist regarding a shipment. Implementing procedures with the offeror to solve

problems before accepting a shipment, particularly when previous problems with the offeror have occurred, should also be considered.

I hope this information is helpful. Please contact this office should you have additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Hattie L. Mitchell". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke at the end.

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

McIntyre  
§ 172.202 (a)(5)  
Shipping Papers  
08-0137

**Drakeford, Carolyn <PHMSA>**

**From:** INFOCNTR <PHMSA>  
**Sent:** Friday, May 09, 2008 1:01 PM  
**To:** Drakeford, Carolyn <PHMSA>  
**Cc:** 'Winter@nmfta.org'  
**Subject:** FW: Mixed Handling Units of Hazardous and Nonhazardous Materials-Inaccurate Weight

**From:** Lisa Winter [mailto:Winter@nmfta.org]  
**Sent:** Thursday, May 08, 2008 4:13 PM  
**To:** INFOCNTR <PHMSA>  
**Cc:** Donald Newell; George Beck; Joel Ringer  
**Subject:** Mixed Handling Units of Hazardous and Nonhazardous Materials-Inaccurate Weight

Office of Hazardous Materials Standards  
Pipeline and Hazardous Materials Safety Administration  
Attn: PHC-10  
U.S. Department of Transportation, East Building  
1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590

To Whom it May Concern:

Often materials regulated by the U.S. Department of Transportation as a hazardous material are offered for transportation to motor carriers in the same handling unit, e.g., a palletized unit load, with nonhazardous freight. (A theoretical example of this could be a unitized pallet load of mops, buckets and hazardous cleaning compounds.) Frequently the carrier has been instructed by the shipper to leave the pallet intact.

Sometimes a motor carrier employee finds that the weight of the mixed handling unit is inaccurate in that it is either higher or lower than the weight shown on the bill of lading. If the weight is higher than that stated, this could potentially result in a chemical meeting a threshold weight where it is regulated as a hazardous material; whereas at the lesser stated weight, it was not regulated.

When this occurs, please will you explain what is required in the hazardous materials regulations of the motor carrier, either explicitly or implied?

Thank you in advance for any assistance you can provide in this matter.

Sincerely,

Lisa K. Winter

**Commodity Classification Standards Board, Member**  
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Alexandria, VA 22314

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