



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

FEB - 4 2009

1200 New Jersey Ave., SE
Washington, DC 20590

Mr. James H. Portsmouth
Manager, Traffic Manager/Regulatory Compliance
Energy Solutions
2345 Stevens Drive, Suite 240
Richland, WA 99354

Reference No. 08-0148

Dear Mr. Portsmouth:

This is in response to your letter regarding the hazard communication and specification packaging marking requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you request clarification on the marking requirements for Industrial Packagings (IP), prescribed in § 173.411, and DOT Specification 7A packagings, prescribed in § 178.350, for transporting Class 7 (radioactive) materials. We apologize for the delay in responding and any inconvenience this may have caused. Your questions are paraphrased and answered as follows:

Q1. When the consignor (offeror) is the packaging manufacturer, is the consignor required to mark the completed package in accordance with § 172.301(d) and again as the packaging manufacturer in accordance with § 178.3, or is the consignor only required to mark the completed package once to meet both requirements?

A1. The consignor's name and address may be entered once to comply with the hazard communication marking requirements in § 172.301(d) and the package certification marking requirements in § 178.3(a), provided the consignor of a hazardous material is also the person certifying the package complies with all applicable HMR packaging design requirements.

Please note that although the HMR permit a single name and address to be used to represent a person who is both the consignor and certifier of a hazardous material's packaging, this marking typically appears twice, once near the hazard communication markings prescribed in Subpart D of 49 CFR Part 172, and once near the package certification markings for a DOT 7A packaging prescribed in §§ 178.3 and 178.350. In addition, other name and address markings, e.g., from multiple vendors, third-party packaging certifiers, etc., may appear on the packaging. It is the opinion of this Office that single or multiple name and address markings on a packaging may make it difficult to determine the consignor and certifier of the packaging, which may result in shipping delays or frustrated shipments. Therefore, we recommend if single or multiple name and address markings occur on a packaging, the consignor highlight, mark, or otherwise indicate the consignor's name. Also, because use of

an exception or substitution permitted in one of these sections may not satisfy a marking requirement in the remaining section, we recommend placing the consignor's name and address in the package certification marking and not presenting this information as a PHMSA-registered symbol.

Q2. What if the package is an IP or Specification 7A radioactive materials packaging, can it be marked once with the consignor's name and address to satisfy both marking requirements?

A2. The answer is yes. (See A1 above.)

Q3. When a non-bulk packaging is manufactured and tested to meet the packaging design requirements for both the Specification 7A, as prescribed in § 178.350, and a UN standard non-bulk packaging, as prescribed in Subpart L of 49 CFR Part 178, is the manufacturer's marking certifying compliance with the UN standard required to be removed, obliterated, or covered when it is used as a Specification 7A radioactive materials packaging and the consignor is the packaging manufacturer?

A3. No, if a package conforms to more than one DOT specification or UN standard, the package may bear more than one package specification marking provided the packaging meets all the requirements of each specification or standard. However, where more than one package certification marking appears on a packaging, each marking must appear in its entirety. See § 178.3(c). The HMR do not prohibit a consignor from temporarily covering package certification markings in a manner that does not damage or alter them. However, a packaging that has its certifying markings removed or obliterated is considered a non-specification package under the HMR and may not be represented as meeting a performance-oriented standard without being retested and recertified as meeting a DOT specification or UN standard.

Q4. If the designer, fabricator (manufacturer), or tester of a Specification 7A radioactive materials packaging marks the packaging with their company name and address or symbol and they cannot certify that all the requirements identified in § 178.350 have been met, is the marking required to be removed, obliterated, or covered?

A4. The HMR require, unless otherwise specified in 49 CFR Part 178, that the name and address or symbol of a packaging's manufacturer or approval agency certifying compliance with a DOT specification or UN standard appear as part of the certification marking on a non-removable component of the packaging. See §§ 178.3(a)(2) and 178.350(c). However, the HMR permit a manufacturer that is not certifying a package as being manufactured to a DOT specification or UN standard to place its name and address or symbol on the packaging provided this information is not included as part of the packaging's certification marking.

Q5. As noted in §§ 172.310, 178.3 and 178.350(b), each Class 7 (radioactive) material packaging is required to be marked when the requirements of § 178.350(c) are met. Many manufacturers of packagings that will be used in the transport of Class 7 (radioactive) materials are requested by their customers to apply the "DOT 7A, Type A" marking at the

point of manufacture, even though they do not know the contents of the package. When are these markings required to be applied to the Specification 7A packaging?

A5. The HMR require the packaging specification markings prescribed in §§ 178.3 and 178.350 to be applied to a Specification 7A packaging when the package has been successfully tested and certified as meeting this packaging specification. The HMR also require the hazard communication requirements for Class 7 (radioactive) materials prescribed in § 172.310 be applied at any time prior to the completed package being offered for transportation.

Q6. When shipping an excepted quantity of radioactive material using the proper shipping name "Radioactive material, excepted package-limited quantity of material," and the material is loaded into a properly marked Type IP-1 packaging, may the "TYPE IP-1" marking required under § 172.310(b) be displayed on the package or is it required to be removed, obliterated, or covered?

A6. In this scenario, the packages are excepted from specification marking in accordance with §§ 173.421 and 173.422. Therefore, the "TYPE IP-1" marking should not be displayed and should be covered. If the "TYPE IP-1" certifying markings are removed or obliterated, the packaging must not be represented as meeting this performance-oriented requirement without being retested and recertified as meeting this standard. See Answer A3. In accordance with § 172.310(b), a package that does not conform to Type IP-1, Type IP-2, Type IP-3, Type A, Type B(U) or Type B(M) requirements may not be so marked.

Q7. May the "TYPE IP-1" marking required by § 172.310(b) be displayed or is the marking required to be removed, obliterated, or covered when shipping a Class 7 (radioactive) material as Low Specific Activity-II (LSA-II) with less than an A₂ quantity?

A7. If you are shipping LSA-II material less than an A₂ quantity in accordance with § 173.427(b)(4) in domestic transportation in exclusive use, the LSA material may be in a Type IP-1 package and marked as such. If the shipment is not in domestic transportation or not in exclusive use, it is then subject to the limitations of Table 6 of § 173.427(e) and should be marked according to the package type used.

I hope this satisfies your request.

Sincerely,



Charles E. Betts
Chief, Standards Development
Office of Hazardous Materials Standards



Edmonson
§ 172.301
§ 178.350
Marking
08-0178

JHP-08-5082

May 14, 2008

Office of Hazardous Materials Standards,
Pipeline and Hazardous Materials Safety Administration
Attention: PHH-10
U.S. Department of Transportation
400 7th Street, SW
Washington, DC 20590-0001

Subject: Clarification of Marking Requirements

To Whom It May Concern:

This letter is requesting clarification for the following questions regarding marking requirements for Industry Packaging (IP) and Type A packagings.

1. When required by Title 49, Code of Federal Regulations (CFR) 172.301(d), either the name or address of the consignee or consignor shall be marked on the package. In addition, when the consignor is the packaging manufacturer, the name and address or symbol of the consignor shall be marked on the package in accordance with 49 CFR 178.3. Does the consignor need to mark the package once per 49 CFR 172.301(d) and again as the packaging manufacturer per 49 CFR 178.3, or does the consignor only have to mark the Type A package once to meet both requirements?
2. When a non-bulk packaging (i.e., box) is fabricated and tested to meet both Type A requirements (49 CFR 178.350) and manufactured to meet UN non-bulk performance-oriented packaging standards (49 CFR 178, Subpart L), does the manufacturer's marking used for compliance to 49 CFR 178, Subpart L need to be removed, obliterated, or covered when the packaging is used as a Type A radioactive material packaging and the consignor is the packaging manufacturer?
3. If the designer/fabricator/tester of the Type A packaging marks the packaging with their company name and address, or symbol and they cannot certify that all the requirements identified in 49 CFR 178.350 can be met, does this marking need to be removed, obliterated, or covered?

4. As noted in 49 CFR 172.310, 178.350(b), and 178.3, each packaging is marked when the requirements of 178.350(c) are met. Many fabricators of packagings that will be used in the transport of Class 7 materials are requested by their customers to apply the 7A marking at the point of fabrication, even though they do not know the contents of the package. When is the 7A marking to be applied to the packaging?
5. When shipping an excepted quantity of radioactive material (using Proper Shipping Name "Radioactive material, excepted package-limited quantity of material") and the material is loaded into an IP-1 packaging and marked as such, can the IP-1 marking required by 49 CFR 172.310(b) be displayed or does this marking need to be removed, obliterated, or covered? Note: IP-1 and except packaging performance based requirements are the same.
6. Can the IP-1 marking required by 49 CFR 172.310(b) be displayed or does this marking need to be removed, obliterated, or covered when shipping a Low Specific Activity-II (LSA-II) less than an A₂ quantity? An IP-1 packaging meets all the performance based requirements of 49 CFR 173.427(b)(4) for shipping this type of payload. However, 173.427(e) Table 6 states that an IP-2 package is required for LSA and SCO materials.

Please provide written clarification to the questions stated above. Your clarifications would be appreciated.

If you have any questions or concerns regarding this request, you can contact me at (509) 376-7164, or on my cell phone at (509) 591-2932.

Sincerely,



James H. Portsmouth, Manager
Traffic Management/Regulatory Compliance

jmt

EnergySolutions - D. J. Moak
J. A. Reeves
JHP File/LB