



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave., SE
Washington, DC 20590

OCT 7 2009

Mr. Edward Altemos
HMT Associates, L.L.C.
803 King Street
Suite 300
Alexandria, VA 22314-3105

Ref. No.08-0219

Dear Mr. Altemos:

This is in response to your August 28, 2008 email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to shipping paper requirements. You present a number of scenarios with your interpretation of the applicable requirements. You ask that we comment on the accuracy of your interpretation. Your specific scenarios and interpretations, and our responses are as follows:

Scenario 1: The shipping paper states "Fire Extinguisher (Fire Extinguisher), 2.2, UN1044, 1 cylinder X 3 kg." The package marking states "Fire Extinguisher UN1044."

Altemos' Interpretation: This shipping paper description is not in compliance with the HMR because the words "Fire Extinguisher" have been interspersed between the required elements of the basic description, and because this term is not a "technical [or] chemical group" name specifically allowed to be interspersed within the required shipping description.

PHMSA's Comment: Your interpretation is correct. As required in § 172.202(d), technical and chemical group names may be entered in parentheses between the proper shipping name and hazard class or following the basic description. An appropriate modifier, such as "contains" or "containing," and/or the percentage of the technical constituent may also be used.

Scenario 2: The shipping paper states "Paint (Paint related material), 3, UN1263, II, Fiberboard box X 2L." The package marking states "Paint related material UN1263."

Altemos' Interpretation: The shipping paper description is not in compliance with the HMR because the words "Paint Related Material" have been

interspersed between the required elements of the basic description, and because this term is not a “technical [or] chemical group” name specifically allowed to be interspersed within the required shipping. Moreover, “Paint” and “Paint related material” are different materials, so although separated by an “or” in the relevant entry in the Hazardous Materials Table (HMT), both names cannot be “appropriate” to the material being described. Finally, the proper shipping name “Paint” conflicts with the proper shipping name on the package.

PHMSA’s Comment: Your interpretation is correct. As specified in § 172.101(c), the word “or” in italics indicates that terms in the sequence may be used as the proper shipping name, as appropriate. In addition, see PHMSA’s comment to Scenario 1.

Scenario 3: The shipping paper states “Paint, 3, UN1263, III, 1 Fiberboard box X 2L.” The package marking states “Paint related material UN1263.”

Altemos’ Interpretation: The shipping paper description is not in compliance with the HMR because “Paint” and “Paint Related Material” are different materials, the proper shipping name “Paint” conflicts with the proper shipping name on the package. Alternatively, since “Paint” and “Paint related materials” are different materials, if the shipping paper is correct, the package marking is incorrect.

PHMSA’s Comment: Your interpretation is correct. In addition, see PHMSA’s comment to Scenario 1 and 2.

Scenario 4: The shipping paper states “Air bag inflators or Air bag Modules, 9, UN3268, III, 1 Fiberboard box X 4 kg.” The package marking states “Air bag inflators UN 3268.”

Altemos’ Interpretation: The shipping paper description is not in compliance with the HMR because the words “Air bag modules” has been interspersed between the required elements of the basic description, and because this term is not a “technical [or] chemical group” name specifically allowed to be interspersed within the required shipping description “without limitations” under the provisions of § 172.202(d). In this regard, “Air bag inflators” and “Air bag modules” are different materials, so although separated by an “or” in the relevant entry in the HMT, both names cannot be “appropriate” to the material being described. Finally, the interspersed term “Air bag modules”

conflicts with the proper shipping name on the package.

PHMSA's Comment: Your interpretation is correct. In addition, see PHMSA's comment to Scenario 1 and 2.

Scenario 5: The shipping paper states "Ethanol, 3, UN1170, II, Fiberboard box X 3 L. The package marking states "Ethanol or Ethyl Alcohol UN1170."

Altomos' Interpretation: The shipping paper description is in compliance with the HMR. It does not conflict with the package marking, nor does the packing marking contravene the provisions of the HMR since no specific sequence is specified for package marking, and because "Ethanol" and "Ethyl Alcohol" are synonyms for the same material and both are authorized proper shipping names for that material (UN1170) under the HMR.

PHMSA's Comment: As provided in § 172.101(c), when one entry in Column (2) of the HMT references another entry by use of the word "see," if both names are in Roman type, either name may be used as the proper shipping name (e.g., Ethyl alcohol, *see* Ethanol). However, this provision does not specify that both entries must be simultaneously used in the basic description either on the shipping paper or when marking a non-bulk packaging.

Scenario 6: The shipping paper states "Ethanol (Ethyl Alcohol), 3, UN1170, II, 1 Fiberboard X 1 L." The package marking states "Ethanol UN1470.:"

Altomos' Interpretation: The shipping paper description conforms to the HMR since "Ethanol" and "Ethyl Alcohol" are synonyms for the same material and both are authorized proper shipping names for that material under the HMR. Moreover, "Ethyl Alcohol" is a "technical" name specifically allowed to be interspersed within the required basic descriptions.

PHMSA's Comment: Your interpretation is correct. See PHMSA's comment to Scenario 1.

Scenario 7: The quantity and unit of measure on the shipping paper states "Acetone, 3, UN1090, II, 1 Fiberboard box X 4 1 L" for which the "4 1 L" is intended to indicate that the fiberboard box contains 4 inner packagings each of one liter capacity.

Altomos' Interpretation: The manner of indicating the total quantity covered by the description (the shipment concerned is not an air shipment)

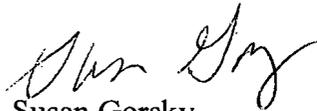
does not conform to the requirements of § 172.202(a)(5) because the numerical value indicating the quantity covered by the description (i.e., the figure “4” as in 4 liters) is not immediately followed by an indication of the applicable unit of measurement (i.e., “Liters” or “L”). Because the HMR do not require an indication of the number of inner packagings in a combination packaging, as written, the total quantity covered by the description could be incorrectly interpreted to be “41 L.”

PHMSA’s Comment:

Your interpretation is correct. As specified in §172.202(a), except for transportation by aircraft, the total quantity of hazardous materials covered by the description must be indicated (by mass or volume, or by activity for Class 7 materials) and must include an indication of the applicable unit of measurement. For example, “200 kg” or “50 L.”

I hope this information is helpful.

Sincerely,



Susan Gorsky,
Acting Chief, Standards Development
Office of Hazardous Materials Standards

Foster
 §172.101
 §172.201
 §172.202

Shipping Papers
 08-0218

Drakeford, Carolyn <PHMSA>

From: Gorsky, Susan <PHMSA>
Sent: Thursday, August 28, 2008 2:00 PM
To: Drakeford, Carolyn <PHMSA>
Cc: Mazzullo, Ed <PHMSA>
Subject: FW: Question concerning shipping paper descriptions
Attachments: DOT Interpretation 01-0160.pdf

From: Altemos, Edward A. [mailto:ealtemos@pipeline.com]
Sent: Tuesday, August 26, 2008 7:55 AM
To: Mazzullo, Ed <PHMSA>; Gorsky, Susan <PHMSA>
Subject: Question concerning shipping paper descriptions

Ed and Susan,

I have been asked for my opinion concerning the correctness of a number of shipping paper descriptions (in some cases, in light of the corresponding package marking). However, since I have not been able to find much in the way of prior interpretations that specifically address the issues concerned, I would appreciate if you could let me know if I am on target with my views concerning each. In each case, following the description and associated package marking, I have indicated whether I think the description complies with the applicable provisions of the HMR or not, along with my rationale for same. I would very much appreciate if you could either confirm my opinion, or, if I am incorrect, provide an alternative explanation as to the acceptability (or otherwise) of each description.

Before going into the various descriptions, as I see it the following provisions of the HMR are applicable:

1. §172.101(c)(2) – which states that the word “or” in a shipping name sequence in the Hazardous Materials Table indicates that terms in the proper shipping name sequence may be used as the proper shipping name “as appropriate”.
2. §172.201(a)(4) - which allows a shipping paper to contain “additional” (i.e., not otherwise required) information about the material that is not inconsistent with the required description, provided (unless otherwise permitted or required) that the information is placed after the basic description required by §172.202(a).
3. §172.202(b) – which requires that, except as specifically provided, the basic description required by §172.202(a)(1) to (4) must be shown in sequence with no additional information interspersed.
4. §172.202(d) – which allows “technical and chemical group names” to be entered in parentheses between the proper shipping name and hazard class, or following the basic description. The attached interpretation letter reference 01-0160 confirms that this is the case “without limitations” (that is, even when this information is not specifically required for a particular proper shipping name) – as long as the information is “appropriate and not inconsistent with the proper shipping name”. [Note: While I agree with the basic intent of this interpretation, I believe the specific example cited in the letter is incorrect because “ethyl benzene” is a distinct chemical compound and not a “xylene”, as evidenced by the fact that ethylbenzene is a separate UN (and HMR) entry with its own UN number (UN 1175). This being the case, it is not clear how, under the HMR, this could be a “technical name” for a material described as “xylenes” – or even how a mixture of xylenes and ethylbenzene could be properly described by the proper shipping name “Xylenes”.]

Against that background, the shipping paper descriptions (and corresponding package markings) in question follow, along with my view regarding the correctness under the HMR of each shipping description.

1. Shipping papers states: Fire Extinguisher (Fire Extinguisher), 2.2, UN1044, 1 cylinder X 3 kg

8/28/2008

Package marking states: Fire Extinguisher UN1044

Interpretation: This shipping paper description is not in compliance with the HMR because the expression "(Fire Extinguisher)" has been in interspersed between the required elements of the basic description, and because this term is not a "technical [or] chemical group" name specifically allowed to be interspersed within the required shipping description "without limitations" under the provisions of §172.202(d).

2. Shipping paper states : Paint (Paint Related Material), 3, UN1263, II, 1 Fiberboard box X 2 L

Package marking states: Paint Related Material UN1263

Interpretation: This shipping paper description is not in compliance with the HMR because the expression "(Paint Related Material)" has been in interspersed between the required elements of the basic description, and because this term is not a "technical [or] chemical group" name specifically allowed to be interspersed within the required basic description "without limitations" under the provisions of §172.202(d). Moreover, "Paint" and "Paint related material" are different materials, so, although separated by an "or" in the relevant entry in the Hazardous Materials Table, both of these names cannot be "appropriate" to the material being described. Finally, the proper shipping name "Paint" conflicts with the proper shipping name indicated on the package.

3. Shipping paper states: Paint, 3 ,UN1263, III, 1 Fiberboard box X 2 L

Package marking states: Paint Related Material UN1263

Interpretation: This shipping paper description is not in compliance with the HMR because, since "Paint" and "Paint related material" are different materials, the proper shipping name "Pant" conflicts with the proper shipping name indicated on the package. Alternatively, since "Paint" and "Paint related material" are different materials, if the shipping paper entry is correct, the package marking is incorrect.

4. Shipping paper states: Air Bag Inflators or Air Bag Modules, 9, UN3268, III, 1 Fiberboard box X 4 kg

Package marking states: Air Bag Inflators UN 3268

Interpretation: This shipping paper description is not in compliance with the HMR because the expression "or Air Bag Modules" has been in interspersed between the required elements of the basic description, and because this term is not a "technical [or] chemical group" name specifically allowed to be interspersed "without limitations" under the provisions of §172.202(d). In this regard, "Air Bag Inflators" and "Air Bag Modules" are different materials (see definitions in §173.166(a)), so, although separated by an "or" in the relevant entry in the Hazardous Materials Table, both of these names cannot be "appropriate" to the material being described. Finally, the interspersed term "Air Bag Modules" conflicts with the proper shipping name indicated on the package.

5. Shipping paper states: Ethanol, 3, UN1170, II, 1 Fiberboard box X 3 L

Package marking states: Ethanol or Ethyl Alcohol UN1170

Interpretation: This shipping paper description is in compliance with the HMR. Moreover, it does not conflict with the package marking, nor does the package marking contravene the provisions of the HMR since for package markings no specific sequence is specified, and because "Ethanol" and "Ethyl Alcohol" are synonyms for the same material and both are authorized proper shipping names for that material (UN 1170) under the HMR.

6. Shipping paper states: Ethanol (Ethyl Alcohol), 3, UN1170, II, 1 Fiberboard box X 1 L

Package marking states: Ethanol UN1170

Interpretation: This shipping paper description conforms to the HMR since "Ethanol" and "Ethyl Alcohol" are synonyms for the same material and both are authorized proper shipping names for that material under the HMR. Moreover, "Ethyl Alcohol" is a "technical" name specifically allowed to be interspersed within the required

basic description "without limitations" under the provisions of §172.202(d).

7. The quantity and unit of measure on the shipping paper states: "Acetone, 3, UN1090, II, 1 Fiberboard box X 4 1 L" for which the "4 1 L" is intended to indicate that the fiberboard box contains 4 inner packagings each of one liter capacity.

Interpretation: This manner of indicating the total quantity covered by the description (the shipment concerned is not an air shipment) does not conform to the requirements of §172.202(a)(5) because the numerical value indicating the quantity covered by the description (i.e., the figure "4" as in 4 liters) is not immediately followed by an indication of the applicable unit of measurement (i.e., "Liters" or "L"). Therefore – and because the HMR do not require an indication of the number of inner packagings in a combination packaging - as written the total quantity covered by the description could be incorrectly interpreted to be 41 L.

Again, I would appreciate your confirmation that my interpretation of the applicable requirements of the HMR as they apply to each of these shipping paper entries is correct, or, if not correct, how the requirements would be properly interpreted in the context of the entry. I very much appreciate your comments and assistance, and please do not hesitate to contact me if you have questions concerning this request.

Best regards,

Andy

8/28/2008