



U.S. Department
of Transportation

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

**Pipeline and Hazardous
Materials Safety
Administration**

OCT 24 2013

Mr. William Loehr
Corporate Environmental Affairs
ASARCO Grupo Mexico
5285 E Williams Circle, Suite 2000
Tucson, AZ 85711

Ref. No.: 13-0170

Dear Mr. Loehr:

This is in response to your August 13, 2013 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the preparation of a hazardous waste manifest. You request clarification relating to the proper order of the elements of the basic shipping description on the hazardous waste manifest.

In accordance with HMR § 172.202(b), as of January 1, 2013, the sequence of the basic description on the shipping paper must be; identification number, proper shipping name, hazard class or division, and packing group.

HMR § 172.205(b) further requires the shipper (generator) to prepare the hazardous waste manifest in accordance with 40 CFR part 262. Item 9 of the Appendix to 40 CFR part 262 (Uniform Hazardous Waste Manifest and Instructions) requires the "U.S. DOT Description (Including Proper Shipping Name, Hazard Class or Division, Identification Number, and Packing Group)" to be entered on the hazardous waste manifest.

HMR § 172.202(b) does not conflict with the 40 CFR part 262 instructions for the preparation of the hazardous waste manifest. As provided by HMR § 172.202(b), the sequence of the basic description on the hazardous waste manifest is; identification number, proper shipping name, hazard class or division, and packing group.

Section 3003(b) of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) requires the Environmental Protection Agency regulations applicable to transporters of hazardous waste to be consistent with the HMR. Item 9 of the 40 CFR part 262 instructions for the preparation of the hazardous waste manifest requires the entry of the U.S. DOT description, which is the basic shipping description in the sequence required by HMR § 172.202(b). Further, Item 9b of the instructions requires the entry of the elements of the basic shipping description as identified in 49 CFR part 172. The additional information in the 40 CFR part 262 instructions, "(Including Proper Shipping Name, Hazard Class or Division, Identification Number, and Packing Group)" sets forth the required elements without a specific order.

Sincerely,

Duane A. Pfund
International Standards Coordinator
Standards and Rulemaking Division



Babich
§172.202
§172.205
Shipping Papers
13-0170
August 13, 2013

U.S DOT
PHMSA Office of Hazardous Materials Standards
Attn: PHH-10
East Building
1200 New Jersey Avenue, SE.
Washington, DC 20590-0001

To Whom It May Concern,

I am writing this letter on behalf of ASARCO LLC requesting interpretation with respect to the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (DOT) "Hazardous Materials Regulations," relating to the proper order of entry on a Shipping Paper versus the order of entry on the U.S. Environmental Protection Agency (EPA) Uniform Hazardous Waste Manifest.

The DOT basic description on a Shipping Paper which was changed on January 1, 2013 (see below) is different from that in the Uniform Hazardous Waste Manifest (see below) that can be used as a Shipping Paper. The Uniform Hazardous Waste Manifest uses the old order of entry of the basic description which is therefore inconsistent with the January 1, 2013 change.

This is contrary to 40 CFR Part 263-Standards Applicable to Transportation of Hazardous Waste 263.10 Scope states that "EPA's adoption of these DOT regulations ensures consistency with the requirements of DOT and thus avoids the establishment of duplicative or conflicting requirements with respect to these matters."

DOT

§172.202 Description Of Hazardous Material On Shipping Papers.

(b) Except as provided in this subpart, the basic description specified in paragraphs (a)(1), (2), (3), and (4) of this section must be shown in sequence with no additional information interspersed. For example, "UN2744, Cyclobutyl chloroformate, 6.1, (8, 3), PG II." The shipping description sequences in effect on December 31, 2006, may be used until January 1, 2013.

After January 1, 2013, the proper order is: (Identification Number, Proper Shipping Name, Hazard Class or Division and Packing Group)

172.205 Hazardous Waste Manifest.

(b) The shipper (generator) shall prepare the manifest in accordance with 40 CFR Part 262.

EPA

Appendix to Part 262—Uniform Hazardous Waste Manifest and Instructions
(EPA Forms 8700-22 and 8700-22A and Their Instructions)

Item 9. U.S. DOT Description (Including Proper Shipping Name, Hazard Class or Division, Identification Number, and Packing Group)

Thank you for your consideration of this request. If you have any questions please call me at 520-356-3248.

Sincerely,



William Loehr

Corporate Environmental Affairs

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