



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

Ms. Amy Fischesser
Corporate Hazardous Goods
Transportation Manager
Sun Chemical Corporation
5020 Spring Grove Avenue
Cincinnati, OH 45232

FEB 10 2015

Reference No. 14-0239

Dear Ms. Fischesser:

This is in response to your December 3, 2014 e-mail requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) regarding the highway shipment of non-bulk drums containing only the residue of a hazardous material.

In your letter you describe a scenario where your local driver delivers full non-bulk drums containing "UN1210, Printing ink" to your customer. The same driver would then collect "empty" drums containing between 5-30 lbs of unused printing ink from the customer and return them to the originating facility. Upon return to your facility the "empty" drums will be placed in an empty drum trailer for eventual transport to a drum recycler. Your questions are paraphrased and answered as follows:

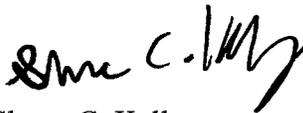
- Q1. Are empty drums that previously contained "UN1210, Printing ink" subject to the HMR even if they are excepted from a hazardous waste manifest because the amount of residue remaining in each drum is less than 3 percent weight of the total capacity of the drum in accordance with 40 CFR § 261.7?
- A1. The answer is yes. Generally, in accordance with § 173.29, packagings containing a residue of a hazardous material must be transported in the same manner as when they previously held a greater quantity of the material. Empty packages containing a hazardous waste also meeting the definition of a hazardous material under the HMR, are fully subject to the HMR regardless of any exception from certain requirements under 40 CFR.
- Q2. You note that in accordance with § 173.29(c), a non-bulk packaging containing only the residue of a hazardous material covered by Table 2 of §172.504 is excepted from the shipping paper and placarding requirements when collected and transported by a contract or private carrier for reconditioning, remanufacture or reuse. You ask if the "empty" drums to be returned to the originating facility in the above scenario are eligible for the exception in § 173.29(c) as they are not being transported directly to a reconditioner or remanufacturer.

- A2. A non-bulk packaging containing only the residue of a hazardous material covered by Table 2 of § 172.504 collected and transported by a contract or private carrier for reconditioning, remanufacture or reuse is excepted from the shipping paper requirements in Part 172, Subpart C. Therefore, if the shipment is made by a private or contract carrier, it is not subject to the shipping paper requirements (§ 173.29(c)(2)). In addition, a non-bulk packaging containing only the residue of a hazardous material covered by Table 2 of § 172.504 is not subject to the placarding requirements in Part 172, Subpart F (§ 173.29(c)(1)). This placarding determination exception is not contingent on the transport being performed by a contract or private carrier for reconditioning, remanufacture or reuse.

The “empty” packagings described in your scenario would be eligible for the shipping paper exception provided in § 173.29(c)(2) when transported by a contract or private carrier from the customer’s facility back to the intermediary facility where they will be stored temporarily for subsequent transport provided the empty packagings containing residue are collected for purposes of reconditioning, remanufacture or reuse.

I trust this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Shane C. Kelley", with a long, sweeping flourish extending upwards and to the right.

Shane C. Kelley
Acting International Standards Coordinator
Standards and Rulemaking Division

December 3, 2014

Wiener
§173.29
Empty Packages
14-0239

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

RE: Letter of Interpretation

Dear Office of Hazardous Materials Standards:

Sun Chemical Corporation requests a letter of interpretation regarding the provisions specified in Title 49 Code of Federal Regulations (CFR) § 173.29, Empty Packages.

Our local driver makes a delivery of full drums of UN1210, Printing Ink to one of our customers. That same local driver was bringing back to the originating plant site empty drums, which may have anywhere from 5-8 lbs. to 20-30 lbs. of product left in them. Our local driver is refusing to bring back the drums containing product back to the originating plant site. After our plant site received the drums they would then put those drums on the empty drum trailer. When the empty drum trailer is full, then it goes to the recycler.

The customer's SH&E Manager told the driver "That if 3% by weight of the total capacity of the less than 119 gallons container could remain in the drum. This return would not require hazardous waste paperwork. It just needs to be sealed and the original labels and placards left on." It may be the SH&E Manager is misunderstanding 40 CFR § 261.7 Residues of hazardous waste in empty containers. Even though the manifesting requirements may not apply, DOT shipping requirements may still be applicable during transport.

My understanding is that packagings containing a residue of hazardous material must be transported in the same manner as when they previously held a greater quantity of the material. However, in accordance with § 173.29(c), a non-bulk packaging containing only the residue of a hazardous material covered by Table 2 of § 172.504 is excepted from shipping paper and placarding requirements when collected and transported by a contract or private carrier for reconditioning, remanufacture, or reuse. I believe that since our local driver is bringing those drums back to the originating location instead of taking them directly to a reconditioner, remanufacture, etc. that §173.29(c) does not apply. The amount left in the drums is questioning to me as well -- especially the 20-30 lbs.

Thank you very much for your time, it is greatly appreciated.

Kind Regards,

Amy E. Fischesser
Corporate Hazardous Goods
Transportation Manager
Sun Chemical Corporation
5020 Spring Grove Avenue
Cincinnati, OH 45232
PH: 513.681.5950, Ext. 4492
Cell: 513.484.7657

Dodd, Alice (PHMSA)

From: Ciccarone, Michael CTR (PHMSA)
Sent: Tuesday, December 09, 2014 2:18 PM
To: Hazmat Interps
Subject: FW: Letter of Interpretation Request
Attachments: Letter to DOT regarding empty returns 2014.doc

Importance: High

Shante/Alice,

Please submit this for a formal letter of interpretation. Ms. Fischesser spoke with Adam Lucas.

Thanks,

Mike

From: Fischesser, Amy [<mailto:Amy.Fischesser@sunchemical.com>]
Sent: Tuesday, December 09, 2014 8:53 AM
To: PHMSA HM InfoCenter
Subject: Letter of Interpretation Request
Importance: High

Please see attached letter requesting letter of interpretation. Thank you.

Kind Regards,
A. E. Fischesser
Corp. Hazardous Goods Transportation Mgr.
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By working together, we can stay in regulatory compliance.

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