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Molten Sulfur Residue/Transportation: U.S. Pipeline and Hazardous Materials Safety Administration Addresses Hazardous Materials Regulations/Transloading Issue

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The United States Pipeline and Hazardous Materials Safety Administration (“PHMSA”) addressed in a June 24th interpretive letter the applicability to the Hazardous Materials Regulations (“HMR”) to residue of molten sulfur on tank cars during transloading.

PHMSA was responding to a December 6, 2018, query from Canal Terminology Company (“CTC”).

CTC stated that it performed the following activities during transloading operations which include:

- Sets up tank cars to receive molten sulfur;
- Secures the tank cars for shipment after being filled with molten sulfur;
- Serves as the shipper of record on shipping papers.

The company further stated that an outside carrier conducts the physical transfer of the molten sulfur from the cargo tanks to the tank cars.

CTC asked whether the company would:

... be cited for a violation if there is excessive amount of molten sulfur on the exterior of the tank car.

CTC clarified that the residue of molten sulfur is from either:

1. a previous shipment (i.e, residue is found on an empty tank car prior to transloading); or
2. after the tank car is filled by the outside carrier.

PHMSA responds citing § 171.2(e) which states:

... no person may offer or accept a hazardous material for transportation in commerce unless the hazardous material shipment properly complies with the HMR.

Section 173.24(b)(4) is cited, which states that:

... there will be no hazardous material residue adhering to the outside of the package during transport. . .

Further noted is § 174.57 which specifies that all hazardous materials leaked from a rail car must be carefully removed.

Therefore, PHMSA states that:

. . . no package should be offered or accepted for transportation unless it conforms to the HMR, which includes ensuring there is no residue outside of the tank car. Regardless of the state of the tank cars from a previous shipment or another entity performing the transloading, since your company is acting as a shipper and carrier (by accepting a transload), you have the responsibility for ensuring the hazardous material is in a condition for shipment as required or authorized by the HMR.

PHMSA does note, however, that the publishing of a final rule titled "Hazardous Materials: Miscellaneous Amendments," 78 Fed. Reg. 15303, that addressed a petition for rulemaking which:

1. added The Sulphur Institute's Molten Sulphur Rail Tank Car Guidance document to Table 1 of § 171.7 as a material not incorporated by reference; and
2. created a new special provision R1 to reference offerors of tank cars containing sulfur, molten, or residue of sulfur, molten to TSI's document to identify tank cars that may pose a risk in transportation due to the accumulation of formed, solid sulfur on the outside of the tank.

The final rule (HM-218G) is stated to specify that:

. . . although §§ 173.24(b)(4) and 174.57 indicate that no residue is permitted on the outside of the tank car, "minimal levels of sulfur residue on the outside of a rail tank car pose minimal transportation risk due to physical state, chemical properties, and amount" and that there are difficulties in removing dried sulfur residue from the tank car while in transportation.

A copy of the June 24th letter can be downloaded [here](#).