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Transportation/Hazardous Materials: U.S. Pipeline and Hazardous Materials Safety Administration Interpretive Letter Addressing Materials of Trade Provisions

09/13/2019

The United States Pipeline and Hazardous Materials Safety Administration (“PHMSA”) addressed in an August 1st interpretive letter a question regarding the Hazardous Materials Regulations (“HMR”) applicable to materials of trade (“MOTs”).

PHMSA was responding to an April 1st query from the Dangerous Goods Advisory Council (“DGAC”).

DGAC noted in its April 1st query that the MOT provisions in § 173.6(a)(1) provide for package gross mass limits for materials in packing groups (“PG”) from I, II, and III and for other regulated materials (“ORM-D”). The organization also noted that:

... hazardous materials without a packing group assigned, such as lithium batteries, do not have a gross mass indicated.

PHMSA is asked whether it intended to exclude articles from MOTs eligibility. Further, if not, guidance is requested on determining package gross mass limitations for articles such as lithium batteries.

PHMSA cites a January 8, 2015, Federal Register provision which is stated to have removed packing group assignments from the § 172.101 Hazardous Materials Table (“HMT”) entries for many articles (e.g. UN3480, Lithium ion batteries). See 80 Fed. Reg 1075. The preamble from the Federal Register Notice is cited, which states:

For articles, the packing group does not relate to the degree of hazard posed by the material but rather is assigned generically to the article.

PHMSA states that the revisions to the HMT “were made to provide consistency for all articles listed in the HMT.”

It further notes that it was not its intention in the HM-215M rulemaking to remove articles (referencing lithium batteries) from MOTs eligibility. However, it states:

... under the MOTs exceptions in § 173.6, the packing group assignment is used to determine the maximum gross mass or capacity of a completed package.

The fact that because lithium batteries are generally required to be offered in a packaging meeting the PG II performance level, referencing § 173.185(b)(3)(ii), lithium batteries transported as MOTs are subject to the same quantity limitations as a PG II hazardous material (30 kg) is noted.

PHMSA states it will clarify this issue in a future rulemaking.

A copy of the August 1st letter can be downloaded [here](#).