

Transportation/Hazardous Materials: Pipeline and Hazardous Materials Safety Administration Interpretive Letter Addressing Elemental Mercury



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The Pipeline and Hazardous Materials Safety Administration (“PHMSA”) addressed in a July 2nd Interpretive Letter clarification of the Federal Hazardous Materials Regulation (“HMR”) applicable to elemental mercury.

PHMSA was responding to a January 15th email from Fern B. Miller of Philadelphia, Pennsylvania.

Miller of the Pillinger, Miller, Tarrallo Law Firm (“PMT”) asked for clarification regarding the need for closure instructions when shipping 2,000 pounds of “UN 2809, mercury” by motor vehicle in an 18.5-gallon non-specification reusable metal packaging.

The query noted an understanding that for a non-bulk packaging allowed in 49 C.F.R. § 173.164(d), that UN 2809, mercury may be shipped in non-specification reusable metal packages. As a result, the query indicated that no closure instructions are required.

PHMSA states that this interpretation is correct. It notes:

...closure instructions in §§ 173.22(a)(4) and 178.2(c) apply to specification packaging only. The hazardous material properly described as “UN 2809, mercury” may be packaged in non-specification [emphasis added] reusable metal packagings as describes in §173.164(d)(2) for transportation other than by aircraft.

The response also indicates that UN 2809, mercury is subject to the HMR only when offered for transportation by aircraft or vessel unless the material is a hazardous substance or hazardous waste. As a result, PHMSA says that given the quantity of transport, it meets the definition of hazardous substance and, therefore is subject to the HMR when transported by motor vehicle.