



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

May 21, 2020

Jeff R. Thomas
STAR Consulting
85 S. LaVerne Street
Fallon, NV 89406

Reference No. 20-0026

Dear Mr. Thomas:

This letter is in response to your March 23, 2020, email and subsequent email correspondence requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to storage incidental to movement. Specifically, you describe a scenario involving intermodal transportation and ask whether, in the specific scenario you describe, the storage of rail tank cars on private track meets the definition of “storage incidental to movement.”

In your scenario, a hazardous material is transported by rail in tank cars from a manufacturing plant to a transloading facility. The tank cars are delivered to a private track at the transloading facility, and after a 2-3 day period, are unloaded from the tank cars into cargo tank motor vehicles for delivery to a customer. You ask whether the tank cars containing hazardous material are considered to be in “storage incidental to movement” (see §§ 171.1(c)(4) and 171.8) during the 2-3 day period they are stored on private track at the transloading facility, and therefore subject to the requirements of the HMR.

The answer is no. As described in your scenario, the storage on private track does not meet the definition of “storage incidental to movement.” Once the tank cars are delivered to the private track of the designated consignee for the rail movement, transportation is considered to have ended, even if the hazardous material is described as a through-shipment to another destination. The storage of hazardous material in the tank car on private track is not subject to the HMR, but the HMR apply to the pre-trip functions performed for the next mode of transportation for the hazardous material.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

Dirk Der Kinderen
Chief, Standards Development Branch
Standards and Rulemaking Division

From: [Foster, Glenn \(PHMSA\)](#)
To: [January, Ikeya CTR \(PHMSA\)](#)
Cc: [Dodd, Alice \(PHMSA\)](#)
Subject: FW: Storage incidental to transportation
Date: Tuesday, March 24, 2020 10:41:32 AM

Ikeya,

Can you treat the incoming from Mr. Thomas below as a request for a letter of Interp and assign to the next Specialist in the rotation, please? Once assigned, please email Mr. Thomas an updated version of our receipt of Interp request confirmation.

Thanks,
Glenn

From: Kelley, Shane (PHMSA)
Sent: Tuesday, March 24, 2020 10:33 AM
To: Horsley, Adam (PHMSA) <adam.horsley@dot.gov>
Cc: Foster, Glenn (PHMSA) <Glenn.Foster@dot.gov>
Subject: RE: Storage incidental to transportation

Good morning Adam,

Certainly. Glenn - can you please work with the team to ensure the below inquiry is logged/assigned for response?

Thank you

Shane

From: Horsley, Adam (PHMSA) <adam.horsley@dot.gov>
Sent: Tuesday, March 24, 2020 10:29 AM
To: Kelley, Shane (PHMSA) <shane.kelley@dot.gov>
Subject: FW: Storage incidental to transportation

Hi Shane,
When you have time, we would like to ask for PHH-10's help in responding to the email below. Can we please handle this through the interpretation process?

Best,
- Adam

Adam Horsley
Deputy Assistant Chief Counsel
Hazardous Materials Safety Law Division
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From: Jeff Thomas [<mailto:jeffrthomas2016@gmail.com>]
Sent: Monday, March 23, 2020 6:40 PM
To: Chief Counsel, PHMSA (PHMSA) <phmsachiefcounsel@dot.gov>
Subject: Storage incidental to transportation

Dear Chief Counsel:

If a railroad car of Hazardous Material is shipped from a shipper at their shipping location (origin) to a private rail siding and then connected to a trans-loader and transferred to a semi-trailer and then further transported by truck/semi-trailer to the final shipping destination of the consignee (i.e. buyer, end user), for the time period the rail car is at the trans-loading facility, is it or is it not considered to be "storage incidental to transportation or movement."

I would appreciate your earliest response as we have a customer who wants to be sure and comply with all applicable regulations as the product is delivered to its final destination.

Thank you very much.

--
Jeff R. Thomas, JD
STAR Consulting

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