



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

FEB 10 1999

400 Seventh Street, S.W.
Washington, D.C. 20590

Mr. Andrew N. Romach
Corporate Regulatory Compliance Manager
Radian International
P.O. Box 13000
Research Triangle Park, NC 27709

Ref. No. 98-0316

Dear Mr. Romach:

This is in response to your letter dated October 20, 1998, requesting clarification on placarding requirements for cryogenic liquids under §§ 173.320(a) and 177.823(a) of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you are asking if placarding is required for cryogenic liquids under both §§ 173.320(a) exception and 177.823(a) for emergency situations.

With the exception of oxygen, cryogenic liquids being shipped and transported under the exception provisions in § 173.320(a) are not subject to placarding. However, compliance with subparts A, B, C, D, G, and H of part 172 is required. Under § 177.823(a), a carrier may not move a transport vehicle containing a hazardous material unless the vehicle is marked and placarded in accordance with part 172 when required or as authorized in § 171.12a of this subchapter, or there is an emergency. Marking and placarding is not required in an emergency when (1) the vehicle is escorted by a state or local government representative; (2) the carrier has permission from the Department; or (3) movement of the transport vehicle is necessary to protect life or property. However, if an exception from placarding is provided elsewhere in the HMR, such as in § 173.320, the requirements for placarding in § 177.823 do not apply. Thank you for bringing this situation to our attention. We will clarify these requirements in a future rulemaking.

I hope this answers your inquiry.

Sincerely,

Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards



RADIAN INTERNATIONAL

A DAMES & MOORE GROUP COMPANY

98-0316
Boothe
§ 177.823

Mailing Address:

Post Office Box 13000
Research Triangle Park,
North Carolina 27709

Physical/Shipping Address:

1600 Perimeter Park Drive
Morrisville, North Carolina 27560

919 461 1100 Tel

919 461 1415 Fax

October 20, 1998

Mr. Ed Mazzullo, Director
Office of Hazardous Material Standards
Research and Special Programs Administration
U.S. Department of Transportation
400 7th Street, SW
Washington, DC 20509-0001
FAX: (202) 366-3012

Dear Mr. Mazzullo:

The purpose of this letter is to request a written regulatory clarification concerning applicable placarding requirements for cryogenic liquids discussed in the exceptions found in 49 CFR §173.320(a). Paragraph (a)(2) states that cryogenic liquids meeting the requirements of 49 CFR 173.320(a) are subject to Subparts A, B, C, and D of part 172. Note that Subpart F (placarding requirements) is omitted from this list, implying that these cryogenic liquids are not subject to Subpart F. However, paragraph (a)(3) of this section refers to 177.823; paragraph (a) of 177.823 states that: "A carrier may not move a transport vehicle containing a hazardous material unless the vehicle is marked and placarded in accordance with part 172 or as authorized in 171.12a of this subchapter...." It appears that this reference is concerned with the movement of motor vehicle in emergency situations (as the title of section 177.823 states); however, the intention is not entirely clear as to whether or not placarding is required. Please advise me on the intent of the regulations: Is placarding required for cryogenic liquids meeting the requirements of the exception in 49 CFR 173.320(a)? Is placarding required for emergency situations under 49 CFR 177.823? If so, what type of emergency situation would require placarding?

If you have any questions concerning this request, please call me directly at (919) 461-1220.

Sincerely,

Andrew N. Romach
Corporate Regulatory Compliance Manager
Radian International