


HAZARDOUS MATERIALS GUIDANCE

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Summary:

This Hazardous Materials Guidance document explains the Federal Railroad Administration's (FRA) policy on the applicability of the hazardous material regulations (HMR) to the return of packagings containing a residue of a hazardous substance.

Discussion:

49 CFR Section 173.29 of the HMR generally requires empty packagings containing a residue of a hazardous material, including hazardous substances, to be offered for transportation and transported in the same manner as when the packagings contain a greater quantity of the hazardous material.

The HMR generally defines a "hazardous substance" as a material, including its mixtures and solutions, that is listed in Appendix A to 49 CFR § 172.101 and "in a quantity, in one package, which equals or exceeds the reportable quantity (RW) listed in Appendix A to 49 CFR § 172.101." *See also* 49 CFR § 171.8.

When determining whether a residue rail shipment meets the HMR's definition of "hazardous substance" and whether the HMR applies to that material's shipment, the following will apply:

- A rail car containing any material (or mixture of materials) listed in Appendix A to 49 CFR § 172.101 in a quantity **greater than or equal to** its reportable quantity in one package is subject to the requirements of the HMR.
- A rail car containing any material (or mixture of materials) listed in Appendix A to 49 CFR § 172.101 in a quantity **less than** its reportable quantity in one package, which does not meet the criteria for any other hazard class in Part 173 of the HMR and is not a hazardous waste or a marine pollutant as defined in § 171.8, is not subject to the requirements of the HMR.

Determining whether the residue package contains a reportable quantity of a hazardous substance is the responsibility of the shipper. Generally, a shipper is not expected to measure the amount remaining after unloading (the heel) but can, in good faith, estimate the amount remaining by using his or her knowledge of the material, the packaging, and the unloading method.

If a shipper elects to classify a material as “Residue, last contained...RQ,” the shipper may do so even if unable to determine that the package contained an amount greater than or equal to the reportable quantity. If the shipper makes a good faith, reasonable determination about the presence or absence of a reportable quantity of a hazardous material, FRA will consider the shipper to be in compliance with 49 CFR § 173.29.