



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

JUL 16 2015

James Gibson
Ammunition Surveillance Division
6280 Sunny point RD
Southport, NC 28461

Ref. No. 15-0091

Dear Mr. Gibson:

This responds to your May 6, 2015 email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the reportable quantity (RQ) of a hazardous material. You offer an explosive article containing 15 to 16 pounds of white phosphorus classified as, "UN0243, Ammunition, incendiary, white phosphorus." Your questions are paraphrased and answered as follows:

Q1. Does the entry "phosphorus" in § 172.101 Table 1 to Appendix A apply to "white phosphorus"?

A1. Yes. Materials and their corresponding RQs listed in Appendix A to § 172.101 are designated as "hazardous substances" under Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This definition includes substances listed under section 311(b)(2)(A) of the Federal Water Pollution Control Act. 40 CFR 116.4 provides a list of materials designated as hazardous substances including section 311(b)(2)(A) materials. Table 116.4A lists the common name, "Phosphorus" with the associated synonyms, "black phosphorus, red phosphorus, white phosphorus, yellow phosphorus." Therefore, the "phosphorus" entry listed in § 172.101 Table 1 to Appendix A includes "white phosphorus."

Q2. Does the explosive article described in this scenario meet the definition of a hazardous substance?

A2. Yes. If a package contains a quantity of hazardous material that meets or exceeds the RQ, it meets the definition of a hazardous substance and must satisfy all

applicable requirements. Based on the information you provided, each package containing the article as described, would exceed the one pound RQ for phosphorus; and meets the definition of a hazardous substance (see § 171.8).

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dirk Der Kinderen', written in a cursive style.

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

Ciccarone
§ 172.201
Shipping Papers
15-0091

Dodd, Alice (PHMSA)

From: Geller, Shelby CTR (PHMSA)
Sent: Wednesday, May 06, 2015 10:15 AM
To: Hazmat Interps
Subject: FW: Formal Letter of Interpretation Request

Hi Shante and Alice,

Attached is a formal letter of interpretation. Mr. Gibson spoke with myself about the issue and it was further discussed with Adam Lucas and Britain Bruner.

Thanks,
Shelby

-----Original Message-----

From: Gibson, James S CIV USARMY 596 TRANS BDE (US) [<mailto:james.s.gibson4.civ@mail.mil>]
Sent: Tuesday, May 05, 2015 4:19 PM
To: PHMSA HM InfoCenter
Subject: Formal Letter of Interpretation Request

I would like to request a Formal Letter of Interpretation concerning shipping papers and the requirement to identify materials with a Reportable Quantity of a Hazardous Substance. When shipping Ammunition, incendiary, white phosphorus, 1.2H, UN0243, is there a requirement to identify the item as a Reportable Quantity? Specifically, this item is an explosive article (class 1) that contains upwards of 15 or 16 pounds of white phosphorus per 155mm projectile. The 49 CFR, 172.101, Table 1 to Appendix A (Hazardous Substances Other Than Radionuclides) states that Phosphorus is a Reportable Quantity if a package contains 1 pound or more. The term Phosphorus by itself is not listed in the HAZMAT Table, and the Hazardous Substance Table does not specify if the term Phosphorus includes the various types such as white or red. If the term Phosphorus includes white and red in the Hazardous Substance Table, does the Reportable Quantity requirement pertain to an ammunition item that uses the substance as a primary filler? Response can be sent by email or to the physical address listed below.

James Gibson
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Cell: 910-200-2626