



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

NOV 21 2011

Mr. W. Eugene Sanders III
Manager
W.E. Train Consulting
8710 W. Hillsborough Avenue # 112
Tampa, FL 33615

Reference No.: 11-0189

Dear Mr. Sanders:

This is in response to your August 15, 2011 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) as they pertain to UN 1044, Fire Extinguishers. Specifically, you ask if highway or rail shipments of fire extinguishers conforming to the requirements of §173.309(a) meet the definition of limited quantity in §171.8. Further you asked whether such shipments are eligible for the exception to the shipping paper requirement provided in §172.200(b)(3), and are permitted to be marked with the limited quantity marking in accordance with §172.315(a).

In order to qualify under the limited quantity provision, a fire extinguisher must meet the requirements contained in §173.309(a). If the container is packaged and offered for transportation in accordance with §173.309(a) the limited quantity provision applies. For domestic transportation, as defined by §171.8, by highway or rail, such limited quantity shipments of fire extinguishers are eligible for the exception to the shipping paper requirement provided in §172.300(b)(3) and are permitted to be marked with the limited quantity marking in accordance with §172.315(a).

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

Sincerely,

Delmer Billings
Senior Regulatory Advisor
Standards and Rulemaking Division



Babich
873.309
Fire Extinguishers
11-0189

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PHMSA,

It appears from reading the HMR that UN1044, Fire Extinguishers are allowed to be shipped as Limited Quantity, under some circumstances. Here is a list of reasons why that conclusion was reached.

- 49CFR 173.309 is listed in Column 8A of the Hazardous Materials Table for UN1044, Fire Extinguishers, the same place that Limited Quantity exceptions are listed.
- 49CFR 173.309(a) lists the requirements for non-specification packagings for UN1044, and every single one of them is referenced with "a limited quantity of compressed gas". Since the only hazard possessed by fire extinguishers is the pressure from compressed gas, if the compressed gas is a limited quantity, then, it follows that so, too, is the fire extinguisher containing that gas only a limited quantity.
- 49CFR 173.309(a) excepts fire extinguishers filled with "a limited quantity of compressed gas" from ground labels, specification packaging, and placarding, but not from marking and not from shipping papers, which is the same relief granted to almost all "old" limited quantities in Classes 2, 3, 4, 5, and 8, and different from "old" limited quantities in Div 6.1 only in the surface labeling. In other words, the relief for UN1044 provided in 173.309(a) in association with the words "limited quantity" seems to be consistent with the relief provided for limited quantities of other classifications.
- It has been the stated intention of PHMSA to harmonize with international DG regulations. IMDG allows UN1044 to be shipped under the "new" LQ, so it appears that considering some UN1044 to be LQ (based on current HMR wording) is consistent with PHMSA intent.

Therefore, it seems clear that Fire Extinguishers meeting all the requirements of 173.309(a) are Limited Quantities, and as such are also eligible for the relief from ground shipping papers afforded in 172.200(b)(3), and are allowed to be marked with the limited quantity marking of 172.315(a) when shipped by road or rail.



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There are now fire extinguisher manufacturers and fire extinguisher re-distributors using the current wording of the HMR, along with the reasoning presented herein, to ship UN1044, Fire Extinguishers as LQ without ground shipping papers and with the 'new' LQ mark. If there is a significant flaw in this reasoning, and such activities are truly non-compliant, please respond to this letter as soon as possible, so that what is rapidly becoming a harmonized, cost-saving, industry practice can be reversed.

Thank you.

Sincerely,

A handwritten signature in black ink that reads 'W. Eugene Sanders III'. The signature is written in a cursive, flowing style.

W. Eugene Sanders III

15 August 2011