



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

NOV 21 2011

1200 New Jersey Avenue SE
Washington, DC 20590

Mr. Chuck Kimball
Director of Engineering
Integrated Support Services
9700 Research Drive
Charlotte, NC 28262

Ref. No. 11-0196

Dear Mr. Kimball:

This is in response to your e-mail asking whether a hazardous article described as "Fire extinguisher, 2.2, UN 1044" conforming to 49 CFR § 173.309(a) of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) meets the definition of limited quantity in § 171.8. Your questions are paraphrased and answered as follows:

Q1. Can a hazardous article described in accordance with the § 172.101 Hazardous Material Table as "Fire extinguisher, 2.2, UN1044" be considered a limited quantity under the HMR?

A1. Yes. The requirements for fire extinguishers are found in § 173.309 of the HMR. In order to qualify under the limited quantity provisions, a fire extinguisher must fully meet the limited quantity requirements contained in § 173.309(a) through 173.309(a)(3)(iv). If the container is packaged and offered for transportation in accordance with § 173.309(a) through 173.309(a)(3)(iv), the limited quantity provisions apply.

Q2. Assuming the answer to Q1 is yes, if a fire extinguisher is packaged and offered for transportation under the limited quantity provisions in § 173.309 (a), is a shipping paper required? We note that § 172.200(b)(3) excepts limited quantity packages from shipping papers for transportation by highway or rail.

A2. Yes. The shipping paper requirements specified in § 173.309(a) take precedence over the shipping paper exception for limited quantity packages in § 172.200(b)(3).

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

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Drakeford, Carolyn (PHMSA)

Stevens
§ 173.309
Fire Extinguishers
11-0196

From: Winter, Lisa (PHMSA)
Sent: Wednesday, August 17, 2011 12:19 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Formal interpretation request for 173.309

From: Chuck Kimball [<mailto:CKimball@BHCISS.com>]
Sent: Wednesday, August 17, 2011 10:48 AM
To: Winter, Lisa (PHMSA)
Subject: Formal interpretation request for 173.309

Good morning Ms. O'Donnell,

Referencing our conversations regarding whether fire extinguishers meeting the requirements of 173.309(a) could be shipped as "limited quantity" and marked per section 172.315(a), and, shipped without shipping papers per 172.200(b)(3), your response was that fire extinguishers were not eligible for treatment as "limited quantity". Since our last conversation, it was brought to our attention that there is an existing interpretation, 02-0149, which contains these two questions and answers:

Q. Can a hazardous material classified in accordance with § 172.101 Hazardous Material Table as "Fire extinguisher, 2.2, UN1044" be considered a limited quantity under the HMR and therefore excepted from the emergency response telephone number requirement under § 172.604?

A. The requirements for shipping fire extinguishers are found in § 173.309(a). In order to qualify under the limited quantity provision, a fire extinguisher must fully meet the limited quantity requirements contained in § 173.309(a) through 173.309(a)(3)(iv). If the container is packaged and offered for transportation in accordance with § 173.309 (a) through 173.309(a)(3)(iv) the limited quantity provision applies, and the package is excepted from the emergency response telephone number requirement in § 172.604.

Q. If a fire extinguisher is packaged and offered for transportation under the limited quantity provision in § 173.309 (a) must the description on the shipping paper include the words "Limited Quantity" or "Ltd Qty" as specified in § 172.203(b)?

A. Yes. Section 172.203(b) requires offerors of hazardous materials as limited quantities, including fire extinguishers, to include the words "Limited Quantity" or "Ltd Qty" following the basic description on the shipping paper.

The first question addresses limited quantity in relation to the emergency response telephone number requirement and not the question of shipping papers. The second question is based upon the assumption that shipping papers are required, and addresses the inclusion of the words "Limited Quantity" or "Ltd Qty" on those shipping papers.

As we initially discussed, section 173.309 does not except fire extinguishers from the shipping paper requirements found in 174.24 and 177.817 (for rail and highway, respectively). So regardless of whether fire extinguishers are eligible for treatment as limited quantity, it seems that shipping papers are required. Since there appears to be some differing interpretations on this topic, please consider this email as a request for a formal interpretation with the questions below.

Q1. Are fire extinguishers which meet the requirements of 173.309(a) eligible to be shipped as "limited quantity"?

Q2. Does the specific reference in 173.309(a) to the shipping paper requirements 174.24 and 177.817 take precedence over 172.200(b)(3) for shipments of fire extinguishers by highway or rail and therefore mean that shipping papers are required regardless of whether fire extinguishers are eligible to be shipped as "limited quantity"?

Thank you for your continuing help with this matter. We look forward to your earliest response.

Regards,