



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

1200 New Jersey Ave, SE
Washington, D.C. 20590

SEP 17 2010

Mr. Andrew Romach
Regulatory Compliance Manager
URS Corporation
1600 Perimeter Park Drive
Morrisville, NC 27560

Ref. No. 10-0143

Dear Mr. Romach:

This responds to your July 8, 2010 letter regarding the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to the transportation of a fire extinguisher. According to your letter and subsequent telephone conversation with a member of my staff, portable structures such as mobile office trailers and freight containers configured as jobsite trailers are transported by contracted motor vehicle to various jobsites for use as temporary structures. These structures are often outfitted with a portable fire extinguisher mounted to an interior wall for use in emergency when the structures are occupied or in use. The fire extinguishers are primarily placed in the structures because of Occupational Safety and Health Administration (OSHA) requirements (e.g., see 29 CFR 1910.157 and 1910.252) or local fire codes but are also placed in the structures based on company policy. Specifically, you request clarification of the applicability of the HMR to the transportation by highway of a fire extinguisher incorporated as part of a portable structure.

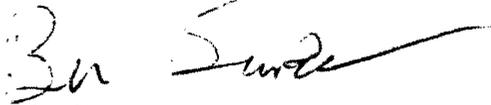
You reference a June 12, 2007, letter of interpretation (Ref. no. 07-0092) in which PHMSA clarifies that a fire extinguisher that is an integral part of a motor vehicle is not in commerce and thus, is not subject to regulation under the HMR. It is your understanding that a portable structure such as a mobile office trailer functions as a motor vehicle and therefore, a fire extinguisher mounted on the interior of the trailer would be considered an integral part of the motor vehicle, and thus, not in commerce. Additionally, for those instances when a fire extinguisher is required safety equipment which must be mounted in a motor vehicle, trailer, or freight container; or mounted on equipment transported aboard a motor vehicle or trailer, you ask whether the fire extinguisher is always considered integral to the motor vehicle and therefore, not in commerce.

The portable structures you describe in your letter are jobsite trailers. They are not used for the purpose of transporting hazardous material as was the case in the June 2007 letter you reference.

It is the opinion of this Office that fire extinguishers transported in portable structures (i.e., jobsite trailers) for safety purposes and in accordance with OSHA requirements or local fire codes are not in commerce. Thus, the fire extinguishers are not subject to the HMR.

I hope this information is helpful. If you have further questions, please contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Supko". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ben Supko
Acting Chief, Standards Development
Office of Hazardous Materials Standards



July 8, 2010

Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S. DOT/PHMSA (PHH-10)
1200 New Jersey Avenue, SE East Building, 2nd Floor
Washington, DC 20590

Der Kinderen
§ 173.159
§ 173.309
Batteries / Fire Extinguisher
10-0143

Dear Mr. Mazzullo:

I am writing to you concerning the transportation of a portable fire extinguisher mounted to the inside wall of a small portable building containing construction tools. This small portable building is transported by a contracted carrier to a jobsite for temporary use by field engineers. The portable fire extinguisher remains mounted on the interior wall once the portable building is installed at the jobsite. The portable fire extinguisher is required to be available in the portable building in the event that a fire occurs at the jobsite while the field engineers are working. The fire extinguisher is a DOT specification cylinder meeting the criteria of a Division 2.2 hazardous material.

I have reviewed DOT interpretation 07-0092 (issued June 12, 2007) (see attached), which allows trailers transporting batteries under exception in 49 CFR 173.159(e)(1) to be equipped with a fire extinguisher that meets the definition of a hazardous material. Based on DOT's response, the fire extinguisher would not be considered a hazardous material in transport because the fire extinguisher is considered an integral part of the motor vehicle and, therefore, not in commerce.

Because the portable building is functioning as a trailer for the purpose of transporting the construction tools, would the fire extinguisher mounted to the interior wall of the portable building be considered an integral part of the motor vehicle and, therefore, not be considered transportation in commerce?

In those instances where a fire extinguisher is required safety equipment which must be mounted inside of a motor vehicle, trailer, or freight container; or must be mounted on equipment transported inside of the trailer or vehicle (for example, for a motor vehicle transporting a trailer containing a large generator or turbine; or a freight container transported for use as a portable building), would that fire extinguisher always be considered integral to the motor vehicle and, therefore, not be considered transportation in commerce?

I appreciate your consideration of this request.

Sincerely,

Andrew N. Romach
Regulatory Compliance Manager
URS Corporation

URS Corporation
1600 Perimeter Park Drive
Morrisville, NC 27560
Tel: 919.461.1220
Fax: 919.461.1371
andy_romach@urscorp.com