



Mr. Shane Kelley
Director, Standards and Rulemaking Division
Pipeline and Hazardous Materials Safety Administration
Attn: PHH-10
U.S. Department of Transportation
East Building, 1200 New Jersey Ave., SE
Washington, D.C. 20590-0001
Submitted: Via Email
cc: infocntr@dot.gov

March 26, 2025

Dear Mr. Kelley,

Currie Associates requests a formal letter of interpretation regarding the prohibited marking requirements detailed in Title 49 CFR, Part 172, §[172.303\(b\)](#). Specifically, we are requesting confirmation of our understanding that the movement of totes or bins used to transport pharmaceutical products that are marked with the limited quantity mark but do not contain hazardous materials and are not visible during transport from the outside of the vehicle are permitted under the HMR.

Section 172.303(a) states:

(a) No person may offer for transportation or transport a package which is marked with the proper shipping name, the identification number of a hazardous material or any other markings indicating that the material is hazardous (e.g. RQ, INHALATION HAZARD) unless the package contains the identified hazardous material or its residue.

However, paragraph (b) provides exceptions where such markings may be permitted:

(b) This section does not apply to –

- 1) Transportation of a package in a transport vehicle or freight container if the package is not visible during transportation and is loaded by the shipper and unloaded by the shipper or consignee.*
- 2) Markings on a package which are securely covered in transportation.*
- 3) The marking of a shipping name on a package when the name describes a material not regulated under this subchapter.*

In 2015, PHMSA responded to a request for interpretation from Archema, Inc. In the request, the author questioned whether each of the sub-paragraphs in §172.303(b) must be applied together, or whether each subparagraph were independent situations where marks may be applied yet the packaging contain no hazardous materials. In Interpretation Reference No. [15-0026](#), PHMSA confirmed that each of these subparagraphs are independent. Thus, only one of the situations is required to be excepted from this section (§172.303). We therefore draw attention to paragraph (b)(1).

In practice, this was demonstrated by a second letter of interpretation. Also in 2015, Haxagon Regasco North America, Inc. questioned whether the responsibility for marking unused, empty

gas cylinders fell to the manufacturer or the filler of the cylinders. In PHMSA's response, Interpretation Reference No. [15-0010](#) indicates that propane cylinders that are marked and labeled but do not contain propane may be loaded into a transport vehicle or freight container if the provisions of §§ 172.303(b) and 172.401(d) are met.

A cylinder containing propane may be considered analogous to a tote or bin that contains pharmaceutical products offered as a limited quantity. Both propane and many pharmaceutical products are hazardous materials, and the cylinder and bin are both packaging designed to contain the hazardous material. Based on these two interpretations, we believe the reader may infer that a packaging (cylinder, drum, box, bin, etc.) that does not contain a hazardous material may be marked as if it contains a hazardous material when one of the conditions in § 172.303(b) are met (i.e. if the package is not visible in transportation from outside the vehicle and is loaded by the shipper and unloaded by the consignee).

Currie Associates requests confirmation that if a package is marked with the limited quantity mark as specified in §172.315 but does not contain hazardous material (packed per the limited quantity provisions or otherwise), that the mark is permitted to remain if:

- the package is loaded by the shipper onto a vehicle operated by a contract carrier and unloaded by the shipper or consignee, and
- the mark is not visible from outside the vehicle while in transport

Companies moving pharmaceutical products that meet the classification of a hazardous material often move from distribution facilities to stores in cases or in less-than-case loads. It is not uncommon for such movements to occur in large plastic bins or "masterpacks" that provide convenience in the distribution chain. In some cases, these bins or masterpacks serve as the outer packaging, while in other situations may be considered overpacks. However, the movement of the bins within the supply chain may result in certain bins having all hazardous materials removed from them prior to transport. The following are examples of such bins:



The bins are loaded by the shipper and unloaded by the consignee without any engagement from the driver and are not visible while in transport. When hazardous materials are present, they are packed in accordance with the applicable limited quantity provisions and, therefore, are not subject to shipping paper requirements for ground transport.

Based on this information, we would like confirmation that packaging, such bins or masterpacks used to transport pharmaceutical products that do not contain a hazardous material in a limited quantity, are permitted to be transported by ground with the limited quantity mark applied when:

- the package is loaded by the shipper and unloaded by the consignee,
- transported by a contract carrier, and
- the package is not visible from outside the vehicle while in transport.

Currie Associates appreciates your review of this interpretation request, and we look forward to your response. Please contact us with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Ferguson", followed by a long horizontal line extending to the right.

Tom Ferguson, PG, CHMM, DGSA
Chief Technical Officer