



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

1200 New Jersey Avenue, SE
Washington, DC 20590

July 28, 2023

Mr. Kevin Skerrett
UL Solutions
77 Clearbrook Drive
Rochester, NY 14609

Reference No. 22-0126

Dear Mr. Skerrett:

This letter is in response to your October 25, 2022, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the transportation of shipments containing materials classed as “ID8000, Consumer commodity, 9.”

We have paraphrased and answered your questions as follows:

- Q1. You ask whether there must be an “intent” to transport a material by air transportation in order to class a material as “ID8000, Consumer commodity, 9”—provided all or some of the transportation is by aircraft.
- A1. Provided the requirements of § 173.167 are met, a consignment of “ID8000, Consumer commodity, 9” material may be transported by any mode.
- Q2. You ask when the requirement was revised allowing “ID8000, Consumer commodity, 9” materials to be transported by any mode, and not just by air (or a leg of the transportation by air).
- A2. The change was made in a final rule¹ published in 2013. The HM-215K series of rulemakings began with requiring “ID8000, Consumer commodity, 9” materials to have at least one leg of transportation take place on an aircraft. The 2013 final rule softened that language in the preamble text and revised the regulatory text to include additional

¹ 78 FR 1101 (Jan. 7, 2013). Final rule titled “*Hazardous Materials: Harmonization With the United Nations Recommendations on the Transport of Dangerous Goods: Model Regulations, International Maritime Dangerous Goods Code, and the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air*” (HM-215K; Docket No. PHMSA-2009-0126).

requirements when transporting “ID8000, Consumer commodity, 9” materials by air—see § 173.167(b). Section 173.167(a) applies to all modes of transport—as applicable.

- Q3. You ask whether the limited quantity “Y” marking used for air shipments is required for all modes of transportation or whether the standard limited quantity mark may be used when “ID8000, Consumer commodity, 9” materials are transported by modes other than air.
- A3. The limited quantity “Y” marking depicted in § 172.315(b) must be used when transporting “ID8000, Consumer commodity, 9” materials in whole or in part by air. All other shipments may utilize the standard limited quantity marking depicted in § 172.315(a).
- Q4. Except for labeling, marking, and shipping papers requirements, you ask whether all other provisions in § 173.167 must be met for a “ID8000, Consumer commodity, 9” materials transported by any mode.
- A4. All of the requirements of § 173.167(a) must be met for a material to be transported as a “ID8000, Consumer commodity, 9.” Packages prepared in accordance with the requirements of § 173.167 are excepted from the specification outer packaging requirements of the HMR—as well as the labeling and shipping papers requirements when transported by highway or rail. Please note that the requirements specified in § 173.167(b) are only applicable when transporting “ID8000, Consumer commodity, 9” materials by aircraft.

Please note that PHMSA published a notice of proposed rulemaking on May 30, 2023, titled: Hazardous Materials: Harmonization With International Standards which includes proposed changes to § 173.167 and additional clarification on consumer commodities. The rule can be viewed at the link below.

<https://www.federalregister.gov/documents/2023/05/30/2023-07109/hazardous-materials-harmonization-with-international-standards>

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,



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

Wolcott

From: [INFOCNTR \(PHMSA\)](#)
To: [Dodd, Alice \(PHMSA\)](#)
Subject: FW: Questions about ID8000 and 173.167
Date: Wednesday, November 2, 2022 10:41:48 AM

22-0126 (22-0119)

Hi Alice,

Please see the below interpretation request.

Should you have any questions, please do not hesitate to reach out.

Regards,

-Breanna

From: Skerrett, Kevin <Kevin.Skerrett@ul.com>
Sent: Tuesday, November 1, 2022 3:36 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: FW: Questions about ID8000 and 173.167

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

After discussion with Breanna at the HMIC on 11/1/2022 at 15:00, I would like to resubmit this as a request for a formal letter of interpretation addressing the questions below.

Please let me know if any additional information is needed.

Thank you very much for your consideration of this request!

Kevin Skerrett, DGSA
Senior Regulatory Specialist

UL Solutions

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[UL.com/Solutions](https://www.ul.com/Solutions)

From: Skerrett, Kevin
Sent: Tuesday, October 25, 2022 00:46
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: Questions about ID8000 and 173.167

Hello –

I am trying to resolve some questions about the multimodal use of ID8000 Consumer Commodity for USDOT, per the instructions at 173.167.

An informal response is fine for this request.

In the original HM-215K final rule published 1/19/2011, in the Section IV explanation of the newly-added Section 173.167, use of ID8000 was indicated for “when intended for transportation by all modes of transport provided all or some of the transportation is by aircraft.”

And in the text for Section {173.167(a)}, the first line includes the phrase “when intended for transportation by aircraft” and there was no mention of other modes.

But by the time the appeals and corrections rule of 01/07/2013 was published, the “intended” phrase had changed to “when offered for transportation by aircraft”.

Also, at {173.167(a)}, reference had been added to:

Packages prepared under the requirements of this section are excepted from labeling and shipping papers when transported by highway or rail.

Additionally, packages prepared under the requirements of this section may be offered for transportation and transported by all modes.

These three aspects still appear in 173.167 today.

QUESTION 1:

Is there still any requirement, for classification as ID8000, for there to be “intent” to transport by air, or that “all or some of the transportation” be by aircraft?

QUESTION 2:

In what rule or document did this change occur? I did not find it discussed in a preamble – but I seem to remember it occurring in an unusual way.

In reading an old copy of Interpretation 16-0075, I find what appears to be confirmation of shipment being allowed for ID8000 for all domestic modes without involvement of a leg by air.

There appears to be a discrepancy as to whether the ID# and PSN and ship-to address are required to be marked on a package to be shipped without a leg by air.

While labelling and shipping papers are excepted for road and rail, marking is not, unlike Limited Quantity shipments.

But I note that Interpretation 16-0075 is currently indicated to be “under review”.

QUESTION 3:

Is there current guidance on this point?

Interpretation 16-0075 also indicated that the LQ “Y” mark was required for air, but that for non-air modes either LQ mark could be used.

QUESTION 4:

Is that correct? {173.167(b)(1)} addresses the LQ “Y” mark for air, but not the other modes.

QUESTION 5:

Is it correct to assume that, except for labeling and LQ mark and shipping papers, all other requirements of 173.167 must be met to classify as ID8000 regardless of mode of transport? That appears to be the intent of the phrase “Additionally, packages prepared under the requirements of this section may be offered for transportation and transported by all modes.”

Thank you for your assistance with this!

Kevin Skerrett, DGSA
Senior Regulatory Specialist

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