



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 4 2003

Mr. Donald E. Horton, Jr.
Assistant General Counsel
and Director of Corporate Safety
Laboratory Corporation of American
430 South Spring Street
Burlington, NC 27215

Reference No.: 03-0110

Dear Mr. Horton:

This responds to your letter requesting clarification of the limited quantity provisions under the Hazardous Materials Regulations (HMR; 49 CFR 171-180). Specifically, you ask if the term "net capacity" refers to the volumetric capacity of a container or to the net amount of hazardous material in a container. You enclosed a recent letter of interpretation (Reference No. 02-0301) that appears to contradict information you received from a specialist in the Hazardous Materials Information Center.

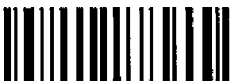
The information you received from the Hazardous Materials Information Center is correct. Section 173.154(b)(1) authorizes the use of inner packagings not over 1.0 L (0.3 gallon) net capacity each for liquids. Therefore, "net capacity" refers to the volumetric capacity of the packaging, not the net amount of hazardous material present in the packaging. Our response A1 in the above referenced clarification letter has been revised.

I hope this satisfies your inquiry.

Sincerely,

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards

Enclosure



030110

173.154



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JUN - 4 2003

400 Seventh St., S.W.
Washington, D.C. 20590

Ms. Penny L. Guido
YUASA Battery, Inc.
P. O. Box 14715
Reading, PA19612-4715

Reference No.: 02-0301

Attn: Mr. Joe Majesky

Dear Ms. Guido:

This letter replaces our January 22, 2003 response concerning the limited quantity exception in § 173.154 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You state that you manufacture dry batteries that are shipped with a separate acid pack which is a polyethylene bottle with a volume of 32 ounces or less. One dry battery and an acid pack are packaged in a UN certified packaging, marked "Battery fluid, acid, UN2796." The product is offered for domestic and international transportation. In a subsequent telephone conversation with a member of my staff, you clarified that each acid pack contains less than 0.4 L of acid. Our response to question 1 is revised for clarity.

Your questions are paraphrased and answered as follows:

Q1. May our product be offered as a limited quantity under the provisions in § 173.154(b)?

A1. The answer is yes. The § 172.101 Hazardous Materials Table authorizes Battery fluid, acid, UN2796 to be packaged in accordance with § 173.154. The limited quantity provisions for Class 8, PG II materials in § 173.154(b)(1) authorize the use of an inner packaging not over 1 L (0.3 gal.) net capacity for liquids.

Q2. How are "limited quantities" described on a shipping paper and what are the marking requirements for "limited quantity" packages?


A2. The description for a material offered for transportation as a "limited quantity" must include the words "Limited Quantity" or "Ltd Qty" following the basic description, see § 172.203(b). Packages must be marked with the proper shipping name for the material as shown in the Hazardous Materials Table, see § 172.301(a). The identification number is not required on packages that contain only limited quantities. Under § 172.312, package orientation markings are required on two opposite vertical sides of a non-bulk package containing liquid hazardous materials except when the inner packagings are hermetically sealed.

Q3. May the limited quantity exception be used in international commerce?

A3. Limited quantities may be offered for international transportation by air and by vessel. International air transportation is subject to the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air. See Part 3, Chapter 4, for acceptable dangerous goods (hazardous materials), specific packaging requirements, and quantity limitations. The applicable regulations for limited quantities being transported by vessel are found in the International Maritime Dangerous Goods Code, Volume 2, Chapter 3.4.

I hope this information is helpful.

Sincerely,

A handwritten signature in cursive script that reads "Hattie L. Mitchell".

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards



April 24, 2003

Corbin
§ 173.154
Limited Quantities
Exception

Laboratory Corporation of America® Holdings
430 South Spring Street
Burlington, North Carolina 27215

03-D110

Telephone: 336-584-5171

Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards (DHM-10)
Research and Special Programs Administration ("RSPA")
U.S. Department of Transportation
400 7th Street, SW
Washington, DC 20590-0001

Re: Corrosive liquids, Class 8, Limited Quantities Exception

Dear Mr. Mazzullo:

Laboratory Corporation of America Holdings ("LabCorp") ships by ground, from a central warehouse to its field operations, 3.0 L volumetric capacity urine collection containers, each containing only 30 ml of 6.0 N hydrochloric acid ("HCl"). The HCl in the container has a Packing Group II classification, according to the manufacturer. The containers are shipped in cases containing twenty-four (24) individual containers. Over the past six (6) months, LabCorp has shipped 1,886 cases of these containers. The containers are currently shipped as hazardous materials with no exceptions, pursuant to the Hazardous Materials Regulations ("HMR", 49 CFR Parts 171-180).

It would be beneficial for LabCorp to ship these containers under the limited quantities exception found in 49 CFR § 173.154 (b) (1), which permits ground shipments of corrosive materials in Packing Group II in inner packagings not over 1.0 L "net capacity" for liquids. However, since DOT has issued conflicting information when discussing "net capacity", which is not defined in 49 CFR § 171.8, we have, to date, taken the more conservative approach of not utilizing the exception pending clarification of the term.

According to the DOT Hazardous Materials Information Center ("HMIC"), the term "net capacity" of a container includes the air space of the container and should not be confused with the actual volume of the hazardous material that is present inside the container. In other words, "net capacity" refers to the volumetric capacity of the container and not the net amount of hazardous material that is actually present inside the container.

However, a search for letters of interpretation issued by RSPA produced a letter dated January 22, 2003 from Hattie L. Mitchell of your office (Enclosure 1). This letter, in discussing the limited quantities exception in 49 CFR § 173.154 (b) (1), appears to indicate that it is the quantity of hazardous material in the container that determines whether or not it may be shipped as a limited quantity.

Mr. Edward T. Mazzullo
Page 2
April 24, 2003

If the HMIC interpretation of "net capacity" is correct, it appears that our containers cannot be shipped under the limited quantities exception because the volumetric capacity of each container exceeds 1.0 L. However, if the January 22 interpretation letter is correct, it appears that our containers can be shipped under the limited quantities exception, since each container only contains 30 ml of hazardous material.

In summary, for the purpose of determining whether the containers described in this letter may be shipped under the limited quantities exception of 49 CFR § 173.154 (b) (1), LabCorp would like a written interpretation from RSPA regarding the definition of "net capacity" as used in that section. Does the term mean:

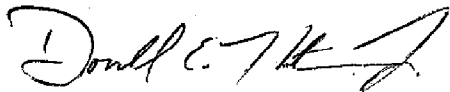
a) The volumetric, total capacity of the container, including air space, independent of the amount of hazardous material contained therein; or

b) The quantity of hazardous material actually present in the container?

Thank you for your assistance, and I look forward to hearing from you. If you need any further information, please do not hesitate to contact me at (336) 436-5040.

Very truly yours,

LABORATORY CORPORATION OF AMERICA HOLDINGS,



Donald E. Horton, Jr.
Assistant General Counsel
and Director of Corporate Safety

0403rspa.001

Enclosure

cc: Dave King
Jacob Naeyaert

Jan 22, 2003

1/22/2003 - 173.154



Reference No.: 02-03 01

Ms. Penny L. Guido
YUASA Battery, Inc.
P.O. Box 14715
Reading, PA 19612-4715

Dear Ms. Guido:

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Your questions are paraphrased and answered as follows:

Q1. May our product be offered as a limited quantity under the provisions in § 173.154(b)?

A1. The answer is yes. The limited quantity provisions for Class 8, PG II materials in § 173.154(b)(1) authorize a maximum of 1 L (0.3 gal.) in each inner packaging.

Q2. How are "limited quantities" described on a shipping paper and what are the marking requirements for "limited quantity" packages?

A2. The description for a material offered for transportation as a "limited quantity" must include the words "Limited Quantity" or "Ltd Qty" following the basic description, see § 172.203(b). Packages must be marked with the proper shipping name for the material as shown in the Hazardous Materials Table, see § 172.301(a). The identification number is not required on packages that contain only limited quantities. Under § 172.312, package orientation markings are required on two opposite vertical sides of a non-bulk package containing liquid hazardous materials except when the inner packagings are hermetically sealed.

Q3. May the limited quantity exception be used in international commerce?

A3. Limited quantities may be offered for international transportation by air and by vessel. International air transportation is subject to the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air. See Part 3, Chapter 4, for acceptable dangerous goods (hazardous materials), specific packaging requirements, and quantity limitations. The applicable regulations for limited quantities being transported by vessel are found in the International Maritime Dangerous Goods Code, Volume 2, Chapter 3.4.

I hope this information is helpful.

Sincerely,

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards

173.154

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