



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

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

**MAY 07 2013**

Mr. Troy Erickson  
G2 Revolution LLC  
14601 CR 212  
Findlay, OH 45840

Ref No.: 13-0019

Dear Mr. Erickson:

This is a response to your January 21, 2013 email requesting clarification of the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 100-185) with regard to the transportation of limited quantities and ORM-D materials. You present multiple shipping scenarios and ask questions pertaining to the packaging requirements and exceptions provided for limited quantities and ORM-D materials. Your scenarios and questions are paraphrased and answered as follows:

Q1: Are the exceptions provided for materials marked as limited quantities and ORM-D materials in § 173.156 only able to be utilized if a shipper complies with both paragraphs (b)(1) and (b)(2)?

A1: No. Section 173.156(b)(1) provides exceptions for requirements for strong outer packagings, marking, and gross weight limitations, provided the shipper complies with the requirements set forth in paragraph (b)(1); whereas, § 173.156(b)(2) provides an exception for gross weight limitations only, provided the shipper meets the requirements set forth in paragraph (b)(2). Paragraphs (b)(1) and (b)(2) represent two separate methods of transporting limited quantities and ORM-D materials.

Q2: Do the exceptions provided in § 173.156, require a shipper package their materials in UN-rated packaging?

A2: No. Limited quantities and ORM-D materials are excepted from the specification packaging requirements. However, limited quantities and ORM-D materials utilizing the exceptions provided in § 173.156 must conform to the general packaging requirements found in Subpart B of Part 173.

Q3: Does § 173.156(b)(1) allow for shipment of individual glass bottles of perfumery products being transported for recycling to be contained in an outer fiberboard box, with a polyethylene liner and absorbent material, without any other additional inner packaging, such as dividers or bubble wrap?

A3: No. The exceptions provided for limited quantities and ORM-D materials in § 173.156(b)(1) do not extend to the general packaging requirements in Part 173, Subpart B. Shipping individual glass bottles in an outer fiberboard box without means of ensuring the bottles are upright and unable to break, leak or shift, such as the method you describe, is prohibited.

Q4: When utilizing the exceptions provided in § 173.156, are shippers required to use the original packaging and all its components in order to ship limited quantities and ORM-D materials from a retail store to a distribution center?

A4: No. There is no requirement that materials shipped under the exceptions provided in § 173.156 be in their original packaging provided that the packaging ultimately used meets both the quantity limitations specified for inner packagings of the applicable hazard class in §§ 173.150 through 173.155, 173.306 and 173.309(d), as well the general packaging requirements in Subpart B of Part 173 and § 173.156.

Q5: Using the exceptions in § 173.156, may a retail store offer for transportation to a distribution facility damaged or broken retail containers of cosmetics, fragrances, nail polishes, soaps, and lotions described and marked as "limited quantity" or "consumer commodity, ORM-D" in individual 6-mil zip lock bags in a non-specification, 5-gallon plastic pail with a plastic inner liner closed with a screw on lid?

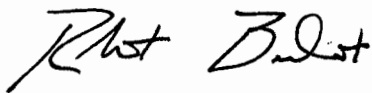
A5: These materials should not be reclassified as "consumer commodity ORM-D," as they are not suitable for retail sale. If you intend for these materials to be transported as limited quantities, they must be classed based on the hazard present and the packagings must conform to the general packaging requirements of Part 173, Subpart B.

In accordance with § 173.3(c), packages which are not capable of containing the material, are damaged, defective, or found leaking hazardous materials may not be transported unless placed in a metal or plastic removable head salvage drum that is compatible with the lading and shipped for repackaging or disposal. The drum must be a UN 1A2, 1B2, 1N2 or 1H2 tested and marked for Packing Group III or higher performance standards for liquids or solids and a leakproofness test of 20 kPa (3 psig). Each package must be marked with the proper shipping name of the material and the name and address of the consignee. In addition, the packaging must be marked "SALVAGE" or "SALVAGE

DRUM". On July 5, 2012 PHMSA published an advanced notice of proposed rulemaking under Docket No. PHMSA-2011-0143 (77 FR 39662) to identify ways to reduce the regulatory burden for persons who ship consumer products containing hazardous materials in the "reverse logistics" supply chain.

I hope this information is helpful. If you have any more questions, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Benedict". The signature is written in a cursive style with a large initial "R" and "B".

Robert Benedict  
Chief, Standards Development  
Standards and Rulemaking Division

Suchak  
§ 173.156

**Drakeford, Carolyn (PHMSA)**

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**From:** INFOCNTR (PHMSA)  
**Sent:** Tuesday, January 22, 2013 11:34 AM  
**To:** Drakeford, Carolyn (PHMSA)  
**Subject:** FW: Request for Formal Interpretation

Exceptions  
13-0019

Hi Carolyn,

We received the following request for a formal letter of interpretation.

Thanks,  
Victoria

**From:** Troy Erickson [<mailto:terickson@g2rev.com>]  
**Sent:** Monday, January 21, 2013 10:13 AM  
**To:** PHMSA HM InfoCenter  
**Subject:** Request for Formal Interpretation

Our company has recently been reviewing our methods of handling and hauling ORM-D products from retail stores and several questions have arisen in regards to compliance. Below I have listed our concerns / ideas and would like to receive your interpretation if you will

1. In regards to 49 CFR 173.156 (b1) and (b2)... It is our understanding that some retail chains are shipping perfumery products that are destined for recyclers in non UN cardboard Gaylords, lined with a 6 mil poly liner, absorbents placed in the bottom and a lid. These items are identified as Limited Quantities. Within the Gaylord individual glass bottles (bottles that you would buy at a store) are placed without dividers and no additional inner packaging (ie original container, bubble wrap etc). According to my contact they are capable of doing that because they are required comply with (b)(1). Their understanding is that it is an OR (b1 or b2) , not an AND. This interpretation was derived and confirmed after a PHMSA inspector reviewed their process. Can you elaborate on that interpretation and provide guidance on whether or not (b)(2) would apply and if their interpretation is accurate? We currently ship the same materials in UN rated drums with a haz mat description due to our inability to fully ensure that the bottles wouldn't be broken during transit as they are not packaged in the original packaging they were shipped into the stores except for the container and remaining product, which this type of bottle on bottle or glass on glass packaging does not prevent the materials from moving around freely. If it truly does comply, we would be interested in molding our program in accordance with the above mentioned shipping method.
2. ORM-D In order to utilize this exception for consumer commodities being shipped from a retail store to a distribution center – is it ok to send original bottles of perfume and or nail polish without the original packaging (cardboard box, dividers, cellophane, etc) that it was originally intended to ship in ?
  - a. If the answer to the above ORM-D question is NO, would it be ok to send original bottles "Limited Quantity" without the original packaging (cardboard box, dividers, cellophane, etc) that it was originally intended to ship when shipping from the stores to a distribution center?
3. Currently we provide our clients with a program to ship consumer commodity returns from their retail stores to our distribution facility for recycling. This program involves a non- UN rated 5 gallon plastic bucket, plastic bag liner, and a screw on lid (total weight less than 66 pounds). Our clients place unsalable cosmetics, fragrances, nail polishes, soaps and lotions in these containers and ship via UPS to our location when full. On the bucket is an ORM-D label since the bucket contents are within the parameters. My question involves shipping of damaged or broken bottles from the point of generation. If the retailer were to place broken bottles in a secondary container such as a 6 mil Ziploc bag and then place the "bagged" but broken inner container inside the 5 gal bucket, what

type of compliance concerns if any should I take into consideration? Would the ORM-D exception be lost if these types of materials are included, if yes, could the same scenario be shipped "Limited Quantities"?

Troy Erickson, GM  
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