



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

SEP 07 2016

Ms. Lizzie Clifton
Environmental Resource Center
101 Center Pointe Drive
Cary, NC 27513

Ref. No. 16-0078

Dear Ms. Clifton,

This responds to your May 5, 2016 letter requesting clarification of the Hazardous Materials Regulations regarding the manufacturer's notification for packaging. Specifically, you request clarification of § 173.22(a)(4)(ii), which requires shippers to retain the packaging manufacturer's notification, including closure instructions, for at least 90 days unless they are permanently embossed or printed on a bulk packaging or cylinder. Your questions are paraphrased and answered below:

Q1. Does this exception to the 90-day retention requirement apply only to bulk packagings and cylinders?

A1. Yes. The exception only applies to bulk packagings and cylinders –specifically those with the information permanently embossed or printed on the packaging.

Q2. Does a shipper of a 4G box which has the closure instructions printed on the flap have to keep a copy of the instructions for at least 90 days?

A2. Yes, see answer above.

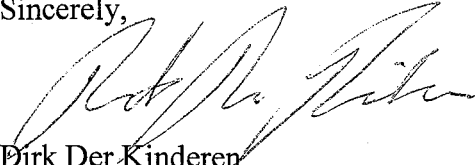
Q3. If the answer to Q2 is yes, how should the shipper provide the closure instructions?

A3. Under § 173.22(a)(4)(ii), PHMSA requires a copy of the manufacturer's notification, including closure instructions, to be available for 90 days. PHMSA does not require any specific format in which the closure instructions must be made available. For cases where the closure instructions are printed on the packaging, retaining a packaging is suitable to fulfill the closure instruction retention and availability requirements. Per § 178.2(c)(2), a packaging manufacturer may provide notification of the closure requirements specific to a packaging via

electronic transmission in a format that can be printed. Therefore, if retaining packaging that contains the closure instructions is not feasible the shipper may contact the manufacturer for instructions in a format that can be made available for inspection by a representative of DOT.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dirk Der Kinderen".

Dirk Der Kinderen
Chief, Standards Development Branch
Standards and Rulemaking Division

Goodall, Shante CTR (PHMSA)

Casey
173.22(4)(ii)
Shippers Responsibility
16-0078

From: Rivera, Jordan CTR (PHMSA)
Sent: Thursday, May 05, 2016 5:51 PM
To: Hazmat Interps
Subject: FW: Please clarify the rule at 173.22(4)(ii)
Attachments: PHMSA letter of interpretation.docx

Hi Shante/Alice,

Please submit this for a formal interpretation. Ms. Clifton spoke with Eamonn in the Info Center.

Please let me know if you have any questions.

Thanks,
Jordan

From: Lizzie Clifton [<mailto:lclifton@environmentalresourcecenter.com>]
Sent: Thursday, May 05, 2016 8:36 AM
To: INFOCNTR (PHMSA)
Cc: Kristie Absher
Subject: Please clarify the rule at 173.22(4)(ii)

Hello,

I am hoping you can take a look at my quick question in the attached word document and help me with an interpretation of the intent of the rule.

Thank you for your time,

Lizzie Clifton
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Standards and Rulemaking Division
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May 5th, 2016

Dear Sir/Madam,

I am writing to request clarification on the rule at 49 CFR 173.22(4)(ii), which applies to retaining manufacturer closure instructions for 90 days. Here is the rule for reference:

(ii) For other than a bulk package or a cylinder, a person must retain a copy of the manufacturer's notification, including closure instructions (see §178.2(c) of this subchapter). For a bulk package or a cylinder, a person must retain a copy of the manufacturer's notification, including closure instructions (see §178.2(c) of this subchapter), unless permanently embossed or printed on the package. A copy of the manufacturer's notification, including closure instructions (see §178.2(c) of this subchapter), unless permanently embossed or printed on the package when applicable, must be made available for inspection by a representative of the Department upon request for at least 90 days once the package is offered to the initial carrier for transportation in commerce. Subsequent offerors of a filled and otherwise properly prepared unaltered package are not required to maintain manufacturer notification (including closure instructions).

What I am writing to inquire is whether the third sentence of this paragraph is applicable only to bulk packages and cylinders, or to all size packages. Specifically, is a shipper of a 4G box which has the closure instructions printed on the flap required to keep a copy of those instructions for 90 days? If yes, how do you advise them to do this since the package is shipped with the instructions printed on it?

Thanks for your kind support on this question,

Lizzie Clifton
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