



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

JAN -9 2007

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

Mr. Glenn A. Courtney
Director, Outbound Transportation
Rite Aid Corporation
P.O. Box 3165
Harrisburg, PA 17105

Ref. No. 06-0254

Dear Mr. Courtney:

This responds to your November 1, 2006 letter concerning the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to shipments of lighters. Specifically, you ask if the exception in §173.308(e)(2) for shipments of lighters by private carriage applies to Rite Aid's distribution of individual lighters by your fleet of vehicles.

According to your letter, Rite Aid operates eight distribution centers that service stores in several states. You ask if you may utilize the private carriage exception in §173.308(e) to transport lighters using Rite Aid-owned or-leased trailers for delivery directly to Rite Aid Stores. You further state that some of your drivers are Rite Aid company drivers and others are Dedicated Contract Providers that operate Rite Aid trailers owned or leased directly to Rite Aid stores.

Exceptions for lighters transported by private motor carrier were included in a final rule published January 23, 2006 under Docket No. RSPA-2004-18795 (HM-237; 71 FR 3418). The final rule adopted a new §173.308(e) that exempts lighters transported by private motor carrier from all HMR requirements provided the lighter designs have been examined and successfully tested in accordance with applicable requirements and conform to the conditions established in §173.308(e)(2). The effective date of the amendments in the HM-237 final rule is January 1, 2007; however, voluntary compliance is authorized as of April 25, 2006.



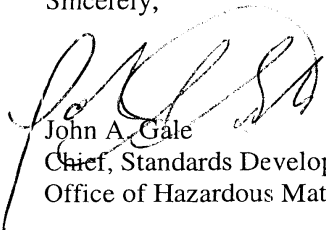
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173.308

It is the opinion of this Office that you are a private carrier for purposes of the HMR and may utilize the exception provided in §173.308(e)(2) for the highway transportation of lighters.

I hope this answers your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Gale", is written over the typed name and title.

John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards



Rite Aid Corporation

Boothe
§173.308
Lighters
06-0254

- MAILING ADDRESS
P.O. Box 3165
Harrisburg, PA 17105
- GENERAL OFFICE
30 Hunter Lane
Camp Hill, PA 17011
- 1-800-RITE AID

November 1, 2006

Edward Mazzullo
Director, Office of Hazardous Materials Standards
USDOT / PHMSA (PHH-10)

400 7th Street SW
Washington, DC
20590-0001

Dear Edward Mazzullo,

This correspondence shall serve as a follow-up to my Friday, October 13, 2006, telephone conversation with Cameron Satterthwaite at the Hazardous Materials Information Center. Specifically, I inquired as to CFR 49 Part 173.308 HM-237 (Lighters) and the Private Carriage exception (Part 173.308 (e) (2)). As a result of our conversation, Mr. Satterthwaite requested that I detail the question to you for guidance.

On behalf of Rite Aid Corporation, I respectfully request that the Office of Hazardous Material Standards apply the *Private Carriage Exception* to Rite Aid's distribution of individual lighters. Rite Aid currently operates eight (8) distribution centers which service approximately 3,350 stores in twenty-seven (27) states and the District of Columbia.

Rite Aid Distribution Centers pick individual lighters (in blister packs) into plastic totes which are loaded onto Rite Aid owned or leased trailers for delivery directly to Rite Aid Stores. The stores on average receive approximately eighteen (18) lighters per shipment with an average of 2.63 stops per route with a maximum deliveries topping at six (6) per trailer.

Some of our facilities utilize Rite Aid company drivers to make the deliveries from our distribution centers to Rite Aid stores and thus we will utilize the *Private Carriage Exception* and complete the requirements as outlined in that section when shipping lighters from these facilities. Our other facilities utilize Dedicated Contract Providers for the tractor and driver labor to haul the loaded Rite Aid trailers (owned or leased) directly to Rite Aid stores.

Based upon the fact that these shipments are significantly fewer than 1,500 lighters in a single vehicle and that these outbound loads are on Rite Aid trailers and are exclusively bound for Rite Aid locations, I request that the *Private Carriage Exception* be applied to these shipments as well. Just as we train our own company drivers, Rite Aid will ensure that our partner carriers are informed of the requirements of the exception and specifically on how to identify a package containing lighters ("LIGHTERS, excepted quantity").

If you have any questions or need clarification on how our delivery operations function in reference to the application of these regulations, please feel free to contact me directly at (717)760-7865.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'gha Courtney', written in a cursive style.

Glenn A. Courtney
Director, Outbound Transportation
Rite Aid Corporation