



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

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

MAY 05 2016

Oscar Enciso  
GBLTSC Inc. an ENCISO Industries Co.  
1551 NW 82 Avenue  
Doral, FL 33126

Ref. No. 15-0234

Dear Mr. Enciso:

This responds to your November 20, 2015 email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether the contents of an emptied oxygen cylinder are subject to the HMR as a hazardous material.

No. In accordance with § 173.115(b), a Division 2.2 gas is a non-flammable, non-poisonous compressed gas that includes compressed gas, liquefied gas, pressurized cryogenic gas, compressed gas in solution, asphyxiant gas, and *oxidizing gas* (emphasis added). Therefore, the contents of a non-pressurized cylinder (a cylinder that exerts a gauge pressure of less than 200 kPa at 20 °C) that previously contained a Division 2.2 gas, including one with an oxidizer subsidiary hazard, no longer meets the definition of a Division 2.2 gas and is not subject to the requirements of the HMR. However, if a cylinder is marked to represent that it has been manufactured to a DOT specification or UN Standard in Part 178, it is still subject to all applicable requirements of Part 178 and continuing qualification and maintenance requirements of Part 180.

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

Sincerely,

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

*Ciccarone*  
*§ 173.29*  
*Shipper's Responsibility*  
*15-0234*

**Dodd, Alice (PHMSA)**

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**From:** Geller, Shelby CTR (PHMSA)  
**Sent:** Tuesday, November 24, 2015 4:40 PM  
**To:** Hazmat Interps  
**Subject:** FW: Requesting a formal letter of interpretation. concerning UN1072 Oxygen Compressed class 2.2 Ref Letter No. 09-0264

Dear Shante and Alice,

Forwarded is a request for a formal letter of interpretation. Mr. Enciso's mailing address is:

1551 NW 82 Avenue  
Doral, Florida 33126

Thanks,  
Shelby

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**From:** Oscar Enciso [<mailto:oscar@iacsecuritycompliance.com>]  
**Sent:** Friday, November 20, 2015 10:17 AM  
**To:** INFOCNTR (PHMSA)  
**Cc:** [oscar@iacsecuritycompliance.com](mailto:oscar@iacsecuritycompliance.com); [oscar@dgsecure.org](mailto:oscar@dgsecure.org)  
**Subject:** Requesting a formal letter of interpretation. concerning UN1072 Oxygen Compressed class 2.2 Ref Letter No. 09-0264

Dear Sirs,

I am seeking clarification as to the letter Ref. No. 09-0264.

Just needing further clarification on this issue, as written in CFR 49 173.29, mentions in paragraph (b), **Notwithstanding the requirements of paragraph (a) of this section, an empty packaging is not subject to any other requirements of this subchapter if it conforms to the following provisions:**

(1) Any hazardous material shipping name and identification number markings, any hazard warning labels or placards, and any other markings indicating that the material is hazardous (e.g., RQ, INHALATION HAZARD) are removed, obliterated, or securely covered in transportation. This provision does not apply to transportation in a transport vehicle or a freight container if the packaging is not visible in transportation and the packaging is loaded by the shipper and unloaded by the shipper or consignee;

(2) The packaging—

(i) Is unused;

(ii) Is sufficiently cleaned of residue and purged of vapors to remove any potential hazard;

(iii) Is refilled with a material which is not hazardous to such an extent that any residue remaining in the packaging no longer poses a hazard; or

(iv) Contains only the residue of—

(A) An ORM-D material; or

(B) A Division 2.2 non-flammable gas, other than ammonia, anhydrous, and with no subsidiary hazard, at a gauge pressure less than 200 kPa (29.0 psig); at 20 °C (68 °F); and

(3) Any material contained in the packaging does not meet the definitions in §171.8 of this subchapter for a hazardous substance, a hazardous waste, or a marine pollutant.

The question is related to (B), as Oxygen compressed UN1072, IS A 2.2 NON-FLAMMABLE GAS, and also an OXIDIZER, being the secondary risk. Is it the position of the Department of Transportation that the Oxidizer secondary risk it's taken into account as the GAS itself, as it leaves no residue in the cylinder?

This is very important to have clarify as it defines wither or not Oxygen compressed meets the exemption as it is mentioned in the letter reference above.

I thank you in advance for your help and support regarding this matter.

Respectfully,

Oscar Enciso  
President

GBLTSC Inc. an ENCISO Industries Co.

Phone: (305) 592-1661 Fax: (305) 910-0083

[www.iacsecuritycompliance.com](http://www.iacsecuritycompliance.com)



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