



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave., SE
Washington, DC 20590

OCT 01 2009

Ms. Jan Cowles
Grafco, LLC
P.O. Box 814
Owasso, OK 74055

Ref. No. 09-0121

Dear Ms. Cowles:

This is in response to your e-mail requesting clarification of marking requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether the letters “USP” may be displayed before the proper shipping name on a package or whether a special permit currently authorizes this marking variation to the HMR.

As specified in § 172.301(a), each person who offers a hazardous material for transportation in a non-bulk packaging must mark the package with the proper shipping name and identification number for the material as shown in the Hazardous Materials Table (HMT) in § 172.101. The letters “USP” are not part of the proper shipping name as shown in the HMT and are not authorized to be included as part of the proper shipping name marking. Additional wording, such as “USP,” may be included after the required wording (proper shipping name and ID number) provided the additional wording does not reduce the effectiveness of the required information and other specifications for displaying markings (see § 172.304(a)(4)).

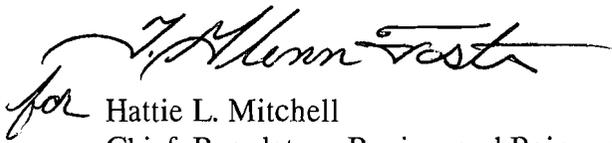
The procedure for applying for a special permit can be found in 49 CFR Part 107, Subpart B and can also be found on our website at <http://www.phmsa.dot.gov/hazmat> under “Special Permits.” PHMSA has not issued a special permit to authorize the letters “USP” to be displayed before the proper shipping name on packages.

With respect to labeling requirements, it is difficult to determine the specifications of the Class 2 label in the pictorial you submitted, but please note that label specifications, including size, are specified in § 172.407; modifications are specified in § 172.405; and exceptions are specified in § 172.400a. Unless otherwise excepted, packages must be labeled with both the

primary and subsidiary hazard labels, as specified in Column 6 of the § 172.101 Hazardous Materials Table. "Oxygen, compressed," UN1072 requires a Division 5.1 subsidiary hazard label (see § 172.402) as well as a Class 2 primary hazard label.

I hope this information is helpful. Please contact this office should you have additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Mitchell", written in a cursive style.

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

§ 172.301

Drakeford, Carolyn <PHMSA>

McIntyre
§ 172.101
§ 172.415
Labeling
09-0121

From: INFOCNTR <PHMSA>
Sent: Thursday, May 07, 2009 10:19 AM
To: Drakeford, Carolyn <PHMSA>; Supko, Ben <PHMSA>
Subject: FW: ISP Oxygen Labels

Attachments: photo.JPG



photo.JPG (246 KB)

-----Original Message-----

From: Jan Cowles [mailto:acjc3333@gmail.com]
Sent: Wednesday, May 06, 2009 3:30 PM
To: Special Permits <PHMSA>
Subject: ISP Oxygen Labels

To: Ann Mazzullo

Ann:

Than you for talking with me today. My company, Grafco, LLC, repackaged bulk medical grade liquid oxygen into compressed gas cylinders. Our clients, mainly home health companies, then distributes these cylinders to their patients.

At issue is one of our clients was issued a warning by Kansas State Patrol citing our label had "USP" on it. This was not consistent with either their shipping manifest nor the MSDS sheet. My dilemma is that the FDA requires "USP" to be included on the label. In addition the cylinder must be lot numbered and may not have 2 labels nor may one label be placed on top of another label.

We have looked at our competitor's labels and from the ones we have seen, all have "USP" either in front of the word "oxygen" or behind the word "oxygen". We are trying hard to be in compliance with FMCSA, FDA and Pharmacy Board regulations.

The Kansas Corporation Commission asked me to contact your office to ascertain whether a special permit exists for this situation. If one does not currently exist, I need the procedure to apply for one.

Any help you can give me regarding this matter would be appreciated. You may contact me directly at 918-740-7861. I have emailed you a copy of our label under separate cover.

Sincerely,

Jan Cowles