



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

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

JAN 10 2011

Mr. Leonard Satkowski
JJ Keller
7727 Parkside Ave.
Burbank, IL 60459

Ref. No. 09-0276

Dear Mr. Satkowski:

This is in response to your November 6, 2009 email regarding the exceptions for limited quantities of compressed gases specified in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if aerosol cans containing an oral cleanser may utilize the exception provided by § 173.306(b). This provision allows the material to be renamed "Consumer commodity" and reclassified and transported as ORM-D material without subjecting the container to the hot water bath test specified in § 173.306(a)(3).

According to your letter, the oral cleanser is packaged in a bag-on-valve inside an aerosol container with a non-flammable gas. The non-flammable gas is intended to force the cleanser from the bag.

In accordance with § 173.306(b)(1), foodstuffs or soaps may be transported in a non-refillable metal container with soluble or emulsified compressed gas. In order to meet this exception, the gas must be dissolved into a solution with the oral cleanser. The bag-on-valve configuration described in your letter does not appear to meet this requirement.

I trust this satisfies your inquiry. If we can be of further assistance, please contact us.

Sincerely,

A handwritten signature in black ink that reads "Ben Supko". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ben Supko
Acting Chief, Standards Development Branch
Standards and Rulemaking Division

Drakeford, Carolyn (PHMSA)

From: Mitchell, Hattie (PHMSA)
Sent: Tuesday, November 24, 2009 1:43 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Toothpaste products in aerosols

Importance: High

Leary
§173.306(b)
Cylinders
09-0276

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

From: Leonard Satkowski [mailto:lsatkowski@JJKELLER.COM]
Sent: Friday, November 06, 2009 10:43 AM
To: Mazzullo, Ed (PHMSA)
Subject: Toothpaste products in aerosols
Importance: High

** High Priority **
** Reply Requested by 11/8/2009 (Sunday) **

Ed:

The original e-mail got returned to me after three weeks. If you could I would appreciate an answer as soon as possible. Thanks

This is regarding our discussion this morning regarding a product one of my customer's manufactures. The following are the details on the product:

1. The product is considered to be a cosmetic drug. The material is used in the mouth as a cleanser for teeth. It may be in paste and foam form.
2. The material will be packaged in a bag on valve container inside an aerosol can containing a non-flammable gas. The purpose of the non-flammable gas is to force the paste/foam from the bag.
3. Net contents of the container is 4.3+ oz.
4. If the material is exposed to the water bath test provided in 173.306 (a) the possibility exists of bacteria forming inside the product.

The following are the questions we have.

1. Can the requirements of 173.306 (b) apply in this case.

Per our discussion you thought that 173.306 (b) would apply, but wanted to check for similar decisions. If you need more information you may contact Matt Newman at 513-622-5335. Or you can contact me at 920-284-1157. Look forward to talking with you soon.

Len