



U.S. Department
of Transportation

1200 New Jersey Avenue, SE
Washington, DC 20590

Pipeline and Hazardous
Materials Safety
Administration

FEB 20 2018

Eric Williams
Director of Engineering
C.H.&I. Technologies, Inc.
725 East Main Street, Suite 200
Santa Paula, CA 93060

Reference No. 17-0115

Dear Mr. Williams:

This letter is in response to your October 17, 2017, email and subsequent phone conversation with a member of my staff requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to compressed gases. You provide three scenarios in which a consumer or business will transport a product for personal care or household use that contains a hazardous material (hazmat), "UN1022, compressed air" or "UN1066, compressed nitrogen," in a refillable non-DOT specification container.

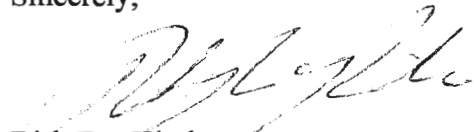
We have paraphrased and commented on your scenarios as follows:

- Q1. You seek confirmation of your understanding that an individual transporting this product in a private motor vehicle (including a leased or rented motor vehicle) for non-commercial purposes is not subject to the HMR.
- A1. Your understanding is correct. Based on the information you have provided and according to § 171.1(d)(6), functions not subject to the requirements of the HMR include the transportation of a hazmat by an individual for non-commercial purposes in a private motor vehicle, including a leased or rented motor vehicle.
- Q2. You seek confirmation of your understanding that an individual transporting this product for a non-commercial purpose as a passenger by various modes of transportation (highway, air, rail, or vessel) is subject to the HMR.
- A2. Your understanding is correct. Hazmat carried aboard passenger transport vehicles is subject to the HMR. However, certain hazmat is provided exceptions from the regulations by certain modes (see §§ 177.870 and 175.10).
- Q3. You seek confirmation of your understanding that a business hiring a carrier to transport by either air, highway, rail, or vessel an "empty" metal container (i.e., contains a nonpoisonous, non-flammable material at less than 29.0 psig) for a commercial purpose is not subject to the HMR.

A3. Your understanding is correct. Based on the information you have provided and according to § 173.115(b)(1), a Division 2.2 (non-flammable, nonpoisonous compressed gas) means any material (or mixture) which exerts in the packaging a gauge pressure of 200 kPa (29.0 psig/43.8 psia) or greater at 20 °C (68 °F), is a liquified gas or is a cryogenic liquid, and does not meet the definition of Division 2.1 (flammable gas) or 2.3 (gas poisonous by inhalation). If the material does not meet these requirements and does not meet any other definitions of a hazmat, transport of the material is not subject to the HMR.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dirk Der Kinderen', written in a cursive style.

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

Baker
§ 105.20
Definitions
17-0115

Dodd, Alice (PHMSA)

From: Patrick, Eamonn CTR (PHMSA)
Sent: Tuesday, October 17, 2017 3:03 PM
To: Hazmat Interps
Cc: Dodd, Alice (PHMSA); January, Ikeya CTR (PHMSA)
Subject: FW: Request for Interpretations or Guidance
Attachments: 10-17-2017 Request for Interpretations or Guidance.pdf

Alice/Ikeya,

Please submit this as a letter of interpretation. Mr. Williams spoke to Edom. Let me know if you have any questions!

Eamonn

From: Eric Williams [mailto:ewilliams@chitech.biz]
Sent: Tuesday, October 17, 2017 2:12 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Cc: Terri Fischer <tfischer@chitech.biz>
Subject: Request for Interpretations or Guidance

Standards and Rulemaking Division
Pipeline and Hazardous Materials Safety Administration
Attention: PHH-10
U.S. Department of Transportation
East Building
1200 New Jersey Avenue, SE
Washington, DC 20590-0001
infocntr@dot.gov

C. H. & I. Technologies, Inc., in accordance with the Department of Transportation HMR (Hazardous Materials Regulations) in 49 CFR 105.20, requests concurrence with the interpretations for the three cases in the attached document (10-17-2017 Request for Interpretations or Guidance.pdf), or guidance accordingly.

A response is requested by December 18, 2017.

Please feel free to contact me with any issues or concerns.

Thank you!

Regards,

Eric A. Williams, P.E. 805-415-2826 cell/text
Director of Engineering
CH&I Technologies, Inc.
725 East Main Street, Suite 200
Santa Paula, CA 93060

805-525-3358 (8358 fax)

<http://chitech.biz>

<http://perfectflow.biz>

Attachment: 10-17-2017 Request for Interpretations or Guidance.pdf

October 17, 2017

Standards and Rulemaking Division
Pipeline and Hazardous Materials Safety Administration
Attention: PHH-10
U.S. Department of Transportation
East Building
1200 New Jersey Avenue, SE
Washington, DC 20590-0001
infocntr@dot.gov

C. H. & I. Technologies, Inc., in accordance with the Department of Transportation HMR (Hazardous Materials Regulations) in 49 CFR 105.20, requests concurrence with the interpretations for the following three cases, or guidance accordingly.

A response is requested by December 18, 2017.

Case #1 - Function and Activity:

A consumer transports a consumer product in a container:

- The transport is by an individual for non-commercial purposes in a private motor vehicle, including a leased or rented motor vehicle by highway.
- The container:
 - Is a 49 CFR 173.306 (i) non-DOT specification metal container that is refillable.
 - Contains materials (fluids) for personal care or household use that are non-regulated non-hazardous non-flammable non-corrosive materials (fluids).
 - Contains Division 2.2 non-flammable nonpoisonous compressed gases (UN1002 compressed air or UN1066 compressed nitrogen) commercially free from corroding components.
 - Capacity will not exceed 1 L (61.0 cubic inches).
 - Internal pressure will not exceed 140 psig at 130°F.
 - Liquid contents of the material (fluid) and gas will not completely fill the container at 130°F.
 - Is used for transporting and dispensing a material (fluid) for personal care or household use and would be nearly full of this material (fluid). The relatively much-smaller amount of compressed gas in the container would be used as a “gas charge” to eject the relatively much-larger amount of material (fluid) from the container.
 - Is pressure tested.

Case #1 - Interpretations:

A. 49 CFR 171.1 (d) (6) addresses the applicability of the HMR to this function and activity.

B. This function and activity are not subject to the requirements of the HMR and/or the HMR do not apply to this function and activity.

Case #2 - Function and Activity:

A business transports an empty container:

- The transport is by a carrier for commercial purposes by air, highway, rail, or water.
- The container:
 - Is a 49 CFR 173.306 (i) non-DOT specification metal container that is refillable.
 - Contains non-flammable nonpoisonous compressed gases (UN1002 compressed air or UN1066 compressed nitrogen) commercially free from corroding components.
 - Capacity will not exceed 1 L (61.0 cubic inches).
 - Internal pressure is less than 29 psig at 68°F.
 - Is pressure tested.

Case #2 - Interpretations:

A. 49 CFR 173.115 (b) (1) addresses the applicability of the HMR to this function and activity.

B. This function and activity are not subject to the requirements of the HMR and/or the HMR do not apply to this function and activity.

Case #3 - Function and Activity:

A consumer transports a consumer product in a container:

- The transport is by an individual for non-commercial purposes as a passenger by highway in a commercial motor vehicle, by air in a commercial aircraft, by rail in a commercial rail car, or by water in a commercial vessel.
- The container:
 - Is a 49 CFR 173.306 (i) non-DOT specification metal container that is refillable.
 - Contains materials (fluids) for personal care or household use that are non-regulated non-hazardous non-flammable non-corrosive materials (fluids).
 - Contains Division 2.2 non-flammable nonpoisonous compressed gases (UN1002 compressed air or UN1066 compressed nitrogen) commercially free from corroding components.
 - Capacity will not exceed 1 L (61.0 cubic inches).
 - Internal pressure will not exceed 140 psig at 130°F.
 - Liquid contents of the material (fluid) and gas will not completely fill the container at 130°F.
 - Is used for transporting and dispensing a material (fluid) for personal care or household use and would be nearly full of this material (fluid). The relatively much-

smaller amount of compressed gas in the container would be used as a “gas charge” to eject the relatively much-larger amount of material (fluid) from the container.

- Is pressure tested.

Case #3 - Interpretations:

A. 49 CFR 173.306 (i) addresses the applicability of the HMR to this function and activity.

B. This function and activity are subject to the requirements of the HMR and the HMR do apply to this function and activity.

Please feel free to contact me with any issues or concerns.

Thank you!

Sincerely,



Eric A. Williams, P.E.
Director of Engineering
C. H. & I. Technologies, Inc.
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805-415-2826 cell/text