



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

MAR 15 2019

Mr. Quentin Yarbrough  
EHS&S Specialist – DG & Product Compliance  
Entegris  
706 Houston Clinton Drive  
Burnet, TX 78611

Reference No. 18-0149

Dear Mr. Yarbrough:

This letter is in response to your November 27, 2018, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the transport of a gas purification system by cargo aircraft in accordance with U.S. Department of Transportation Special Permit (DOT-SP) 15723. You explain that your company wants to transport the gas purification system to a recipient who would use it and then return it to your company for cleaning and/or refurbishment.

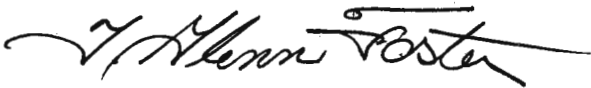
We have paraphrased and answered your questions as follows:

- Q1. You ask if a shipper must be granted party status to reoffer the gas purification system for transport after use if the shippers has the original packaging, packaging instructions, and training.
- A1. DOT-SP 15723 stipulates that a person who is not a holder of the special permit may reoffer the package for transportation provided no modification or change is made to the package. Generally, it is the opinion of this Office that modifying the “package,” as defined in § 171.8, would include opening and/or repackaging the package regardless of whether the re-offerer has the original packaging, packaging instructions, and training.
- Q2. You ask for clarification of the terms “modified” or “changed” as referenced in DOT-SP 15723 and Letter of Interpretation No. 13-0070.
- A2. The HMR do not define “modified” or “changed.” As stated in Answer A1, this Office considers opening and/or repackaging the package to be a modification or change. Additionally, the act of filling and/or discharging the contents of a package also constitute modifications or changes in accordance with the provisions of DOT-SP 15723.

- Q3. You ask if opening the crate, removing the system, and then replacing the system and closing the package per the packaging instructions prior to reoffering it for transport would be considered “modifying” or “changing” the package.
- A3. The answer is yes. See Answers A1 and A2. In accordance with the provisions of DOT-SP 15723, a person who is not a holder of the special permit may not reoffer the package for transportation in the event it has undergone a modification or change, to include opening the package, discharging/filling the materials contained within, or repackaging the package.

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 "T. Glenn Foster". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

T. Glenn Foster  
Chief, Regulatory Review and Reinvention  
Standards and Rulemaking Division

Ballenguee  
18-0149

## January, Ikeya CTR (PHMSA)

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**From:** INFOCNTR (PHMSA)  
**Sent:** Wednesday, November 28, 2018 5:00 PM  
**To:** Hazmat Interps  
**Subject:** FW: Request for letter of interpretation  
**Attachments:** 130070.pdf; DOT-SP 15723.pdf

**Importance:** High

Hello Alice and Ikeya,

Below is a request for letter of interpretation with attached supporting documents.

Thanks,

Jonathon, HMIC

**From:** Quentin Yarbrough [mailto:quentin.yarbrough@entegris.com]  
**Sent:** Tuesday, November 27, 2018 10:48 AM  
**To:** INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>  
**Subject:** Request for letter of interpretation  
**Importance:** High

### Scenario:

Transporting a gas purification system that requires a special permit for transport by air. This system is used then returned for cleaning and / or refurbishment.

There will be no modifications or changes to the packaging authorized under the special permit. Packaging, closure instructions, and training provided to those reoffering the system for transport.

### Questions:

1. If a shipper has been provided original packaging and packaging instructions and training do they need to be granted "party" status to reoffer the system for transport after use?
2. What would be considered "modified" or "changed"?
3. Is opening the crate, removing the system, then replacing the system and closing per the packaging instructions prior to reoffering for transport considered "modifying" or "changing" the packaging?

### Interpretation attached – section A 1.

If you are a shipper of a package offered under a special permit you are required to tender a copy of the special permit to the carrier. Paragraph 8, special provisions, of DOT -SP 14887 allows a person who is not a holder of the special permit who receives a package covered by the special permit to reoffer it for transportation provided no modification or change is made to the package, and it is reoffered for transportation in conformance with the special permit and the HMR. Paragraph 10, modal requirements, of DOT -SP 14887 requires a current copy of the special permit to be carried aboard each cargo vessel, aircraft, or motor vehicle used to transport packages covered by the special permit.

### Special Permit attached – section 8

#### 8. SPECIAL PROVISIONS:

a. A person who is not a holder of this special permit who receives a package covered by this special permit may reoffer it for transportation provided no modification or change is made to the package

and it is reoffered for transportation in conformance with this special permit the HMR, the ICAO TI, and the IMDG Code.

Contact information below, Thank you.

Quentin Yarbrough  
+1 512-755-2821  
[Quentin.yarbrough@entegris.com](mailto:Quentin.yarbrough@entegris.com)  
706 Houston Clinton Dr.  
Burnet TX, 78611

Quentin Yarbrough

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Burnet, Texas, 78611 US



August 30, 2018



U.S. Department  
of Transportation

East Building, PHH-30  
1200 New Jersey Avenue S.E.  
Washington, D.C. 20590

**Pipeline and Hazardous  
Materials Safety Administration**

DOT-SP 15723  
(FIFTH REVISION)

**EXPIRATION DATE: 2022-07-31**

(FOR RENEWAL, SEE 49 CFR 107.109)

1. GRANTEE: Entegris, Inc.  
Chaska, MN
2. PURPOSE AND LIMITATION:
  - a. This special permit authorizes the transportation in commerce of Division 4.1 and 4.2 solids in non-specification packaging. This special permit provides no relief from the Hazardous Materials Regulations (HMR), the International Civil Aviation Organization's Technical Instruction for the Safe Transport of Dangerous Goods by Air (ICAO TI), or the International Maritime Dangerous Goods Code (IMDG Code) other than as specifically stated herein. The most recent revision supersedes all previous revisions.
  - b. The safety analyses performed in the development of this special permit only considered the hazards and risks associated with the transportation in commerce.
  - c. No party status will be granted to this special permit.
  - d. This special permit serves as an "exemption" as defined in 1;3.1.1 of the ICAO TI and Section 7.9.1 of the IMDG Code (see IMO MSC/Circ. 1075-Granting Exemptions from the Provisions of the IMDG Code), and as a "Competent Authority Approval" as defined under 49 CFR § 107.1.
3. REGULATORY SYSTEM AFFECTED: 49 CFR Parts 106, 107 and 171-180, ICAO TI, and the IMDG Code.

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4. REGULATIONS FROM WHICH EXEMPTED: 49 CFR §§ 173.212 173.213, Packing Instructions 449 and 470 of the ICAO TI, and Packing Instructions P002 and P410 of the IMDG Code in that a non-DOT specification packaging is not authorized, except as specified herein, and § 176.83 and 7.2.3.2.2 of the IMDG Code in that the requirement for same hold segregation is waived.
5. BASIS: This special permit is based on the application of Entegris, Inc. dated July 6, 2018, submitted in accordance with § 107.109.
6. HAZARDOUS MATERIALS (49 CFR 172.101):

<b>Hazardous Materials Description</b>			
<b>Proper Shipping Name</b>	<b>Hazard Class/ Division</b>	<b>Identification Number</b>	<b>Packing Group</b>
Manganese resinate	4.1	UN1330	III
Self-heating solid, inorganic, n.o.s.	4.2	UN3190	II

7. SAFETY CONTROL MEASURES:

a. PACKAGING: Packaging prescribed is gas purification equipment packaged inside a non-DOT specification wooden crate. The gas purification equipment must meet the following requirements:

(1) The gas purification equipment consists of: a sturdy cabinet; with associated instruments; controls; within are contained metal receptacles.

(2) The authorized hazardous materials must be contained in metal receptacles. The metal receptacles must be securely mounted metal receptacles in conformance the Entegris Drawing No. 2009107 Rev. C on file with the Approvals and Permits Division.

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(3) The gas purification equipment must be placed in a non-DOT specification crate prior to being offered for transportation. The wood used in the construction of the wooden crate must be EU compliant. The non-DOT specification wooden crate must conform to Entegris Drawings No. 5008529 Rev. C Sheet Nos. 1-8 on file with the Approvals and Permits Division, except that reductions up to 25 percent in external dimensions are permitted.

b. OPERATIONAL CONTROLS:

(1) The gas purification equipment authorized under this permit must contain only one of the authorized hazardous materials when being offered for transportation.

(2) This permit authorizes the transportation of five metal receptacles or less mounted inside of the gas purification equipment.

(3) All components must be installed and protected by the gas purification equipment's metal cabinet to prevent damage or release of the hazardous materials during normal transportation.

(4) All valves must be securely closed during transportation with individual isolation valves and the hazardous materials contained inside protected by a blanket of nitrogen at a pressure of 5 psig or less.

(5) The maximum net quantity of hazardous materials contained in any individual receptacle of the gas purification equipment (i.e., in any package) must not exceed the package limit authorized for cargo aircraft only as indicated in Column (9) of the Hazardous Materials Table (49 CFR 172.101) and Column 13 of the ICAO TI Dangerous Goods List entries for the hazardous material listed in paragraph (6) above.

(6) The quantity restriction listed in paragraph 7.b.(5) applies to all modes approved under this special permit.

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(7) When transported by vessel authorized packages containing equipment classified in Division 4.1 are not required to be segregated "away from" authorized packages containing the gas purification equipment classified in Division 4.2.

8. SPECIAL PROVISIONS:

a. A person who is not a holder of this special permit who receives a package covered by this special permit may reoffer it for transportation provided no modification or change is made to the package and it is reoffered for transportation in conformance with this special permit the HMR, the ICAO TI, and the IMDG Code.

b. A current copy of this special permit must be maintained at each facility where the package is offered or reoffered for transportation.

c. For purposes of transportation by cargo aircraft and cargo vessel, this special permit constitutes an exemption to the ICAO TI in accordance with 1;1.1.3. and as an exemption to the IMDG Code in accordance with Part 7, Chapter 7.9, Section 7.9.1.

d. This special permit in no way affects the need to obtain any required authorizations from other agencies of the United States Government or from the competent authorities of the States of origin, transit, over flight, and destination of the consignment, as well as the State of the air operator.

9. MODES OF TRANSPORTATION AUTHORIZED: Motor Vehicle, Cargo aircraft only, Cargo Vessel, Rail Freight.

10. MODAL REQUIREMENTS: A current copy of this special permit must be carried aboard each cargo vessel, aircraft, or motor vehicle used to transport packages covered by this special permit. The shipper must furnish a copy of this special permit to the air carrier before or at the time the shipment is tendered.



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11. COMPLIANCE: Failure by a person to comply with any of the following may result in suspension or revocation of this special permit and penalties prescribed by the Federal hazardous materials transportation law, 49 U.S.C. 5101 et seq:
- o All terms and conditions prescribed in this special permit and the Hazardous Materials Regulations, 49 CFR Parts 171-180.
  - o Persons operating under the terms of this special permit must comply with the security plan requirement in Subpart I of Part 172 of the HMR, when applicable.
  - o Registration required by § 107.601 et seq., when applicable.

Each "Hazmat employee", as defined in § 171.8, who performs a function subject to this special permit must receive training on the requirements and conditions of this special permit in addition to the training required by §§ 172.700 through 172.704.

No person may use or apply this special permit, including display of its number, when this special permit has expired or is otherwise no longer in effect.

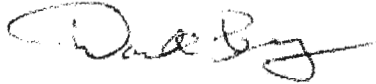
Under Title VII of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) - "The Hazardous Materials Safety and Security Reauthorization Act of 2005" (Pub. L. 109-59), 119 Stat. 1144 (August 10, 2005), amended the Federal hazardous materials transportation law by changing the term "exemption" to "special permit" and authorizes a special permit to be granted up to two years for new special permits and up to four years for renewals.

12. REPORTING REQUIREMENTS: Shipments or operations conducted under this special permit are subject to the Hazardous Materials Incident Reporting requirements specified in 49 CFR §§ 171.15 - Immediate notice of certain hazardous

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materials incidents, and 171.16 - Detailed hazardous materials incident reports. In addition, the grantee(s) of this special permit must notify the Associate Administrator for Hazardous Materials Safety, in writing, of any incident involving a package, shipment or operation conducted under terms of this special permit.

Issued in Washington, D.C.:



for William Schoonover  
Associate Administrator for Hazardous Materials Safety

Address all inquiries to: Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Material Safety Administration, U.S. Department of Transportation, East Building PHH-30, 1200 New Jersey Avenue, Southeast, Washington, D.C. 20590.

Copies of this special permit may be obtained by accessing the Hazardous Materials Safety Homepage at [http://hazmat.dot.gov/sp\\_app/special\\_permits/spec\\_perm\\_index.htm](http://hazmat.dot.gov/sp_app/special_permits/spec_perm_index.htm). Photo reproductions and legible reductions of this special permit are permitted. Any alteration of this special permit is prohibited.

PO: BEM/TG



U.S. Department  
of Transportation

Pipeline and Hazardous  
Materials Safety  
Administration

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

Mr. David Tobin  
Supply Operations Support  
Safeway, Inc.  
6441 C St.  
Anchorage, AK 99518

July 25, 2013

Ref. No.: 13-0070

Dear Mr. Tobin:

This is in response to your April 3, 2013 email requesting clarification of the requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). In your email you state that your company ships products made by another company that are offered under DOT-SP 14887, and that the outer packages are not marked to indicate the special permit number. You ask several questions which are paraphrased and answered as follows:

Q1. Is my company required to tender a copy of DOT-SP 14887 when we ship these items?

A1. If you are a shipper of a package offered under a special permit you are required to tender a copy of the special permit to the carrier. Paragraph 8, special provisions, of DOT-SP 14887 allows a person who is not a holder of the special permit who receives a package covered by the special permit to reoffer it for transportation provided no modification or change is made to the package, and it is reoffered for transportation in conformance with the special permit and the HMR. Paragraph 10, modal requirements, of DOT-SP 14887 requires a current copy of the special permit to be carried aboard each cargo vessel, aircraft, or motor vehicle used to transport packages covered by the special permit.

Q2. Is the original manufacturer of the cans authorized in DOT-SP 14887 required to mark the outer packaging with the special permit number?

A2. When offering a package containing aerosol cans manufactured under DOT-SP 14887 the original manufacturer is required to mark the outside of the package used to contain the cans. Section 172.301(c) requires the outside of each package authorized by a special permit to be durably marked "DOT-SP" followed by the special permit number assigned. The special permit in question does not waive this requirement.

Sincerely,

Delmer Billings  
Senior Regulatory Advisor  
Standards and Rulemaking Division

**Drakeford, Carolyn (PHMSA)**

Wlebb  
§172.301  
Marking  
13-0070

**From:** INFOCNTR (PHMSA)  
**Sent:** Thursday, April 04, 2013 1:40 PM  
**To:** Drakeford, Carolyn (PHMSA)  
**Subject:** FW: Question regarding SP14887 and 172.301(c)  
**Attachments:** SP14887\_2011081001.pdf; SP15793\_2013010939.pdf

Hi Carolyn,

This caller would like their letter submitted a letter of interpretation.

Thanks,  
Victoria

**From:** David Tobin [mailto:David.Tobin@safeway.com]  
**Sent:** Wednesday, April 03, 2013 7:29 PM  
**To:** INFOCNTR (PHMSA)  
**Cc:** David Tobin  
**Subject:** Question regarding SP14887 and 172.301(c)

Hello,

Am looking for an interpretation regarding 172.301(c); could you please respond back that you have received this request; thank you.

At the end of last year we became aware that SC Johnson was shipping aerosol Glade products with the cans marked DOT SP-14487; however, the cases are not marked.

When I called Special Permits and spoke with Kenny Herzog he did not see where the permit exempted 172.301(c). In email correspondence with SC Johnson, Georgia Barr, Trade Compliance, of SC Johnson, emailed me that in a phone conversation Mick Nicks of PHMSA Special Permits informed them that they need not print the SP number on the case. I've been back and forth with Special Permits but have been unable so far to reach a definitive conclusion. Yesterday Stacy Gray of Special Permits called me, and suggested I send this in email to you.

As the permits calls out that a current copy of the permit must be carried aboard various modes of transport, without the case being marked, we aren't aware a copy needs to be included.

Therefore we're asking for a letter of interpretation that states we are not required to tender a copy of the permit when we ship these items. If not, then we'd request the SC Johnson mark their cases so we know. My understanding is their approval not to print is only via a phone call; am unaware if they've obtained a letter of interpretation allowing this.

I trust you can appreciate our predicament that it appears a permit exists which requires us to do something, yet the item in question seemingly does not need to give us this information to act upon.

If it helps, am copying part of the email with Georgia below, and attaching SP-14887, as well as SP-15793 (15793 an example of where Section 4 in the SP explicitly waives 172.301(c)).

Thank you,

David Tobin

Email correspondence with SC Johnson:

Thank you Georgia,

It does help, and will be interesting to learn more from Kenny and Mike's discussion. We agree the one "package" is the container (aerosol can). However, within the permit, section 8.c calls out "Each container ... and shipped in a strong outside packagings." This takes us to 171.8 for the definition, where we see "Package or Outside Package" and from there to 172.301(c) where we see "...the outside of each package authorized by a special permit must be plainly and durably marked "DOT-SP" followed by the special permit number assigned." Thus the 'package' is in an 'outside package' and the 'outside package' must be marked.

As you mention, they could have explicitly stated the outside case be marked, but by omission, that does not negate 172.301(c) which would require a Letter of Interpretation. And am curious, if the purpose is to alert users/offerors/others, why you would *not want* it on the case? If the purpose is to alert us, then why would it not be visible on the case:

The purpose of the SP is not to allow for some fundamentally different way of over packing, or provide outer packaging for, a shipment of a hazmat. Thus, **the functionality of listing the SP number (on the aerosol can) is to alert users/offerors/others** that this package has been constructed differently.

Especially since section 10 of the permit 10 states "A current copy of this special permit must be carried aboard each cargo vessel, aircraft, or motor vehicle used to transport packages covered by this special permit." As we are required to provide current copy of this permit we need to know which items have this permit, hence the value, and appeared requirement, that this knowledge be discernible by viewing the outside package.

Thank you,  
David

8. SPECIAL PROVISIONS:

- a. A person who is not a holder of this special permit who receives a package covered by this special permit may reoffer it for transportation provided no modification or change is made to the package and it is reoffered for transportation in conformance with this special permit and the HMR.
- b. A current copy of this special permit must be maintained at each facility where the package is offered or reoffered for transportation.
- c. Each container must be marked "DOT-SP 14267" as specified in § 172.301(c) and shipped in a strong outside packagings.
- d. Containers filled with a material that meets the definition of a "Consumer commodity" in § 171.8 may be reclassified as ORM-B and shipped as "Consumer commodity" in accordance with § 173.202(b).

9. MODES OF TRANSPORTATION AUTHORIZED: Motor vehicle, rail freight, cargo vessel, cargo aircraft only, and passenger-carrying aircraft.

10. MODAL REQUIREMENTS: A current copy of this special permit must be carried aboard each cargo vessel, aircraft, or motor vehicle used to transport packages covered by this special permit. The shipper must furnish a current copy of this special permit to the air carrier before or at the time the shipment is tendered.

*Package or Outside Package* means a packaging plus its contents. For radioactive materials, see § 173.403 of this subchapter.

*Packaging* means a receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the minimum packing requirements of this subchapter. For radioactive materials packaging, see § 173.403 of this subchapter.

172.301(c)

*Special permit packagings.* Except as provided in § 173.23 of this subchapter, the outside of each package authorized by a special permit must be plainly and durably marked "DOT-SP" followed by the special permit number assigned. Packages authorized by an exemption issued prior to October 1, 2007, may be plainly and durably marked "DOT-E" in lieu of "DOT-SP" followed by the number assigned as specified in the most recent version of that exemption.

**From:** Barr, Georgia [<mailto:GBarr@SCJ.COM>]

**Sent:** Friday, January 18, 2013 10:15 AM

**To:** David Tobin

**Cc:** Gordon, Rob G.; Santos, Kimberly A.; Hall, Joseph L.; Wiley Jr, Clayton L.; Ceschin, Ann P.

**Subject:** RE: SC Johnson Special permit

David,

Mike Nicks is the PHMSA Special Permits Officer that advised us of the below interpretation. Kenny Herzog is out of the office today.

Mike is in agreement with our conclusion.

Mike noted that pursuant to the definitions under 171.8, the "package" authorized in this case is the "container" (the aerosol can) plus the hazmat. He further stated that if PHMSA, through the SP, wanted the outside packaging to be marked with the SP number, then the agency could have expressly required this with clear language to this effect. For example, PHMSA could have stated in the SP that the container and the outside packaging must be marked with the SP number.

In addition he added that it is important to note that the purpose of the SP is to authorize a specific construction of a container or package – the aerosol can – that deviates from the HMR. The purpose of the SP is not to allow for some fundamentally different way of over packing, or provide outer packaging for, a shipment of a hazmat. Thus, the functionality of listing the SP number (on the aerosol can) is to alert users/offerors/others that this package has been constructed differently.

Hope this helps!  
Georgia Barr  
Trade Compliance

**From:** David Tobin [<mailto:David.Tobin@safeway.com>]

**Sent:** Friday, January 18, 2013 11:13 AM

**To:** Barr, Georgia

**Cc:** Gordon, Rob G.; Santos, Kimberly A.; Hall, Joseph L.; Wiley Jr, Clayton L.; Ceschin, Ann P.

**Subject:** RE: SC Johnson Special permit

Thank you Georgia,

However the concern is the cases are not marked with DOT-SP 14887 per the regs. SC Johnson has taken a position that this is not required, based on a phone call with PHMSA. However when we contacted PHMSA they did not come to that same conclusion. And without a Letter of Interpretation stating an exception exists, we would require the cases be marked with the SP number for us to be in compliance while shipping them.

If SC Johnson can provide the name at PHMSA with whom they had their conversation, Kenny Herzog at PHMSA with whom I spoke would be willing to talk with them so that we can resolve this difference.

Thank you,  
David

**From:** Barr, Georgia [<mailto:GBarr@SCJ.COM>]

**Sent:** Friday, January 18, 2013 8:00 AM

**To:** David Tobin

**Cc:** Gordon, Rob G.; Santos, Kimberly A.; Hall, Joseph L.; Wiley Jr, Clayton L.; Barr, Georgia; Ceschin, Ann P.

**Subject:** SC Johnson Special permit

**Importance:** High

David,

Dear David,

In response to your inquiry regarding the re-offer requirements for our special permit SP 14887, we will provide you the list of codes you purchase from SC Johnson that are regulated under this special permit.

I believe you mentioned you have a copy of the special permit but if needed please let me know or it can be found on the PHMSA website.

Thank you,  
Georgia Barr

"Email Firewall" made the following annotations.

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Warning: All e-mail sent to this address will be received by the corporate e-mail system, and is subject to archival and review by someone other than the recipient. This e-mail may contain proprietary information and is intended only for the use of the intended recipient(s). If the reader of this message is not the intended recipient(s), you are notified that you have received this message in error and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this message in error, please notify the sender immediately.  
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