



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

1200 New Jersey Avenue, SE  
Washington, DC 20590

July 6, 2021

Mr. Saul Mishkin  
President – CEO  
NEX-XOS Worldwide, LLC  
3922 Pembroke Road  
Pembroke Park, FL 33021

Reference No. 20-0096

Dear Mr. Mishkin:

This letter is in response to your December 11, 2020, letter and subsequent phone call requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to flammable ration heaters (FRH) used in Individual Operational Rations, e.g., meal, ready-to-eat (MRE). Specifically, you provide the following information and ask whether the aluminum-based FRH contained in Individual Operational Rations, including but not limited to MREs, is subject to the HMR.

- Your company manufactures an aluminum-based FRH, which is analogous to magnesium-based FRHs used in MREs sold by others in the industry;
- Your aluminum-based FRH contains “UN2813, Water-reactive solid, n.o.s., (Aluminum powder, uncoated), 4.3, II”; and
- Depending on the size of your aluminum-based FRH, it contains either 7 or 14 grams of aluminum.

The answer is yes. Please note that the aluminum-based FRH—as part of the MRE—may be described and transported as “UN3363, Dangerous goods in apparatus, 9.” A UN3363 material is subject to special provision 136. In accordance with § 172.102(c)(1), special provision 136 specifies that the Associate Administrator may except from the HMR a UN3363 material that meets certain conditions; specifically, if: (1) it is shown that it does not pose a significant risk in transportation; (2) the quantities of hazardous material(s) do not exceed those specified in § 173.4a; and (3) the equipment, machinery, or apparatus conforms with § 173.222.

To apply for such an approval, you must submit an application in conformance with approval requirements found in 49 CFR Part 107, Subpart H. For more information on the approval application process, visit our website at <https://www.phmsa.dot.gov/approvals-and-permits/hazmat/general-approvals/general-approvals-overview>.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Dirk Der Kinderen".

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

**From:** [INFOCNTR \(PHMSA\)](#)  
**To:** [Hazmat Interps](#)  
**Subject:** FW: Request for Letter of Interpretation  
**Date:** Friday, December 11, 2020 10:44:25 AM  
**Attachments:** [LETTER\\_DOT12.2020.NXH.pdf](#)

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See attached request for letter of interpretation.

Thanks,

Jonathon, HMIC

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**From:** Saul Mishkin [mailto:saul@nex-xos.com]  
**Sent:** Friday, December 11, 2020 10:27 AM  
**To:** INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>  
**Subject:** Request for Letter of Interpretation

**CAUTION:** This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

**Standards and Rulemaking Division  
Pipeline and Hazardous Materials Safety Administration Attn: PHH-10**

To Whom It May Concern:

Please find attached request for Letter of Interpretation for Shipping Aluminum-Based Flameless Ration Heaters

Looking forward to your response

Sincerely

**Saul Mishkin**

**Office:** 305.433.8376 | **Direct:** 954.317.0576 | **Fax:** 305.489.7651

**NEX-XOS WORLDWIDE LLC**

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