



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

July 25, 2023

Mr. John Hinz
CEO
KTM North America, Inc.
38429 Innovation Court
Murrieta, CA 92563

Reference No. 23-0034

Dear Mr. Hinz,

This responds to your February 22, 2023, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to accumulators. Specifically, you are requesting an updated letter of interpretation (LOI) pertaining to the carriage of accumulators in closed-case suspension systems on board passenger-carrying aircraft. You reference LOI No. 15-0220, previously issued to you on February 22, 2016, for the purpose of clarity and confirmation for air carriers of the permitted status of your accumulators. In your most recent letter, you ask whether accumulators meeting the criteria specified in § 173.306(f)(4) and the International Civil Aviation Organization (ICAO) Technical Instructions Special Provision “A114” are subject to the HMR.

The answer is no. Accumulators meeting the criteria specified in § 173.306(f)(4) and ICAO Technical Instructions Special Provision “A114” are not subject to the HMR. Provided that your accumulators continue to meet these criteria, shipments of your accumulators would continue to not be 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 blue ink that reads "T. Glenn Foster".

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

Jacobson
23-0034

From: [INFOCNTR \(PHMSA\)](#)
To: [Dodd, Alice \(PHMSA\)](#); [Hazmat Interps](#)
Subject: FW: KTM North America, Inc. Request for Updated Letter of Interpretation regarding 14 C.F.R. § 173.306(f)(4)
Date: Tuesday, April 4, 2023 1:05:31 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[Request for Letter of Interpretation regarding 14 C.F.R. § 173.306\(f\)\(4\).pdf](#)

Hi Alice and team,

Please see below for an LOI request.

Madison (HMIC)

From: Johnson Aria <Aria.Johnson@ktm.com>
Sent: Wednesday, February 22, 2023 3:24 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Cc: Ochoa, Laura J. <laura.ochoa@pillsburylaw.com>; Saul Jaffe <sjaffe@claremontlaw.com>; Grangruth Robin <Robin.Grangruth@ktm.com>
Subject: KTM North America, Inc. Request for Updated Letter of Interpretation regarding 14 C.F.R. § 173.306(f)(4)

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.

Good Afternoon,

On behalf of KTM North America Inc., please find the attached letter requesting an updated letter of Interpretation regarding 14 C.F.R. § 173.306(f)(4).

Furthermore, should you have any questions or concerns please contact all copied parties listed.

Kind Regards,

ARIA JOHNSON
LEGAL SPECIALIST

KTM NORTH AMERICA, INC
38429 Innovation Court
Murrieta, CA 92563

P: 951-600-8007 4156
E: Aria.Johnson@ktm.com



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February 22, 2023

VIA EMAIL

Mr. Shane Kelley, Director Standards & Rulemaking
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590
infocntr@dot.gov

Re: KTM North America, Inc. Request for Updated Letter of Interpretation regarding 14 C.F.R. § 173.306(f)(4)

Dear Mr. Kelley:

We are writing in reference to PHMSA's February 22, 2016, letter of interpretation addressed to KTM North America, Inc., Ref. 15-0220, attached hereto as Exhibit A. We request that your office issue to us an updated letter on the same terms and conditions as the 2016 letter, so that we may continue to provide it to air carriers to confirm they are permitted to transport our accumulators.

Specifically, we request a renewed letter of interpretation that confirms the carriage of accumulators in closed-case suspension systems on board passenger-carrying aircraft are not regulated as hazardous materials, per the regulatory exception in 49 C.F.R. § 173.306(f)(4) and Special Provision "A114" of the International Civil Aviation Organization (ICAO) Technical Instructions. As described in our original request for a letter of interpretation, our two racing teams, KTM Motorsports and Husqvarna Motorsports, often transport suspension systems between races on board passenger-carrying aircraft, rather than use dispatch services, which, at times, are unable to deliver the parts in time for a race. We have found that airlines and airline staff at various airports differ in their approaches to the carriage of our accumulators and suspension systems on board aircraft, and we have had to provide them with PHMSA's 2016 letter to demonstrate the permissibility of transporting our parts. Because the letter is now nearly seven years old, some carriers have questioned the letter's continuing validity. We therefore request an updated letter, on the same terms and conditions as the 2016 letter.

We confirm that our accumulators meet the criteria as specified in § 173.306(f)(4) and Special Provision "A114". Attached to this letter as Exhibit B are updated technical drawings and specifications of the closed-case suspension systems used by KTM Motorsports and Husqvarna Motorsports. The specifications have not materially changed since our original submission in 2015. The only change is with respect to fitment of newer generation motorcycles.

Please contact me should you require any additional information.

Sincerely,



John Hinz
CEO

cc: Laura Ochoa
cc: KTM Legal

EXHIBIT A



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

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

FEB 22 2016

Ms. Cheryl Webb
Director of Legal Department
KTM North America, Inc.
38429 Innovation Ct.
Murrieta, CA 92563

Reference No. 15-0220


Dear Ms. Webb:

This responds to your letter regarding exceptions for the transportation of accumulators on board a passenger-carrying aircraft under the Hazardous Materials Regulations (HMR: 49 CFR Parts 171-180) and the International Civil Aviation Organizations Technical Instruction for the Safe Transport of Dangerous Goods by Aircraft (ICAO Technical Instructions). Consistent with a previously issued letter of interpretation Ref. No. 09-0105, you ask for confirmation of your understanding that closed-case suspension systems used by KTM Motorsports and Husqvarna Motorsports are not subject to the HMR, provided the accumulators meet all of the requirements of §173.306(f)(4). You attached with your letter documentation from WP Performance Systems, the manufacturer of the suspension systems, substantiating that the systems meet conditions of the ICAO Technical Instructions Special Provision "A114."

Your understanding is correct. Accumulators intended to function as shock absorbers, struts, gas springs, pneumatic springs or other impact or energy-absorbing devices are not subject to the HMR, provided they meet the criteria as specified in § 173.306(f)(4). In addition, articles containing gas, intended to function as shock absorbers, including impact energy absorbing devices, or pneumatic springs are not subject to the ICAO Technical Instructions, provided each article meets the conditions of Special Provision "A114," if all or part of the transportation is by aircraft.

I trust this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,


Duane A. Pfund
International Standards Coordinator
Standards and Rulemaking Division

Charles E. Betts
Director for Standards and Rulemaking
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE.
East Building
Washington, DC 20590-0001

Antonielli
§ 173.306(b)(4)
Limited Quantity
15-0220

Subject: Request for Letter of Interpretation

Dear Mr. Betts:

We are writing to seek guidance regarding the regulatory exceptions under 49 C.F.R. § 173.306(f)(4) and Special Provision "A114" of the International Civil Aviation Organization (ICAO) Technical Instructions, for the transportation of closed-case suspension systems on board passenger-carrying aircraft. Our two factory racing teams, KTM Motorsports, Inc. and Husqvarna Motorsports, Inc., desire to carry on board its suspension systems between races, rather than use dispatch services which are often not available to deliver these parts in time for a race.

We are aware of a June 19, 2009 letter of interpretation provided by your office to ShipMate, Inc., in which Kawasaki Racing sought guidance on the carriage of accumulators on board passenger-carrying aircraft. Similarly, we request a letter of interpretation that confirms the suspension systems used by KTM Motorsports and Husqvarna Motorsports are not regulated as hazardous materials, provided that they meet the criteria of 49 C.F.R. § 173.306(f)(4), which state:

Accumulators intended to function as shock absorbers, struts, gas springs, pneumatic springs or other impact or energy-absorbing devices are not subject to the requirements of this subchapter provided each:

- (i) Has a gas space capacity not exceeding 1.6 L and a charge pressure not exceeding 280 bar, where the product of the capacity expressed in liters and charge pressure expressed in bars does not exceed 80 (for example, 0.5 L gas space and 160 bar charge pressure);
- (ii) Has a minimum burst pressure of 4 times the charge pressure at 20 °C for products not exceeding 0.5 L gas space capacity and 5 times the charge pressure for products greater than 0.5 L gas space capacity;

KTM NORTH AMERICA, INC.

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1119 Milan Avenue // Amherst, OH 44001 // T: 440-985-3553 // F: 440-985-3060
www.ktmusa.com



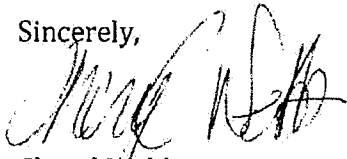
(iii) Design type has been subjected to a fire test demonstrating that the article relieves its pressure by means of a fire degradable seal or other pressure relief device, such that the article will not fragment and that the article does not rocket; and

(iv) Accumulators must be manufactured under a written quality assurance program which monitors parameters controlling burst strength, burst mode and performance in a fire situation as specified in paragraphs (f)(4)(i) through (f)(4)(iii) of this section. A copy of the quality assurance program must be maintained at each facility at which the accumulators are manufactured.

We have attached documentation from WP Performance Systems, the manufacturer of the suspension systems, which substantiates that the suspension systems fully comply with ICAO Technical Instructions, Special Provision "A114," and therefore with all the requirements of 49 C.F.R. § 173.306(f)(4) as well.

Thank you for your time and assistance in this matter. Please contact me should you require any additional information. We look forward to your response.

Sincerely,

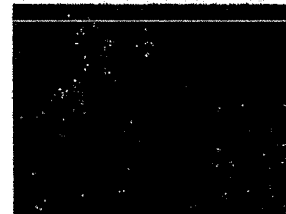


Cheryl Webb
Director of Legal Department
T: 951-600-8007 x.4117

KTM NORTH AMERICA, INC.
38429 innovation Court
Murrieta, CA 92563

KTM NORTH AMERICA, INC.

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1119 Milan Avenue // Amherst, OH 44001 // T: 440-985-3553 // F: 440-985-3060
www.ktmusa.com





KTM-SPORTMOTORCYCLE AG
Betriebsgebiet Süd
Stallhofnerstraße 3
5230 Mattighofen
Austria

Munderfing, 18.06.2015

Dangerous Goods

Ladies and Gentleman!

WP Performance Systems GmbH confirms that all pressurized forks and shocks containing nitrogen and air are tested with max. burst-pressure according to requirements of International Air Transport Association, Accord Européen Relatif and International Maritime Dangerous Goods. These products do not have to be labelled as dangerous material, as they are subject to special provision IATA (A114), ADR (283), IMDG (283).

Mit freundlichen Grüßen,

Mag. Hannes Haunschmid

WP Performance Systems GmbH
Eggersträßchen 4
5222 Munderfing - Austria
Tel: +43 (0) 7742/20240 0
Fax: +43 (0) 7742/20240 9150
info@wp-performance.com
www.wp-performance.com

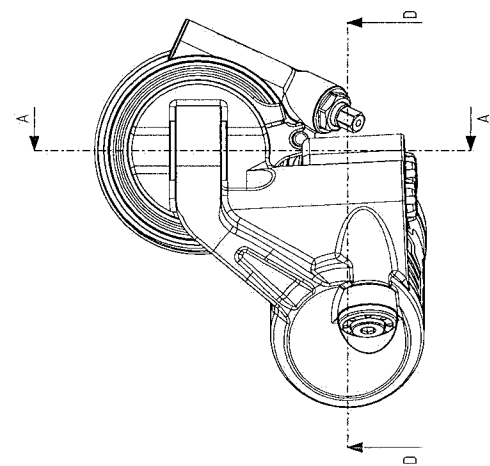
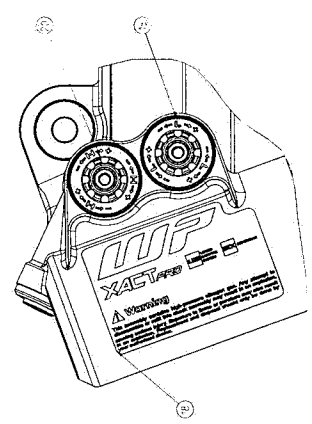
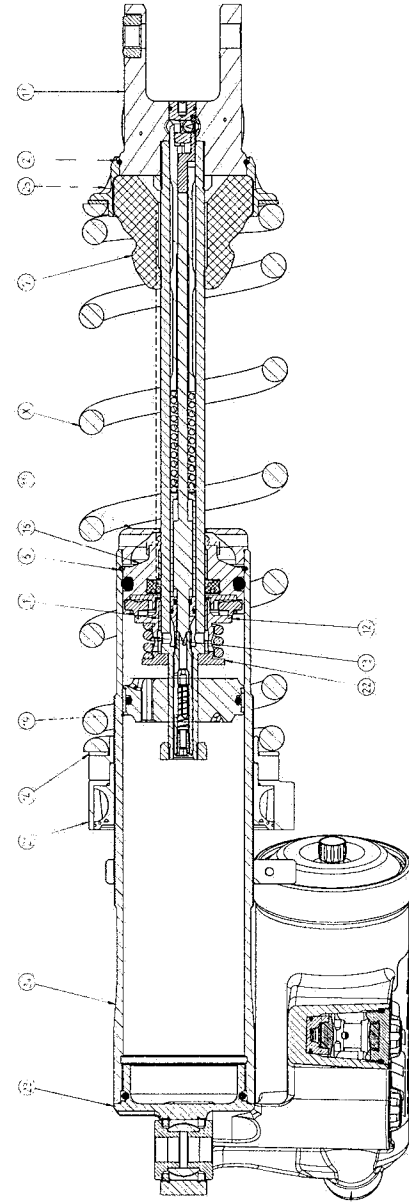
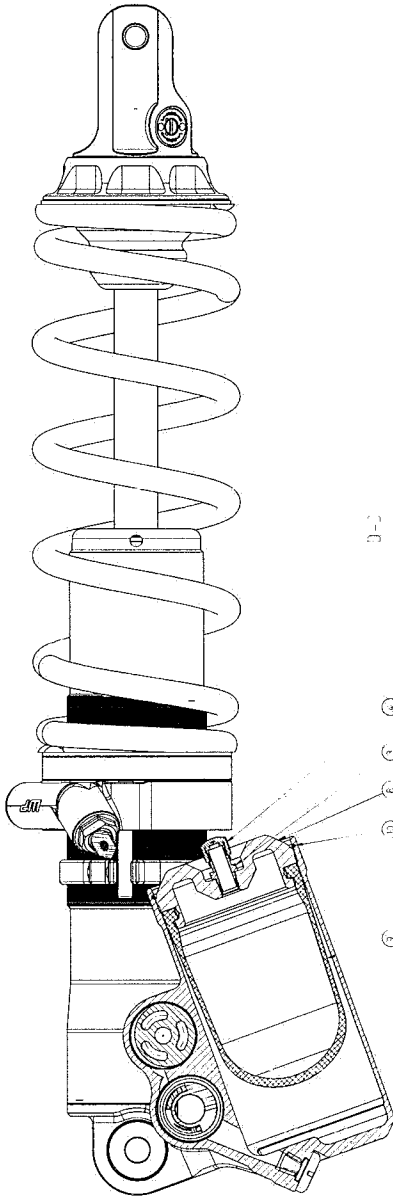
Allgemeine Sparkasse OÖ
BIC: 20320
Kto. Nr. 32160 074074
BIC: ASPKAT2L
IBAN: AT24 2032 0321 0007 4324

FP 16 114 03346
E-Mail: info@wp-performance.com
00 43 7742 20240

Attachment.

PARTS OF YOUR SUCCESS

EXHIBIT B



ITEM NO.	ITEM DESCRIPTION	QTY	UNIT	REMARKS
1	Handpiece	1	PC	
2	Trigger	1	PC	
3	Spring	1	PC	
4	Gear	1	PC	
5	Gear	1	PC	
6	Gear	1	PC	
7	Gear	1	PC	
8	Gear	1	PC	
9	Gear	1	PC	
10	Gear	1	PC	
11	Gear	1	PC	
12	Gear	1	PC	
13	Gear	1	PC	
14	Gear	1	PC	
15	Gear	1	PC	
16	Gear	1	PC	
17	Gear	1	PC	
18	Gear	1	PC	
19	Gear	1	PC	
20	Gear	1	PC	
21	Gear	1	PC	
22	Gear	1	PC	

STUECKLISTE / BILL OF MATERIALS

<p>KM Komet Werkzeugmaschinen GmbH Komet-Strasse 1 D-82041 Grödenmühlbach Tel: +49 89 30 90 10 Fax: +49 89 30 90 11 E-Mail: info@komet.de</p>	<p>Produktname: XACT 1000 Produktcode: 1000 Produktgruppe: XACT Produkttyp: Handpiece Produktmaterial: 1000 Produktfarbe: Schwarz Produktgewicht: 0,15 kg Produktlänge: 100 mm Produktbreite: 20 mm Produkthöhe: 20 mm Produktvolumen: 0,0003 m³ Produktfläche: 0,0004 m² Produktumfang: 0,0005 m³ Produktgewicht: 0,15 kg Produktlänge: 100 mm Produktbreite: 20 mm Produkthöhe: 20 mm Produktvolumen: 0,0003 m³ Produktfläche: 0,0004 m² Produktumfang: 0,0005 m³</p>
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