



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

NOV 21 2005

Mr. James R. Jandora
Vice President
Sales & Marketing
DS Containers
1789 Hubbard Avenue
Batavia, IL 60510

Ref. No.: 05-0197

Dear Mr. Jandora:

This is in response to your August 11, 2005 letter regarding the exceptions for limited quantities of compressed gases as specified in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if aerosol cans containing foodstuffs prepared in accordance with § 173.306(b)(1) are subject to either the hot water bath test in § 173.306(a)(3) or special venting features authorized under DOT-E-07951.

The answer is no. If the container meets the conditions specified in § 173.306(b)(1), the hot water bath test and special venting features are not applicable.

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

Sincerely,

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards



050197

173.306(b)(1)



Satterthwaite
§ 173.306 (b) (1)
Cylinders
05-0197

August 11, 2005

Standards Office for Hazardous Materials Safety
Research and Special Programs Administration
U.S. Department of Transportation
400 7th Street, S.W.
Washington, D.C. 20590-0001

Subject: Request for Interpretation of 49 CFR 173.306, (b), (1)

Dear Director:

Please refer to 173.306 (b) (1). This is found on page 578 of our bound copy of this CFR, covering Transportation, revised as of October 1, 2004. We are a manufacturer of aerosol cans. It is our understanding that aerosol cans meeting the requirement of this section of the CFR do not need an exemption related to the fact certain foodstuffs (such as "whipped topping") cannot and do not go through a hot water bath after being filled.

In other words, if all requirements of this section, including sub-parts (i), (ii), and (iii) are met, the can does not need the venting feature described by DOT E-07951, even though the can does not go through a 130F hot water bath.

It has been our experience that most aerosol cans for whipped topping are made to exemption E-07951, but we also have seen whipped topping packaged in plain, "non-exemption" cans. In all cases, we believe the propellant is nitrous oxide.

A letter from your office confirming we are interpreting this section correctly would be very helpful to us, and we ask you to issue such a letter after you have reviewed this question.

Sincerely,

James R. Jandora
Vice President Sales & Marketing