



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

JUN 30 2006

Mr. Michael J. Pangia
Law Offices of Michael J. Pangia, P.C.
1717 N Street, NW
Washington, DC 20036-2801

Ref. No.: 06-0103

Dear Mr. Pangia:

This is in response to your April 24, 2006 letter regarding transportation of hazardous materials by aircraft under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if hazardous materials transported aboard aircraft operated on a special flight permit under 14 CFR Part 91 are subject to the HMR.

If the flight is for the furtherance of a commercial purpose, even if there are no commercial goods or passengers on board, the oxygen cylinders and paint described in your letter are subject to the HMR. In addition, if the owner of the aircraft is employing a pilot to operate the aircraft, the hazardous materials on board are subject to the HMR. Aircraft owned and piloted by a private citizen transporting his or her own hazardous materials for personal use is not considered to be "in commerce" and therefore is not subject to the HMR. We suggest you contact the Federal Aviation Administration concerning questions about 14 CFR Part 91 and special flight permits.

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



060103

175.10 (a)

LAW OFFICES
of
MICHAEL J. PANGIA, P.C.
1717 N STREET, NW
WASHINGTON, D.C. 20036-2801

Michael J. Pangia
Admitted DC, NC &
NY

(202) 955-6450
(202) 955-9444 (Facsimile)
Mike.law@Verizon.net

Of Counsel:
William J. Apuzzo
685 Third Avenue
New York, NY 10017

Anderson, Korzen &
Assoc.
233 West Mountain
Street
Kernersville, NC
27284

Pollack
\$175.10 (a)
Air
06-0103

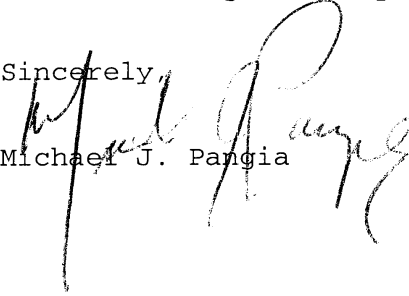
April 24, 2006

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

Dear Ms Mitchell:

If I want to carry items that are classified as Hazardous Materials under 49 CFR 171-180, such as my own oxygen bottles to be installed in the plane or certain paint that is to be used on the plane, do the Hazmat regulations apply to packaging, labeling, etc. if my plane is on a special flight permit that is to be conducted under Part 91 with no passengers allowed or carried aboard and there are no goods carried for hire aboard? There appears implementing regulations under Parts 135 and 121, but none for strictly Part 91 flights such as the one I describe above. Thank you for whatever guidance you can give me on this question.

Sincerely,


Michael J. Pangia