



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

FEB 5 2010

1200 New Jersey Ave., SE
Washington, DC 20590

Mr. Tom Ferguson
Technical Consultant
The Council on Safe Transportation
of Hazardous Articles, Inc.
7803 Hill House Court
Fairfax Station, VA 22039

Ref. No.: 09-0221

Dear Mr. Ferguson:

This responds to your September 24, 2009 letter regarding requirements for oxidizers and compressed oxygen when cylinders are transported by air under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether oxygen cylinders transported by an airline for use by cabin crews in the event of smoke or depressurization in the cabin are eligible for the exceptions provided in § 175.501(e).

The answer is no. Section 175.501(e) applies only to medical-use compressed oxygen that is either owned or leased by the air carrier for passenger use during flights or offered for transportation by a passenger needing it for personal medical use at a destination. Oxygen cylinders transported by an airline to be used in the event of an emergency on board the aircraft must be transported in accordance with the requirements in § 175.8(a) regarding airworthiness and items of replacement (company material (COMAT)).

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Hattie L. Mitchell", with a long horizontal line extending to the right.

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



September 24, 2009

Office of Hazardous Materials Safety
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
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Via: infocntr@dot.gov

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\$ 175.8
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The Council on Safe Transportation of Hazardous Articles (COSTHA) includes within its membership a number of air carriers that serve both domestic and international destinations. These carriers are subject to both 14 CFR and 49 CFR requirements when transporting or shipping hazardous materials, including company materials (COMAT). In PHMSA Docket No. RSPA-04-17664 (HM-224B) Final Rule effective October 1, 2007, amendments were made to Parts 173 and 175, 49 CFR. Among those amendments included the requirement of specific, performance-based packaging for oxygen and oxidizer cylinders. As you are aware, commercial aircraft operate in a pressure-reduced atmosphere when at altitude. Therefore, many carriers offer medical oxygen for use by passengers who require it for proper respiratory functions above 8,000 feet. In addition, carriers are required by the Federal Aviation Administration (FAA) to maintain additional oxygen cylinders on board for emergency oxygen for the flight and cabin crew in the case of smoke in the cabin or depressurization. Thus, this rule has the potential to impact both passenger medical oxygen as well as a carrier's emergency medical oxygen programs.

Per 49 CFR 175.8(a)(2), oxygen cylinders installed or carried within the aircraft and used specifically for emergency crew oxygen are not subject to the Hazardous Materials Regulations (HMR) because such materials are required under airworthiness requirements and operating regulations. Paragraph (a)(3) of 49 CFR 175.8 also details that items of replacement are subject to HMR, and must be handled and transported accordingly. However, the HMR does provide conditions which allow the transportation of oxygen cylinders in the cabin of the aircraft within 49 CFR 175.501(e). Specifically, 175.501(e) states:

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(e) A cylinder containing medical-use compressed oxygen, owned or leased by an aircraft operator or offered for transportation by a passenger needing it for personal medical use at destination, may be carried in the cabin of a passenger-carrying aircraft in accordance with the following provisions:...

The paragraph goes on to specify quantity, size, and minimal packaging standards that must be met. The definition of medical-use compressed oxygen is of particular importance given the new requirements of HM-224B. Does oxygen required for emergency medical use, owned or leased by the air carrier, and transported as company materials qualify for this exception detailed in 175.510(e)? The wording "owned or leased by an aircraft operator *or* offered for transportation by a passenger needing it for personal medical use at destination [bold and italics added for emphasis]" suggests that emergency medical oxygen bottles that are subject to the HMR (not installed for airworthiness requirements) but transported as company materials are indeed eligible for transport under 175.510(e).

Any clarification with this issue would be greatly appreciated by our membership.

Sincerely,

Tom Ferguson

PG, CHMM, DGSA
Technical Consultant