



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

NOV 20 2011

Ms. Katherine Knight
Henry, Oddo, Austin & Fletcher
Attorneys and Counselors at Law
1700 Pacific Avenue, Suite 2700
Dallas, TX 75201

Reference No. 11-0203

Dear Ms. Knight:

This is in response to your August 8, 2011, and September 20, 2011 telephone conversation with a member of my staff on behalf of one of your law firm's clients, a moving company, concerning the interstate transportation of scuba tank cylinders and oxygen tank cylinders under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You state that while moving a household, the moving company refused to transport two scuba-tank cylinders belonging to its client because the company did not know whether the cylinders contained a hazardous material and with which regulations they must comply. You also state the company later hired a hazardous materials expert who determined the cylinders were empty. You ask what requirements apply when a moving company offers cylinders as household goods for interstate transportation by motor vehicle.

Federal hazardous materials transportation law (49 U.S.C. § 5101 et seq.) applies to the transportation of hazardous materials in intrastate and interstate commerce, including packaging intended for such transportation. A cylinder containing a hazardous material that is transported in commerce is subject to the HMR and must comply with specific requirements applicable to its preparation for transportation. The HMR also impose registration requirements for shippers and carriers of certain classes and quantities of hazardous materials (see 49 CFR § 107.601). Furthermore, the employees that prepare, offer and move hazardous materials in transportation must be trained in conformance with 49 CFR Part 172, Subparts H (training) and I (security). The HMR provide exceptions for items that are not transported "in commerce" – e.g., when a private individual transports a cylinder for personal use, that transportation is not subject to the HMR. The HMR also provide exceptions for empty packagings which no longer qualify as hazardous materials (see § 173.29).

The HMR establish requirements for their design, manufacture, maintenance, and requalification of cylinders used to transport hazardous materials in commerce. A cylinder manufactured in conformance with the HMR must be marked with the applicable specification marks and maintained in accordance with applicable requirements to conform

to the HMR regardless of whether the cylinder is in transportation in commerce (see § 180.3(a)). Similarly, a DOT Specification 3AA, 3AL, or other SCUBA cylinder marked to indicate conformance with applicable DOT requirements must be retested and otherwise maintained in accordance with the HMR whether or not it is being used to transport hazardous materials in commerce.

I hope this satisfies your request.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Glenn Foster". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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

HENRY ODDO AUSTIN & FLETCHER

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Edmonson
\$173.22
\$171.1
Applicability
11-0203

August 8, 2011

Mr. Charles E. Betts
Director, Office of Hazardous Materials Standards
U.S. DOT/PHMSA (PHH-10)
1200 New Jersey Avenue, SE East Building, 2nd Floor
Washington, D.C. 20590

RE: Interstate Household Goods Motor Carrier Transport of Scuba Tanks and/or Oxygen Tanks

Dear Sir:

Please advise the regulations and requirements which affect a shipper's offer of scuba tanks and/or an oxygen tank for transportation to an interstate household goods motor carrier.

If you have any questions, please contact me at (214) 658-1928. Thank you for your assistance.

Sincerely,

HENRY ODDO AUSTIN & FLETCHER,
A Professional Corporation

By: Katherine Knight
Katherine Knight