



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

JAN 28 2010

Mr. Kevin DelGaudio
Vice President, Sales
Bioxygen Distribution Corporation
15 American Way, Unit # 12
Spotswood, NJ 08884

Reference No. 09-0304

Dear Mr. DelGaudio:

This responds to your electronic transmission requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) regarding requirements applicable to the limited quantity and consumer commodity exceptions under § 173.306(a)(1). Specifically, you ask whether you may transport "Oxygen gas, compressed" as a consumer commodity in containers having a maximum capacity of four fluid ounces that are filled to a maximum pressure of 525 psi at 70° F. The products will be transported by ground transportation only.

A limited quantity of "Oxygen, gas compressed" that conforms to § 173.306(a)(1) and is a "Consumer commodity" as defined in § 171.8 of the HMR, may be renamed "Consumer commodity" and reclassified as "ORM-D." There is no restriction on the maximum filling pressure for containers of not more than four fluid ounces capacity. The term "4 fluid ounces capacity" refers to the maximum volumetric capacity of the container, not to the amount of gas that may be placed in the container. Each package must conform to the general requirements in §§ 173.24 and 173.24a, the package marking requirements in § 172.316, and may not exceed 30 kg (66 pounds) gross weight. Additionally, a compressed gas transported as an ORM-D material is eligible for the exceptions provided in § 173.156.

I hope this information is helpful. Please contact this office should you have additional questions.

Sincerely,

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

McIntyre
§172.101
§173.306 (1)

Drakeford, Carolyn (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Thursday, December 17, 2009 8:16 AM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Letter of Interpretation Request
Attachments: MONTEBELLO CAN.pdf

Cylinders
09-0304

From: Kevin DelGaudio [mailto:kevin@bioxygen.net]
Sent: Wednesday, December 16, 2009 4:03 PM
To: INFOCNTR (PHMSA)
Subject: Letter of Interpretation Request

This is a formal request for a Letter of Interpretation to produce a DOT compliant "Canned Oxygen" product.

Product:	Oxygen, gas, compressed
UN #	UN1072
Hazard Class	2.2, 5.1
Container	Montebello Aerosol Spec # C0114/R/L-OX100-G029C
	(see attached Spec Sheet)
Container Capacity	4 fluid ounces
Fill Pressure	525 PSI @ 70°F (75% of MFG's 700 PSI burst rating)
Inner Packaging	N/A
Outer Packaging	strong outside packaging (200lb+ corrugated)
Labeling – Outer Pkg	ORM-D & UN1072 pre printed on box
Shipping Method	Ground transportation Only (NO air transportation)

I am looking for clarification of the following under **CFR 49 §173.306 (1)**:

Based on the above product and packing specifications, would we be able to fill these cylinders with UN1072 – Oxygen, gas, compressed - to a maximum PSI of 525 @ 70°F, and qualify as Limited Quantity and ship as a Consumer Commodity (ORM-D)?

Best Wishes,



Kevin DelGaudio
VP Sales

kevin@bioxygen.net

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