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Office of Pipeline Safety (PHP-30) PHMSA
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To Whom it May Concern:

We are writing for clarification on the Letter of Interpretation Reference No. 24-0010 dated May 10, 2024, in addition to 49 CFR 173.301(a), 173.25(a), 178.35, 178.47, 171.8, and DOT-SP 12726. The Letter of Interpretation is attached.

We are requesting further clarification regarding Answer "A4" of the Letter of Interpretation which states:

...when the SP requires the use of a strong outer packaging—as in DOT-SP 7945 paragraph 8.g. or DOT-SP 8495 paragraph 8.g.—the outer packaging does not meet the definition of an overpack, and therefore, "OVERPACK" is not an appropriate marking.

Also note, DOT-SP 12726 paragraph 7.a. authorizes the use of both non-DOT specification cylinders and DOT specification cylinders, and—when DOT specification cylinders are used—the "OVERPACK" marking is required unless the markings representative of each package type contained in the overpack are visible from outside of the overpack.

Please note that DOT-SP 7945 paragraph 8f (not 8g) states: "The cylinder must be shipped in strong outside packagings in accordance with 173.301(a)(9)" and that DOT-SP 8495 paragraph 8g states similarly: "The cylinders must be shipped in strong outside packagings in accordance with 173.301(a)(9)."

We understand and agree that Overpack must be used "when specification packagings are required" in accordance with 49 CFR 173.25(a)(4). We appreciate how your answers explain that no Overpack should be used for Special Permit cylinders based on the fact that the SP requires "strong outside packagings" with a specific reference to 173.301(a)(9), which is reserved for specification 2P, 2Q, 3E, 3HT, 4BA, 4D, 4DA, 4DS, and 39 cylinders.

In other words, the Special Permit cylinders mentioned in the letter (DOT SP-7945, DOT SP-8495) cannot be offered for transportation in a single packaging because the Special Permits state an outer packaging is a requirement based on 173.301(a)(9). If an outer packaging is required, it is not an Overpack because

the inner packaging cannot be offered for transportation by itself. That is, a combination package must always be used for these types of cylinders. Is that correct?

Your response refers to specification cylinders 3HT, 4DS, and 4DA (4DA by reference to DOT SP-12726). Your office states that these require Overpack because they are specification cylinders and based on the plain language of 49 CFR 173.25(a)(4) which states "The overpack is marked with the word "OVERPACK" when specification packagings are required," they are required to be marked as an Overpack. It is obvious that when in some "strong non-bulk outer packagings" (i.e. fiberboard boxes, crates, etc.) "the required markings representative of each package type contained in the overpack" (i.e. cylinder specification marking, labeling, etc.) will not be "visible from outside of the overpack" and that is why an Overpack must be used. Is that correct?

We have additional questions regarding 49 CFR 173.301(a)(9) which states:

Specification 2P, 2Q, 3E, 3HT, spherical 4BA, 4D, 4DA, 4DS, and 39 cylinders must be packed in strong non-bulk outer packagings. The outside of the combination packaging must be marked with an indication that the inner packagings conform to the prescribed specifications.

It appears that the specification cylinders in question require "strong outer packaging" just as the DOT-SP 7945 and DOT-SP 8495 cylinders do. Our questions are as follows:

- 1) If a specification cylinder IS REQUIRED to ship gases but offered under a DOT SP instead, does that change the requirement for use of an Overpack? The plain language of 49 CFR 173.25(a)(4) states Overpacks are used when specification cylinders are "required." Gasses are always "required" to be in specification cylinders IAW 49 CFR 173.301(a)(1). Therefore, are Overpacks also always "required," even for Special Permit cylinders?
- 2) If a Special Permit cylinder does not require Overpack based on the language of the SP for "a strong outer packaging" (see Letter of Interpretation Reference No. 24-0010 answer A4), why are specification cylinders offered without the SP, which require "strong non-bulk outer packagings," treated differently? Isn't the DOT-SP marking also required and not visible just as the DOT specification marking for a specification cylinder? See SP 7945 paragraph 7b and SP 8495 paragraph 7a (marking) which describes marking requirements IAW 49CFR 178.35 and 178.47 for these cylinders.
- 3) 49 CFR 173.301(a)(9) is referenced in the Special Permit and applicable to the specification cylinders in question. Therefore, the same requirement for a combination package exists and the outer container is required in addition to the inner package. Is that correct?
- 4) Based on the definition of Overpack in 49 CFR 171.8, if an item cannot be shipped as a single package wouldn't the outer box be part of the combination package and not an Overpack? In this case, 3HT, 4DA, and 4DS cylinders containing gasses must always be placed in "strong outer packagings." Therefore, these combination packages do not require an Overpack unless the outer packaging is "placed or stacked onto a load board such as a pallet and secured by strapping, shrink wrapping, stretch wrapping, or other suitable means or placed in a protective outer packaging such as a box or crate." Is that correct?
- 5) 49 CFR 173.301(a)(9) states "the outside of the combination packaging must be marked with an indication that the inner packagings conform to the prescribed specifications." Does the word "OVERPACK" on a box containing gasses IAW 173.301(a)(9) (i.e. gasses in specification cylinders requiring a combination package), for which 49 CFR 173.25(a) applies (i.e. an Overpack), qualify as "an indication that the inner packagings conform to the prescribed specifications"? In other

words, can the marking "OVERPACK" replace the marking "inner packagings conform to the prescribed specifications" in this case?

- 6) If the combination package described in question 5 does not comply with 49 CFR 173.25(a) (i.e. is not an Overpack), is the marking "inner packagings conform to the prescribed specifications" required to be on the outer container for Special Permit cylinders, just specification cylinders, neither, or both?
- 7) In regard to question 5, does each outer packaging conforming to 49 CFR 173.301(a)(9) (e.g. 3HT cylinder packed in a fiberboard box) also require the marking "inner packagings conform to the prescribed specifications," in addition to the "OVERPACK" marking?
- 8) The articles in question are aircraft fire extinguishers which contain non-flammable gas. They do not have non-flammable gas labels or markings with the proper shipping name (as would be found on an industrial gas cylinder, for example). These labels/markings cannot be placed on the cylinders because the cylinders are a component of a 14CFR approved aircraft part. As such, no additional labels may be placed on the articles and no FAA approved labels exist with the hazard label or proper shipping name marking. If the inner packagings DO NOT conform to the prescribed specifications (Ex: the proper shipping name marking and non-flammable gas label are not present on the inner cylinder in the combination package), is it still an Overpack?
- 9) For the scenario in question 8, it would also be inappropriate to mark the outer package "inner packagings conform to the prescribed specifications," correct?

We appreciate your time and patience with this request and believe that the answers you provide will ensure clarification and compliance with all aircraft repair stations, owners, operators, and distributors that wish to comply fully with the HMR.

Best Regards



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