



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

AUG 27 2001

Mr. Michael Ritchie
Hazardous Materials Specialist
Minnesota Department of Transportation
Office of Motor Carrier Services, Mail Stop 420
1110 Centre Pointe Curve
Mendota Heights, MN 55118

Ref. No. 01-0207

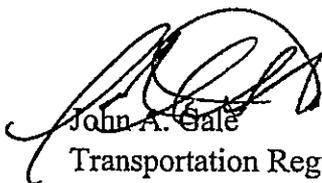
Dear Mr. Ritchie:

This is in response to your letter of August 3, 2001, requesting information regarding the transportation of oxygen cylinders on a passenger-carrying bus under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if a spare oxygen cylinder may be carried aboard a passenger carrying bus as a material of trade as provided in § 173.6.

The answer is yes. By definition, a Material of Trade includes a hazardous material that is carried on a motor vehicle for the purpose of protecting the health and safety of the motor vehicle operator or passengers (see § 171.8). All the conditions of § 173.6 must be met.

I hope this satisfies your inquiry.

Sincerely,



John A. Gale

Transportation Regulations Specialist
Office of Hazardous Materials Standards



Minnesota Department of Transportation

Office of Motor Carrier Services

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August 3, 2001

Edward Mazzullo, Director
Office of Hazardous Materials Standards
United States Department of Transportation
Research and Special Programs Administration
400 Seventh St. SW
Washington, DC 20590

La Valle
~~\$177,870~~, 173 L
\$173.6 MOTS
Applicability
01-0207

Dear Mr. Mazzullo,

The Minnesota Department of Transportation, Office of Motor Carrier Services, regulates transportation of elderly, handicapped or disabled persons under its Special Transportation Services (STS) program. Many of the service providers in the STS program are for-hire carriers, operating in commerce.

A question has been raised on the applicability of the Hazardous Materials Regulations (HMR) when the STS provider is carrying a passenger with a small oxygen cylinder. The cylinder is the property of the passenger, not the carrier, and is used for medical reasons. Your staff sent me a copy of a RSPA clarification letter, Ref. No. 99-0050, dated April 2, 1999, that addresses this issue. That letter states, in part, that "A cylinder of oxygen used by a passenger for medical reasons is not regulated under the HMR; however, spare oxygen cylinders must be transported in conformance with the HMR. Therefore, proper marking and labeling and shipping paper documentation is necessary for spare oxygen cylinders."

Our STS providers indicate that passengers often travel with a "spare" cylinder. This spare cylinder may be carried with the active cylinder, or separately. Could the transportation of the spare oxygen cylinder(s) be done under terms of the Materials of Trade provisions? Materials of Trade include "hazardous materials, other than hazardous waste, that is carried on a motor vehicle- (1) For the purpose of protecting the health and safety of the motor vehicle operator or passengers;" Would the Materials of Trade provisions apply to a carrier transporting its passenger's hazardous material?

Thank you for your consideration of this issue. If you have any questions, please contact me at (651) 405-6120 or by email at: michael.Ritchie@dot.state.mn.us.

Yours truly,

Michael Ritchie
Hazardous Materials Specialist
Minnesota Department of Transportation