



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

1200 New Jersey Ave., S.E.
Washington, DC 20590

AUG 18 2008

Mr. Achim K. Gartmann
North Bay Enterprises, Inc.
5400 Occidental Road
Santa Rosa, California 95401

Ref. No. 08-0188

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Dear Mr. Gartmann:

This responds to your July 7, 2008 letter requesting clarification of the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to non-commercial shipments. Specifically, you ask whether the HMR apply to aviation fuel transported on a tow dolly trailer and used to fuel your privately owned helicopter. You state that the helicopter is used for personal transportation only.

The answer is no. The HMR do not apply to hazardous materials transported by an individual for non-commercial purposes in a private motor vehicle. See 49 CFR 171.1(d)(6).

I hope this answers your inquiry.

Sincerely,

Susan Gorsky
Acting Chief, Standards Development
Office of Hazardous Materials Standards

North Bay Enterprises, Inc.
5400 Occidental Road
Santa Rosa, CA 95401
July 7, 2008

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\$171.1
Applicability
08-0188

Office of Hazardous Materials Standards, PHMSA
Attention: PHH-10, USDOT East Building
US Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

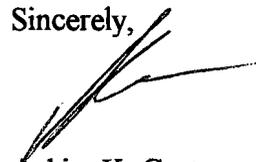
Re: "EZE-TOW" Tow Dolly

Dear Sir/Madam:

I am attaching the letter I sent to my credit card company seeking a refund for the purchase of a fuel trailer, which fully explains the predicament I have, after purchasing the above named trailer to transport aviation fuel to my personal residence for use in my private owned helicopter. I am also attaching the response I received from DOT seeking their position. They referred me to your address. I am seeking a formal interpretation of the legality of using this trailer for the specified usage.

I can be reached at 707-478-7912 with any questions you may have. Thank you for your assistance in this matter.

Sincerely,



Achim K. Gartmann
President

5400 Occidental Road
Santa Rosa, CA 95401
May 1, 2008

Gregory Cooper, Financial Service Advisor
Business Card Services
PO Box 15299
Wilmington, DE 19850-5299

Re: Account # 4246315143361838
Case ID # 89060516

Dear Mr. Cooper:

I am attaching a copy of the solicitation I received in the mail regarding the DOT approved for nationwide use, EZE-GAS Refueling Trailer. I researched the product on their website then called the merchant and spoke with Richard Brown, who identified himself as the owner. He reiterated that the trailer was fully approved to transport aviation and other gasoline. I ordered the trailer that day on the phone and was told it would take about 6 weeks for delivery.

Upon arrival of the trailer, I paid just under \$300 to unload, uncrate and assemble the trailer and dispose of the packing material. As instructed, I contacted Mr Brown for the needed registration number for my company to complete the mandatory Hazardous Materials registration application, at a cost of \$575.

Before using the trailer, I wanted to ascertain that the trailer was compliant with all rules and regulations governing the transportation of hazardous materials because any breach of those rules can range in penalties from misdemeanors to felonies. In an effort to do so, I contacted both California Highway Patrol, Motor Safety Unit, (Golden Gate Division) and 4 different departments within the DOT. Each of these 5 contacts cited numerous paragraphs within the CFR, Part 49, governing transportation of hazardous materials, which put us in violation. Most notable is the absence of a placard citing DOT approval.

On April 28, 2008. I contacted Mr. Brown to substantiate his claims of DOT approval. Mr. Brown was unable to provide any verification or documentation, and stated his dismay that I had contacted the highway patrol. He said that the only suggestion he had for me was to sell the trailer. I asked for a full refund of the trailer and incurred expenses. Mr. Brown said that he would not pay for my out of pocket expenses, but that I would also have to pay for return shipping of approximately \$1,500 along with a restocking fee.

Gregory Cooper, Financial Service Advisor
Business Card Services
May 1, 2008
Page Two

This product is not DOT approved, despite the advertising. It is not legal to drive on California highways, and as such, I am completely unable to use it. I am seeking reimbursement for my out of pocket costs from the merchant, as well as prepayment of shipping costs to return the merchandise. This product was completely misrepresented and caused me to spend a great deal of time and money needlessly. Please advise what further information you need to resolve this dispute with the merchant.

Sincerely,

Achim K. Gartmann



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety Administration

Office of
Chief Counsel

1200 New Jersey Avenue, S.E.
Zone E26 (PHC-10)
Washington, D.C. 20590-0001
Phone: (202) 366-4400
Fax: (202) 366-7041

***Hazardous Materials Safety
Law Division***

Kim Gartmann
5400 Occidental Road
Santa Rosa, California 95401

June 30, 2008

Dear Mr. Gartmann:

I am writing in reply to the question you had posed on May 29, 2008, regarding the Ultralight "EZE-TOW" tow dolly which is produced by Acme Trailer, Kernersville, North Carolina.

Specifically, you were inquiring whether the Hazardous Materials Regulations (HMR), 49 C.F.R. Parts 100 to 185 regulate this type of trailer.

As background, you stated that you purchased this trailer to transport aviation fuel from a station to your residence to fly your privately owned helicopter. Your helicopter is not used for business. The trailer has a 390 gallon capacity. Furthermore, you provided the website www.acmetrailer.biz to view the trailer in question.

After showing the pictures of the trailer with the head of the standards division and discussing this matter, the HMR do not apply to a non-commercial trailer. The Federal Motor Carriers Safety Administration (FMCSA) may have a safety interest in this trailer, but that is outside of our jurisdiction. Their website is: <http://www.fmcsa.dot.gov>.

You may feel free to write a letter to the Office of Hazardous Materials Standards to obtain a formal interpretation. The address is:

Office of Hazardous Materials Standards, PHMSA
Attn: PHH-10, USDOT East Building
1200 New Jersey Avenue, SE
Washington, D.C. 20590

I hope that you have found this information helpful.