



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

1200 New Jersey Ave, SE
Washington, D.C. 20590

NOV 24 2010
Mr. Jeff Tocci
CSE Corporation
600 Seco Road
Monroeville, PA 15146

Ref. No. 10-0177

Dear Mr. Tocci:

This responds to your August 19, 2010 email and subsequent telephone conversation with a member of my staff regarding the transportation of a chemical oxygen generator (COG) under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you request clarification of the approval requirement and authorized packaging under § 173.168. Your questions are paraphrased and answered as follows:

Q1. Our company held a competent authority approval to offer for transportation a COG. Our company manufactures the COG. It is our understanding that because of the incorporation of § 173.168 of the HMR, a renewal of our approval is not needed?

A1. Your understanding is correct. Aspects of COG approvals associated with shipment of a COG were incorporated into the HMR under final rule HM-224B (72 FR 4442; January 31, 2007) and specifically focused on safety controls, packaging, and marking, thus, eliminating the need for shipment approvals including the approval held by your company. However, a classification approval is still necessary for manufacturers of a COG (See HM-224B; 72 FR 4452). Therefore, based on your indication that your company manufactures a COG, your company must obtain a classification approval in accordance with § 173.168(a) of the HMR.

Q2. Further, it is our understanding that a COG that uses an explosive means of initiation attached must obtain an approval as an explosive. Our COG design uses a non-explosive means of initiation. Thus, we believe our COG is excluded from the requirement to obtain an EX number. Is this correct?

A2. Your understanding is not correct. The requirement under § 173.168(a) to obtain an approval applies to a COG with either an explosive or non-explosive means of initiation attached. Although the COG must be classed and approved following the same procedures used for the classification and approval of an explosive under § 173.56, it does not follow that the COG will be classed as an explosive. However, the COG may still be assigned an EX approval number. EX approval numbers are not necessarily tied to explosives.

Q3. Is Packing Group (PG) II performance level packaging the proper packaging for ground transport of a COG?

Der Kinderen
§173.168
Oxygen Generators
10-0177

Drakeford, Carolyn (PHMSA)

From: Foster, Glenn (PHMSA)
Sent: Thursday, August 19, 2010 1:33 PM
To: Drakeford, Carolyn (PHMSA)
Cc: Betts, Charles (PHMSA); Billings, Delmer (PHMSA); Supko, Ben (PHMSA)
Subject: FW: CSE Corp. request for Letter of Interpretation 49CFR173.168 - Oxygen Generator, Chemical UN3356, Div. 5.1 Domestic Ground Transportation Packaging

Importance: High
Sensitivity: Confidential

From: Relerford, Darral (PHMSA)
Sent: Thursday, August 19, 2010 1:15 PM
To: Burger, Donald (PHMSA); Paquet, Ryan (PHMSA); White, Nancy (PHMSA); Foster, Glenn (PHMSA)
Cc: Boyd, Felicia (PHMSA)
Subject: FW: CSE Corp. request for Letter of Interpretation 49CFR173.168 - Oxygen Generator, Chemical UN3356, Div. 5.1 Domestic Ground Transportation Packaging
Importance: High
Sensitivity: Confidential

Please see email from Mr. Tocci below.

Regards

Darral Relerford

Special Permits and Approvals PHH-31
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Pipeline and Hazardous Materials Safety Administration
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From: Jeff Tocci [mailto:jgt@csecorporation.com]
Sent: Thursday, August 19, 2010 11:59 AM
To: Relerford, Darral (PHMSA)
Subject: CSE Corp. request for Letter of Interpretation 49CFR173.168 - Oxygen Generator, Chemical UN3356, Div. 5.1 Domestic Ground Transportation Packaging
Importance: High
Sensitivity: Confidential

Dear Darral:

An Interpretation of DOT Regulation is requested regarding:
1) Renewal of our Competent Authority CA1999120010
2) Classification of our CSE SR100 Self-Contained Self-Rescuer (SCSR)
3) Packaging requirement for domestic ground shipments of our products

As discussed, pertaining to our request for a renewal of our Competent Authority Approval (CA1999120010), we understand that a renewal is no longer required for the CSE SR100 SCSR.

Further, we understand COGs that utilize an explosive starting device must now obtain an approval as an explosive.

CSE Corporation SR100 SCSR's starting mechanisms design does not require a means of ignition. The CSE Corporation COG starting mechanism utilize an non-explosive DOT-39 NR exempt (49CFR 173.306) Oxygen Cylinder . Therefore, we would respectfully request an interpretation that the CSE SR100 SCSR is excluded from the requirement of obtaining an EX number .

Since the change in the PHMSA regulation (HM-224B), all CSE SR100 SCSR products shipped by domestic &/or international air cargo are shipped in the new super packaging in compliance with Part 173.168(d). Our remaining question involves the Packing Group requirement for domestic ground shipments of our CSE SR100 SCSR.

49 CFR 173.168 (d) Packaging (1)(i) references Packing Group I or II performance level.

49 CFR 172.101 Hazardous Materials Table Oxygen Generator, Chemical UN3356, Div. 5.1, references Packing Group II. Upon reviewing these sections, one would come to the conclusion that Package Group II would be the proper packaging for domestic ground movements.

Please advise as to the proper packing group requirement for shipping our CSE SR100 SCSR products by domestic ground.

If you have any questions, please give me a call.

Thank you for your assistance.

Kind Regards,

Jeff Tocci

Purchasing/Materials Manager

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