



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

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

DEC 17 2010

Mrs. Joan Rolwing
Oxus, Inc.
1685 Northfield Dr.
Rochester Hills, MI 48309

Ref. No.: 10-0241

Dear Mrs. Rolwing:

This responds to your November 5, 2010 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to lithium battery requirements. You indicate that your company, Oxus, Inc., has purchased the design, process, inventory, and all rights to the Delphi Medical Systems device "Portable Oxygen Concentrator, Model RS-00400." In 2008, Delphi Medical Systems requested a letter of interpretation from this Office pertaining to whether this product complied with Special Provision 188 and was not otherwise subject to the HMR (08-0034). Specifically, you ask if PHMSA will reconfirm whether this product is in compliance with the HMR.

In your letter, dated 11/5/2010, you indicate the Oxus, Inc. "Portable Oxygen Concentrator, Model RS-00400" and external battery module continues to meet the following criteria:

- (1) the pressure of the oxygen in the device does not exceed 40.6 psia at 20 °C;
- (2) the cells contain not more than 1.5 grams of lithium equivalent content;
- (3) the lithium ion batteries contain an aggregate equivalent lithium content of not more than 8g;
- (4) the device contains no other materials subject to the HMR; and
- (5) the batteries are fully contained in equipment and packaged in a manner to preclude sparks or the generation of a dangerous quantity of heat.

Based on the information above, the Oxus, Inc. portable oxygen concentrator and external battery module meet Special Provision 188. Provided they continue to meet the requirements established by Special Provision 188, you are not otherwise subject to the HMR.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

November 5, 2010

Oxus, Inc.
1685 Northfield Dr.
Rochester Hills, MI 48309

Nickels
§ 173.185
§ 172.102 SP 188
Lithium Batteries
10-0241

Office of Hazardous Materials Standards
U.S. DOT/PHMSA (PHH-10)
1200 New Jersey Avenue, SE East building, 2nd Floor
Washington, DC 20590

Attention: Mr. Edward T. Mazzullo, Director

Mr. Mazzullo,

In July of 2008, you issued the attached response to Delphi Medical Systems confirming the non-hazardous status of the Delphi Medical Systems Portable Oxygen Concentrator (POC) Model RS-00400. In 2010, Oxus America, (also operating under a DBA of Oxus, Inc.), purchased the design, process, inventory and all rights to the Delphi Medical Systems Portable Oxygen Concentrator.

Oxus is preparing for launch and is requesting a confirmation that the Portable Oxygen Concentrator Model RS-00400, now to be marketed by Oxus, Inc. is not subject to the HMR.

I can confirm that the Model RS-00400 and the external battery module continue to meet the following criteria:

- 1) the pressure of the oxygen in the device does not exceed 40.6 psia at 20 deg C;
- 2) the cells contain not more than 1.5 grams of lithium equivalent content;
- 3) the lithium ion batteries contain an aggregate equivalent lithium content of not more than 8g;
- 4) the device contains no other materials subject to the HMR; and
- 5) the batteries are fully contained in equipment and packaged in a manner to preclude sparks or the generation of a dangerous quantity of heat.

Based on Special Provision 188, we are requesting a reconfirmation of the letter of interpretation issued to Delphi Medical to be provided to Oxus, Inc. to assure we are in compliance with the HMR and associated standards prior to shipment. I will contact your office next week to understand if there is any additional information you may need to facilitate the request.

Thank you in advance,

Joan Rolwing
Oxus, Inc.
249-410-1194

Attachments: 1) Letter of Interpretation to Delphi Medical