



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

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

**MAY 01 2012**

Mr. Thomas W. Ferguson, DGSA  
Technical Consultant  
The Council on Safe Transportation  
of Hazardous Articles, Inc.  
7803 Hill House Court  
Fairfax Station, VA 22039

Ref. No. 11-0146

Dear Mr. Ferguson:

This responds to your letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to hazardous materials quantity limitations aboard aircraft. Specifically, you ask whether the revisions adopted in paragraphs (c), (d) and (e) of § 175.75 in a final rule published on January 19, 2011 (76 FR 3308 (HM-215K)) intentionally amended the HMR to further restrict inaccessible packages not exceeding 25 kg or 75 kg net quantity, in the aggregate, of eligible hazardous materials and gases of Division 2.2, respectively, otherwise authorized for transport aboard passenger-carrying aircraft. In your letter, you assert the long-standing interpretation of § 175.75(c) that specifies the inaccessible package limitation applies to each individual cargo compartment and not to the entire aircraft.

Please be advised that it was never our intention to apply the inaccessible quantity limitations to the entire aircraft. As you correctly point out in your letter, because the § 175.75(f) table headings no longer reference "per cargo compartment" as ultimately the limiting factor in quantity limitations, it could be inferred that the limitation applies to the entire aircraft. We addressed the unintended consequences of this amendment and in a final rule published in the Federal Register on December 30, 2011 (76 FR 82163) that also responded to various administrative appeals filed in response to the January 19, 2011 final rule.

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



COUNCIL ON SAFE TRANSPORTATION  
OF HAZARDOUS ARTICLES, INC.

Stevens  
§175.75  
Air  
11-0146

June 22, 2011

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Sun Chemical Corporation  
amy.fischesser@na.sunchem.com

James Jahnke  
Merck and Co  
james.jahnke@merck.com

Dave Madsen  
Autoliv, Inc.  
Dave.Madsen@autoliv.com

Rich Moskowitz  
American Trucking Associations, Inc.  
moskowitz@trucking.org

Christopher Palabrica, CPM, CHMM  
Mays Chemical Co.  
chrisp@mayschem.com

Dan Wieten  
Toyota Motor Sales, USA, Inc.  
dan\_wieten@toyota.com

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Magdy El-Sibaie, PhD  
Associate Administrator, Hazardous Materials Safety  
Pipeline and Hazardous Materials Safety Administration  
US Department of Transportation  
1200 New Jersey Ave., SE  
East Bldg. Second Floor  
(PH) Washington, DC 20590-0001

Dear Dr. El-Sibaie:

The Council on Safe Transportation of Hazardous Articles, Inc. (COSTHA) hereby submits a request for correction in the regulations and interpretation regarding the quantity limitations of Title 49 CFR, Subtitle C, Part 175, Subpart B, §175.75 subsequent to the issuance of Final Rule HM-215K (issued January 19, 2011).

COSTHA is a not-for-profit organization representing manufacturers, shippers, distributors, carriers, freight forwarders, trainers, packaging manufacturers and others associated with the hazardous materials transportation industry. In addition to promoting regulatory compliance and safety in hazardous materials transportation, COSTHA assists its members and the public in evaluating the practicality and efficacy of laws, rules and regulations for the safe transportation and distribution of hazardous materials.

The Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Federal Aviation Administration (FAA) have enforced a limitation on the amount of hazardous materials which may be transported aboard aircraft in "inaccessible" locations. Generally, the limitation is up to 25 kg of hazardous materials (subject to certain exceptions) other than gases, and up to 75 kg of Division 2.2 gases (subject to certain exceptions). These limitations are detailed in §175.75(c). The text in this section states:

*...no more than 25 kg (55 pounds) net weight of hazardous material may be loaded in an inaccessible manner...*

Prior to the issuance of HM-215K, Section 175.75 also included tables for Passenger Aircraft and Cargo Aircraft. These tables visually indicated the quantity limitations in an "accessible cargo compartment" and separately in an "inaccessible cargo compartment".

**The Council on Safe Transportation of Hazardous Articles, Inc.**

7803 Hill House Court Fairfax Station, VA 22039 Phone: 703/451-4031 Fax: 703/451-4207  
mail@costha.com www.costha.com

However, when HM-215K was issued, the tables were significantly modified for the purposes of clarification and simplicity. However, COSTHA believes inadvertently, the term "compartment" was omitted. Thus, in reading the Quantity and Loading Table in §175.75 from HM-215K, the reader may interpret the 25 kg/75 kg limitation to apply to the entire aircraft, not just per inaccessible compartment. In fact, since the revision of Part 175 in HM-228, the text in §175.75 does not mention "inaccessible cargo compartment" but instead uses the language "inaccessible manner".

COSTHA believes this apparent change in the regulations was unintentional, resulting from the significant modification to the Quantity and Loading Table instead of an intent on PHMSA's or the FAA's part to further limit the amount of hazardous materials which may be loaded on an aircraft in an inaccessible manner. Although the revised text and table were presented in the Notice for Proposed Rulemaking (NPRM) for HM-215K (issued August 24, 2010), there is no language in the Preamble to the NPRM or the Final Rule suggesting PHMSA or the FAA was proposing such a drastic change to a long standing regulation.

Considering many aircraft contain 2 or more separate inaccessible cargo compartments as defined by 14 CFR §25.857 and §121.314, the implication of such a change would equate to a 50% or more reduction in the previously permitted quantities of hazardous materials loaded in an inaccessible manner aboard aircraft. Again, COSTHA does not believe such a change was intended by PHMSA or the FAA.

We believe inserting the word "compartment" in the heading of the 3<sup>rd</sup> column of the Quantity and Loading Table in §175.75 would correct the omission and clearly indicate the intended 25 kg/75 kg limitation applies to each inaccessible aircraft cargo compartment, not the entire aircraft.

If you need additional information, please do not hesitate to contact me.

Respectfully submitted,



Thomas W. Ferguson, DGSA  
Technical Consultant