



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

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

SEP 11 2012

Ms. Erin N. Jarman
Environmental Scientist
URS Corporation
1600 Perimeter Park Drive, Suite 400
Morrisville, NC 27560

Reference No. 12-0117

Dear Ms. Jarman:

This is in response to your May 16, 2012 letter and earlier telephone conversation with a member of my staff requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) for determining the proper shipping name of Division 2.2 (non-flammable) gas reference standards (calibration gases). In the scenario you presented, vendors assign their gas standards generic proper shipping names, such as "Compressed gas, n.o.s. (Nitrogen, Carbon monoxide – 30 ppm)," mark these names on the cylinders that contain the gases, and ship the cylinders to your company, which your company then reoffers in transportation. Specifically, you ask if your company may use the generic proper shipping names pre-marked on the cylinder when reoffering the material, or if it must replace them with proper shipping names that comply with the provisions in newly revised § 172.101(c)(10)(i) of the HMR. You state it is your understanding that this section requires your company to use a proper shipping name that identifies the predominant material identified in a mixture rather than a generic description.

You describe the gas standards as being comprised of 99 percent nitrogen or compressed air and trace amounts of other gases that contribute to the overall Division 2.2 classification, but not to any additional hazard class. You also state the packaging used for these standards complies with the HMR, and for aircraft shipments, the applicable requirements of the International Civil Aviation Organization's (ICAO's) Technical Instructions for the Safe Transport of Dangerous Goods by Air (Technical Instructions).

Your understanding is correct; the proper shipping name used for the gas standards and their cylinder markings must comply with newly revised § 172.101(c)(10)(i). Effective January 19, 2011, with a delayed compliance date of January 1, 2012, this section requires that a mixture or solution comprised of a single predominant hazardous material identified by technical name in the Hazardous Materials Table (§ 172.101 Table) and one or more hazardous and/or non-hazardous material must be described with the proper shipping name of the predominant hazardous material and the qualifying word "mixture" or "solution," as appropriate (see Docket No. PHMSA-2009-0126 (HM-215K; 76 FR 3308)). The following are the exceptions to this requirement:

- (A) Except as provided in §172.101(i)(4) the packaging specified in Column 8 is inappropriate to the physical state of the material;
- (B) The shipping description indicates that the proper shipping name applies only to the pure or technically pure hazardous material;
- (C) The hazard class, packing group, or subsidiary hazard of the mixture or solution is different from that specified for the entry;
- (D) There is a significant change in the measures to be taken in emergencies;
- (E) The material is identified by special provision in Column 7 of the §172.101 Table as a material poisonous by inhalation; however, it no longer meets the definition of poisonous by inhalation or it falls within a different hazard zone than that specified in the special provision; or
- (F) The material can be appropriately described by a shipping name that describes its intended application, such as "Coating solution," "Extracts, flavoring" or "Compound, cleaning liquid."

If the gas standards you describe meet any one of these exceptions, the generic proper shipping name the vendor supplied may continue to be used, provided it accurately describes the hazardous material in the cylinder.

You also state vendors do not want the markings of the pre-marked gas standard cylinders they supply to be removed, obliterated, or changed by anyone re-offering their products in transportation. In addition, you state your company prefers to continue to use the generic proper name and to not cover up where it is marked on the cylinder. You ask if these generic markings must be covered or otherwise obscured and replaced with more specific names, such as "Nitrogen, compressed mixture." The answer is yes.

I hope this satisfies your request.

Sincerely,



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



May 16, 2012

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

Dear Mr. Betts:

I am writing to you with regards to the shipment of gas reference standards (calibration gases) that are purchased from various vendors. Recently there have been questions from industry as well as enforcement personnel surrounding shipments consisting of 99 percent nitrogen or compressed air with trace amounts of other gases. The trace gases contribute to the overall Division 2.2 classification, however they do not contribute any additional hazards (hazard classes) to the mixture.

Based on language found in the January 19, 2011 Final Rule (76 FR 3320), "a mixture or solution of a single predominant hazardous material containing only traces of one or more additional hazards listed by name in the hazardous materials table or additional nonhazardous constituents must be assigned the UN number and proper shipping name of the predominant material contributing to the overall hazard classification of the mixture or solution". Under this Final Rule we are aware that a proper shipping name such as "Nitrogen, compressed, mixture" should be used rather than a generic n.o.s. description. However, many vendors ship these mixtures under generic proper shipping names such as "Compressed gas, n.o.s. (Nitrogen, Carbon Monoxide – 30ppm)". This method facilitates easy identification of the specific type of calibration gas.

In instances where cylinders are shipped from vendors pre marked with generic proper shipping names, similar to the one referenced above, we would prefer when reoffering the cylinders to not have to cover up the pre marked proper shipping name marking that the vendors have applied and in turn have to apply a new proper shipping name. Often vendors do not want the marking they have applied to the cylinder to be removed, obliterated, or changed. **Regardless of the proper shipping name we use for the compressed gas, the packaging requirements under 49 CFR would be identical and in the case of air shipments, the same ICAO Packing Instruction would still apply.**

Is it acceptable to continue using the generic proper shipping name assigned by the vendor so that we do not have to obliterate the pre marked vendor markings and replace them with new markings?

Thank you in advance for your assistance. I look forward to your response.

Sincerely,

A handwritten signature in black ink that reads "Erin N. Jarman".

Erin N. Jarman
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