



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

JUN 18 2003

400 Seventh St., S.W.
Washington, D.C. 20590

DOT-E 11289
(FIFTH REVISION)

EXPIRATION DATE: May 31, 2005

(FOR RENEWAL, SEE 49 CFR § 107.109)

1. GRANTEE: Western Industries, Inc.
Milwaukee, Wisconsin
2. PURPOSE AND LIMITATIONS:

This exemption authorizes the manufacture, mark, sale and use of DOT Specification 39 cylinders which deviate from the visual inspection requirements. This exemption provides no relief from the Hazardous Materials Regulations (HMR) other than as specifically stated herein.
3. REGULATORY SYSTEM AFFECTED: 49 CFR Parts 106, 107 and 171-180.
4. REGULATIONS FROM WHICH EXEMPTED: 49 CFR §§ 172.203(a) and 172.301(c) for marking the exemption number and § 178.35(c)(3)(ii) in that the inside of each cylinder must be visually inspected before closing in ends, except as specified herein.
5. BASIS: This exemption is based on the application of Western Industries dated February 28, 2003, submitted in accordance with § 107.109.
6. HAZARDOUS MATERIALS (49 CFR § 172.101):

Hazardous materials description -- proper shipping name	Hazard Class/ Division	Identi- fication Number	Packing Group
All materials that are currently authorized in DOT Specification 39 cylinders	as appropriate	as appropriate	n/a

7. SAFETY CONTROL MEASURES:

a. PACKAGING - Packaging prescribed are DOT Specification 39 cylinders with a service pressure of 900 psig or less and a maximum water capacity of 3 pounds. Cylinders must conform to all requirements of § 178.65 and § 178.35 except as follows:

§ 178.35(c)(3)(ii) Complete external visual inspection of each cylinder is required. A cylinder with an external imperfection must be internally inspected prior to acceptance. Internal visual inspection is required on one cylinder out of every lot of 1,000 or less. A "lot" is as defined in § 178.65(f)(3).

b. OPERATIONAL CONTROLS - Western Industries must maintain and implement quality control procedures which will ensure the detection of cylinder defects during the cylinder manufacturing process.

c. MARKING - The marking requirements of §§ 172.203(a) and 172.301(c) are waived.

8. SPECIAL PROVISIONS:

a. In accordance with the provisions of Paragraph (b) § 173.22a, persons may use the packaging authorized by this exemption for the transportation of the hazardous materials in paragraph 6, only in conformance with the terms of this exemption.

b. A person who is not a holder of this exemption, but receives a package covered by this exemption, may reoffer it for transportation provided no modifications or changes are made to the package and it is offered for transportation in conformance with this exemption and the HMR.

c. A current copy of this exemption must be maintained at each facility where the package is offered or reoffered for transportation.

d. Each packaging manufactured under the authority of this exemption must be marked with a registration symbol designated by the Office of Hazardous Materials

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Exemptions and Approvals Program for a specific manufacturing facility.

- e. A current copy of this exemption must be maintained at each facility where the package is manufactured under this exemption, must be made available to a DOT representative upon request.
- f. Transportation of Division 2.1 (flammable gases) and 2.3 (toxic gases) are not authorized aboard cargo vessel or aircraft unless specifically authorized in the Hazardous Materials Table (§ 172.101).
- g. Transportation of oxygen is only authorized when in accordance with §§ 172.102(c)(2) Special Provision A52 and 175.85(h) and (i).
9. MODES OF TRANSPORTATION AUTHORIZED: Motor vehicle, rail freight, cargo vessel, and cargo aircraft only.
(See paragraphs 8.f. and 8.g. for restrictions)
10. MODAL REQUIREMENTS: A current copy of this exemption must be carried aboard each cargo vessel and aircraft used to transport packages covered by this exemption. The shipper must furnish a current copy of this exemption to the air carrier before or at the time the shipment is tendered.
11. COMPLIANCE: Failure by a person to comply with any of the following may result in suspension or revocation of this exemption and penalties prescribed by the Federal hazardous materials transportation law, 49 U.S.C. 5101 et seq:
- o All terms and conditions prescribed in this exemption and the Hazardous Materials Regulations, Parts 171-180.
 - o Registration required by § 107.601 et seq., when applicable.

Each "Hazmat employee", as defined in § 171.8 who performs a function subject to this exemption must receive training on the requirements and conditions of this exemption in addition to the training required by §§ 172.700 through 172.704.

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No person may use or apply this exemption, including display of its number, when the exemption has expired or is otherwise no longer in effect.

12. REPORTING REQUIREMENTS: The carrier is required to report any incident involving loss of packaging contents or packaging failure to the Associate Administrator for Hazardous Materials Safety (AAHMS) as soon as practicable. (Sections 171.15 and 171.16 apply to any activity undertaken under the authority of this exemption.) In addition, the holder(s) of this exemption must also inform the AAHMS, in writing, as soon as practicable of any incidents involving the package and shipments made under this exemption.

Issued in Washington, D.C.



Robert A. McGuire
Associate Administrator
for Hazardous Materials Safety

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(DATE)

Address all inquiries to: Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration, Department of Transportation, Washington, D.C. 20590. Attention: DHM-31.

Copies of this exemption may be obtained by accessing the Hazardous Materials Safety Homepage at <http://hazmat.dot.gov/exemptions> Photo reproductions and legible reductions of this exemption are permitted. Any alteration of this exemption is prohibited.

PO: sdc