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Transportation/Hazardous Materials: Pipeline and Hazardous Materials Safety Administration Interpretive Letter Addressing Portable Emission Measurement System

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The Pipeline and Hazardous Materials Safety Administration (“PHMSA”) addressed in a May 8th letter a request for clarification of the Hazardous Materials Regulation (“HMR”) in terms of applicability to a Portable Emission Measurement System (“PEMS”).

PHMSA was responding to a March 27th email request from Sensors, Inc. (“SI”).

SI describes a PEMS that contains U.S. Department of Transportation specification cylinders that release a controlled amount of certain Division 2.1 and 2.2 materials without removing the cylinders from the vehicle on which they are transported.

PHMSA states that SI indicates that it installs these systems on customer vehicles:

... a few times per year to record emissions measurements and that these systems utilize a fuel bottle during this measurement while your customers operate their vehicles.

SI also states it possesses a Special Permit authorizing the transportation of the systems and the controlled release of certain Division 2.1 and 2.2 materials.

The question posed to PHMSA is whether the activity is subject to the HMR and, as a result, whether the Special Permit must be renewed.

PHMSA responds in the negative.

Section 171.1(b) and (c) are cited as stating that:

... the requirements of the HMR apply to each person who offers a hazardous material for transportation in commerce or transports a hazardous material in commerce.

PHMSA states that the auxiliary equipment attached to a motor vehicle with the intent of measuring vehicle emissions is not considered to be “in commerce.” As a result, it concludes that the HMR is not applicable to the SI device.

PHMSA does caveat this response by noting potential other applicable requirements from other Federal agencies, listing:

- Federal Motor Carrier Safety Administration
- National Highway Traffic Safety Administration
- United States Environmental Protection Agency

A copy of the interpretive letter can be downloaded [here](#).