



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

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

JUN 14 2006

Mr. D. Richard Meikle  
Vice President  
Safety and  
Government Relations  
Netjets, Inc.  
4111 Bridgeway Avenue  
Columbus, OH 43219

Ref. No. 06-0073

Dear Mr. Meikle:

This responds to your letter requesting clarification of the requirements for transporting hazardous materials aboard an aircraft under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether a "will not carry" operator under the Federal Aviation Administration's (FAA) Hazardous Materials Division may carry small amounts of safety matches for passenger use while in flight. Your airline is a CFR 14 Parts 91 and 135 charter operator and it permits the use of lighted tobacco products by passengers in flight.

If you are transporting passengers "in commerce," the answer to your question is no. The HMR apply to the transportation of hazardous materials in commerce. In your particular scenario, "commerce" means transporting a hazardous material (the matches) in support of a commercial enterprise (revenue passengers). Because § 175.10 does not permit the excepted carriage of safety matches by an aircraft operator in commerce and a "will not carry" aircraft operator may not transport hazardous materials in commerce not otherwise



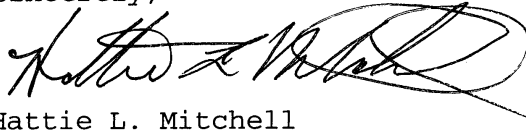
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175.10 (a) (10)

excepted in § 175.10, the matches would not be permitted  
aboard the aircraft.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Hattie L. Mitchell". The signature is fluid and cursive, with a large, prominent loop at the end.

Hattie L. Mitchell  
Chief, Regulatory Review and Reinvention  
Office of Hazardous Materials Standards

100 Bridgeway Avenue, Columbus, OH 43260-1100

**NETJETS**<sup>®</sup>

Stevens  
§ 175.10(a)(10)

Air  
06-6073

March 22, 2006

Mr. Edward T. Mazzullo  
Director, Office of Hazardous Materials Standards  
U.S. DOT/PHMSA (PHH-10)  
400 7th Street S.W.  
Washington, D.C. 20590-0001

RE: 49 CFR 175.10(a)(10)

Dear Mr. Mazzullo,

NetJets Aviation, Inc. (NJA) operates and/manages over 370 turbojet aircraft in Part 135, Part 91, subpart K, and Part 91 operations. NJA utilizes all aircraft in a fractional aircraft ownership program and charter operations. Current NJA operational policies allow the passengers to use smoking materials in-flight. As a result, there is a necessity for matches or approved lighters to be available aboard the aircraft for passenger use.

NJA is a "will not carry" operator with respect to Hazardous Materials, and as such, it is recognized that any materials used to light smoking materials must conform to the provisions of 49 CFR 175.10(a)(10).

*§ 175.10 Exceptions.*

*(a) This subchapter does not apply to:*

*(10) Safety matches or a lighter intended for use by an individual when carried on one's person. However, lighters containing unabsorbed liquid fuel (other than liquefied gas), lighter fuel, and lighter refills are not permitted on one's person or in checked or carry-on baggage.*

As indicated in the regulation, the carriage of safety matches or an approved lighter is clearly conforming to the regulation if carried aboard one's person. Unfortunately, passengers do not always remember to bring matches or an approved lighter.

The specific question is as follows. If NJA were to stock a small quantity of safety matches aboard the aircraft it operates and/or manages, would it be compliant with the regulation?

I appreciate your assistance in providing an interpretation of this rule. If you have any questions, please feel free to contact me at 614-239-2141, Monday through Friday, 0800-1700 Eastern Time.

Sincerely,



D. Richard Meikle  
Vice President, Safety and Government Relations