

Mr. Brian Kavanaugh
Trade Advisor
Deringer Logistics Consulting Group
1 Lincoln Road, Suite 225
Rouses Point, NY 12979

Dear Mr. Kavanaugh:

This is in reply to your letter asking for an interpretation covering MR-100 and MO-100 compact trailers. You stated that "the MR-100 is for use on the highway and is equipped with DOT approved tail and marker lights." You further stated that "The MO-100 off road trailer is not equipped with any lighting." We understand that you wish to import these trailers into the United States from Canada.

We appreciate your sending us illustrations of both trailers, as that enables us to provide you with a more definitive response to your questions.

We first address your opinion that "the MO-100 off road will not require any DOT approval as it is not for use on the highway." However, you have provided no arguments in support of your conclusion. We do not accept such statements of use at face value when it appears to us that a vehicle is capable of being used both on and off the public roads. As we see them, the MO-100 and the MR-100 are both capable of on and off road use; they are almost identical in appearance and size, and their interior dimensions and volume are identical. There are, to be sure, some distinctions between the two trailers. The rear fender well molding on which the MR-100s rear lamp is mounted has been removed from the MO-100, opening the wheelwell (which might facilitate brush clearance) and the MO-100 is equipped with "AT-22 x 11-8 2 ply tires." However, there does not appear to be any practical reason why the owner of an MO-100 could not replace these tires and their rims with the "5.30 x 12 6 ply tires" of the MR-100. These features taken alone fail to establish that the MO-100 is not likely to be used on the public streets, roads, and highways. I also note that the MO-100 is advertised as having "high speed quality hubs & bearings," which suggests on-road capability.

We would consider such arguments as you care to present in support of your opinion that the MO-100 "is not for use on the highway." We have issued numerous interpretations on the issue of whether particular vehicles are "motor vehicles." I am enclosing one of these interpretations for your consideration (letter to Ronald Sheldon, dated May 4, 2000). For purposes of this letter, we consider that both the MO-100 and MR-100s are motor vehicles and required to comply with the FMVSS that apply to trailers and to be certified as complying with these FMVSS.

You have asked four questions:

"1) Are these trailers in compliance with DOT requirements?"

We do not know. The MO and MR trailers must be manufactured to comply with Federal Motor Vehicle Safety Standards Nos. 108 (lamps and reflectors), 119 (tires), and 120 (rims). The MO and MR trailers are too long and too wide to qualify for the exceptions for lighting equipment allowed for smaller trailers under S5.1.1.14 and S5.1.1.15 of Standard No. 108. The manufacturer of the trailers must ensure that they are equipped

with all lighting equipment required by Standard No. 108 and that they are equipped with tires and rims that meet Standards Nos. 119 and 120 as well.

"2) Do they need a DOT Approval letter to import these trailers into the United States as the Original Manufacturer."

No. There are no "DOT Approval" letters. Each trailer must have a manufacturer's certification label affixed to it in the form and manner prescribed by 49 CFR Part 567. That will enable the trailer to be readily imported into the United States.

Nor are there "DOT-approved tail and marker lights" as you referred to them in your letter. A DOT symbol appearing on an item of lighting equipment represents its manufacturer's certification of compliance with U.S. Federal requirements. It does not represent any "approval" by DOT. We have no authority to "approve" or "disapprove" vehicles or equipment.

"3) Will they have to be entered through a Registered Importer?"

A trailer that has been certified by its original manufacturer as complying with all applicable Federal motor vehicle safety standards (see answer to Question 2 above) may be directly imported into the United States. Vehicles that have not been so certified must be imported through a registered importer, and many other requirements may apply.

"4) Do they have to assign a designated agent for a foreign manufacturer? (Service of Process)?"

Yes. The Canadian manufacturer of the trailers must file such a designation, and the designation must follow the form and content specified in 49 CFR 551.45.

I enclose a copy of information that the agency provides prospective manufacturers of motor vehicles.

If you have further questions, you may call Taylor Vinson of this Office (202-366-5263).

Sincerely,

Jacqueline Glassman
Chief Counsel

Enclosures
ref:108
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