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

JUN 25 2001

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

Mr. David Hosted
Director, Safety & Compliance
San Diego Welders Supply
1180 N. Marshall Avenue
El Cajon, CA 92020

Reference No.: 01-0074

Dear Mr. Hosted:

This is in response to your inquiry for clarification on the provisions for cylinder ownership in 49 CFR 173.301(b) which reads: "A container charged with compressed gas must not be shipped unless charged by or with the consent of the owner of the container." Your questions for verifying ownership are paraphrased and answered as follows:

Q1. How do acquisitions, corporate purchases, take-overs, and mergers affect the process of cylinder ownership identification?

A1. We recognize that with companies terminating operations, being bought by larger companies, changing policy on deposit and consumer purchasing of containers, each geographic area and market is a collage of ownership systems. The intent of § 173.301(b) is to enhance safety by assuring a degree of control over cylinders in a person's ownership, particularly, the environment and previous service in which a cylinder has been used. Certain cylinder requalification provisions in § 173.34(e) are limited to cylinders used exclusively in certain compressed gas service. For example, § 173.34(e)(10) permits cylinders in certain specifically named gas services to be given an external visual inspection instead of a pressure retest, and paragraph (e)(11) permits under certain conditions for cylinders to be retested every 12 years instead of every 5 years. Cylinder owners can take advantage of these less restrictive provisions provided they are knowledgeable of the type of service the cylinders have been in since the cylinders' last periodic requalification.

Q2. Who has responsibility for identification - the person filling the cylinder or the person who offers the cylinder for filling?

A2. The filling of a cylinder without the consent of the owner is not in itself a violation of § 173.301(b). The violation occurs when the charged cylinder is offered for transportation in commerce. Therefore, § 173.301(b) addresses the person who offers the charged cylinders for transportation. If the refiller is also the shipper of the cylinders, then the question of whether or not the refiller may be held accountable in a particular case would depend on the facts of that case.

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173.301(b)

The regulations are silent as to how cylinder ownership is established. Section 173.301(b) also does not prohibit the refill or exchange of cylinders with customers. For propane and other commonly used gases, a common acceptable practice is to exchange cylinders with customers (users) in place of refilling the customers' own cylinders.

Q3. Does a letter of authorization presented to the refiller by the person in possession of the cylinder constitute "owner consent"?

A3. A permission slip signed by a person representing himself, and who you reasonably believe to be the owner of the cylinder would be sufficient proof under § 173.301(b) that permission to fill the cylinder had been granted. However, you can be held accountable in a given case if you fill and ship a cylinder given to you by a person who you know is not the owner of the cylinder, even if that person signs the permission slip.

I trust this information is helpful.

Sincerely,

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

Corbin
§173.301 (b)
Cylinder/Shipper's Responsibility
01-0074

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Research and Special Programs Administration
Office of Hazardous Materials Standards
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Washington, D.C. 20590

Re: Cylinder Ownership Verification, CFR49 173.301 (b)

CFR49 states "A container charged with a compressed gas must not be shipped unless it was charged by, or with the consent of, the owner of the container."

In light of the requirements of paragraph one, how does the recent series of acquisitions, corporate purchases, take-overs, and mergers, affect the process of cylinder ownership identification?

Upon who does the responsibility of identification rest – the filler or the one whom offers the cylinder for filling?

Does a letter of authorization provided by the person in possession of the cylinders presented for fill constitute "owners consent"?

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