



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, D.C. 20590

JAN 09 2014

Mr. Andrew Simmons  
Garland Welding Supply  
1960 Forest Lane  
Garland, TX 75042

Ref. No. 13-0191

Dear Mr. Simmons:

This responds to your September 24, 2013 request for clarification on labeling of cylinders under the Hazardous Materials Regulations (HMR: 49 CFR Parts 171-180). Specifically, you ask who is authorized, your drivers or the shipper, to affix a label to the cylinder if the gas in the cylinder is unknown, and the appropriate label is either missing or destroyed.

Section 172.401 requires packages be properly labeled and that the labels accurately reflect the hazardous materials contained in the cylinder. In accordance with § 171.2(e), an offeror may not offer and a carrier may not accept any hazardous material for transportation that is not properly prepared for shipment, which includes proper labeling. Generally, a hazard warning label must be printed on or affixed to a surface (other than the bottom) of the package. As prescribed in § 172.400a(a)(1) of the HMR, a hazard warning label is not required on a cylinder containing a Division 2.1, 2.2 or 2.3 material that is not overpacked and durably and legibly marked in accordance with CGA Pamphlet C-7, Appendix A.

The shipper is responsible for properly identifying the material and preparing it for shipment. However, both the offeror and carrier bear responsibility for ensuring the cylinders containing hazardous materials are properly prepared for transportation. In accordance with § 171.2(e), the customer or offeror must ensure the cylinder is properly described, marked, and labeled for transportation, and, the carrier must not accept the cylinder unless it is properly described, marked, and labeled for transportation.

I hope this answers your inquiry. If you need additional assistance, please contact this office at 202-366-8553.

Sincerely,

Robert Benedict  
Chief, Standards Development Branch  
Standards and Rulemaking Division

**Drakeford, Carolyn (PHMSA)**

Boothe  
§ 172.406  
§ 172.400(a)

**From:** INFOCNTR (PHMSA)  
**Sent:** Wednesday, September 25, 2013 1:36 PM  
**To:** Drakeford, Carolyn (PHMSA)  
**Subject:** FW: Hazmat Safety Feedback: Other

Labeling  
13-0191

Hi Carolyn,

This caller requested we submit this e-mail as a formal letter of interpretation.

Thanks,  
Victoria

-----Original Message-----

**From:** PHMSA Webmaster  
**Sent:** Tuesday, September 24, 2013 5:09 PM  
**To:** HMIS (PHMSA); PHMSA Webmaster  
**Subject:** Hazmat Safety Feedback: Other

We need a formal written clarification concerning 172.406 and 172.400(a). Specifically, the transport of cylinders of compressed gas labeling. Specifically, if a cylinder of compressed gas is picked up at a customers location and is torn or missing, who is legally allowed to affix a label marking the contents of the cylinder if it is not known what gas was/is in the cylinder? CGA, Compressed Gas Association, requires all compressed gas cylinders to be inspected before they can have a new label affixed to the cylinder. How do we circumvent this issue to be able to adhere to DOT regulations to be able to not be fined if a cylinder is missing a label or torn when retrieved from a customers location to bring in to be certified and filled? From our understanding of the laws and our own liability, it is not allowed to have the drivers affix a label naming the contents of a compressed gas cylinder if a label is missing or torn due to not knowing what really is in the cylinder in order to prevent a dangerous incident. We keep labels under lock and key as required. However, one can not force a customer to keep a cylinder in perfect condition nor from even painting a cylinder. Yet, DOT wants us to have labels in all trucks to basically just slap a label on a cylinder to be in compliance with their rules and laws no matter if it is the right markings or not. How can this be fixed? Or corrected? What is the interpretation in detail of the codes mentioned earlier pertaining to bringing cylinders of compressed gas back in to be filled if they are missing part of or all of a label?

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