



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

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

MAR 24 2011

Mr. Jon Anderson
Airgas SAFECOR
P.O. Box 20067
Cheyenne, WY 82003

Reference No.: 10-0207

Dear Mr. Anderson:

This responds to your email requesting clarification applicable to the use of Department of Transportation (DOT) specification cylinders under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Your questions are paraphrased and answered as follows:

- Q1. If a cylinder is marked with a DOT specification marking, must it be maintained to that specification when it is no longer in commerce?
- A1. The answer is yes. Cylinders that are filled and used solely on a private work-site and not offered for transportation in commerce are subject to the Occupation Safety and Health Administration (OSHA) Standards. In accordance with OSHA standard 29 CFR § 1910.101, each employer shall determine that compressed gas cylinders under their control are in a safe condition to the extent that this can be determined by visual inspection conducted as prescribed in the HMR, specifically 49 CFR § 180.205. Therefore, based on § 180.205(b), which states no person may mark a cylinder to represent that it meets a DOT specification unless all applicable requirements of 49 CFR subpart C of Part 180 have been met, a cylinder that is marked to certify that it conforms to HMR requirements must be maintained in accordance with applicable specification requirements in the HMR whether or not it is in transportation in commerce. If the owner of the DOT specification cylinder wishes to continue to use the cylinder but does not wish to re-qualify the cylinder as a specification cylinder, the owner must obliterate or cover any specification markings whether or not it is being used to transport hazardous materials in commerce.
- Q2. If an individual has the ability to fill its own DOT specification cylinders and use them entirely on private property, does DOT have jurisdiction over these cylinders?
- A2. Cylinders that are filled and used at a private work-site and not offered for transportation in commerce are not directly regulated under the HMR, but in fact come under the jurisdiction of Occupation Safety and Health Administration (OSHA) Standards. It should be noted that based on 29 CFR § 1910.101, if the owner of the cylinder wishes to

fill and continue to use the DOT specification cylinder but does not wish to re-qualify the cylinder as a DOT specification cylinder, they must obliterate or cover any specification markings even when used entirely on private property.

- Q3. If a customer has a tube trailer that contains DOT specification cylinders that are past their requalification test date can these cylinders be filled and used on-site? Does the DOT have jurisdiction over these cylinders?
- A3. Cylinders that are filled and used at a private work-site and not offered for transportation in commerce are not directly regulated under the HMR, but in fact come under the jurisdiction of OSHA. It should also be noted that based on 29 CFR § 1910.101, if the owner of a tube trailer containing DOT specification cylinders that are past the requalification test date wishes to fill and continue to use a tube trailer containing DOT specification cylinders on-site, the owner must retest and mark the cylinders in accordance with appropriate specification in the HMR or, as an alternative, obliterate or cover any specification markings.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Charles E. Betts". The signature is written in a cursive, flowing style with some loops and flourishes.

Charles E Betts
Director,
Standards and Rulemaking Division

Benedict
\$ 173.301
\$ 180.209
Cylinders
10-0207

Drakeford, Carolyn (PHMSA)

From: Betts, Charles (PHMSA)
Sent: Monday, October 04, 2010 6:47 PM
To: Drakeford, Carolyn (PHMSA)
Subject: Fw: DOT Letter of Interpretation we spoke about today

From: John Anderson (SAFECOR) [mailto:John.Anderson.SAFECOR@Airgas.com]
Sent: Monday, October 04, 2010 06:40 PM
To: Chaney, Wayne (PHMSA); Cassidy, Duane (PHMSA)
Subject: DOT Letter of Interpretation we spoke about today

Good evening,

This is the Letter of Interpretation that we spoke about today. Our main question is - Does the DOT still stand behind the statement that if the cylinder is marked with a DOT specification that it must be maintained to that specification regardless if it is in commerce?

Example – if a customer has the ability to fill their own cylinders (such as a 3AA) on site and use them on site does the DOT have jurisdiction over these cylinders?

Example – if a customer has a tube trailer with out of test tubes (such as 3AAX) but has them filled on site and uses the product from the tubes on site does the DOT have jurisdiction over these tubes?

Thank you,

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