



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

DEC 11 2017

Mr. James V. McManus
Entegris Inc.
7 Commerce Drive
Danbury, CT 06810

Reference No. 17-0094

Dear Mr. McManus:

This letter is in response to your August 25, 2017, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to cylinders. Specifically, you present two scenarios involving the requalification of U.S. Department of Transportation (DOT) 3AA 2400 specification cylinders.

We have paraphrased and answered your questions as follows:

Scenario A

A DOT-3AA 2400 specification cylinder was last qualified on September 15, 2012, and subsequently marked in accordance with § 180.213(d). You marked the cylinder with a requalification date of September 15, 2012, and subsequently recorded the date in the qualification record in accordance with § 180.215(b). You further state that the requalification period for the cylinder is 5 years as specified in § 180.209(a). The cylinder is now empty and meets the requirements of § 173.301(a)(2).

Q1: You ask for the date by when the cylinder must be filled with a gas defined as a hazardous material to remain in service before the requalification becomes due.

A1: The cylinder in your scenario must be requalified within 5 years of the last requalification date. Therefore, it must be filled before September 15, 2017, to remain in service.

Scenario B

A DOT-3AA 2400 specification cylinder was last qualified on September 15, 2012; subsequently filled with a Class 2 hazardous material on July 15, 2017; and then shipped from the fill plant on August 1, 2017, to a location where it is stored in a warehouse. The cylinder remains in the warehouse until its next requalification comes due on October 15, 2017 (*see* § 180.209(a)), at which point the cylinder is verified in good condition and shipped to an end user. The end user consumes half the contents of the cylinder and returns it to the warehouse on January 6, 2018. The warehouse in turn ships the cylinder back to the fill plant.

Q1: You ask if the transport operations described in this scenario comply with the HMR.

A1: The answer is yes. Cylinders filled prior to their reauthorization date may remain in service until emptied and may be transported in commerce provided all applicable HMR requirements are met (*see* § 180.205(c)). An emptied cylinder due for requalification may not be refilled and offered for transportation unless it has been requalified in accordance with the HMR.

Q2: You ask if the Pipeline and Hazardous Materials Safety Administration (PHMSA) defines the term “remain in service.”

A2: PHMSA does not define “remain in service.” However, under § 180.205(c) of the HMR, PHMSA does allow a cylinder to remain in service until it is emptied of a hazardous material.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Glenn Foster", with a long horizontal flourish extending to the right.

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Andrews
§ 105.20
Definitions
17-0094

Dodd, Alice (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Monday, August 28, 2017 11:16 AM
To: Hazmat Interps
Subject: FW: Request for Interpretation
Attachments: Entegris Request for Interpretation 49 CFR §180.205 (c).docx; Entegris Request for Interpretation 49 CFR §180.205 (c).pdf

Hi Alice,

Please submit this as a letter of interpretation. Please let me know if you have any questions.

Thanks,
Jodi

From: Jim McManus [mailto:Jim.McManus@entegris.com]
Sent: Friday, August 25, 2017 1:59 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: Request for Interpretation

Dear PHMSA,

I am submitting a request for interpretation of the HMR in accordance with 49 CFR §105.20.

I look forward to PHMSA's response.

Regards,

Jim McManus
Principal Engineer
Dangerous Goods Safety Advisor (DGSA)
M 203-482-1606
T 203-207-9307



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50 YEARS OF PURE ADVANTAGE

7 Commerce Drive
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United States

August 25, 2017

Standards and Rulemaking Division
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U.S. Department of Transportation
East Building
1200 New Jersey Avenue, SE
Washington, DC 20590-0001
infoctr@dot.gov

Re: Request for Interpretation

Dear Sir or Madame:

In accordance with 49 CFR §105.20, this letter is being submitted by e-mail to PHMSA to request an interpretation on several questions we have related to the Hazard Materials Regulations (HMR).

Question 1:

Scenario A

A DOT-3AA 2400 specification cylinder was last requalified on 9/15/2012. The necessary requalification period is 5 years as specified in §180.209 (a). Subsequent to successful requalification on 9/15/2012, the cylinder was marked in accordance with §180.213 (d). The month of requalification was identified by the mark "9" and the year of requalification by the mark "12". The date of the requalification was recorded in the requalification record in accordance with §180.215 (b). The date format recorded was "9/15/2012" such that the exact day during the month and year of requalification is known to the filler. The cylinder is empty and in good condition meeting the requirements of §173.301 (a) (2).

Relevant Regulation

Below are the statements in §180.205 (c) that are relevant to our question:

No cylinder may be filled with a hazardous material and offered for transportation in commerce unless that cylinder has been successfully requalified and marked in accordance with this subpart. A cylinder may be requalified at any time during or before the month and year that the requalification is due. However, a cylinder filled before the requalification becomes due may remain in service until it is emptied.

Question for Scenario A

For the scenario previously described, what would be the last date that this cylinder could be filled with a gas defined as a hazardous material and then "*remain in service*" before the requalification becomes due?

Would this date be 8/31/2017 or 9/14/2017 or 9/30/2017 or some other date?

Scenario B

A DOT-3AA 2400 specification cylinder was last requalified on 9/15/2012. The cylinder is empty and in good condition meeting the requirements of §173.301 (a) (2). The necessary requalification period is 5 years as specified in §180.209 (a).

The cylinder is then filled with a hazardous material of Class 2 on 7/15/2017 and then shipped from a USA fill plant on 8/1/2017 to another location in the USA where it is stored in a warehouse.

The unemptied, unused cylinder remains in the USA warehouse until after its next requalification becomes due. This date is 10/15/2017. On 10/15/2017, the warehouse HazMat shipping specialist has verified that the cylinder is in good condition and ships it to an end-user in the USA. The end-user consumes ½ the contents of the cylinder. The cylinder is still considered a hazardous material per the HMR.

On 1/6/2018, the end-user wishes to return the cylinder to the USA warehouse. The end-user ships the cylinder back to the warehouse. The warehouse in turn ships the cylinder back to the USA fill plant.

Relevant Regulation

Below is the statement in §180.205 (c) that is relevant to our question:

However, a cylinder filled before the requalification becomes due may remain in service until it is emptied.

Questions for Scenario B

1. Are each of the transport operations described in Scenario B in compliance with the HMR?
2. If the answer to question 1 is "Yes", is that because the term "*remain in service*" includes operations related to the transport of hazardous materials?
3. Can PHMSA provide a definition for the term "remain in service"?

I look forward to any guidance PHMSA can provide as these types of questions come across my desk often and I would appreciate PHMSA's take on these scenarios.

If PHMSA requires any further clarification regarding the questions, please contact me at your convenience.

Sincerely,

James V. McManus

James (Jim) V. McManus
Principal Engineer
Dangerous Goods Safety Advisor (DGSA)
Entegris Inc.
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August 25, 2017

Standards and Rulemaking Division
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Question for Scenario A

For the scenario previously described, what would be the last date that this cylinder could be filled with a gas defined as a hazardous material and then "*remain in service*" before the requalification becomes due?

Would this date be 8/31/2017 or 9/14/2017 or 9/30/2017 or some other date?

Scenario B

A DOT-3AA 2400 specification cylinder was last requalified on 9/15/2012. The cylinder is empty and in good condition meeting the requirements of §173.301 (a) (2). The necessary requalification period is 5 years as specified in §180.209 (a).

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