



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

September 23, 2020

Mr. Joseph Mukoko
PO Box 20389-00100
Nairobi, Mua Park No. 17
Aga Khan Close, Waiyaki Way
Nairobi 00100, Kenya

Reference No. 20-0049

Dear Mr. Mukoko:

This letter is in response to your June 29, 2020, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the manufacture and international shipment of DOT-39 specification cylinders. Specifically, you describe the following scenario:

- Your company plans to procure DOT-39 specification cylinders from an international cylinder manufacturer that has not been in operation for the past 6 years.
- The cylinder manufacturer has a valid approval number (CA2007110004) that expires December 2023.
- The cylinder manufacturer has sold all its machinery related to the manufacture of DOT-39 specification cylinders but plans to buy new machinery to restart operations.

We have paraphrased and answered your questions as follows:

- Q1. You ask whether your company can procure DOT-39 specification cylinders from this manufacturer.
- A1. The answer is no. Section 6 of the manufacturer's approval letter specifically states that, "if DOT specification cylinder production has not been undertaken for more than 6 months, the Pipeline and Hazardous Materials Safety Administration [PHMSA] must be notified prior to resumption of production," and that, "[a]dditional sample testing and/or an onsite inspection may be required prior to resumption of production, at the discretion of PHMSA." Furthermore, there can be no deviation from designs, materials, method of manufacture, inspection procedures, or technical information without advance notice and written approval. Any changes in equipment would be considered a change in the manufacturing process, therefore triggering an onsite inspection.

As such, because you explain in your scenario that the manufacturer has not been in operations for 6 years and will be buying new machinery to restart operations, the manufacturer should notify PHMSA's Approvals and Permits Division at (202) 366-4535 or by email at SpecialPermits@dot.gov to determine if a new design type approval and/or inspection is required.

- Q2. You ask whether DOT-39 cylinders must be marked as UN pressure receptacles in accordance with the International Maritime Dangerous Goods (IMDG) Code (i.e., section 6.2.2.8) when shipped to the United States from India.
- A2. Section 6.2.1.1.2 of the IMDG Code authorizes the use of pressure receptacles other than those that bear "UN" certification marks if approved by the competent authorities in the countries of transport and use. Provided the material being shipped is authorized by the HMR for transportation in DOT-39 specification cylinders, this is considered a competent authority approval (see the definition in § 107.1 of the HMR) for the purposes of section 6.2.1.1.2 of the IMDG Code. Please note that section 6.2.1.1.2 requires the approval of the countries of transport and use.

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

Sincerely,

A handwritten signature in blue ink that reads "T. Glenn Foster". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

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

From: [INFOCNTR \(PHMSA\)](#)
To: [Hazmat Interps](#)
Subject: FW: DOT 39 cylinders
Date: Tuesday, June 30, 2020 4:27:15 PM

Hello Alice and Ikeya,

Below is a request for letter of interpretation.

Thanks,

Jonathon, HMIC

From: indoaficantradecorp@yahoo.com [mailto:indoaficantradecorp@yahoo.com]
Sent: Monday, June 29, 2020 4:38 AM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: Re: DOT 39 cylinders

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Sir,

Refer your trailing mail, please find below the details required by you:

- Full Name - Mr. Joseph Mukoko
- Physical Mailing Address - PO Box 20389-00100, Nairobi, Mua Park No. 17, Aga Khan close, Waiyaki Way, Nairobi 00100, Kenya
- Telephone Number - +254-726568464

Look forward to your reply.

Warm regards,
Joseph Mukoko

On Tuesday, 23 June, 2020, 9:17:56 pm IST, INFOCNTR (PHMSA) <infocntr.infocntr@dot.gov> wrote:

Dear Joseph,

We have received your request for a written letter of interpretation regarding the hazardous materials regulations (49 CFR Parts 171-180). The hazardous materials regulations are available at the following URL:

<https://www.phmsa.dot.gov/phmsa-regulations>

However, before we can submit your request for processing, please respond to this email with:

- Full Name
- Physical Mailing Address
- Telephone Number

Sincerely,

Jonathon, Hazardous Materials Specialist

An e-mail response from this office is considered informal guidance. Formal guidance may be requested in accordance with 49 CFR 105.20. <https://www.phmsa.dot.gov/standards-rulemaking/hazmat/hazardous-materials-information-center>

From: indoafrikantradecorp@yahoo.com [<mailto:indoafrikantradecorp@yahoo.com>]
Sent: Tuesday, June 16, 2020 2:21 AM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: Re: DOT 39 cylinders

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Attn: Mr. Shane Kelley

Dear Sir,

This is with reference to the trailing mail. We have gone through the same and now request a formal guidance in accordance with 49 CFR on the following queries:

1. We wish to procure non-refillable cylinders from M/s Mauria Udyog Limited who has not manufactured any cylinder in the last six years but is having a valid DOT 39 license (M0712). The license was renewed in 2018 and is valid till December 2023. Further we were made to understand that the company had sold all its machinery relating to DOT 39 like safety welding, handle welding etc. in the intervening period and is now planning to procure machines to restart the operations for this particular product. Whether it will be in order to procure non-refillable cylinders from them?

2. In case these cylinders are exported by us directly from India to the USA to one of our customers, is it mandatory to obtain any conformity to the provisions of IMDG (International Maritime Dangerous Goods) regarding cartons. What we mean is to attain entry in the USA, does the carton of the cylinder have to be UN marked or not?

Look forward to your reply.

Warm regards,

Joseph Mukoko

On Thursday, 11 June, 2020, 1:53:15 am IST, INFOCNTR (PHMSA) <infocntr.infocntr@dot.gov> wrote:

Dear Joseph,

We have received your inquiry about the hazardous materials regulations (HMR) (49 CFR Parts 171-180).

The HMR prescribes the requirements of the Department of Transportation governing the offering and transportation of hazardous materials in interstate, intrastate, and foreign commerce by rail car, aircraft, motor vehicle, and vessel. While we cannot provide an exhaustive list of each applicable requirement, we suggest you review section 107.805 and 173.302 for additional information on Approvals, and the Requirements for Cylinders. The hazardous materials regulations are available at the following URL:

<https://www.phmsa.dot.gov/phmsa-regulations>

If you require additional assistance, you may contact the Hazardous Materials Information Center, which is staffed with regulatory specialists who can quickly answer your questions

by phone, Monday through Friday, 9 AM - 5 PM EST at +1(202) 366-4488.

Sincerely,

Breanna , Hazardous Materials Specialist

An e-mail response from this office is considered informal guidance. Formal guidance may be requested in accordance with 49 CFR 105.20. <https://www.phmsa.dot.gov/standards-rulemaking/hazmat/hazardous-materials-information-center>

From: indoafrikantradecorp@yahoo.com [<mailto:indoafrikantradecorp@yahoo.com>]
Sent: Monday, June 8, 2020 10:06 AM
To: PHMSA Webmaster <PHMSAWebmaster@dot.gov>; INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: DOT cylinders

Dear Sir,

We are a marketing company based out of Africa and are planning to procure DOT 39 disposable cylinders from a company located in India. The name of the company is Mauria Udyog Limited and their license no. is M0712. This company has not manufactured any cylinder in the last six years but is having a valid DOT license. The license was renewed in 2018 and is valid till December 2023. Further we were made to understand that the company had sold all its machinery in the intervening period and is now planning to procure machines to restart the operations for this particular product.

We need confirmation on the following points from your end:

1. Will it be in order to procure cylinders from the above mentioned company and whether it will be safe to procure cylinders from them.

2. In case these cylinders are exported by us directly from India to the USA to one of our customers, is it mandatory to obtain any conformity to the provisions of IMDG (International Maritime Dangerous Goods) regarding cartons. What we mean is to attain entry in the USA, does the carton of the cylinder have to be UN marked or not?

Look forward to your reply.

Warm regards,

Joseph Mukoko