



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

SEP 14 1998

Ms. Jean S. Konowalczyk
Amerigas Partners, L.P.
P.O. Box 965
Valley Forge, PA 19482

Ref. No. 98-0120

Dear Ms. Konowalczyk:

This is in response to your letter dated June 2, 1998, regarding clarification as to whether DOT 4BA240 and 4BW240 cylinders utilized by non-commercial customers for personal use must be periodically requalified as prescribed in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

Your questions are paraphrased and answered as follows:

Q1. Must DOT 4BA240 and 4BW240 cylinders utilized by non-commercial customers for personal use (e.g., 20 pound cylinders used for propane gas grills) be periodically requalified or retested as specified in 49 CFR 173.34? Will the October 1, 1998 delayed compliance date for Docket HM-200 have any effect on this interpretation?

A1. The HMR govern the safe transportation of hazardous materials in intrastate, interstate and foreign commerce. "In commerce" excludes from regulation the transportation of hazardous materials in a private vehicle where the material is for personal use. Thus, a cylinder utilized by a non-commercial customer for personal use is not governed by the HMR.

A final rule [Docket HM-200; 62 FR 1208; effective date 10/1/98], published in the Federal Register on January 8, 1997, expanded the scope of the HMR to intrastate transportation. The rule had no impact on provisions of the HMR as to their applicability to non-commercial entities.

Q2. Is a commercial enterprise prohibited from transporting a cylinder left by a customer with propane in it if the cylinder is in need of requalification? If the cylinder is beyond its retest date or not properly requalified, is an interstate commercial enterprise that conducts a cylinder exchange business (i.e., consumers bring empty 20 pound gas grill cylinders to a central location and exchange those cylinders for filled 20 pound gas cylinders) prohibited from transporting the empty cylinders from the site of exchange at a retail store to its plant for requalification and filling those cylinders with propane?

A2. Sections 173.34(e)(1)(ii) and 173.301(c) specify that a cylinder past its test date may not be **charged** or **filled** with a hazardous material and transported in commerce unless that cylinder has been inspected and retested. DOT specification cylinders (e.g., DOT 4BA240 and 4BW240) containing a hazardous material (e.g., propane) for which the retest date has become due need not be emptied to meet a testing schedule. The charged cylinder may remain in service, and a commercial enterprise may transport those cylinders in commerce in compliance with the HMR. However, after the cylinder has been emptied, it may not be charged and refilled and offered for transportation in commerce until it has been properly inspected and retested in accordance with 49 CFR 173.34(e).

I hope this satisfies your inquiry.

Sincerely,



Delmer F. Billings

Chief, Standards Development

Office of Hazardous Materials Standards

AmeriGas®

America's Propane Company

June 2, 1998

*Via Telecopy - 202-366-3012
and U.S. Mail*

Mr. Edward T. Mazzullo
Director - Office of Hazardous Materials Standards
U.S. DOT/RSPA (DHM-10)
400 7th Street SW
Washington, DC 20590-0001

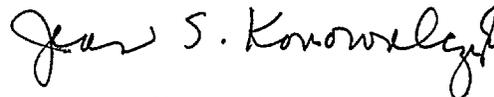
Dear Mr. Mazzullo:

This is to request a clarification as to whether DOT 4 BA 240 and 4 BW 240 cylinders utilized by non-commercial customers for personal use (for example, 20 pound cylinders used for propane gas grills) must be periodically requalified under the DOT regulations as set forth under 49 CFR § 173.34.

Will the October 1, 1998 delayed compliance date for HM-200 (expanding the scope of regulations to intrastate transportation) have any effect on this interpretation?

Finally, where an interstate commercial enterprise conducts an exchange cylinder business, (that is, consumers bring empty 20 pound gas grill cylinders to a central location and exchange those cylinders for filled 20 pound cylinders) is the commercial enterprise prohibited from transporting empty cylinders from the site of the exchange at a retail store to its plant for requalification (if necessary) and filling with propane where the cylinder is out of date or not properly requalified? Similarly, is the commercial enterprise prohibited from transporting a cylinder left by a customer with propane in it, where the cylinder is in need of requalification?

Very truly yours,



Jean S. Konowalczyk
Counsel

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