



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

NOV 3 1999

Ref. No. 99-0235

Mr. Charles F. Martin, P.E.
Modern Safety Techniques
11388 Breiningen Road
P.O. Box 87
Hicksville, OH 43526

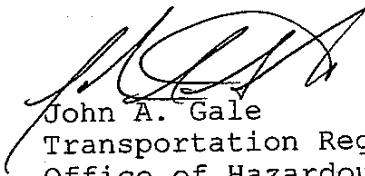
Dear Mr. Martin:

This is in response to your letter dated August 23, 1999, regarding labeling requirements for specification cylinders under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). In your letter you stated that you are shipping compressed gases in Specification 39 cylinders. Specifically you ask if it is required to place the NON-FLAMMABLE GAS label on the cylinder, or if it is sufficient to label only the strong outside packaging required under § 173.301(k).

A hazard warning label (e.g., NON-FLAMMABLE GAS) must be placed on each non-bulk packaging. Under § 173.301(k), Specification 39 cylinders must be shipped in strong outside packagings. The cylinder and the strong outside package together constitute the package; therefore, the hazard warning label need only be affixed to the strong outside packaging.

I hope this satisfies your request.

Sincerely,



John A. Gale
Transportation Regulations Specialist
Office of Hazardous Materials Standards



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August 23, 1999

Mr. Edward Mazzullo
Director of Office of Hazardous Materials Standard
Washington, DC

Fax: (202) 366-3012

Dear Mr. Mazzullo:

We have been in contact with personnel in the Office of Research and Special Programs Administration (RSPA) regarding the following information:

"Dear RSPA:

We manufacture safety equipment and part of our system is a Carbon Monoxide (CO) monitor that requires periodic calibration. As an accessory to this device, we also sell calibration gases, which are primarily compressed air, non-flammable gases contained in DOT 39 Specification cylinders. We do not manufacture these gases or cylinders, however we purchase them from various suppliers.

When shipping these calibration gases, the cylinder is packaged into a fiberboard box (rated according to our carrier's - UPS and Fed-X - requirements) and properly labeled. We are certified by UPS to ship hazardous materials.

One of our newer customers has come to us and indicated that the cylinder itself must have the 4" x 4" (approx.) Green diamond shaped label ("Non-Flammable Gas") on it.

According to our suppliers (who ship millions of these cylinders all over the world), the DOT 39 cylinder can never be shipped by itself and must be placed inside a box (ref CFR 49-173.301k), therefore the labeling must be placed on the outside of the box, not the cylinder itself (since it can never be shipped that way). Our local DOT enforcement agency (regional office in Des Plaines, IL) also supported this conclusion, as well as one of our supplier's legal counsels. We have also noticed that compressed propane used for applying solder to plumbing fixtures, etc., that are found in hardware stores, supermarkets, etc., do not possess the diamond shaped label.

The question we are posing is: Since a DOT 39 Specification cylinder, containing compressed gas as indicated above, is never allowed to be shipped by itself (without proper outer packaging), are we required to place the green diamond shaped label on the cylinder itself? We understand that the outer package must contain all of the proper labeling, including the green diamond shaped label."

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Mr. Edward Mazzullo
Director of Office of
Hazardous Material Standards
August 23, 1999

Included with this correspondence you will find a Memorandum dated August 19, 1999, from our Vice President of Operations which further clarifies the cylinders and their contents.

We would appreciate a clarification regarding the above interpretation at your earliest convenience.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles F. Martin". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Charles F. Martin, P.E.
President, MST, Inc.

Enclosure

cc: S. Fox

August 20, 1999

INTER-OFFICE MEMO:

SUBJECT: Memorandum to Shipping Dept.- August 19, 1999
-Do we need the proper label per CFR 49, 172.415
on the cylinders of compressed gas we ship?

Chuck,

There seems to be an interpretation problem on how the cylinders of compressed gas we purchase and re-ship are labeled, i.e. 172.415. Following are the cylinders of compressed gases that we purchased from a manufacture of compressed gases:

A) DOT 39 specification cylinder charged with 0.6 cu. ft., 17 L at 70 F and 240 PSIG of AIR, COMPRESSED 2.2, UN1002, NON-FLAMMABLE GAS

B) DOT 39 specification cylinder charged with 0.6 cu. ft., 17L at 70 F and 240 PSIG of COMPRESSED GAS, N.O.S. (CARBON MONOXIDE/AIR) 2.2, UN1956, NON-FLAMMABLE GAS.

C) DOT 39 specification cylinders charged with 3.6 cu. ft., 103 L at 70 F and 1000PSIG of each 2.2 gas mentioned above.

The cylinders of compressed gases we re-ship are shipped the following way:

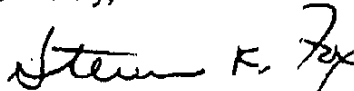
Ground shipments: UPS

Air shipments: UPS and FEDERAL EXPRESS

We ship these cylinder(s) in an overpack (strong fiberboard box). The overpack is marked with the proper shipping name and identification number and labeled with the Green Diamond Label per 172.415. We also mark the overpack with a statement indicating that the inside (inner) packages comply with prescribed specifications since the DOT 39 cylinders are specification packagings.

If you can get a written explanation/ ruling from your contact at RSPA on whether or not the label is required on the cylinder itself, it would clear up the interpretation problem.

Sincerely,



Steven K. Fox

VP Of Operations, MST, Inc.