



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

OCT 18 2002

Mr. Paul Merrick
3923 Todd Lane
Suite 305
Austin, TX 78744.

Ref. No.: 02-0086

Dear Mr. Merrick:

This is in response to your e-mail to Ms. Sandra Webb, Office of Hazardous Materials Standards, regarding the requirements applicable to DOT 39 non-refillable cylinders under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

You state a fabricator will perform all manufacturing functions except that you will perform the following functions: 1) witness all specification tests (§ 178.35(c)(3)(v)); 2) verify that each cylinder is properly marked according to the specification (§ 178.35 (c)(3)(viii)); 3) complete the manufacturer's report (§ 178.35(c)(4) and (g)); and 4) mark the cylinder with the specification markings (§ 178.65(i)). In addition, you state that you will test the pressure relief device before filling the cylinders with R134a (1, 1, 1, 2-Tetrafluoroethane) as prescribed in § 173.34(d). You asked about your responsibilities for fulfilling these and certain other requirements under the HMR.

In response to inquiries, I offer the following remarks:

1. The company whose registration "M" number is marked on the cylinder is considered the cylinder manufacturer. The registration number must be obtained from the Associate Administrator for Hazardous Materials Safety. By marking the "DOT 39" specification marking on the cylinder, as the manufacturer, you are certifying that the cylinder was fabricated, tested and inspected in full conformance with the specification requirements in §§ 178.35 and 178.65. Please note that under §178.35(b)(1) and (c)(3)(v), a competent inspector of the manufacturer must be present to witness all specification tests. Also, in your situation, the complete inspector's report, required by § 178.35, will consist of the fabricator's report plus a report showing the results of the pressure test and any other operations performed by you.
2. Regarding DOT-E 11289, the exemption authorizes the named exemption holder to manufacture, mark, and sale certain cylinders to the DOT 39 specification with certain deviations. Since you are unclear about this exemption, we are unable to offer any comments.



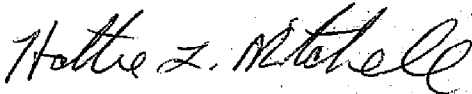
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178.65

3. Regarding the requirement in § 173.34, pressure relief devices on charged cylinders must be tested for leaks before being shipped from the filling plant. The test may be performed using any suitable method, such as a gas leak detector, soap or other suitable leak-detection fluid.
4. Regarding your question on whether training is required to perform the above requirements, the answer is yes. Any person performing any function subject to the HMR may not perform that function unless training according to Subpart H of Part 172. A hazmat employer is responsible for providing hazmat training for each hazmat employee. The definition for a hazmat employee (see § 171.8) includes anyone who during the course of employment manufactures, tests, reconditions, repairs, modifies, marks, or otherwise represents a packaging as qualified for use in the transportation of hazardous materials. This training must include general awareness and safety training. In addition, each hazmat employee must be provided function-specific training concerning the requirements of the HMR applicable to the function or functions the employee performs. See § 172.704. Sections 107.341 and 107.371 of 49 CFR prescribe penalties for violation of the HMR.

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

Sincerely,



Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards

Sandra Webb

*Mitchell
§ 178.65
Cylinders
02-0086*

Webb, Sandra

From: Paul [pjm@austin.rr.com]
Sent: Monday, March 18, 2002 12:47 PM
To: Webb, Sandra <RSPA>
Subject: 39 Cylinder requirements?

Sandra,

Tom Lynch from the Houston DOT office advised me to contact you concerning requirements for filling specification 39 non-refillable cylinders.

I will be filling these cylinders with 24 ounces of R-134a for a laser application.

I am purchasing these cylinders from Bernzomatic, and they are completing the following:

178.35 (b) (2); (c) (1); (2) (1), (2)(i)(ii)(iii); (3) (i)(ii)(iii)(iv)(vi)(vii); (d) and (e); and 178.65 (b)(all subsections), (c)(all subsections); (d)(all subsections); (e)(all subsections), (f)(all subsections), (g)(all subsections); and (h)(all subsections).
They also list an exemption (DOT § 11289).

They state that I need to obtain a manufacturer's number, and comply with 49CFR 173.34 which includes testing the pressure relief device prior to filling.

They provide me with their test reports, but they require that I complete these reports in accordance with 49 CFR 178.35 (c)(4) and (g).

They also state that I must mark the cylinders in accordance with 49 CFR 178.65(i), and verify testing compliance as required by 49 CFR 178.35 (c)(3)(viii).

→ My question is what do I need to do to fulfill these requirements? What certifications, registrations, or training is required?

Thank you for your help in meeting DOT regulations.

Paul Merrick
Austin, TX.