



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, D.C. 20590

SEP 10 2008

Mike Lopez, JD  
President  
Safety & Compliance Associates, Inc.  
P.O. Box 48  
Trussville, AL 35173

Ref. No.: 08-0135

Dear Mr. Lopez:

This is in response to your April 21, 2008 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to marking cylinders. Your questions are paraphrased and answered below.

Q1. Section 180.209(b)(3) requires the “star” marking following the most recent test date to be obliterated if the cylinder is not in compliance with § 180.209(b)(1)(ii). If a cylinder with a “star” marking is filled while remaining in a cluster, bank, group, rack, or vehicle, but conforms with all other provisions of § 180.209(b), is the “star” marking allowed to remain on the cylinder?

A1. Yes, the “star” may remain on the cylinder. However, by not removing the cylinder from the cluster, bank, etc., prior to each refilling as required by paragraphs (b)(1) introductory text and (b)(1)(iii) in § 180.209, the cylinder no longer qualifies for the extended ten-year requalification period. We plan to address the provisions in paragraph (b) in a future rulemaking action.

Q2. Section 180.209(b)(3) requires the “star” marking, following the most recent test date on a cylinder that is no longer filled with the applicable gas in paragraph (b)(1)(ii), to be obliterated. May this be done by a person not holding a retester identification number if a retest is not required?

A2. Yes.

Q3. If the cylinder in Q2 is required to be requalified, is it acceptable to leave the “star” marking on the cylinder and not add a “star” marking following the new retest date?

A3. Yes.

Q4. Section 173.302a(b) does not contain a similar provision to obliterate "plus" markings. Therefore, if a DOT 3AA cylinder in nitrogen service that has both a "star" and "plus" marking is converted to carbon dioxide service before the expiration of the retest period, is the "star" marking required to be obliterated, while the "plus" marking remains?

A4. Yes. However, if the gas is liquefied carbon dioxide, the cylinder may not be overfilled in accordance with § 173.302a(b).

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Mitchell', written over a horizontal line.

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



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§ 180.213(b)  
§ 173.302  
Cylinders  
08-0135

April 21, 2008

U S Department of Transportation  
Office of Hazardous Materials Standards  
400 7th Street SW, DHM-18  
Washington, DC 20210

Attention: Director of Hazardous Materials Standards

- Q1. §180.209(b)(3) requires a "star" marking following the most recent test date to be obliterated if (b)(1)(ii) is not complied with. However, there is no requirement nor authorization to obliterate a "star" marking for noncompliance with *other provisions* of 180.209(b). In fact, §180.213(b)(2) forbids obliterating a previous requalification mark under any circumstances other than lack of additional marking space. Therefore, if a cylinder bearing the "star" mark following the most recent test date is filled in a cluster, bank, group, rack, or vehicle, but complies with all other provisions of 180.209(b), should the "star" mark remain on the cylinder?
- Q2. §180.209(b)(3) appears to authorize the person *who fills a cylinder* no longer conforming to (b)(1)(ii) to obliterate a "star" following the most recent test date, even if that person does not hold a valid RIN. (If the cylinder were due for periodic requalification, the authorized retester would simply refrain from applying a "star" mark after the cylinder is tested and marked, so there would be no need to obliterate the previous "star".) Is this correct?
- Q3. There is no similar requirement nor authorization to obliterate a "plus" mark for cylinders no longer in conformance with §173.302a(b). Therefore, if a DOT3AA cylinder used in nitrogen service is properly requalified and marked for 10% overfill with the "plus" mark and 10-year requalification schedule with the "star" mark, and is subsequently converted to carbon dioxide service before the expiration of the retest period, is it your intention that the "star" mark be obliterated but the "plus" mark remain on the cylinder?

Thank you for your prompt response.

Very truly yours,

Mike Lopez, JD, President  
Safety & Compliance Associates, Inc.