



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

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

NOV 21 2014

Mr. Guy Dalton
Head of Transport Compliance/Safety
Linde Gas North America LLC
130 Briar Hill
Painesville, OH 44077

Ref. No. 14-0139

Dear Mr. Dalton:

This is in response to your July 15, 2014 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the requirements for transporting foreign cylinders for export under § 171.23(a)(4). Your questions are paraphrased and answered as follows:

- Q1. If a foreign manufactured cylinder was initially shipped for export from the United States under the conditions of § 171.23(a)(4), may the cylinder containing a residual gas be returned to the facility where it was previously filled in the United States for the purpose of refilling the cylinder?
- A1. The answer is no. Section 171.23(a)(4) allows transportation of a cylinder not manufactured, inspected, tested, and marked in accordance with part 178 of the HMR, or a cylinder manufactured to other than a UN standard, DOT specification, or special permit to be filled with a gas in the United States and transported for export or for use on board a vessel under certain conditions. The shipment you describe contains the residue of a hazardous material and is not being transported solely for export or use on a vessel. Therefore, it does not meet the requirements of § 171.23(a)(4) and must conform to the requirements of § 171.23(a)(2) to be shipped within the United States. However, if the foreign made cylinder meets the provisions of § 173.29(b) as an empty packaging, then the cylinder no longer contains a hazardous material and is not subject to any other requirements of the HMR.
- Q2. May the same foreign manufactured cylinders containing a residual gas be transported from one fill plant to another as long as no modification to the cylinder or product are made under § 171.23(a)(4)?

A2. The answer is no. Transportation between facilities over public roads for the purposes of filling the cylinder is not considered export or use on a vessel. Therefore, the cylinders must either be approved in accordance with the HMR or meet the provisions of § 173.29(b) as an empty packaging.

I hope this satisfies your request.

Sincerely,

A handwritten signature in cursive script, reading "T. Glenn Foster". The signature is written in dark ink and is positioned below the word "Sincerely,".

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

THE LINDE GROUP

Lehman
171.23(a)(4)
Cylinders
14-0139 Linde

July 15, 2014

130 Briar Hill
Painesville, Ohio 44077
440-354-5614
440-579-0203
guy.dalton@linde.com

Office of Hazardous Materials Standards
Pipeline and Hazardous Materials Safety Administration, Attn: PHH-10
U.S. Department of Transportation, East Building
1200 New Jersey Avenue, SE.
Washington, DC 20590-0001.

Request for Interpretation

Dear Sir or Madame,

Linde Gas North America LLC (Linde) is requesting interpretation and guidance regarding the transport of foreign cylinders tested to US standards.

Background

Linde exports various gases in foreign manufactured cylinders. The cylinders are requalified and marked as required in 49CFR171.23(a)(4). Once the cylinder contents are used, the cylinders may be returned to the US for refilling. The cylinders being returned are still within the 5 year required requalification period. No changes have been made to the cylinder after the filling at a Linde fill plant. Product is used and then the cylinder is returned.

Question 1

May cylinders be returned to a Linde US fill plant that contain residual gas? The cylinders would go directly from the seaport or airport to a Linde facility.

Question 2

May the cylinders containing residual gas be transported from one fill plant to another as long as no modification to the cylinder or product are made?

A written response at your earliest convenience is appreciated.

Sincerely

Guy Dalton

Guy Dalton
Head of Transport Compliance/Safety
Linde Gas North America LLC
440-251-0303
guy.dalton@linde.com

Dodd, Alice (PHMSA)

From: Ciccarone, Michael CTR (PHMSA)
Sent: Wednesday, July 16, 2014 11:31 AM
To: Hazmat Interps
Subject: FW: Interpretation Request - Transport of Foreign Manufactured Cylinders with Residual
Attachments: DOT Interpretation request - Transport of Foreign Cyls with Residual 07-15-14.doc

Shante and Alice,

Please submit this for a formal letter of interpretation.

Thanks,

Mike

From: guy.dalton@linde.com [<mailto:guy.dalton@linde.com>]
Sent: Wednesday, July 16, 2014 8:43 AM
To: INFOCNTR (PHMSA)
Cc: steven.scecchitano@linde.com; steve.earl@linde.com; Richard.Paciej@linde.com; william.heintz@linde.com; dan.galowitch@linde.com
Subject: Interpretation Request - Transport of Foreign Manufactured Cylinders with Residual

Please find attached a request for interpretation. I am requesting a written response to the questions include in the request. Please contact me if you need further information.

Regards,

Guy Dalton
Fleet Compliance and Safety Manager
HSE

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