



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

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

JUL 06 2016

Mr. John Anderson
Airgas-SAFECOR
P.O. Box 20067
Cheyenne, WY 82003

Reference No. 15-0235

Dear Mr. Anderson:


This letter is in response to your November 20, 2015 email and May 27, 2016 telephone call requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to Department of Transportation (DOT) cylinders authorized under DOT Exemption (DOT-E) 8404. Section 173.23(e) permits these cylinders to continue to be used provided they are marked "DOT-4L" in compliance with § 178.57 before or at the time of the first required retest after October 1, 1984. Specifically, you state your company has acquired 20 cylinders marked with this exemption number that are not marked "DOT 4L." We have paraphrased and answered your questions as follows:

- Q1. Does § 173.23(e) require that a filled cylinder manufactured in conformance with DOT-E 8404 be remarked for a DOT 4L welded insulated cylinder specification and service pressure before January 1, 1986, to be continued in use?
- A1. Cylinders filled prior to their reauthorization date may remain in service until emptied and may be transported in commerce provided all applicable HMR requirements are met (see § 180.205(c)). An emptied cylinder due for requalification may not be refilled and offered for transportation unless it has been requalified in accordance with the HMR. Section 173.23(e) does not permit the requalification of DOT-E 8404 cylinders that are not remarked DOT 4L before or on January 1, 1986. You stated that the cylinders you found do not meet this requirement; thus, they do not comply with the HMR and may only be authorized for transportation under the terms of a special permit. If you decide to apply for a special permit for these cylinders, you may submit an application to the Associate Administrator for Hazardous Materials Safety in conformance with the requirements prescribed in 49 CFR Part 107, Subpart B. Information on the special permit application process is also available from our website at <http://www.phmsa.dot.gov/hazmat/regs/sp-a> or by contacting PHMSA's Approvals and Permits Division at (202) 366-4511.

- Q2. If a DOT-E 8404 cylinder was not remarked for compliance with the DOT 4L specification and service pressure before January 1, 1986, must the container be condemned?
- A2. The answer is no. A cylinder that is serviceable for transportation may be authorized for transport under the terms of a special permit as explained in Answer A1. If, however, the cylinder is determined to be unserviceable and unable to be restored by repair, rebuilding, requalification, or any other procedure, then it must be condemned (see § 180.203 for the "condemned" definition and § 180.205(i) for cylinder conditions that require condemnation).

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

Sincerely,



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

Edmonson
§ 173.23(e)
Marking
15-0235

Dodd, Alice (PHMSA)

From: Geller, Shelby CTR (PHMSA)
Sent: Monday, November 23, 2015 9:19 AM
To: Hazmat Interps
Subject: FW: DOT Exemption 8404 Questions

Dear Shante and Alice,

Forwarded is a formal letter of interpretation request. Mr. Anderson spoke with Edom Seifu in the info center.

Thanks,
Shelby

From: John Anderson (SAFECOR) [<mailto:John.Anderson.SAFECOR@Airgas.com>]
Sent: Friday, November 20, 2015 2:50 PM
To: INFOCNTR (PHMSA)
Subject: DOT Exemption 8404 Questions

Recently we came across a container marked DOT E-8404. 49 CFR 173.23(e) addresses containers marked DOT E-8404.

Now for the questions:

- Does 49 CFR 173.23(e) require that the container must have been remarked DOT 4L and the service pressure before January 1, 1986? *Yes*
- If the container was not remarked DOT 4L and the service pressure before January 1, 1986 must the container be condemned?

Thank you for your response.

John Anderson
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