



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

NOV 24 2003

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

Mr. Richard J. Arthur
Director of Regulatory Compliance
Blue Rhino Corporation
104 Cambridge Plaza Drive
Winston-Salem, NC 27104

Ref No.: 03-0285

Dear Mr. Arthur:

This is in response to your letters dated November 3, 2003, regarding transportation of cylinders containing a residue of propane under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

Section 173.29(b)(2)(ii) requires that a cylinder be sufficiently cleaned of residue and purged of vapor to remove any potential hazard to be considered as not regulated under the HMR. The methods and limits used for determining what qualifies as a "cleaned and purged" under the HMR are intentionally not defined because they vary greatly depending on the properties of the particular hazardous material and type of packaging. In the case of propane, other variables such as purge medium, temperature conditions and cylinder volume are also factors. We would consider a propane cylinder to be sufficiently cleaned and purged when the vapors in the cylinder are no longer capable of sustaining combustion.

If cylinders have been cleaned and purged of residue, as provided by § 173.29(b)(2)(ii), they are not subject to any requirements of the HMR. When cylinders are transported as non-regulated, the DOT markings and labels on the cylinders must be removed or covered, or the cylinders must be transported in a manner that the packaging is not visible as prescribed in § 173.29(b)(1).

If the cylinders are not purged, they remain subject to the requirements in the HMR. However, as provided by § 173.29(c), such cylinders are not subject to requirements for placarding and shipping papers when collected and transported by a contract or private carrier for reconditioning or reuse.

I hope this information is helpful. Please contact us if you require additional assistance

Sincerely,

Susan Gorsky
Senior Transportation Regulations Specialist
Office of Hazardous Materials Standards



030285

173.29



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Winston-Salem, NC 27104

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November 3, 2003

Office of Hazardous Materials Standards

ATTN: DHM - 10

Washington, DC 20590-0001

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Empty Packagings
03-8285*

I am requesting an interpretation of 49 CFR 173.29 that has strong ramifications on how we conduct our business. This request is an appeal on the interpretation offered by e-mail on November 3, 2003. (Copy enclosed)

Blue Rhino Corporation and its network of distributors are in the propane cylinder exchange business. We transport carefully prepared cylinders to retail locations where they are stored awaiting sale or exchange. Consumers bring in expended cylinders to exchange. Our company has made a significant improvement to the quality of cylinders in use, the level of care in which cylinders are filled and transported, and in the education of consumers. We annually exchange over 12,000,000 cylinders in 48 states and Puerto Rico through 28,000 retail outlets.

For our nine-year history we have abided by all placard and label requirements and in fact have set the standard for communication to consumers with our product label. We are proud of our compliance record in this area.

Our distributor in New England was recently cited by a state policeman for failing to mark all returned expended cylinders with a 1075 label. We believe this citation, while well intentioned, is an excessive application of the rule for these reasons:

1. Our expended cylinders travel directly back to the production facility in placarded vehicles to be inspected, reconditioned, and refilled.
2. They are not removed from the vehicle prior to arrival at the production facility.
3. While in transit, cylinders are in a vehicle that is used exclusively for transporting 20-pound propane cylinders. These loads never include other items or other hazardous materials. We only deal with placards stating "1075".
4. The majority of these cylinders still have our labeling on them, clearly establishing them as propane cylinders. Many others carry labels from other exchange companies that also identify them as propane cylinders.
5. It could be fairly said that the proposed labels, if applied, would spend their entire life cycle of 24-72 hours hidden from view.

The idea of applying labels solely to transport them in a closed and placarded vehicle not mixed with any other cargo or HAZMAT in an environment where the majority of identical DOT cylinders will be marked as propane cylinders is an unnecessary and wasteful practice. There is no additional protection for the public by requiring these expended cylinders to be so marked. At no time can there be any doubt about the contents of our vehicles.

We ask for an interpretation of this rule that will allow us to continue our current and heretofore perfectly safe practice without undue cost or burden to our distributors. We would appreciate a reply by mid-November to accommodate the date for response to the citation.

Respectfully,

Richard J. Arthur
Director of Regulatory Compliance