



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

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

JUN 21 2001

Mr. Curt W. Smitka
University of Michigan
2334 Delaware
Ann Arbor, Michigan 48103

Reference No.: 01-0087

Dear Mr. Smitka:

This is in response to your September 20, 2000 letter concerning the periodic requalification requirements in 49 CFR 173.34(e). You asked whether a person who is not a US DOT authorized cylinder retester has DOT authorization to condemn a DOT authorized cylinder without an owner's consent.

The answer is no. Section 173.34 (e)(2) specifically states: " No person may mark a cylinder with a test date or retester identification number, or otherwise represent that a DOT specification or exemption cylinder has been rettested under this section, unless that person holds a current retester identification number issued by the Associate Administrator for Hazardous Material Safety and operates in compliance with the terms of the retester identification number issuance letter."

I hope this information is helpful.

Sincerely,

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



010087

17334(e)

Beth's
 §173.34(e)
 Cylinders
 Curt W. Smitka
 2334 Delaware
 Ann, Arbor, MI 48103
 734-996-4107 (eve)
 734-936-2186 (days)
 cwsmitka@umich.edu

01-0087

Kevin Boehne
 Chief, Office of Hazardous Materials Enforcement – Central Region
 U.S. Department of Transportation
 2350 East Devon Avenue
 Suite 136
 Des Plaines, Illinois 60018

September 20, 2000

RE: Request for Written Interpretation

Dear Mr. Boehne,

As a follow-up to our discussions, I am asking for a written confirmation/interpretation of your verbal response to my inquiry of:

Can someone who is not a US DOT authorized cylinder recertifier condemn a DOT certified high-pressure cylinder (SCUBA tank)?

In our discussion of September 7, 2000, you confirmed that only a US DOT authorized cylinder recertifier could condemn these cylinders.

Reason for Inquiry

The following circumstances have led to this inquiry:

- On August 7, 2000, I took seven (7) SCUBA cylinders to Huron Scuba (4816 Jackson Rd., Scio Township, MI 48104) and requested that they send the tanks to a US DOT authorized recertifier (hydrostatic tester) for their required 5 year recertification (hydrostatic testing and visual inspection). Pursuant to this request the tanks were sent to Smulen's, Inc. (181 Lucy Road, Howell, MI 48843, DOT ID # D047) for recertification.
- On August 17, 2000, I received a call from Huron Scuba informing me that my cylinders were ready, but that two of them had been condemned.
- On August 21, 2000, I went to Huron Scuba to pick up the cylinders. Upon my inspection and confirmed by the Huron Scuba employees, Smulen's had recertified all of the cylinders for use. Huron Scuba, a non-DOT authorized facility had done their own subsequent visual

Ltr.-Boehne/DOT
September 20, 2000

inspection and decided to condemn two tanks by defacing the recertification stamp of Smulen's, Inc. and the DOT markings on the tanks.

The two (2) tanks, which were destroyed by Huron Scuba, are:

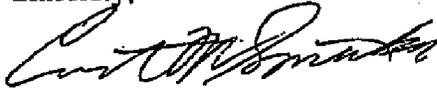
Manufacturer: Luxfer
Volume: 80 cu. Ft.
Serial Number: P103154
Original Certification Date: 03/84
Last Certification Date: 08(A047)00

and

Manufacturer: Scubapro/Farber
Volume: 95.1 cu. Ft.
Serial Number: 84/9005/181 M8303
Original Certification Date: 03/84
Last Certification Date: 08(A047)00 +

Please feel free to contact me if you need additional information or clarifications.

Sincerely,



Curt W. Smitka