



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety Administration**

East Building, PHH-30
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

MAY 24 2013

**TERMINATION OF DOT-SP 14562 (AND DOT-SP 13957 AS AUTHORIZED
THEREIN), DOT-SP 13105, H706, AND M5729**

Messrs. Darrel Reifschneider and Michael Higdon
The Lite Cylinder Company
139 Southeast Parkway Court
Franklin, TN 37064

Dear Mr. Higdon:

On October 10, 2012, the Pipeline and Hazardous Materials Safety Administration (PHMSA) suspended and proposed termination of Special Permit (DOT-SP) 14562, and the authority granted to use DOT-SP 13957 cylinders granted therein, DOT-SP 13105, cylinder requalification approval H706, and manufacturer's Registration Number approval M5729, which had all been issued to The Lite Cylinder Company, Inc. (TLCCI). PHMSA has determined that TLCCI is not fit to conduct the activities authorized by the special permit and approvals listed above, pursuant to 49 CFR §§ 107.121(b)(4) and 107.713(b)(4).

Therefore, in accordance with 49 CFR § 107.121(c)(2), I hereby terminate DOT-SP 14562, DOT-SP 13957 as authorized by DOT-SP 14562, and DOT-SP 13105 for all cylinders manufactured, marked and used thereunder. In addition, in accordance with 49 CFR § 107.713(c)(2), cylinder requalification approval H706 and manufacturer's Registration Number approval M5729 are hereby terminated.

Background – Probable Violations and Manufacturing Issues

On September 28, 2012, PHMSA's investigators conducted a compliance inspection at TLCCI's facility in Franklin, Tennessee. Upon reliable and credible information received in the course of investigations, PHMSA has concluded that TLCCI has:

- 1. Failed to notify the Associate Administrator for Hazardous Materials Safety, in writing, of numerous incidents involving DOT-SP 14562 cylinder failures, as required by DOT-SP 14562, Paragraph 12.**

PHMSA discovered that TLCCI failed to report several cylinder failures, in violation of DOT-SP 14562. A civil litigation settlement agreement dated January 20, 2012 between TLCCI and Robert Nicholson, as well as Darrel Reifschneider's (CEO of TLCCI) oral and written statements on September 28, 2012, indicate that a DOT-SP 14562 cylinder ruptured and damaged a gas grill in New Jersey, as a result of a flaw in the seam. As of the issuance of the suspension and proposal to terminate this special permit on October 10, 2012 and to date (over one year after the incident), TLCCI has not submitted written notification of this incident to PHMSA, as required under DOT-SP 14562.

In addition, PHMSA has learned of an incident involving DOT-SP 14562 cylinders that occurred during production manufacturing and has discovered that customers have returned numerous DOT-SP 14652 cylinders due to sidewall or bottom leaks from January 14, 2009 to September 25, 2012. Lite Cylinder failed to report these incidents to PHMSA as well.

TLCCI's failure to report these incidents, as required by DOT-SP 14562, demonstrates a lack of commitment to ensuring cylinder defects are reported and remedied and that PHMSA is made aware of deficiencies. Together, these failures show a lack of fitness to operate under the special permit and as a manufacturer.

2. Failed to comply with PHMSA Notice of Suspension dated May 10, 2007, which required TLCCI to cease the sales of all DOT-SP 13957 cylinders.

From January 20, 2006 to May 10, 2007, Lite was authorized to manufacture composite cylinders under DOT-SP 13957. In April of 2007, five 33 pound cylinders separated in Miami, Florida. Following an investigation, PHMSA issued a Notice of Suspension of DOT-SP 13957 on May 10, 2007, which prohibited the manufacture and continued use of DOT-SP 13957 cylinders. PHMSA eventually allowed 10 and 20 pound DOT-SP 13957 cylinders to be continued to be used to transport hazardous materials under DOT-SP 14562, without requiring that the cylinders be remarked. However, PHMSA never lifted the prohibition on 33 pound cylinders.

PHMSA's investigators obtained an Invoice # 2070, dated July 17, 2008, which shows that TLCCI sold and shipped one thousand cylinders to Cocigas SA in Canabacos, Santiago Dominican Republic. The invoice listed the cylinders as "33# Composite Lite Cylinder Complete" and provided instructions on how to obtain a copy of DOT-SP 14562. However, several TLCCI employees, including Mr. Reifschneider (CEO), provided signed statements saying that the cylinders sold to Cocigas were manufactured under DOT-SP 13957.

The Notice of Suspension of DOT-SP 13957 explained that it was based on ruptures of several of these cylinders, ostensibly caused by "deficiencies in the manufacturing process," and that the cylinders were not adequately safe. To date, TLCCI has provided no documentation to show it has taken steps to address this safety risk by recalling these cylinders or notifying customers. TLCCI's blatant non-compliance with this Notice of Suspension demonstrates a disregard for the public safety in using its cylinders and an overall lack of fitness to operate both under a special permit and as a cylinder manufacturer.

3. Failed to test DOT-SP 14562 cylinders at the minimum test pressure of 480 psi as required by the Fifth Revision issued on October 19, 2011.

On October 19, 2011, PHMSA granted TLCCI's request for a 5th Revision to DOT-SP 14562, which increased the maximum service pressure for all cylinder designs to 320 psi and the minimum test pressure to 480 psi. TLCCI's manufacturer's reports to PHMSA indicate that it has tested 11,416 DOT-SP 14562 cylinders at 441 psi since the 5th Revision became effective.

Since PHMSA notified TLCCI of this testing issue and since we issued the suspension and proposal to terminate its special permits and approvals on October 10, 2012, TLCCI has provided no documentation to show that it has made efforts to recall the improperly-tested cylinders or to notify customers that the cylinders were improperly tested and unauthorized and unsafe for use.

4. Certified DOT-SP 14562 cylinders that are incapable of passing testing requirements.

In our suspension and proposal to terminate, we also cited increases in TLCCI's failure rates for manufacturing tests and our concern that this indicated safety issues with the cylinders it manufactures. To address this concern, since issuing the suspension and proposal to terminate, PHMSA has observed TLCCI and its IIA (Authorized Testing, Inc.) subject DOT-SP 14562 cylinders to testing to determine whether they are capable of passing required manufacturing tests.

At the time of the suspension and proposal to terminate, TLCCI had approximately 1,952 DOT-SP 14562 cylinders that were manufactured prior to October 9, 2012. To evaluate the level of safety of these cylinders and the approximately 30,000 in service, TLCCI agreed to PHMSA's development of a testing protocol (Test Plan) to determine whether these cylinders meet the prescribed designs and the minimum safety level. The Test Plan mandated pressure testing of each DOT-SP 14562 cylinder, and sample ambient cycle testing and environmental cycle testing of cylinders from each of the manufacturing lots represented. Cylinders subjected to the cycle tests were then put through the hydrostatic pressure test to burst. These testing requirements surpass the regular cycle and burst testing DOT-SP 14562 cylinders normally endure. Under DOT-SP 14562, Paragraph 7.a.10, one cylinder from each lot of 200 must be subjected to burst testing, and one cylinder taken at random from each 1,000 must be subjected to cycle testing. Each cylinder was also subjected to a pneumatic pressure test at the prescribed test pressure (1.5 x service pressure), followed by a pneumatic leak pressure test conducted at service pressure in a water bath.

Of the 1,952 cylinders PHMSA concluded that approximately 804 were not manufactured in accordance with the hardness "puck test" requirements of DOT-SP 14562. Of the 1,148 remaining cylinders that Lite Cylinder certified as meeting the special permit requirements, 53 leaked during the pneumatic leak pressure testing, demonstrating a failure rate of approximately 4.6%, contrary to DOT-SP 14562 Paragraphs 7.a and 7.a.10.i and QCIP-050-00 of the Quality Systems Manual on file with PHMSA. These cylinders were previously tested during the

manufacturing process, and Lite Cylinder certified them as meeting all requirements of the special permit. Therefore, the entire sample should have been leak-free. As such, TLCCI has certified DOT-SP 14562 cylinders for use that are not capable of passing required testing, thereby subjecting the public to significant safety risks. These cylinders are commonly used to contain flammable gas and pose a risk of fire due to leaking DOT-SP 14562 cylinders containing flammable gas.

PHMSA Finds TLCCI Unfit

These cylinder incidents and failures exhibit the existence of an unsafe condition or practice relating to hazardous materials that presents a substantial likelihood of serious harm to users. Further, these cylinder incidents and failures demonstrate TLCCI's inability to manufacture cylinders that offer an adequate level of safety. Due to TLCCI's failure to comply with the terms of DOT-SP 14562, the requirements of Notice of Suspension of DOT-SP 13957, failure to detect and condemn leaking cylinders during its manufacturing process, and evidence that TLCCI has certified, marked, and offered leaking cylinders for transportation in commerce, PHMSA concludes that TLCCI is unfit to conduct the activity authorized by special permits DOT-SP 14562 (and DOT-SP 13957 as authorized therein), and DOT-SP 13105 and manufacturing approval M5729. Finally, because requalification activities are included in these special permits and requalification tests are an integral part of the manufacturing process, we are also terminating TLCCI's RIN approval (H706). Therefore, pursuant to 49 CFR §§ 107.121(b)(4) and 107.713(b)(4), PHMSA is terminating DOT-SP 14562, DOT-SP 13957 as authorized by DOT-SP 14562, and DOT-SP 13105 for all cylinders manufactured, marked and used thereunder, as well as M5729, and RIN H706.

TLCCI had requested permission to sell and ship the DOT-SP 14562 cylinders that it had in its possession at the time of the October 10, 2012 suspension. As discussed above, PHMSA and TLCCI put the 1,952 DOT-SP 14562 cylinders through an extensive test protocol. Due to the results of that testing and the other safety concerns as outlined above, PHMSA believes it is not in the public interest to grant this request, therefore it is denied. This action does not resolve proceedings which may be initiated by PHMSA's Office of Hazardous Materials Field Operations or PHMSA's Office of the Chief Counsel for violations of the Hazardous Materials Regulations, 49 CFR Parts 171-180.

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You may request reconsideration of this decision within 20 days of receipt of this letter. In accordance with 49 CFR §§ 107.123 and 107.715, a request for reconsideration must:

- 1) Be in writing;
- 2) State in detail any alleged errors of fact and law;
- 3) Enclose any additional information needed to support the request; and
- 4) State in detail the modification of the final decision sought.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Magdy El-Sibaie', with a stylized flourish at the end.

Dr. Magdy El-Sibaie
Associate Administrator for
Hazardous Materials Safety