



U.S. Department  
of Transportation

**Research and  
Special Programs  
Administration**

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

Ref. No. 98-0209

SEP 29 1998

Mr. William Oister  
Elf Atochem North America, Inc.  
2000 Market Street  
Philadelphia, PA 19103-3222

Dear Mr. Oister:

This is in response to your letter requesting clarification of 49 CFR 177.834(h). Specifically, you ask whether an IM portable tank on a chassis which is not connected to a power unit is subject to the Hazardous Materials Regulations (HMR; 49 CFR, Parts 171-180).

As discussed in the preamble of the notice of proposed rulemaking (NPRM) under Docket RSPA-97-2905 (HM-166Y) (copy enclosed), it is this Office's position that highway transportation ceases when the IM portable tank has been removed from the trailer and placed on the consignee's premises, or the motive power has been removed from the trailer and disconnected from the premises. Accordingly, under these conditions, the IM portable tank would not be subject to the HMR.

Please contact us if we may be of further assistance.

Sincerely,

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

**elf atochem**

**ATO**

Elf Atochem North America, Inc.  
2000 Market Street  
Philadelphia, PA 19103-3222  
Tel.: 215.419.7000

mcintyre  
§ 177.834

July 15, 1998

U.S. Department of Transportation  
RSPA  
400 Seventh St., S.W.  
Washington, D.C. 20590-0001  
Attention: Mr. E. Mazzullo, Director  
Office of Hazardous Material Standards [DHM-10]

Re: HM-166Y; §177.834

Dear Mr. Mazzullo:

This letter requests a written confirmation of information that DOT has provided during recent telephone conversations.

In a final rule [HM-166Y] issued 7/10/98, DOT added an exception for IM portable tanks from the prohibition [§177.834(h)] of discharging the contents on a container before the container is removed from a motor vehicle. The rule also added conditions [§177.834(o)] that applied to unloading the IM portable tanks while they remained on the transport vehicle. These conditions include that the 'tank meets the outlet requirements in Sec. §178.345-11'.

With this as background and with our understanding that the majority of IM portable tanks in use today do not meet the requirements of §178.345-11, on 7/10/98 I called the DOT 'Hot Line' and spoke with 'Mark'. The scenario was proposed that an IM portable tank mounted on a chassis is brought into one of our plants; the tank/chassis is then disconnected from the tractor. We questioned whether, within the context of §177.834(h), disconnecting the tank/chassis from the power unit constitutes removing the tank from the motor vehicle, and therefore, could the tank be unloaded while it was on the chassis, but not attached to the power unit.

The answer we received was that if the power unit was not attached, the IM portable tank [on the chassis] is not in transportation. The message that we take from this is that if the power unit is not attached, the tank on the chassis would not be subject to any of DOT's hazardous material regulations.

We are requesting confirmation that an IM portable tank on a chassis, but not connected to a power unit, is not subject to DOT's hazardous material regulations, and specifically that the following Sections of the regulations do not apply:

- ◆ §177.834(h) prohibition from discharging the contents of a container before the container is removed from the motor vehicle.
- ◆ §177.834(o) requirements for unloading IM portable tanks
- ◆ §177.834(i) attendance requirements.
- ◆ §171.15/.16 release reporting requirements.

Thank you for your prompt response.

Sincerely,



William Oister  
Transportation Manager,  
Regulatory Compliance  
Elf Atochem North America, Inc.

Phone: 215-419-7253  
Fax: 215-419-5220  
E-mail: woister@ato.com

**elf atochem**



Elf Atochem North America, Inc.  
2000 Market Street  
Philadelphia, PA 19103-3222

**CERTIFIED**

Z 146 714 834

**MAIL**

~~HEC~~  
DH-10  
8104

US Department of Transportation  
Mr. E. Mazzullo - Director  
RSPA  
400 Seventh St., S.W.  
Washington, DC 20590-0001

PHILA PA 19103



20590-0001

