



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

APR 08 2014

Mr. Chris Vleugels
Design Approval Department
Apragaz V.Z.W. Uw Controle Organisme
Vilvoordsesteenweg 156
B-1120 Brussels
BELGIUM

Reference No. 13-0151

Dear Mr. Vleugels:

This is in response to your October 26, 2012 letter forwarded to the Pipeline and Hazardous Materials Safety Administration (PHMSA) on July 19, 2013, by Mr. Richard Hagemeyer, Agmark Corporation, and subsequent e-mails, additional documentation, and telephone calls between you, Mr. Hagemeyer, and members of my staff in which you requested clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to foreign-made United Nations (UN) standard portable tanks, herein referred to as UN portable tanks. We have no record of receiving your original October 2012 letter, and apologize for the delay in responding and any inconvenience this may have caused.

In addition to the correspondence noted above, you and Mr. Hagemeyer also provided the following information. The foreign-made UN portable tanks:

- Meet the European Standard (EN) 14025 metallic pressure tank design specification, the American Society of Mechanical Engineers (ASME) VIII, Division 1 design specification, or both;
- Meet the T1 and T22 codes under § 172.102(c)(7) of the HMR, and have a minimum wall thickness according to the pressure vessel code that is 5 or 6 mm of reference steel or equivalent in conformance with § 178.274(d);
- Are designed to transport hazardous materials meeting the following hazard classes: 3 (flammable liquid), 4 (flammable solid), 5 (oxidizer or organic peroxide), 6 (poisonous), 8 (corrosive), or 9 (miscellaneous); and
- Are manufactured by companies that have not been inspected by a representative of the United States government.

Specifically, you ask if these portable tanks may be loaded and unloaded with a hazardous material authorized for that container before and after transportation into, from, or within the United States.

The answer is yes. Under § 173.24(d)(2) of the HMR, a UN standard packaging, including a UN portable tank, manufactured outside of the United States in conformance with national or international regulations based on the UN Recommendations on the Transportation of Dangerous Goods (Recommendations) is an authorized packaging, as this term is defined under § 173.24(c)(1), when: 1) the packaging fully conforms to applicable provisions in the UN Recommendations and the requirements of 49 CFR Part 173, Subpart B, including reuse provisions; 2) the packaging is capable of passing the prescribed tests in 49 CFR Part 178 applicable to that standard; and 3) the competent authority of the country of manufacture provides reciprocal treatment for UN standard packagings manufactured in the United States.

In addition, when transported to, from, or within the United States, § 171.25(c) requires UN portable tanks used to transport gases to comply with the HMR. Further, UN, and other types of portable tanks transported to, from, or within the United States must comply with the following requirements prescribed in § 171.25(c)(1)-(c)(4):

- (1) UN portable tanks must conform to the requirements in Special Provisions TP37, TP38, TP44, and TP45 when applicable, and any pertinent bulk special provisions assigned to the hazardous material in the § 172.101 Hazardous Materials Table;
- (2) International Maritime Organization (IMO) Type 5 portable tanks must conform to Department of Transportation (DOT) Specification 51 or UN portable tank requirements, unless specifically authorized in the HMR or approved by the Associate Administrator;
- (3) Except as specified in 49 CFR Part 171, Subpart C, for a material poisonous (toxic) by inhalation, the T Codes specified in Column 13 of the Dangerous Goods List in the International Maritime Dangerous Goods Code may be applied to the transportation of those materials in intermodal (IM), IMO and DOT Specification 51 portable tanks, when these portable tanks are authorized in accordance with the requirements of the HMR; and
- (4) No person may offer an IM or UN portable tank containing liquid hazardous materials of Class 3, Packing Group (PG) I or II, or III with a flash point less than 100 °F (38 °C); Division 5.1, PG I or II; or Division 6.1, PG I or II, for unloading while the portable tank remains on a transport vehicle with the motive power unit attached unless that person ensures the conditions prescribed in § 177.834(o) are met.

Please note that under 49 CFR Part 107, the HMR does not require foreign facilities that manufacture UN portable tanks to be inspected by a designated approval agency or approved by PHMSA's Associate Administrator for Hazardous Materials Safety.

Further, please be advised that PHMSA issued a notice of proposed rulemaking (NPRM) on December 30, 2013, under Docket No. PHMSA-2010-0019 (HM-241; 78 FR 79363; that can be downloaded from this website location: <http://www.gpo.gov/fdsys/pkg/FR-2013-12-30/pdf/2013-31046.pdf>). One of the changes we proposed in this NPRM is to authorize use of

the 2013 edition of the National Board of Boiler and Pressure Vessel Inspectors' National Board Inspection Code as it applies to existing cargo tank motor vehicles and portable tanks constructed to the ASME's Section VIII, Division 1 standard.

I hope this response satisfies your request.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Glenn Foster". The signature is written in a cursive style with a long horizontal flourish extending to the right.

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

Enclosure



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V.Z.W.

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Edmonsop
§ 173.24(d)
§ 171.7 Portable Tanks 13-0151

U.S. DOT
PHMSA Office of Hazardous Materials Standard
Attn: PHH-10
East Building
1200 New Jersey Avenue, SE.
Washington, DC 20590-0001
USA

Brussels, October 26, 2012

Dear Sir,

This letter is to request interpretation of the CFR concerning the approval of UN Portable tanks.

Given 49CFR173.24(d):

(d) *Specification packagings and UN standard packagings manufactured outside the U.S.*

(2) UN standard packagings manufactured outside the United States. A UN standard packaging manufactured outside the United States, in accordance with national or international regulations based on the UN Recommendations (IBR, see § 171.7 of this subchapter), may be imported and used and is considered to be an authorized packaging under the provisions of paragraph (c)(1) of this section, subject to the following conditions and limitations:

- (i) The packaging fully conforms to applicable provisions in the UN Recommendations and the requirements of this subpart, including reuse provisions;
- (ii) The packaging is capable of passing the prescribed tests in part 178 of this subchapter applicable to that standard; and
- (iii) The competent authority of the country of manufacture provides reciprocal treatment for UN standard packagings manufactured in the U.S.

We ask your confirmation of our interpretation:

That a UN portable tank built and tested according to the IMDG and ADR/RID-regulations outside the United States and certified according to the IMDG and ADR/RID-regulations by a foreign Approval Agency, designated by his national competent authority may be imported and used and is considered to be an authorized packaging. Please note that the Approval Agency is NOT designated by the PHMSA.

Your response will be appreciated

Best Regards,

Chris Vleugels
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