



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

DEC 03 2013

Ms. Jennifer Gibson
Vice President, Regulatory Affairs
National Association of Chemical Distributors
1555 Wilson Boulevard, Suite 700
Arlington, VA 22209

Ref. No. 13-0167

Dear Ms. Gibson:

This responds to your August 13, 2013 letter asking if an IBC with its specification markings obscured, permanently attached to a motor vehicle, meets the definition of a non-specification cargo tank specified in § 171.8 and, therefore, may be discharged while still on the motor vehicle under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

The answer is no. A cargo tank is defined in § 171.8 as “a bulk packaging that: (1) Is a tank intended primarily for the carriage of liquids or gases and includes appurtenances, reinforcements, fittings, and closures; (2) Is permanently attached to or forms a part of a motor vehicle, or is not permanently attached to a motor vehicle but which, by reason of its size, construction or attachment to a motor vehicle is loaded or unloaded without being removed from the motor vehicle; and (3) Is not fabricated under a specification for cylinders, intermediate bulk containers, multi-unit tank car tanks, portable tanks, or tank cars.”

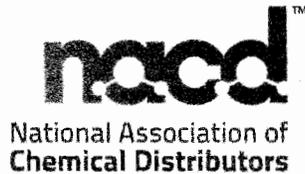
While a specification IBC with its markings permanently obscured, attached to a motor vehicle, would be considered a non-specification bulk packaging, it would not meet the definition of a cargo tank, as that IBC was originally fabricated under the specification for IBCs and must be removed from the motor vehicle prior to discharging under the requirements of the HMR, or such activity would require a Special permit. PHMSA may consider clarifying the HMR in this respect in a future rulemaking.

I hope this information is helpful. If you have further questions, please contact this office.

Sincerely,

Charles E. Betts
Director, Standards and Rulemaking Division

O'Donnell
§ 173.241
Exceptions
13-0167



Advancing Stewardship, Creating Connections™

August 12, 2013

Mr. Charles Betts
Director, Standards and Rulemaking Division
Pipeline and Hazardous Materials Safety Administration
Attn: PHH-10
U.S. Department of Transportation
East Building
1200 New Jersey Avenue, S.E.
Washington, DC 20590-001
via e-mail: Charles.betts@dot.gov

Dear Charles,

On behalf of the members of the National Association of Chemical Distributors (NACD), I am requesting a formal interpretation letter regarding the need for a DOT Special Permit, specifically SP-12412, when unloading a Class 8, Packing Group III hazardous material from an intermediate bulk container (IBC) that is attached to a vehicle.

The PHMSA Southern Region office has indicated to us that SP-12412 is not needed for the unloading of Class 8, Packing Group III hazardous materials from IBCs because of an exception in the regulations in 49 CFR 173.241 for bulk packaging that allows the use of non-specification cargo tanks and the fact that IBCs attached to trucks can be considered as non-specification tanks. The PHMSA office further indicated that this exception only applies to non-specification IBCs and that if a shipper obtains a specification IBC, the UN# must be covered up in order for the delivery to be made without SP-12412. The explanation from the investigator in PHMSA's Southern Region office is attached to this letter as Appendix A.

NACD requests a formal interpretation of this information from PHMSA headquarters to ensure consistent reading and enforcement of these regulatory provisions across all PHMSA regions.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer C. Gibson". The signature is fluid and cursive, with the first name being the most prominent.

Jennifer C. Gibson
Vice President, Regulatory Affairs
jgibson@nacd.com
(571)482-3047 – direct
(703)527-6223 – NACD

cc: John Heneghan, Director, PHMSA Southern Region