



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave., SE
Washington, DC 20590

JAN 9 2009

Mr. Randolph Martin
DuPont Lancaster Pike
BMP 22/222
Wilmington, DE 19805

Ref. No.: 08-0272

Dear Mr. Martin:

This responds to your letter dated October 29, 2008, regarding requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the use of portable tanks. Specifically, you ask for clarification of the provisions in § 171.14(d)(4) and § 173.32(c)(2) that allow for IM, IMO, and DOT 51 portable tanks to be used after January 1, 2010. You indicate that confusion regarding the wording used in § 171.14(d)(4) and two seemingly contradictory letters of interpretation (Ref. Numbers: 05-0072 and 08-0208) have prompted your inquiry.

You make a valid point that § 171.14(d)(4) and a previous letter of interpretation, Ref. No. 05-0072, can be understood to imply that Specification DOT 51 portable tanks and IMO portable tanks are subject to the "T" code special provisions. We regret the confusion.

As previously stated in a letter of interpretation, Ref. No. 08-0208, the changes made to § 171.14(d)(4) allow, until January 1, 2010, IM portable tanks to use the "T" Code special provisions listed in Column 7 of the Hazardous Materials Table (HMT; § 172.101) that were in effect on September 30, 2001. IM portable tanks may continue to be used after January 1, 2010 for the transportation of a hazardous material provided they meet the requirements of the HMR, including the specification requirements for the transportation of the particular hazardous material according to the "T" codes in effect at the time of use and provided the portable tanks conform to the periodic inspection and tests specified for the particular portable tank in subpart G of part 180 of the HMR.

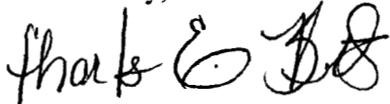
The revisions do not prohibit the use of DOT 51 or IMO portable tanks. Further, in accordance with § 172.102(c)(7)(i), DOT 51 and IMO portable tanks are generally not subject to the "T" Code special provisions. However, as stated in § 173.32(b)(2), where a Specification IM101 or IM102 portable tank is prescribed, a UN portable tank or Specification 51 portable tank conforming to the special commodity requirements of § 172.102(c)(7) for the material to be transported may be used. Therefore, properly requalified and maintained DOT 51 or IMO portable tanks that meet the design

requirements in effect at the time of manufacture and applicable special provisions (e.g., Special Provision B30 for minimum thickness) may continue to be used after January 1, 2010 to transport authorized hazardous materials (See Column 8 of the HMT for information on authorized packagings).

A copy of PHMSA letter of clarification Ref. No. 08-0208 is enclosed.

I hope this satisfies your inquiry. If we can be of further assistance, please contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles E. Betts". The signature is written in a cursive style with a large initial "C" and "B".

Charles E. Betts
Chief, Standards Development
Office of Hazardous Materials Standards

Engram
§ 171.14(d)(4)
Applicability
08-0272

Drakeford, Carolyn <PHMSA>

From: Gorsky, Susan <PHMSA>
Sent: Wednesday, October 29, 2008 7:59 AM
To: Drakeford, Carolyn <PHMSA>
Subject: FW: HM-215D

From: Randolph Martin [mailto:Randolph.Martin@USA.dupont.com]
Sent: Tuesday, October 28, 2008 4:25 PM
To: Gorsky, Susan <PHMSA>
Subject: HM-215D

Susan - there have been several seemingly contradictory interpretations issued dealing with the continued use of IM, IMO and DOT 51 portable tanks after January 1, 2010. There is no question that these tanks can continue to be used, but we are unsure as to which specifications (special provisions) they must comply with.

PHMSA Interpretation 05-0072 clearly states that after 1/1/2010 these tanks will be subject to the T Codes in effect on that date (1/1/2010). Yet PHMSA Interpretation #08-0208 states that DOT 51 tanks are not even subject to "T" Code special provisions, even though 171.14(d)(4) clearly states that they are.

Our understanding after reading HM-215D was that the continued use of IM, IMO and DOT 51 tanks after 1/1/2010 was allowed as long as the tanks met the applicable (new) T codes that became effective 10/1/2001. In effect, on 1/1/2010 all portable tanks would have to meet the applicable (new) T Codes in Column 7 of the 172.101 table.

So I have 2 simple questions:

- 1) Can in fact IM, IMO and DOT 51 portable tanks continue to be used past 1/1/2010?
- 2) If yes, what are the applicable T codes or special provisions or specifications they must comply with?

Thanks in advance for a quick response. Call me on 302-992-3443 to discuss further.

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10/29/2008