



U.S. Department of Transportation

1200 New Jersey Ave, S.E.
Washington, D.C. 20590

**Pipeline and Hazardous Materials
Safety Administration**

MAY 20 2009

Mr. Robert E. Fronczak
Assistant Vice President
Environment and Hazardous Materials
Association of American Railroads
50 F Street NW
Washington, DC 20001-1564

Ref. No.: 09-0125

Dear Mr. Fronczak:

This responds to your April 27, 2009 email concerning the Association of American Railroad's AAR-600 program. You note that the Tank Car Committee of the Association of American Railroads (AAR) has recommended discontinuance of the program and request that the Pipeline and Hazardous Materials Safety Administration (PHMSA) amend the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to delete current requirements that reference AAR 600.

Currently, a bulk packaging, including a portable tank, transported in container-on-flatcar (COFC) or trailer-on-flatcar (TOFC) service must conform to the conditions specified in § 174.63 of the HMR. These regulations require approval by the Associate Administrator for Safety, Federal Railroad Administration, unless, among other things, the tank conforms to requirements in AAR-600 of the AAR Specifications for Tank Cars, "Specifications for Acceptability of Tank Containers." In accordance with AAR-600, approval and registration of compliant portable tanks is required, based on a determination that the tank meets all applicable standards and payment of a registration fee.

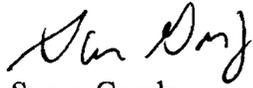
As your email notes, since incorporation of the AAR-600 standard into the HMR, PHMSA has adopted standards for portable tanks that meet or exceed the AAR-600 requirements. Moreover, most of the portable tanks listed in the AAR-600 standard are prohibited from new construction, although they may remain in service provided that they continue to meet the applicable standard. For these reasons, we agree that the § 174.63(c) reference to AAR-600 is outdated and should instead specify that portable tanks transported in COFC or TOFC service must conform to all HMR requirements applicable to portable tanks. We intend to propose a revision to § 174.63(c) as soon as practicable.

In the interim, until a revision can be effected through rulemaking, DOT will continue to require packagings outlined in §174.63 to meet the requirements of AAR-600. However, DOT will take no exception to AAR removing the registration requirement through

publication of a circular as it has no substantial impact on the safe transportation of these shipments.

I hope this information is helpful. Please feel free to contact me if you have questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Gorsky".

Susan Gorsky
Regulations Officer

Gorsky
§174.63
Rail

Gorsky, Susan <PHMSA>

09-0125

From: Fronczak, Robert [rfronczak@aar.org]
Sent: Monday, April 27, 2009 4:29 PM
To: Gorsky, Susan <PHMSA>
Cc: Forister, Matthew; Rush, Mike; rfronczak@aar.org
Subject: AAR 600 Program and Recommended Deletion of 49 CFR §174.63 (c) (2)

Dear Ms. Gorsky:

As recently discussed over the phone, AAR's Tank Car Committee with the support of AAR's Haz Mat (BOE) Committee recently recommended the discontinuance of the AAR 600 program. The reasons for this recommendation are:

1. The AAR Tank Car Committee and AAR Hazardous Materials (BOE) Committee both agree that the current 49 CFR regulations exceed the AAR 600 requirements,
2. All of the specifications for original construction listed in the AAR 600 Standard were not allowed to be built after January 1, 2003 except DOT Specification 60 and international standard 1496-3 which are both already covered in 49 CFR. DOT Specification 60 can be found under 49 CFR §178.255 and 1496-3 can be found under the specifications for UN portable tanks 49 CFR §178.274. Again the DOT standard meets or exceeds AAR 600.
3. After January 1, 2010 the AAR 600 Standard will no longer be needed since all tanks will have to meet requirements meeting or exceeding AAR 600 requirements in accordance with 49 CFR §171.14. AAR 600 does not cover UN portable tank requirements.

AAR has not published a circular letter announcing the discontinuance of the AAR 600 program because there is still a requirement in the federal regulations which requires shippers to conform to the program (i.e. 49 CFR §174.63 (c) (2)). In the mean time, AAR continues to charge customers for registration of portable tanks according to AAR 600 standard, which we would like to stop as soon as practicable. AAR would like to discontinue the registration process immediately.

As a result AAR recommends the immediate deletion of 49 CFR §174.63 (c) (2) from the federal regulations and in the mean time a letter announcing DOT's intention to do so. That would allow AAR to stop processing AAR 600 registrations and announce to the affected industry the discontinuance of the AAR 600 program.

Sincerely,

Robert E. Fronczak

Supporting regulations references:

Part 171 General Information, Regulations, and Definitions

49 CFR §171.14 Transitional provisions for implementing certain requirements (d)(4) Until January 1, 2010 a hazardous material may be transported in an IM, IMO, DOT specification 51 portable tank in accordance with the T Codes (Special Provisions) assigned to a hazardous material in Column (7) of the §172.101 Table in effect on September 30, 2001.

Part 173 Shippers – General Requirements for Shipments and Packagings, Subpart B—Preparation of Hazardous Materials for Transportation

§173.32 Requirements for the use of portable tanks (c)(2) Grandfather provisions for portable tanks: A DOT Specification 51, IM 101, or IM102 portable tank may not be manufactured after January 1, 2003; however, such tanks may continue to be used for the transportation of a hazardous material provided they meet the requirements of this subchapter, including the specification requirements and the requirements of this subchapter for the transportation of the particular hazard material according to the T codes in effect on September 30, 2001 or the new T codes in 172.102(c)(7)(i) (see §171.14(d)(4) for transitional provisions applicable to T codes), and provided the portable tank conforms to the periodic inspection and tests specified for the particular portable tank in subpart G of part 180 of this subchapter. After January 1, 2003, all newly manufactured portable tanks must conform to the requirements for the design, construction and approval of UN portable tanks as specified in §§178.273, 178.274, 178.275, 178.276, 178.277 and part 180, subpart g, of this subchapter.

§49 CFR §174.63 (c) (2) The tank and flatcar conform to requirements in AAR 600 of the AAR Specifications for Tank Cars, "Specifications for Acceptability of Tank Containers" (IBR, see §171.7 of this subchapter);