U.S. Department of Transportation

Pipeline and Hazardous Material Safety Administration

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

Chief Counsel

MAY 17 2013

Mr. Rudolph S. Caparros
President
TGO Technologies, Inc.
3471-B Regional Parkway
Santa Rosa, CA 95403-8247

Ref. No.: 12-0228

Dear Mr. Caparros:

This letter is in regards to the ChlorTanker Total Containment System product and in response to your letter dated October 8, 2012, to Dr. Magdy El-Sibaie, Associate Administrator for Hazardous Materials Safety.

The Pipeline and Hazardous Materials Safety Administration (PHMSA) works to protect the American public and the environment by ensuring the safe and secure movement of hazardous materials to industry and consumers by all transportation modes.

Contrary to what you state in your letter, the ChlorTanker Total Containment System (a secondary containment device) installed and used on DOT specification tank cars is in fact subject to the Hazardous Materials Regulations (HMR: 49 C.F.R. Parts 171-180). Your product must be first approved as required in the regulations before it can be used as intended for transport of hazardous materials in railroad tank cars.

As we have stated previously, PHMSA and The Federal Railroad Administration have reviewed the ChlorTanker device and concluded that your product design is not approved for use under the HMR. As we informed you in our letter dated September 27, 2012, as specified in 49 C.F.R. § 179.3, application for approval of designs, materials and construction, conversion or alteration of tank car tanks under these specifications, complete with detailed prints, must be submitted in prescribed form to the Executive Director—Tank Car Safety, AAR, for consideration by its Tank Car Committee or as authorized under the terms and conditions of a special permit granted under 49 C.F.R. § 107.105.

To be clear, PHMSA never approved the ChlorTanker Total Containment System product. The representations on your website that The ChlorTanker design is "fully compliant with the federally mandated hazardous materials regulations established by the U.S. DOT" are misleading.

We request that TGO Industries immediately remove all references to this product being U.S. DOT compliant to prevent the incorrect perception that the device is approved by PHMSA or DOT.

Please take appropriate action within 14 days of receiving this letter and notify PHMSA of your compliance in writing.

We appreciate your timely attention to this matter.

Respectfully,

Vanessa Allen Sutherland
Chief Counsel

ChlorTanker™

Total Containment System

TGO Technologies, Inc.
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October 8, 2012

Sent by Federal Express

Stevens
§179.100-12(c)
Tank Cars
12-0228

Dr. Magdy El-Sibaie
Associate Administrator for
Hazardous Materials Safety
U.S. Department of Transportation
Pipeline and Hazardous Materials
Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Response to September 27, 2012, Letter

Dear Dr. Magdy El-Sibaie:

Code 49 CFR 179.3 is not applicable to ChlorTanker. The ChlorTanker secondary containment top fitting protective housing does not cause conversion or alteration of tank car tanks. It is merely placed on top of an existing manway cover assembly and provides a space into which the accidental venting of chlorine would be contained. The bolts fastening the ChlorTanker to the tank car manway have been shown through engineering analysis and calculation to meet the requirements of 49 CFR 179.100-12(c) (see attachment). ChlorTanker meets the AAR Standards and Regulations promulgated by 49 CFR-179. It is constructed, fabricated and code-stamped in accordance with ASME Code Section VIII. Div. 1, Standards and Guidance.

I have included for your benefit and review a study conducted by The Chlorine Institute over a five-month period comparing The Chlorine Institute "C"-Kit with ChlorTanker. This study shows ChlorTanker to be the safest technology available for preventing and containing releases from chlorine tank cars.

Included within The Chlorine Institute study is a first responders petition to replace the "C"-Kit with secondary containment. More than two hundred hazmat experts, firefighters and first responders describe in great detail the many dangers and extreme hazards caused by the use of The Chlorine Institute "C" capping kit. In summary, the safety concerns associated with the use of the "C"-Kit are as follows:

- Use of The Chlorine Institute "C"-Kit may cause the catastrophic failure of a chlorine tank car, creating a toxic plume with a distance of not less than seven miles. The first mile will have chlorine concentrations of 1,000 ppm, causing death after one or two breaths with no opportunity for escape or evacuation.

- The Chlorine Institute instruction manual fails to warn first responders that it is imperative to check the pressure of the car prior to applying the "C"-Kit device to the pressure relief valve.

- The "C"-Kit is not equipped with a pressure testing device and fails to explain the extreme dangers inherent to capping off and disabling a pressure relief valve.

- The"C" Capping Kit requires proper training of tens of thousands of first responders. The "ChlorTanker" Secondary containment system requires no hazmat first response or training and eliminates the extreme dangers inherent to capping off and disabling a pressure relief valve.

The potential extreme hazards caused by use of The Chlorine Institute "C"-Kit to public health and safety warrants your referring this letter, The Chlorine Institute study and these serious matters to your administrator for review.

Regards,

Rudolph S. Caparros
President, TGO Technologies, Inc.