



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

FEB 06 2013

Mr. Aubrey R. Campbell
Senior Dangerous Goods Safety Advisor
Baker Hughes
2001 Rankin Road
Houston, TX 77073

Reference No.: 13-0006

Dear Mr. Campbell:

This is in response to your December 10, 2012 email, and your December 7, 2012 telephone conversation with a representative in the Hazardous Material Information Center concerning transport of several package types in service beyond the requalification date under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Your questions are paraphrased and answered below:

Q1) Under the HMR, is it possible to transport empty cylinders, intermediate bulk containers (IBC's) and portable tanks by highway to the test facility for retesting when the requalification date has passed, or is it necessary to apply for a special permit?

A1) A special permit is not necessary. Under the HMR, a cylinder, IBC, or portable tank filled before its requalification becomes due may remain in service until it is emptied, and may be transported in commerce by highway, rail, aircraft, or vessel all applicable HMR requirements are met (see §§ 173.301(a)(6) for cylinders; 173.35(a) for IBC's; and 173.32(a)(2) for portable tanks). The intent of the aforementioned sections is to permit packagings, filled prior to the retest date, to be transported to their ultimate destination for emptying and to permit their return to the shipper or a test facility for retesting. A cylinder, IBC, or portable tank past its test date may not be filled or topped off with a hazardous material and transported in commerce. After emptying, a cylinder, IBC, or portable tank due for retest may not be refilled and offered for transportation unless it has been inspected and retested in accordance with Part 180, Subparts C, D and G of the HMR. However, a cylinder, IBC, or portable tank with a specified service life may not be refilled and offered for transportation after its authorized service life has expired (see §§ 173.301(a)(7) and 180.205(c)).

Further, the requirements for shipping empty packagings previously containing a hazardous material are provided in §173.29.

Q2) Is it PHMSA's intention to align with the paragraph 6.7.2.19.6 of IMDG code? This provision allows for (1) a portable tank filled prior to the date of expiry of the last periodic

inspection and test to be transported for a period not to exceed three months (2) a portable tank to be transported when empty for purposes of performing the next required test or inspection and (3) a portable tank to be transported for a period not to exceed six months, unless otherwise approved by the competent authority, beyond the date of expiry of the last periodic test or inspection to allow for the return of dangerous goods for proper disposal or recycling.

A2) See A1. The HMR allows for a portable tank, cylinder, and IBC filled prior to the requalification date to remain in service until empty, and subsequent transport, therefore the provisions of the HMR are already compatible with the IMDG code. The IMDG code also has similar provisions for pressure receptacles (cylinders) (see IMDG code 4.1.3.6.6) and IBC's (see IMDG code 4.1.2.2.2)

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Delmer Billings". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline.

Delmer Billings
Senior Regulatory Advisor
Standards and Rulemaking Division

Wiener
§ 180.205
§ 180.352
§ 180.605
Cylinders
13-0006



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Houston, TX 77073
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December 10, 2012

Office of Hazardous Materials Standards
Pipeline and Hazardous Materials Safety Administration,
Attn: PHH-10
U.S. Department of Transportation
East Building, 1200 New Jersey Avenue, SE
Washington, DC 20590-0001

Re: Letter of Interpretation

Dear Office of Hazardous Materials Standards:

Baker Hughes, Inc. (BHI) requests a letter of interpretation regarding the provisions in Title 49 Code of Federal Regulation (CFR) Part 180.205, 180.352, and 180.605 applicable to the periodic requalification, tests, and inspection of cylinders, Intermediate Bulk Containers (IBC's) and UN or DOT 51 portable tanks.

On occasion, some of our cylinders, IBC's, and portable tanks remain at oil and natural gas well sites beyond their periodic re-test and inspection expiry date. When this occurs, we are at a loss for how to get these packagings back to our testing facilities without violating 49 CFR. The International Maritime Dangerous Goods Code provides some relief in Chapter 6.7.2.19.6 (see attached) for portable tanks, where it states, "...a portable tank may be transported after the date of expiry of the last periodic test and inspection:

1. After emptying but before cleaning, for the purposes of performing the next required test or inspection prior to refilling; and
2. Unless otherwise approved by the competent authority, for a period not to exceed six months beyond the date of expiry of the last periodic test or inspection, in order to allow the return of dangerous for proper disposal or recycling. Reference to this exemption shall be mentioned in the transport document."

However, the IMDG does not provide a similar exception for cylinders and IBC's. To my knowledge, 49 CFR does not provide any relief from the test and inspection requirements in Parts 180.205(c), 180.352(a), and 180.605(a).

On December 7, 2012, I called the DOT Hotline and talked with a representative. He directed me to a DOT letter, Ref # 07-0069 (see attached.) He informed me that the letter indicates that DOT/PHMSA's position aligned with IMDG Section 6.7.2.19.6 regarding portable tanks. We are seeking a solution to our current dilemma of re-qualifying certain out of test and inspection cylinders, IBC's, and portable tanks that have sat on remote oil and gas well sites. For clarity, I have three questions:



1. Do we have to apply for a special permit to move these "empty" containers by road transport because of the expired test and inspection dates?
2. Is there any relief in 49 CFR allowing transport of these packages to a retesting facility up to six months beyond test and inspection expiry dates?
3. Is it PHMSA's intention to align with the requirements of IMDG Paragraph 6.7.2.19.6?

Finally, we point out that BHI routinely test and inspect these packages according to our periodic scheduled maintenance program. Nevertheless, these exceptional cases do occur but not frequently. Our goal is to remain completely compliant with DOT/PHMSA regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "A. R. Campbell".

Aubrey R. Campbell
Senior Dangerous Goods Safety Advisor
Global Products and Services, Baker Hughes