



U.S. Department  
of Transportation

Pipeline and Hazardous  
Materials Safety  
Administration

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

JUN 01 2016

Trooper Kelly F. McClatchy  
Texas Department of Public Safety  
Commercial Vehicle Enforcement  
2405 S Loop 250 W  
Midland, TX 79703

Reference No. 16-0004

Dear Trooper McClatchy:

This letter is in response to your January 7, 2016 email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to special permits for intermediate bulk containers (IBCs) and portable tanks with a reduced capacity. In your letter, you explain that "Treater Trucks" are commonly operated by the oil industry under special permits, such as DOT SP-13027, DOT-SP 11947, and DOT-SP 8627 that allow 60 gallon non-specification containers to be manifolded and used as portable tanks or IBCs. You enclosed photographs as examples. Your questions, which pertain specifically to the marking and placarding requirements for these packagings, have been paraphrased and answered as follows:

- Q1. Can a special permit change the definition of a packaging with a non-bulk capacity into a bulk package?
- A1. The answer is yes. Special permits may authorize relief from any requirement in the HMR, provided the applicant demonstrates an equivalent level of safety to that intended by the regulation. A bulk packaging as defined in § 171.8 has "a maximum capacity greater than 450 L (119 gallons) as a receptacle for a liquid" or a maximum net mass greater than 400 kg (882 pounds) and a maximum capacity greater than 450 L (119 gallons) as a receptacle for a solid."

Section 171.8 includes "a bulk packaging" as part of the definition of a "portable tank." Therefore, portable tanks cannot be manufactured with a capacity of less than 119 gallons when intended to contain liquids without a special permit. DOT-SP 8627 authorizes the transportation of certain materials in "multiple non-DOT specification portable tanks or IBCs manifolded together within a frame."

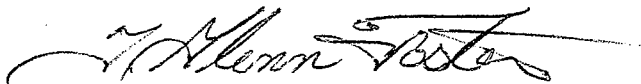
The design standards for composite IBCs, such as UN31A in § 178.707(d) specify the volumetric capacity may not be less than 450 L (119 gallons). DOT-SP 13027 and DOT-SP 11947 authorize "the manufacture, marking, sale, and use of multiple non-UN standard containers conforming to all regulations applicable to a UN31A intermediate bulk container" except for conditions specified within the special permit.

All three special permits provide relief from the 119-gallon minimum volumetric capacity for liquids in bulk packagings by authorizing a 60-gallon capacity for the IBCs and/or portable tanks meeting the requirements in the special permits. Therefore, the holders of these special permits should apply the regulations for the appropriate bulk package type, unless otherwise specified in the special permit.

- Q2. In the attached photographs, a Treater Truck operating under DOT-SP 13027 has placards with the identification number displayed on at least two opposing sides of the manifolded unit. Neither the front nor end of the unit is visible in the photographs. You ask whether this configuration meets the marking and placarding requirements.
- A2. The answer is yes, provided the front and end of the transport vehicle meet the requirements for placard visibility as specified in § 172.516. Paragraph 8.f. of DOT-SP 13027 stipulates “marking and placarding requirements specified for cargo tanks in 49 CFR Subparts D and F must be met.” Therefore, the marking and placarding requirements for cargo tanks must be applied to these IBCs, irrespective of packaging-type definition. Display of the identification number on the placard is one method that fulfills the marking requirements for cargo tanks specified in § 172.332. Section 172.328(a) provides additional marking requirements for cargo tanks and permits one identification number to be displayed on each side and each end of a multi-compartmented cargo tank containing only one hazardous material.
- Q3. In the attached photographs, a Treater Truck operating under DOT-SP 8627 shows a Class 3 placard without an identification number on each side of the manifolded unit. Neither the front nor the end of the unit is visible in the photographs. You ask whether this example meets the marking and placarding requirements or whether the identification number must also be displayed.
- A3. DOT-SP 8627 neither specifies requirements nor provides additional relief related to markings, labels, or placards. Therefore, the containers must be marked and placarded in accordance with the requirements for a portable tank or IBC, as appropriate. Under § 172.331(c), the transport vehicle must be marked on each side and each end with the identification numbers in the appropriate orange panel, placard, or white square-on-point configuration as required by § 172.332. Thus, while individual containers may utilize options for various marking configurations under subpart D of part 172, both the identification number and placards must still be visible from the sides of the vehicle.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,



T. Glenn Foster  
Chief, Regulatory Review and Reinvention Branch  
Standards and Rulemaking Division

hehman  
\$172.301  
Marking  
16-0004

**Dodd, Alice (PHMSA)**

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**From:** Geller, Shelby CTR (PHMSA)  
**Sent:** Thursday, January 07, 2016 4:38 PM  
**To:** Hazmat Interps  
**Subject:** FW: Request for formal letter of interpretation  
**Attachments:** TREATER TRUCK HM - PHMSA1.docx; DOT-SP 13027.pdf; DOT-SP 8627.pdf

Dear Shante and Alice,

Forwarded is a request for a formal letter of interpretation. Mr. McClatchy spoke with Eamonn.

Thanks,  
Shelby

**From:** McClatchy, Kelly [<mailto:Kelly.McClatchy@dps.texas.gov>]  
**Sent:** Thursday, January 07, 2016 11:03 AM  
**To:** INFOCNTR (PHMSA)  
**Subject:** Request for formal letter of interpretation

I am requesting a formal letter of interpretation and have provided a word document as an attachment for the request.

Thank you for your time and effort in this matter.

Trooper III Kelly F McClatchy  
Texas Department of Public Safety  
Commercial Vehicle Enforcement

I am respectfully requesting clarification and a formal letter of interpretation as to the packaging definition of the individual containers contained on a Treater Truck (see attached photos). Specifically, can a special permit change the definition of a non-bulk package into a bulk package?

In the oil industry a treater truck is used in everyday activities and where we are located in the Permian Basin they are seen everywhere. An issue has arisen where different companies are using different manufacturers and different company issued special permits while operating these types of vehicles containing hazardous materials. There seems to be a disconnect with the language of the varying special permits in regards to the marking and placarding requirements. Most of the special permits contain language that requires the company to "mark and placard the vehicle like a cargo tank" but others do not contain that language so therefore the requirements that those vehicle must follow is a little cloudy. What we are seeing roadside is that the companies that carry the special permits that do not have that requirement within the special provisions, marking section, of the permit are only placarding the vehicle when containing a hazardous material or multiple hazardous materials. If considered as a non-bulk package there is no additional labeling and marking in accordance with 172.400 or 172.301 on the containers containing the hazardous material. My interpretation is that the special permit changes the definition of each 60 gallon capacity container into a bulk package, therefore, whether or not the specific language contained in the special permit as to marking and placarding like a cargo tank becomes a moot point because of the classification of the packages being a bulk package.

I earlier spoke to representatives at the 1-800-467-4922 number who after conferring with members within the special permit division contacted me back and stated the containers would be considered a bulk package because of the language of the special permit and thus the marking and placarding regulations for a bulk package (cargo tank) would apply. I later spoke with a field representative out of the Houston District office with PHMSA who stated that the packages meet the definition of a non-bulk package and the special permit does not have the ability to change the definition as found in 171.8.

The DOT-SP 13027 and DOT-SP 11947 special permits are industry standards for all treater trucks manufactured by Hearnco Fabrication and Services of Midland, Texas and Patts Fabrication of Odessa, Texas. DOT-SP 8627 is an individual special permit issued to companies for the use on these treater trucks as well developed by Clarks Engineering of Odessa, Texas. All special permits read essentially the same in regards to the effects of this request. After stopping Baker Hughes, Kel-Tec, Nalco, Impact, X-Chem, WadeCo, Endura, Rock Water, Omega, Chemical Specialist, and others in our area, every one of them are using one of the above mentioned special permits.

After stopping a company that was using a DOT-SP 8627 special permit issued to them while operating a treater truck and only displaying placards without ID numbers, and no marking or labeling on the individual tanks, I began digging further into how and why these are considered non-bulk packages and what regulations apply to them outside of the special permit.

Looking at the special permits in detail, it references all regulations that the tanks, "containers" used on a treater truck must conform to a UN31A intermediate bulk container (IBC), or non-DOT specification portable tanks as referenced in DOT-SP 8627. PHMSA's use of the word "containers" become the key component of this request for change. Quoting from the Purpose and Limitations section of the DOT-SP 13027 and DOT-SP 11947 it states "This special permit authorizes the manufacture, marking, sale and use of multiple non-UN standard containers conforming with all regulations applicable to a UN31A intermediate bulk container." Then it goes on to state, "the containers are manifolded together within a frame work and securely mounted on a truck chassis." Further into the special permit in the Operational Controls section PHMSA states, "Containers are only authorized when manifolded together within a frame. The number of containers manifolded within a group may not exceed six. Each container may not exceed sixty (60) gallons in capacity. The meaning of this I feel is that each "container" of the six must be constructed to the UN31A IBC standards thus making each container an other bulk package. In the Testing section of the special permits it instructs that "each container must be reinspected and retested once every two and one-half years in accordance with 180.352(b) as prescribed for UN31A IBC's and that "each container must be visually inspected prior to each trip to insure that it has not been damaged on the previous trip."

An IBC by definition is a bulk package with a capacity not to exceed 793 gallons. The special permit DOT-SP 13027 and DOT-SP 11947 under Special Control Measures, Packaging states, "Containers must conform with the requirements of a UN standard UN31A intermediate bulk container (IBC) in all respects except for specification marking, water capacity....." In DOT-SP 8627 special permit it states under this section "Prescribed packaging is a groups of 60 gallon capacity, IBC's or non-Dot specifications portable tanks, manifolded together within a frame and equipped with top and bottom opening conforming to the following:.... (2) The minimum 119 gallon capacity for a bulk packaging does not apply, and instead the capacity may not exceed 60 gallons." The key word when going through the entire special permit again is "container" and by the above mentioned references throughout the special permits I believe each tank on a treater truck should be looked at in how the special permit references it as a container meeting the standards of a UN31A IBC or non-UN standard portable tank thus essentially having six UN31A containers that are each considered an other bulk package.

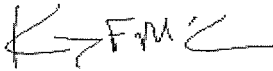
Both special permits DOT-SP 13027 and DOT-SP 13027 under Special Provisions, Marking, require that the marking and placarding requirements specified for cargo tanks in 49 CFR Part 172, Subparts D and F must be met. This requires the placarding of any amount of hazardous material or residue contained within a container along with the marking requirements of displaying the ID numbers of that hazardous material to be displayed on placards, orange panels or on a white square-on-point. As we see throughout industry this requirement is met by placing the UN number on the placard itself.

In DOT-SP 8627 this placarding and marking requirement is not expressly stated as in the others. While discussing this issue with a PHMSA representative through the 800 number they stated that the wording "marking and placarding requirements specified for cargo tanks in 49 CFR" is not required because of their intent on the packages to be considered bulk packages and are always required to be placarded and marked unless cleaned and purged or filled with a

material that no longer possesses a hazard. However, when speaking to Mr. Rucker out of Houston, it was his belief that since the wording was not present to be marked and placarded like a cargo tank then you have to go back to the definition of the package as found in 171.8 and the requirements for a non-bulk package in 172.300 and 172.400 and 172.500 then apply.

I have enclosed DOT-SP 13027 and DOT-SP 8627 for your viewing as well.

Thank you for your consideration on this matter.

A handwritten signature in black ink, appearing to read 'K F M C', with a stylized flourish at the end.

Kelly F McClatchy  
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Commercial Vehicle Enforcement  
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