



U.S. Department of Transportation  
**Pipeline and Hazardous Materials  
Safety Administration**

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

OCT 29 2010

Ms. Erin N. Jarman  
URS Corporation  
1600 Perimeter Park Drive, Suite 400  
Morrisville, NC 27560

Reference No.: 10-0186

Dear Ms. Jarman:

This responds to your September 1, 2010 letter regarding packaging requirements for diesel fuel under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Your questions are paraphrased and answered as follows:

- Q1. Is it possible for a packaging to be tested and dual-marked as both an Intermediate Bulk Container (IBC) and a portable tank?
- A1. The answer is no. An IBC is defined by the HMR as a rigid or flexible portable packaging, other than a cylinder or specification portable tank, that is designed for mechanical handling (see § 171.8).
- Q2. If an IBC has not been tested according to the retest requirements set forth in 49 CFR Part 178, Subpart O, must the UN marking be removed or obliterated to continue to be used?
- A2. The requirements applicable to IBC retesting are set forth in 49 CFR Part 178, Subpart O and reference specifically Part 180, Subpart D. As provided by § 173.35, when an IBC is identified as a UN specification container by the specification plate, it must meet the specification and be retested in accordance with Part 180, Subpart D regardless of whether the material is hazardous or not. If an IBC has not been retested, one must obliterate, cover, or make illegible the specification identification on the specification plate in order for the IBC to continue to be used as a non-specification container without being retested.
- Q3. By removing or obliterating the UN Marking of the IBC, it is our understanding based on DOT interpretation Letter Ref. No. 08-0286 that this packaging could be considered a non-specification bulk packaging. Is that correct?
- A3. The answer is yes. The previously issued interpretation (Ref. No. 08-0286) you cite in your inquiry remains valid. Because the specification markings are destroyed, removed, or

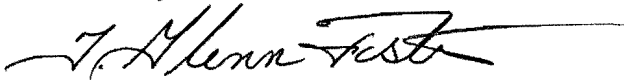
covered, the packaging no longer meets the standards of an IBC in accordance with the HMR. The packaging in your scenario is a non-specification bulk packaging.

Q4. If the answer to Q3 is yes, could this non-specification bulk packaging satisfy the packaging requirements found in § 173.241, which permits the use of non-specification portable tanks for the transportation of high flashpoint diesel fuel?

A4. The answer is yes. If the specification markings are destroyed, removed, or covered, the packaging no longer meets the standards of a specification packaging in accordance with the HMR. Therefore, the packaging is a non-specification bulk packaging and can be considered a non-specification portable tank. In accordance with § 172.102 special provision B1, a material with a flash point at or above 38° C (100° F) and below 93° C (200° F) can use the bulk packaging requirements in § 173.241, which allow for the use of non-specification portable tanks.

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

Sincerely,

A handwritten signature in black ink, appearing to read "T. Glenn Foster", with a long horizontal flourish extending to the right.

T. Glenn Foster  
Chief, Regulatory Review and Reinvention  
Office of Hazardous Materials Standards



September 1, 2010

Mr. Charles E. Betts  
Director, Office of Hazardous Materials Standards  
U.S. DOT/PHMSA (PHH-10)  
1200 New Jersey Avenue, SE East Building, 2nd Floor  
Washington, DC 20590

Dear Mr. Betts:

I am writing to you with regards to the packaging requirements for diesel fuel under 49 CFR §172.102, Special Provision B1. Specifically, Special Provision B1 states the following:

**"If the material has a flash point at or above 38° C (100° F) and below 93° C (200° F), then the bulk packaging requirements of §173.241 of this subchapter are applicable."**

In addition to other types of packaging, 49 CFR §173.241 permits the use of non-DOT specification portable tanks suitable for the transport of liquids. It also permits the use of various intermediate bulk container (IBC) types.

Per the definition for "intermediate bulk container" found in 49 CFR §172.101, the term specifically excludes portable tanks, however the definition of "portable tank" in that same section seems to describe typical IBCs that are used in industry, since many of them are "equipped with skids, mountings, or accessories to facilitate handling of the tank by mechanical means."

My questions are as follows:

- 1) Is it possible for a packaging to be tested and dual marked as both an IBC and a portable tank?
- 2) If an IBC has not been tested according to the retest requirements set forth in 49 CFR Part 178, Subpart O, must the UN marking be removed or obliterated to continue being used?
- 3) By removing or obliterating the UN marking of the IBC, it is our understanding based on DOT Interpretation Letter Ref. # 08-0286 that this packaging would then be considered a non-specification bulk packaging. Is that correct?
- 4) If the answer to Question 3 is YES, could this non-specification bulk packaging satisfy the packaging requirements found in §173.241 which permits the use of non-specification portable tanks for the transportation of high flash point diesel fuel?

Thank you in advance for your assistance. I look forward to your response.

Sincerely,

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§ 172.101  
§ 173.241  
Bulk Packaging  
10-0186