



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

SEP 25 2001

Trooper William I. Reese
Idaho State Police
Hazardous Materials Specialist
5205 South 5th Avenue
Pocatello, ID 83204

Ref. No. 01-0174

Dear Trooper Reese:

This is in reference to your July 12, 2001 letter concerning cargo tank specification requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You asked several questions regarding state adoption of the HMR and closures on cargo tanks. Your questions are paraphrased and answered below in the order posed in your letter.

Q1. Does § 173.315(k) prohibit use of a non-specification cargo tank in liquefied petroleum gas service unless a State's laws specifically permitted such use in intrastate commerce prior to January 1, 1981?

A1. Yes.

Q2. If the answer to Q1 is "yes," and a State adopted or incorporated by reference the HMR prior to January 1, 1981 but had no law allowing the use of non-specification cargo tanks, can these tanks be used in that State?

A2. No. The State must have enacted a law prior to January 1, 1981 that specifically allowed the use of non-specification cargo tanks for the transportation of liquefied petroleum gas in intrastate commerce.

Q3. May transporters in Idaho, which adopted the HMR in 1980, use non-specification cargo tanks to transport liquified petroleum gas under the provisions of § 173.315(k)?

A3. No. The language in §§ 173.315(k) and 173.315(a) is similar. Both require a specific law enacted by the state allowing the use of non-specification cargo tanks prior to January 1, 1981 if the HMR had been adopted by state law. Absent a specific law allowing for the use of non-specification cargo tanks for liquified petroleum gas and anhydrous ammonia then their use was not authorized. Also, you should be aware that we issued an exemption, DOT-E 12499 (enclosed) to permit the use of certain non-specification cargo tanks in Illinois.



010174

173.315

- Q4. Does § 173.24(f)(1)(iii) apply to all cargo tanks, both specification and non-specification, and particularly to MC 330, MC 331, and non-specification cargo tanks used to transport liquefied petroleum gas?
- A4. Yes. Section 173.24 applies to all packages and packagings used for hazardous materials transportation.
- Q5. Does § 173.24(f)(1)(iii) apply to both the liquid and vapor valves and closures on the tanks referenced in question 4 above?
- A5. Section 173.24(f)(1)(iii) applies to all closures, but not vents. Vapor valves are considered vents, thus § 173.24(f)(1)(iii) would not apply to vapor valves.
- Q6. Which valves and closures are required to be closed when a cargo tank is in transit?
- A6. Generally, all valves and closures, except for vents and engine fuel line valves, must be closed when a cargo tank contains a hazardous material and is in transit. This requirement applies to all valves and closures that, if open, would result in a release of lading. (See § 173.24(g) for requirements applicable to vents and § 177.840(g) for requirements applicable to engine fuel line valves.) Intermediate isolation valves that may be present in a liquid discharge system need not be closed during transit.

I hope this satisfies your request.

Sincerely,



Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards

Enclosure



Idaho State Police

Service since 1939



Director E.D. Strickfaden

July 12, 2001

Governor Dirk Kempthorne

Hattie Mitchell
U S Department of Transportation
Office of Hazardous Materials Standards
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Johnsen
§ 173.315
Tanks
01-0174

Dear Ms. Mitchell,

I have some additional questions regarding interpretation number 00-0036 issued earlier this year, on non-specification ASME tanks. The answer to question one in the second paragraph states:

Conversely, the continued use of a cargo tank motor vehicle is not permitted if prior to January 1, 1981 the state had adopted, or had incorporated by reference, the HMR requirements into its own regulations. In this situation, the continued use of the cargo tank is permitted under the conditions prescribed in 173.315(a), Note 17, only if the state's laws specifically permitted the use of a non-specification cargo tank for transportation of a hazardous material in intrastate commerce.

This question references the transportation of anhydrous ammonia. My understanding of this paragraph is that if the state adopted the HMR prior to January 1, 1981, then the non-specification cargo tanks in question cannot be used in the state unless the state had a law that specifically allowed the use of the non-specification tanks. The paragraph refers to 173.315(a), Note 17, which is specific to anhydrous ammonia.

Question three asked the same as question one, but references 173.315(k), which is the transportation of liquefied petroleum gas in non-specification cargo tanks. The wording in both sections of the code is almost identical.

My additional concerns are:

1. In your answer to question three, you reference answer one. Does the second paragraph in the question one answer, listed above, also apply to question three and the transportation of liquefied petroleum gas in 173.315(k)?
2. If this is the case, and a state adopted or incorporated by reference the HMR prior to January 1, 1981 and had no law allowing the use of these non-specification cargo tanks, then can these tanks be used in that state? Idaho adopted the HMR in October, 1980.
3. If the second paragraph in the answer to question one only applies to anhydrous ammonia, that leads me to believe that the non-specification tanks referenced cannot be used in some states to transport anhydrous ammonia; but non-specification cargo tanks can be used under the provisions of 173.315(k) to transport liquefied petroleum in those same states. Based on the date we first adopted the HMR in Idaho, would that be the case?

yes, as explained in 173.315(1) (6).
NO, must have had a state law (does not include incorporation)

We interpreted the answers to questions one and three to mean that non-specification cargo tanks cannot be used in Idaho to transport anhydrous ammonia or liquefied petroleum gas due to the date our state first adopted the HMR.

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Interpretation questions letter to H. Mitchell
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After a conversation with Jim Wiley at Suburban Propane, I believe this issue needs more clarification. He told me that based on a conversation with you and based on language in the final rule, the non-specification cargo tanks could be used to transport liquefied petroleum gas in Idaho. I would appreciate it if you could please send Mr. Wiley copies of all our correspondence related to this issue. You may fax them to him at (559) 485-3823.

I have another issue for which I would like an interpretation. This topic comes up repeatedly, and I have received several different answers over the last several years. It involves valving on cargo tanks used to deliver liquefied petroleum gas to consumers. This would include specification MC330, MC 331 and the non-specification cargo tanks referenced above. The issue in question involves the valving and which valves in the liquid and vapor system are required to be closed when the vehicle is in transit.

There are several code sections that cover this. In 177.834(j), it states "...all valves and other closures in the liquid discharge systems are closed and free of leaks." There is an interpretation attached that references this issue, reference number 99-0155. In 177.840(g) it states that "Each liquid discharge valve on a cargo tank, other than an engine fuel line valve, must be closed during transportation except during loading and unloading."

In 173.24(f)(1)(iii) it states that "...the closure (be) secure and leakproof." 173.24 applies to all specification and non-specification packaging, both bulk and non-bulk. On December 23, 1999 I submitted a question via e-mail on this code; a copy is attached. I wanted to know if 173.24 (f)(1)(iii) applied to "vapor" valves on MC331 cargo tanks while in transit. The answer I received would lead me to believe that 173.24(f)(1)(iii) would also apply to liquid discharge valves and to MC330s and non-specification tanks noted above.

Please clarify the following:

1. Does 173.24(f)(1)(iii) apply to all cargo tanks, both specification and non-specification, and particularly to MC330, MC331 and non-specification cargo tanks used to transport liquefied petroleum gas?
2. Does 173.24(f)(1)(iii) apply to both the liquid and vapor valves and closures on the tanks referenced in question one?
3. On the cargo tanks specified in question one, which valves or closures in the liquid discharge system are required to be closed when the vehicle is in transit? Does it apply to all valves and closures or only the valves and closures required specifically by the HMR?
4. Which vapor valves and closures on the cargo tanks specified in question one are required to be closed when the vehicle is in transit? Is this all valves or closures or only the valves and closures required specifically by the HMR?

The valves
closures must
that prevent leaking
from escaping the
cargo tank.
Must be closed and kept
to reference at 173.24(f)(1)(iii)

Applies to all
packagings +
packages
Applies only
to closures -
Does not apply to
valves

These issues are of concern to both regulatory people in the field and to industry. We would like clear-cut guidance so that we can all properly handle the issues in question. Thank you for your assistance.

Sincerely,

Trooper William L. Reese
IDAHO STATE POLICE, region Five Patrol
Hazardous Materials Specialist

cc: J. Wiley

173.24(f)(1)(iii)