



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

JAN 2 2003

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

Mr. David C. Gluntz
PADG, LLC
2350-A Meeting Street
Columbus, OH 43220-6292

Reference No.: 02-0288

Dear Mr. Gluntz:

This is in response to your letter requesting clarification of the requirements for intermediate bulk containers (IBCs) under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if an IBC, manufactured in 1996 under exemption DOT-E 10172 and design tested as a UN31HA1 but not marked as such, may be marked by the manufacturer as a UN31HA1 with a 1996 manufacturing date.

The answer is yes, provided that the IBC fully conforms to the requirements in subparts N and O of part 178. In addition, the IBC must have been successfully tested in accordance with § 180.352 before it is filled with a hazardous material and offered for transportation. Remarketing and certifying these exemption IBCs as UN standard packagings were specifically authorized in exemption DOT-E 10172, Section 8, paragraph f. and in the final rule adopting the IBC packaging standards (Docket HM-181E; 59 FR 38040, July 26, 1994).

I hope this satisfies your request.

Sincerely,

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards



020288

178

Corbin
§178.1
§178.819
Packagings

David C. Gluntz 02-0288

FAX COVER PAGE

Date: September 9, 2002

To: **Ed Mazzullo**
US DOT
Washington, DC

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Number of pages including this cover page: 1

Priority: Please comment in writing.

Reference: Specifications for Packagings (Sections 178.1 - 178.819)

Dear Mr. Mazzullo,

An IBC user asked me a question that I have discussed with Don Berger. I would like a written opinion confirming Mr. Berger's and my conclusion regarding the DOT's regulations. I described to Mr. Berger the following example: suppose that in September of 1996, a packaging manufacturer sold an exemption portable tank marked only as an exemption portable tank, even though the packaging manufacturer had successfully design tested and sold the same design specification as an UN31HA1 marked IBC. Recently, the owner of that 9/96 manufactured packaging discovered a need to have the packaging marked as an UN31HA1 IBC. As Mr. Berger and I discussed, there is no 49 CFR provision preventing the 9/96 manufacturer from providing the current owner of the packaging an UN31HA1 tag having a 9/96 date of manufacture, manufacturer's M number, etc. etc. to be installed on the packaging. Thus, with the new UN31HA1 tag, the packaging would be an IBC as long as it continued to meet the manufacturer's design specification. Note that it would not be appropriate for the manufacturer to provide the packaging's owner with an UN31HA1 tag with a manufacturing date other than 9/96 because 9/96 is the only time when the manufacturer knew (part number/drawing/design test references) that the packaging met the UN31HA1 design specification. (Because of the 9/96 date of manufacture, it is understood that the packaging would have to pass the periodic testing and inspection and record keeping requirements as outlined by 49 CFR §180.352 before the IBC could be used in transportation.) Also, we concluded that there is no more liability for the packaging's manufacturer as described above than there would be for an IBC newly manufactured (9/2002).

I look forward to receiving your confirmation. If there are any questions, concerns or comments, please do not hesitate to let me know what they are.