

Mr. Peter Shaw
Job Co-Ordinator
Road Equipment Service Co., Ltd.
50 Hannant Court
Milton, Ont. L9T SC1
Canada

Dear Mr. Shaw:

This is in reply to your letter concerning the classification of certain portable asphalt storage tanks that you are manufacturing for a United States corporation. I apologize for the delay in our response.

The U.S. corporation will import these tanks and you have been advised by George Entwistle of our agency that they may be imported under Box 8 of Form HS-7 "Declaration" as off-road vehicles. You have asked that we confirm that the tanks may be so imported.

A "motor vehicle" may not be imported into the United States unless it conforms to all Federal motor vehicle safety standards that applied on the date of its manufacture and is so certified by its manufacturer (49 U.S.C. 30112(a)). A "motor vehicle" is defined, in part, as a vehicle driven or drawn by mechanical power that is "manufactured primarily for use on the public streets, roads, and highways" (49 U.S.C. 30103(a)(6)).

You have informed us that:

This tank is designed as construction equipment use only, to be transported from job site to job site with no liquid asphalt in the container. The tanks have incidental use on the road as they are transported to job sites as required. This unit stays on site for a period of time until the job site moves, and then the tank is transported to the new job site empty.

From this description, it appears that the portable asphalt tank has not been manufactured "primarily for use on the public roads," within the meaning of the definition, and that its use of the public roads is infrequent and incidental to the primary purpose for which the tanks have been built. This purpose is the storage of asphalt for use on construction sites (which may or may not be on the public roads). Accordingly, we confirm that you need not manufacture them to comply with the U.S. Federal motor vehicle safety standards, and that the U.S. corporation may import them pursuant to the declaration of Box 8 that they have not been manufactured primarily for use on the public roads.

We note that, as a matter of law, there is no such thing as "D.O.T. approved parts." We have no authority to approve or disapprove motor vehicles or equipment items. If you use this term to mean that an equipment item such as a tire or lamp bears a DOT symbol, the symbol means only that the manufacturer is thereby certifying compliance of that product with the appropriate Federal motor vehicle safety standard. In no sense can you use the term in connection with parts of an air brake system since the manufacturer of the vehicle certifies to the overall performance of the vehicle's air brake system without reference to any individual part.

If you have any questions, you may call Taylor Vinson of this Office (202-366-5263).

Sincerely,
Frank Seales, Jr.
Chief Counsel
ref:571

d.6/5/00