



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

AUG 01 2012

Mr. Bill Slovak
Products Engineering Manager
Jetstream of Houston, LLP
5905 Thomas Road
Houston, TX 77041-4904

Reference No.: 12-0123

Dear Mr. Slovak:

This is in response to your May 22, 2012 e-mail requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You ask several questions pertaining to a 150 gallon diesel fuel tank mounted on a trailer to provide fuel for a diesel engine pump mounted on the trailer. Your questions are paraphrased and answered as follows:

Q1. Is the 150 gallon fuel tank subject to the HMR?

A1. Provided the fuel tank meets the requirements of 49 CFR §§ 393.65 and 393.67 (relating to fuel systems and fuel tanks) of the Federal Motor Carrier Safety Administration Federal Motor Carrier Safety Regulations (FMCSRs), and are not used as packaging for the shipment of hazardous materials (e.g., a cargo tank) then the trailer and its installed equipment is subject only to the FMCSRs. If the fuel tank does not meet the FMCSR requirements for fuel systems and fuel tanks, the fuel tank is subject to the HMR when transported in commerce.

Q2. If the fuel tank meets the requirements of FMCSR §§ 393.65 and 393.67 and is deemed a fuel system? Is the 150 gallon tank on our equipment exempt from the HMR and CDL with H endorsement requirements?

A2. See A1. With regard to the requirement for a CDL with an H endorsement, if the vehicle meets the definition of a commercial motor vehicle under 49 CFR Part 383, the driver would be required to have a CDL; however, the H endorsement would not be required since the vehicle would not be required to display placards.

Q3. Is HMR § 173.220(a) applicable to the trailer?

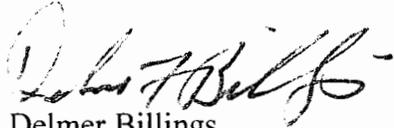
A3. Section 173.220(a) would only be applicable if the fuel tank does not meet the requirements of FMCSR §§ 393.65 and 393.67. In this event, the fuel tank would be considered a cargo tank.

Q4. If § 173.220 applies, does it mean that the fuel tanks need non-vented caps or valves or quick disconnects in the lines to be considered “securely closed”.

A4. Section 173.220(a) does not apply, provided the fuel tank meets the requirements of FMCSR §§ 393.65 and 393.67.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Delmer Billings". The signature is fluid and cursive, with a long horizontal stroke at the end.

Delmer Billings
Senior Regulatory Advisor
Standards and Rulemaking Division

Babich
§ 173.220
Applicability
12-0123

Drakeford, Carolyn (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Thursday, May 24, 2012 4:51 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: request formal letter of interpretation
Attachments: waterblaster trailer.JPG; DOT ruling letter 00-0002.pdf; PHMSA ruling letter 09-0138.pdf; Safety Communication #4 2011 - HM Regs Re Fuel Tanks.pdf; Fuel System Requirements 2-2011.pdf

Carolyn,

We received the following request for a formal letter of interpretation.

Thanks,
Victoria

From: Slovak, Bill [<mailto:BSlovak@waterblast.com>]
Sent: Tuesday, May 22, 2012 6:02 PM
To: INFOCNTR (PHMSA)
Subject: request formal letter of interpretation

I would like to request a formal letter of interpretation regarding our specific case.

I work for an equipment manufacturer and one of our customers/end users has received citations for a diesel fuel tank over 119 gallons not being placarded and not having proper shipping paperwork. We have sold many waterblaster trailers over the years (approx 1000) and only received a few complaints of customers receiving tickets for fuel tanks. Our equipment consists of a diesel engine driven pump with a 150 gallon tank that supplies diesel fuel to the engine to drive the pump. Very similar to a generator trailer or an air compressor trailer. The trailer is integral to the equipment, it is NOT a purchased trailer that is being used to transport the equipment. The equipment IS a trailer, see photo.

I have attached multiple pieces of correspondence from our customer, Hydrochem Aquilex. One is a copy of the citations which they received at a weigh station in Florida and are included in their internal safety report. Another is the ruling letter 09-0138 referenced in their report from JJ Keller, received in response to a requested interpretation.

I have also attached a photo of our waterblaster trailer for your reference.

I have spoken to a current JJ Keller representative, Randy Skoog, and have attached the ruling letter 00-0002 he found regarding generators and feel this is a better representation of the situation. This letter seems to state that the exemption applies because the tank isn't for transporting fuel it is for supplying fuel to the equipment.

My questions are:

1. Is there a way to use our 150 gallon diesel tanks and not be required to comply with HMR (placard, shipping papers, CDL)?
2. If our fuel tank meets 393.65 and 393.67 and is deemed a fuel system, is the 150 gallon tank acceptable on our equipment without HMR Hazmat regulations (placarding, shipping papers, CDL with H endorsement)?
3. Is 173.220 (a) applicable to our trailer? It states "transported as cargo ON a transport vehicle" – does this apply to trailers towed? Our equipment is not being transported ON a trailer, it IS a trailer. Is there a difference?

4. If 173.220 applies, does it mean the fuel tanks need non-vented caps and valves or quick disconnects in the lines so it can be considered "securely closed" in order to avoid the HMR regulations (placard, shipping papers, CDL with endorsement)?

Bill Slovak

Current Products Engineering Manager

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