



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

JUL 12 2002

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

Mr. Timothy W. Wiseman
Scopelitis, Garvin, Light, & Hanson
Attorneys at Law
10 West Market Street, Suite 1500
Indianapolis, Indiana 46204-2965

Ref. No. 02-0170

Dear Mr. Wiseman:

This is in response to your letter requesting clarification under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) as it pertains to the transportation of compressed natural gas (CNG) in bulk packaging. Specifically, your questions are answered as follows:

Q. Can CNG be transported in an MC-331 cargo tank?

A. Unless specifically authorized in the Hazardous Materials Table (§ 172.101) or applicable exemption, a bulk packaging containing CNG must be packaged in accordance with § 173.302(a)(3). As provided by § 173.302(a)(3), only DOT specification 3AX, 3AAX, and 3T cylinders are authorized for bulk shipments of CNG. Thus, MC 331 cargo tank motor vehicles are not authorized for the transportation of CNG under the HMR. Further, as referenced in your letter, § 173.302(a)(3) specifies conditions that the CNG must meet in order to be transported in DOT specification 3AX, 3AAX, and 3T cylinders. Specifically, the gas must be nonliquefied with a minimum purity of 98 percent methane and commercially free of corroding components. If it is not, specification 3AX, 3AAX, 3T cylinders are not authorized for CNG and must be shipped in the specification containers specified in § 173.302(a)(1).

Q. Can 3AX or 3T cylinders be used to transport methane on public highways if the methane does not have a minimum purity of 98%?

A. As provided in § 173.302(a)(3), the methane must have a minimum purity of 98% and be commercially free of corroding components to be authorized for transportation in DOT specification 3AX, 3AAX, or 3T cylinders.

Q. Has the DOT issued any exemptions to any company allowing compressed natural gas to be transported in bulk commodities in MC-331 cargo tanks or which would allow the transportation of compressed natural gas with a minimum purity of less than 98% methane in 3T cylinders?

A. The answer is yes, the Office of Hazardous Materials Safety previously issued exemptions which allowed the transportation of CNG in MC-331 cargo tank motor vehicles. However, our records show that these exemptions are expired. Further, we have no exemptions which authorize the transportation of CNG in DOT specification 3T cylinders with a purity of less than 98% methane and commercially free of corroding components.

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

Sincerely,



Delmer Billings
Chief, Standards Development
Office of Hazardous Materials Standards

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Webb
§ 173.302
Cylinders
02-0170

May 30, 2002

Mr. Edward Mazzulo
Director of Standards
U.S. Department of Transportation
400 Seventh Street, S.W., DHM-10
Washington, DC 20590

Re: Request for Clarification of Hazardous Material
Regulations

Dear Mr. Mazzulo:

Our firm's client, Marlin Gas Transport, Inc. ("Marlin"), recently spoke with Robert McGuire of the United States Department of Transportation ("DOT") seeking clarification regarding the hazardous material regulations as they pertain to the transportation of compressed natural gas. Mr. McGuire recommended that Marlin seek a written interpretation from the DOT on the following issues.

Question: Can compressed natural gas be transported in bulk commodities in a MC-331 cargo tank?

Relevant Regulations: Pursuant to the hazardous material contained in 49 C.F.R. § 172.101, the transportation of natural gas, compressed, with high methane content (UN1971) is subject to the bulk packaging requirements of 49 C.F.R. § 173.302. 49 C.F.R. § 173.302(a)(3) provides that only 3AX, 3AAX and 3T cylinders are authorized for the transportation of methane. Moreover, this provision states that the methane must have a minimum purity of 98.0% and be commercially free of corroding components in order to be authorized for

transportation in these three types of cylinders. There is seemingly no allowance under § 173.302 or § 173.306 that would allow for the transportation of compressed natural gas in an MC-331 cargo tank.

Question: Can a 3AX or 3T cylinder be used to transport methane on public highways if the methane does not have a minimum purity of 98%?

Relevant Regulations: -- As noted previously, 49 C.F.R. 173.302(a)(3) defines methane as a non-liquified gas which has a minimum purity of 98% methane and which is commercially free of corroding components. In almost every case, pipeline and wellhead methane will not be able to meet the 98% minimum purity level required by this regulation. Thus, this regulation certainly indicates that these cylinders cannot be used to transport pipeline and wellhead compressed natural gas or methane, although the DOT has previously issued an exemption to certain transporters that would allow the use of the 3AAX cylinder to transport pipeline and wellhead compressed natural gas with the minimum purity of less than 98%. Marlin is not aware, however, of any similar exemptions that would allow for the use of 3AX or 3T cylinders in this situation.

Question: Has the DOT issued any exemptions to any company allowing compressed natural gas to be transported in bulk commodities in MC-331 cargo tanks or which would allow the transportation of compressed natural gas on public highways in 3T cylinders?

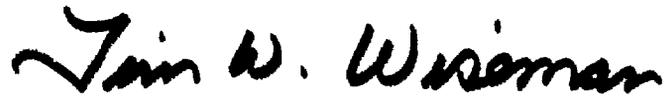
Relevant Regulations: 49 C.F.R. § 107.101 allows the DOT to entertain applications for exemptions from certain portion of the hazardous material regulations on a case-by-case basis. We are not aware of any specific exemption that has been issued with respect to the two questions posed above. However, we would like to confirm whether an exemption has ever been issued to allow the transportation of compressed natural gas in bulk quantities in an MC-331 cargo tank or the use of a 3T cylinder for the highway transportation of compressed natural gas with a minimum purity of less than 98%.

If you have any questions with respect to this request for interpretation, please do not hesitate to contact me or my partner

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Norm Garvin. We certainly appreciate the DOT's assistance in helping us better understand the regulations as they pertain to the transportation of compressed natural gas.

Very truly yours,



Timothy W. Wiseman

TWW/sf

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U.S. Department of Transportation
Research and Special Programs Administration
Office of Hazardous Materials Enforcement
Southwest Region Office

FACSIMILE TRANSMITTAL SHEET

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NOTES/COMMENTS:

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June 27, 2002

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SENT VIA TELEFAX AND
U.S. FIRST CLASS MAIL

Mr. Jesse Hughes, Chief
Office of Hazardous Materials
U.S. Department of Transportation
2320 LaBranch Street, Suite 2100
Houston, Texas 77004

Re: Request for Investigation

Dear Mr. Hughes:

I write to bring to your attention a potentially unsafe situation involving the highway transportation of compressed natural gas in the southwest and, in particular, the State of Texas. Specifically, we are aware of at least one large trucking company based in Texas that is regularly using MC-331 cargo tanks to transport compressed natural gas ("CNG") or Methane in apparent violation of the packing requirements set forth in 49 C.F.R. § 172.101.

By way of background, our firm represents Marlin Gas Transport, Inc. (DOT Number 708445), which utilizes a state-of-art cylinder trailer to transport CNG and Methane for various pipelines across the country pursuant to the packaging requirements under 49 C.F.R. § 172.101 and DOT Exemption No. E-8009. Marlin Gas is one of the few companies in the United States that has invested in the technology needed to develop a cylinder trailer that is capable of legally and safely transport CNG and Methane on the nation's

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highways. Additional information regarding Marlin Gas's operations can be found at its website at www.marlingas.com.

In marketing its services to various natural gas companies and pipelines in the State of Texas, it has found that many of these facilities currently contract with for-hire trucking companies to transport CNG and Methane in MC-331 cargo tanks. This practice, however, is clearly in violation of the packaging requirements of 49 C.F.R. § 172.101, which mandates that CNG and Methane, while in a gaseous state, be transported only in authorized 3AX, 3AAX and 3T cylinders. (See 49 C.F.R. § 173.302(a)(3)). Cargo tanks, on the other hand, are only authorized to transport certain types of liquified gases, including liquid Methane, pursuant to 49 C.F.R. § 173.318.

Our office has previously verified with both Robert McGuire and his predecessor, Alan Roberts, of the Office of Hazardous Material in Washington, D.C. that the transportation of CNG and Methane in an MC-331 cargo tank is both improper under the regulations and, more importantly, potentially unsafe. On May 30, 2002, our office sought additional clarification on various issues pertaining to the transportation of CNG and Methane from Edward Mazzulo, Director of Standards, for the Office of Hazardous Material. A copy of that correspondence is attached to this letter for your further review. It is my understanding that Sandra Webb is reviewing this interpretation request on behalf of Mr. Mazzulo.

Because it appears as though the transportation of CNG and Methane in a cargo tank is a fairly common practice in the southwest and, in particular, Texas, we thought it was important that this matter be brought to your attention for further investigation and possible enforcement action against those transporters and shippers engaging in this practice. Given the recent warning issued by the U.S. Justice Department as to the possible use of tank-trucks in a terrorist attack, it would seem that it is even more important to ensure that all potentially hazardous materials transported over of the highway, including CNG and Methane, are properly packaged, labeled and handled as prescribed by your office's regulations. In fact, it is my client's understanding that some of the transporters

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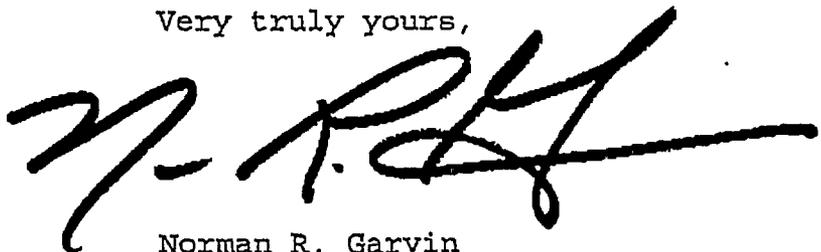
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involved in this practice may be listing the gas as a liquid on their shipping manifests and bills of lading to evade the regulations and avoid enforcement action by your office.

It is our understanding that the Texas Railroad Commission requires special registration for motor carriers hauling CNG in the State of Texas. Thus, one way to possibly determine which companies are using unauthorized cargo tanks to haul CNG would be to obtain the public records available through the Texas Railroad Commission, which would include a listing of the types of trailers used by the registered carriers to haul CNG. One of the companies we know is transporting CNG and Methane in MC-331 cargo tanks is Martin Transport, Inc. (DOT Number 33094), based in Kilgore, Texas. Because of the concerns raised above, we would respectfully request that an investigation be made by your office to determine whether any trucking company, including Martin Transport, under the jurisdiction of your office is violating the packaging requirements in transporting CNG or Methane in the southwest region.

If you have any questions or would like to further discuss the concerns raised above, please do not hesitate to contact Tim Wiseman of my office or me.

Very truly yours,



Norman R. Garvin

NRG/kkc
Enclosure