



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

1200 New Jersey Ave, S.E.
Washington, D.C. 20590

JUL 01 2009

Jennifer D. Janelle, Esq.
General Counsel
Total Energy
2 Hardscrabble Road
North Salem, NY 10560

Reference No. 09-0133

Dear Ms. Janelle:

This is in response to your April 8, 2009 letter concerning the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to the transportation of storage tanks that are 30,000 gallons or more in size and contain liquefied petroleum gas (LPG). Specifically, you ask whether the storage tanks must be placarded.

According to your letter, the 30,000 gallon or larger storage tanks are built to an American Society of Mechanical Engineers (ASME) standard, transported from decommissioned LPG plants to various locations, and purged to 80 to 85 percent of the lower explosive limit (LEL). You also state the Gas Pipeline Safety Unit of the Connecticut Department of Public Utility Control requires the tanks only be purged to 80 percent LEL, to conform with the recommendations of the American Gas Association, and transported as non-hazardous materials.

In accordance with §§ 172.504(a) and 172.514 of the HMR, a bulk package, defined as a package with a capacity greater than 119 gallons, containing any quantity of hazardous material, as well as the transport vehicle on which it is transported if the placards on the package are obscured, must be placarded on each side and each end. A bulk packaging that is sufficiently cleaned of residue and purged of vapors to remove any potential hazard is considered empty and, thus, is not subject to any requirements under the HMR, including those for placarding. See §§ 173.29(b) and 172.514(b). The tanks described in your letter, which are purged to 80 to 85 percent of the LEL, are not sufficiently cleaned and purged to remove any potential hazard. Therefore, the tanks must be placarded. You also ask if the placarding exceptions in § 172.504(c)(1) apply to these packagings. The answer is no, these exceptions apply to non-bulk packagings only.

Please note that, in addition to placarding, transportation of the storage tanks described in your letter is subject to all other applicable HMR requirements, including those for shipping papers, package marking, and emergency response information. See Subparts C, D, and G of Part 172 of the HMR. In addition, persons preparing the tanks for transportation and persons

performing the actual transportation must be trained in accordance with Subpart H of Part 172. Note as well that shipments of LPG in quantities that must be placarded are subject to the security planning requirements in Subpart I of Part 172.

I hope this satisfies your request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Hattie L. Mitchell', with a stylized flourish at the end.

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



Edmonson
§172.504
§172.101.
Placarding
09-0133

April 8, 2009

United States Department of Transportation
Pipeline and Hazardous Materials Safety Administration
East Building, 2nd Floor
Mail Stop E24-455
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Interpretation of Transport Requirements for LP Gas Shipments

Dear Sir/Madam:

I am writing to request a written interpretation as to the applicability of the Department of Transportation's regulations concerning the transport of LP Gas containers, specifically ASME tanks sized 30,000 gallons and greater, to the circumstances described herein.

Total Energy is in the business of flaring, purging, dismantling, transporting, repairing, modifying and installing ASME pressure vessels, including vessels located at propane peak-shaving plants across North America. As part of its routine business practices, Total Energy adheres to DOT regulations and safety guidance documents for the transport of its tanks, including 49 CFR § 172.504(c)(1), which provides in pertinent part that placards are not required on "a transport vehicle or freight container which contains less than 1,001 pound aggregate gross weight of hazardous materials covered by table 2 of paragraph (e) of this section." In accordance with Compliance Guide No. DOT 28, in determining whether or not placarding is required, the aggregate gross weight of the hazardous material includes the weight of the container.

In compliance with this regulation, Total Energy's standard business practice is to flare/purge the ASME propane tanks to 0 LEL before transporting, so that there is absolutely no hazardous materials. In such cases, Total Energy does not placard and transport as a hazardous material. However, Total Energy has been contracted to flare/purge four (4) propane peak-shaving plants owned and operated by Yankee Gas in Connecticut. After flaring and purging, these plants will subsequently in the future be dismantled and the ASME tanks removed. As these plants constitute pipeline facilities, they fall under the jurisdiction of the federal Department of Transportation's Pipeline and Hazardous Materials Safety Administration ("PHMSA"), whose authority has been delegated to the Connecticut Department of Public Utility Control's Gas Pipeline Safety Unit ("GPSU"). The GPSU requires the submission and approval of a flare/purge plan

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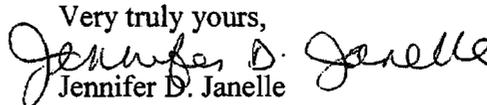
prior to the commencement of any work. Yankee Gas has provided Total Energy's flare/purge plan to the GPSU and received comments back from the GPSU. One of those comments requires that the tanks only be purged to 80% LEL in accordance with AGA recommendations. Total Energy believes that all of these tanks must be placarded and transported as hazardous materials when they leave the respective plant, as the gross weight of the container is well in excess of 1,001 pounds (most of these tanks weight over 100,000 pounds). However, the GPSU and another contractor in the state (CMM, Inc. d/b/a Gas Services) currently decommissioning two other plants owned by Connecticut Natural Gas and Southern Connecticut Natural Gas dispute Total Energy's interpretation. CMM, Inc. d/b/a Gas Services is not placarding or transporting the tanks as hazardous materials. CMM, Inc. d/b/a Gas Services has actually performed other peak shaving plant decommissionings where the tanks were not purged to 0 LEL, but were transported without hazardous materials placards.

Total Energy believes that Compliance Guide No. DOT 28 makes it clear that tanks not purged to 0 LEL must be placarded and transported as hazardous materials. This opinion is reinforced by the NPGA's transport certification guide.

Accordingly, in light of these facts, Total Energy respectfully requests an interpretation answering the following questions:

1. Is 49 CFR 172.504(c)(1) applicable to the circumstances described herein, namely where 30,000 gallon and larger ASME tanks are being transported out of propane air peak shaving facilities to various destinations?
3. Is a tank flared/purged to only 85% LEL eligible for transport without being placarded as a hazardous material?

As the projects described above are all currently underway and the Connecticut Natural Gas and Southern Connecticut Natural Gas plants are currently being purged and flared and scheduled for removal, your prompt attention this request for an interpretation is greatly appreciated. Thank you for your attention to this matter and we look forward to hearing from you soon.

Very truly yours,

Jennifer D. Janelle
General Counsel