



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

MAR 26 2019

Wes Pace
Director, Hazardous Materials Compliance
Landstar Transportation Logistics, Inc.
13410 Sutton Park Drive, South
Jacksonville, FL 32224

Reference No. 18-0157

Dear Mr. Pace:

This letter is in response to your December 7, 2018, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to transportation of non-DOT specification consumer propane storage tanks built in accordance with Section VIII of the ASME code (consumer storage tanks). Specifically, you ask whether PHMSA inadvertently limited the transportation of consumer storage tanks in § 173.315(j) to private motor carriers.

The answer is no. Section 173.315(j) is intended to allow the transportation of filled or partially filled consumer storage tanks, as long as they meet the operational controls specified in the section. The long-standing requirements in § 173.315(j), dating back to at least 1949, authorize transportation by private motor carrier only. On February 11, 2011, PHMSA published final rule HM-245, "Hazardous Materials: Incorporation of Certain Cargo Tank Permits into Regulations" (76 FR 5483), which adopted a long-standing special permit (DOT SP 13341) into § 173.315(j). DOT SP 13341 allowed for the transportation of consumer storage tanks with up to 500-gallon water capacity carrying quantities of propane greater than 5% of the container's water capacity when transported by private motor carrier. The requirement for transportation by private motor carrier originally found in the introductory paragraph of § 173.315(j) was retained in the new paragraphs (j)(1) and (j)(2). PHMSA received no comments to HM-245 that objected to the private motor carrier requirement.

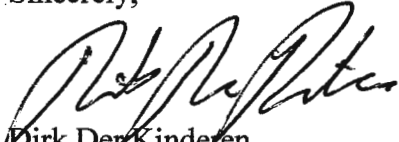
Please note, if the consumer storage tank is cleaned and purged and no longer contains propane vapors capable of sustaining combustion, then the transportation of the consumer storage tank would not be subject to any requirements of the HMR.

Special permits may authorize relief from any requirement in the HMR, provided the applicant demonstrates an equivalent level of safety to that intended by the regulation. To apply for a special permit, you must submit an application to the Associate Administrator for Hazardous

Materials Safety in conformance with the requirements prescribed in 49 CFR Part 107, Subpart B. You may obtain information on the special permit application process from our website at <https://www.phmsa.dot.gov/hazmat/special-permits/special-permits-overview> or by calling PHMSA's Approvals and Permits Division at (202) 366-4511.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dirk Der Kinderen', written in a cursive style.

Dirk Der Kinderen

Chief, Standards Development Branch
Standards and Rulemaking Division

Patrick
18-0157

January, Ikeya CTR (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Tuesday, December 11, 2018 3:24 PM
To: Hazmat Interps
Subject: FW: Interpretation Request
Attachments: Interpretation request for 173.315(j).pdf

Hello,

Attached is a request for letter of interpretation.

Thanks,

Jonathon

From: Pace, Wes [mailto:wpace@landstar.com]
Sent: Friday, December 07, 2018 12:15 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: Interpretation Request

I'd like to submit the attached request for interpretation.

Thanks,
Wes Pace, CDS
Landstar Transportation Logistics, Inc.
Director, Hazardous Materials Compliance
Office- (904) 390-4815
Cell- (904) 614-3870
Email- wpace@landstar.com

Think twice before you press "print." Go Green!

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Landstar Transportation Logistics, Inc.
13410 Sutton Park Drive, South
Jacksonville, FL 32224
904 398 9400

December 7, 2018

Office of Hazardous Material Standards
Pipeline & Hazardous Material Safety Admin.
PH-10
East Building
1200 New Jersey Avenue, SE
Washington, DC 20590-001

To whom it concerns:

Please accept this request for clarification on 173.315 (j). Specifically, I seek intent and reasoning why the transport of empty propane storage containers are being limited to "private motor carrier" as stated in the below rule.

173.315 Compressed gases in cargo tanks and portable tanks.

(j) *Consumer storage containers.* (1) Storage containers for liquefied petroleum gas or propane charged to five percent of their capacity or less and intended for permanent installation on consumer premises may be shipped by private motor carrier under the following conditions:

We received a roadside violation (only violation written) on 12/6/18 in New Hampshire, written under 173.315(j) stating that we, as a for-hire carrier was not authorized to move these empty propane tanks. All other compliance had been met with no issue. The officer actually wrote the violation to the shipper.

Yesterday, I spoke to the New Hampshire issuing officer and to his Sgt., PHMSA field office in Trenton NJ, PHMSA hazmat Hotline in Washington asking why for-hire carriers were not permitted to transport the tanks under this rule and not one could provide a reply. For-hire carriers can transport these type tanks as safely if not safer than private motor carriers.

Understand that industry gas suppliers have long been using for-hire carriers to move their empty propane storage tanks and in fact, some gas suppliers don't have equipment to move these type tanks and are totally reliant on for-hire carriers as their only source of transportation.

Could it be that the word "private" as used in the rule was inadvertently added? This is the first time in my 25 years with the company that this has ever come up.

Thanks,
Wes Pace, CDS
Landstar Transportation Logistics, Inc.
Director, Hazardous Materials Compliance
Office- (904) 390-4815
Cell- (904) 614-3870
Email- wp@landstar.com

Providing Supply Chain Solutions and Complete Global & Domestic Transportation Services

173.315(j) in 1949*-2010

*Unable to search further back in time using HeinOnline, provision likely pre-dates 1950

(j) Storage containers for liquefied petroleum gas for permanent installation on consumer premises may be shipped by private motor carrier only under the following conditions:

- (1) Each container must be constructed in compliance with the requirements of the ASME Code (containers built in compliance with earlier editions starting with 1943 are authorized) and must be marked to indicate compliance in the manner specified by the respective Code.
- (2) Each container must be equipped with safety devices in compliance with the requirements for safety devices on containers as specified in NFPA Pamphlet No. 58.
- (3) The containers shall be so braced or otherwise secured on the vehicle as to prevent relative motion while in transit. Valves or other fittings shall be adequately protected against injury during transportation. (See § 177.834(g) of this subchapter.)
- (4) Except as provided in paragraph (j)(5) of this section, containers shall not be shipped when charged with liquefied petroleum gas to more than 5 percent of their water capacity.
- (5) Storage containers of less than 1,042 pounds water capacity (125 gallons) may be shipped when charged with liquefied petroleum gas in compliance with DOT filling density.

173.315(j) in 2011 after HM-245 (same as today)

(j) Consumer storage containers.

(1) Storage containers for liquefied petroleum gas or propane charged to five percent of their capacity or less and intended for permanent installation on consumer premises may be shipped by private motor carrier under the following conditions:

- (i) Each container must be constructed in compliance with the requirements in Section VIII of the ASME Code (IBR, see §171.7 of this subchapter) and must be marked to indicate compliance in the manner specified by the respective Code. Containers built in compliance with earlier editions starting with 1943 are authorized.
- (ii) Each container must be equipped with safety devices in compliance with the requirements for safety devices on containers as specified in NFPA 58, Liquefied Petroleum Gas Code (IBR, see §171.7 of this subchapter).
- (iii) The containers must be braced or otherwise secured on the vehicle to prevent relative motion while in transit. Valves or other fittings must be adequately protected against damage during transportation. (See §177.834(a) of this subchapter).

(2) Storage containers with a water capacity not exceeding 500 gallons charged with liquefied petroleum gas to more than five percent of their capacity and intended for permanent installation on consumer premises may be transported by private motor carrier one-way only from the consumer's premises to the container owner's nearest facility under the following conditions:

(i) Each container must be constructed in compliance with the requirements in Section VIII of the ASME Code and must be marked to indicate compliance in the manner specified by the respective Code.

(ii) Maximum permitted filling density may not exceed that specified in paragraph (b) of this section.

(iii) Prior to loading on a motor vehicle, the container must be inspected by a trained and qualified person for leaks, corroded or abraded areas, dents, distortions, weld defects, or other condition that may render the container unsafe for transportation. A record of the inspection must be legibly signed and dated by the person performing the inspection and retained by the container owner for two years. The signature on the inspection record represents a certification that the container has been inspected and has no defects that would render it unsafe for transportation under the HMR. The record of inspection must include the date of inspection, the inspector's contact information (such as a telephone number), the container's serial number and container size (water capacity), estimated amount of hazardous material, and the origin and destination of shipment.

(iv) Only one storage container may be transported on a motor vehicle.

(v) For loading on a motor vehicle, the container must be lifted by slings, which must be completely wrapped around the container. Lifting lugs may not be used. The slings must be rated to a weight sufficient to accommodate the container and its lading and shall comply with ASME B30.9 on slings used for lifting purposes, and must be visually inspected prior to each use. A sling showing evidence of tears, fraying, or other signs of excessive wear may not be used.

(vi) The storage container must be secured on a motor vehicle so that the container is completely within the envelope of the vehicle and does not extend beyond the vehicle frame.

(vii) The storage container must be placed on the vehicle in a manner, such as in a cradle, which ensures that no weight is placed on the supporting legs during transportation.

(viii) The storage container must be secured against movement during transportation. Bracing must conform with the requirements of paragraph (j)(1)(iii) of this section and §177.834(a) of this subchapter and with Section 6— 5.2 of NFPA 58, Liquefied Petroleum Gas Code. Straps or chains used as tiedowns must be rated to exceed the maximum load to be transported and conform to the requirements in §§393.100 through 393.106 of this title.

(ix) Tow trailers used to transport storage containers in accordance with this paragraph (j)(2) must provide rear end protection that conforms to requirements in §393.86 of this title.

(3) Storage containers of less than 1,042 pounds water capacity (125 gallons) may be shipped when charged with liquefied petroleum gas in compliance with DOT filling density.

173.315(j) in 1949*-2010

*Unable to search further back in time using HeinOnline or hardcopies, provision likely pre-dates 1949

(j) Storage containers for liquefied petroleum gas for permanent installation on consumer premises may be shipped by **private motor carrier** only under the following conditions:

- (1) Each container must be constructed in compliance with the requirements of the ASME Code (containers built in compliance with earlier editions starting with 1943 are authorized) and must be marked to indicate compliance in the manner specified by the respective Code.
- (2) Each container must be equipped with safety devices in compliance with the requirements for safety devices on containers as specified in NFPA Pamphlet No. 58.
- (3) The containers shall be so braced or otherwise secured on the vehicle as to prevent relative motion while in transit. Valves or other fittings shall be adequately protected against injury during transportation. (See § 177.834(g) of this subchapter.)
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