



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

1200 New Jersey Avenue, SE
Washington, DC 20590

May 20, 2021

Technical Trooper Nicholas Wright
MCSAP Training Coordinator/Public Information Officer
Kansas Highway Patrol
1220 South Enterprise Street
Olathe, KS 66061

Reference No. 21-0010

Dear Trooper Wright:

This letter is in response to your January 29, 2021, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to placarding and labeling requirements for certain packagings. In your email, you describe small semi-trailers approximately 15 to 20 feet long that have tanks attached for carrying bulk quantities of diesel fuel. You state that the tanks are greater than 119 gallons, but less than 1,000 gallons, and that each trailer contains one tank. You further state that the tanks are designed with the means to be lifted from the semi-trailers if the tanks are unbolted from the trailer. You have observed that while the tanks are designed so that they may be removed from the trailers, they are fitted with hoses and meters and other equipment which makes it more likely that these tanks remain attached to the trailers, and that they are loaded and unloaded without being removed from the trailer. Finally, you enclosed photographs of these trailers. Specifically, you ask whether packagings attached to trailers as described in your email meet the definition of a “cargo tank” or a “portable tank” and whether these packagings require placards or if they may be labeled instead of placarded.

Section 171.8 defines a cargo tank as a bulk packaging that: (1) is a tank intended primarily for the carriage of liquids or gases and includes appurtenances, reinforcements, fittings, and closures; (2) is permanently attached to or forms a part of a motor vehicle, or is not permanently attached to a motor vehicle but which, by reason of its size, construction or attachment to a motor vehicle is loaded or unloaded without being removed from the motor vehicle; and (3) is not fabricated under a specification for cylinders, intermediate bulk containers, multi-unit tank car tanks, portable tanks, or tank cars. It further defines a “cargo tank motor vehicle” as a motor vehicle with one or more cargo tanks permanently attached to or forming an integral part of the motor vehicle.

These tanks appear to be intended for the carriage of liquids and include appurtenances, reinforcements, fittings, and closures; they appear to be permanently attached to the motor vehicle, and appear by reason of their size, construction, or attachment to a motor vehicle to be loaded or unloaded while attached to the motor vehicle; and they do not appear to be fabricated to a specification for cylinders, intermediate bulk containers, multi-unit tank car tanks, portable tanks, or tank cars. Therefore, it is the opinion of this Office that based on your descriptions and the photographs you have provided, the tanks attached to trailers would be considered cargo tanks and the entire unit is a cargo tank motor vehicle. As such, these tanks would not be eligible for the placarding exceptions specified for portable tanks in § 172.514(c)(1) and would require placards and identification numbers on all 4 sides of the cargo tank motor vehicle when containing “NA1993, Diesel fuel, 3, PG III.”

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

Sincerely,



T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

From: [INFOCNTR \(PHMSA\)](#)
To: [Hazmat Interps](#)
Subject: FW: Request for letter of interpretation
Date: Wednesday, February 3, 2021 2:51:17 PM

21-0010

Hello Alice,

Please see below for LOI request.

Thank you,

Kathryn

From: Nicholas Wright [KHP] [mailto:Nicholas.Wright@KS.GOV]
Sent: Friday, January 29, 2021 3:49 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: Request for letter of interpretation

Greetings,

I am requesting an official written letter of interpretation regarding a placarding issue related to bulk fuel trailers used in commerce. I have recently discovered at least three vendors who manufacture small semi-trailers (approximately 15 to 20 feet long, with an approximately 14,000 lbs. GVWR) that carry fuel tanks used for transporting diesel fuel. The trailers are small bumper pull trailers, usually pulled behind a pick-up truck. The trailers are designed in such a manner as the fuel tank (i.e. – the package) can be removed from the semi-trailer. The fuel tanks are manufactured in various capacities of the customer's choosing, all of which are greater than 119 gallons, but less than 1,000 gallons. Therefore, each of the tanks meet the definition of a bulk package, per 49 CFR § 171.8, in that they are over 119-gallon capacity. Each semi-trailer is designed to carry one fuel tank.

The tanks are bolted to the semi-trailers with approximately six bolts. The tanks are designed with lugs, loops, or other means to lift the tanks from the semi-trailer if unbolted. While the tanks are designed so that they CAN be removed from the semi-trailer, they typically remain on the trailer unless they need to be removed for maintenance, replacement, etc. The semi-trailers also contain delivery hoses and meters, so the diesel fuel can be dispensed from the fuel tanks without removing the tank from the semi-trailer, and are usually refilled while still attached to the semi-trailer.

Discussion has been raised as to whether these tanks are considered a portable tank or a cargo tank, as defined by § 171.8.

Portable tank means a bulk packaging (except a cylinder having a water capacity of 1000 pounds or less) designed primarily to be loaded onto, or on, or temporarily attached to a transport vehicle or ship and equipped with skids, mountings, or accessories to facilitate handling of the tank by mechanical means. It does not include a cargo tank, tank car, multi-unit tank car tank, or trailer carrying 3AX, 3AAX, or 3T cylinders.

Cargo tank means a bulk packaging that:

- (1) Is a tank intended primarily for the carriage of liquids or gases and includes appurtenances, reinforcements, fittings, and closures (for the definition of a tank, see 49 CFR 178.320, 178.337-1, or 178.338-1, as applicable);
- (2) Is permanently attached to or forms a part of a motor vehicle, or is not permanently attached to a motor vehicle but which, by reason of its size, construction or attachment to a motor vehicle is loaded or unloaded without being removed from the motor vehicle; and
- (3) Is not fabricated under a specification for cylinders, intermediate bulk containers, multi-unit tank car tanks, portable tanks, or tank cars.

These tanks are designed in a manner that they may be temporarily attached with the bolts, and are

designed with accessories to facilitate handling of the tank by mechanical means (lugs, loops, etc.). However, they seem to better fit the definition of a cargo tank in that “by the reason of their size, construction or attachment” (bolts), they are “loaded or unloaded without being removed from the motor vehicle.”

The ultimate question raised is whether these fuel tanks and/or the transport vehicles require placards.

If these fuel tanks are considered a portable tank, they could be excepted from the requirement to placard the package (the tank itself) in accordance with § 172.514(c), so long as they display the appropriate labels. However, if these fuel tanks are shipped with diesel fuel under the domestic entry, “NA1993, Diesel fuel, Combustible Liquid, PG III,” the fuel is a combustible liquid, for which there is no such label under § 172.400(b). It is my understanding the package would NOT be eligible for the placarding exception in 172.514(c), and therefore must display placards in accordance with § 172.504(a) and § 172.514(a). My understanding is further based on PHMSA interpretation #06-0143, for a similar question regarding an IBC filled with a combustible liquid as it relates to § 172.514(c)(4).

Alternatively, if the diesel fuel is shipped under the international entry, “UN1202, Diesel fuel, 3, PG III,” the package would require the flammable liquid label as prescribed by 172.400(b) and 172.419, if not displaying placards. Therefore, the fuel tank would be eligible for the exception to placarding the tank in accordance with 172.514(c). However, it is my understanding the transport vehicle (i.e. – the semi-trailer) would still require placards in accordance with 172.504(a).

§ 172.504 General placarding requirements.

(a) General. Except as otherwise provided in this subchapter, each bulk packaging, freight container, unit load device, **transport vehicle** or rail car containing any quantity of a hazardous material must be placarded on each side and each end with the type of placards specified in tables 1 and 2 of this section and in accordance with other placarding requirements of this subpart, including the specifications for the placards named in the tables and described in detail in §§172.519 through 172.560.

My questions for which I seek an official interpretation are as follows:

Question 1: Are the bulk fuel tanks described considered portable tanks or cargo tanks? If these packages are considered a cargo tank, questions 2 – 4 are irrelevant.

Question 2: If these packages are considered portable tanks, is my understanding correct in that the fuel tank may NOT be labeled alternatively per § 172.514(c), if loaded with NA1993, Diesel fuel, since there is no combustible liquid label prescribed under 49 CFR?

Question 3: If these packages are considered portable tanks, is my understanding correct in that the fuel tank MAY be labeled alternatively per § 172.514(c), if loaded with UN1202, Diesel fuel, since they may display Class 3 labels, but the transport vehicle still must display placards per § 172.504(a) and § 172.514(a)?

Question 4: § 177.834(h), prohibits the “discharge of contents of any container, other than a cargo tank or IM portable tank...prior to the removal from the motor vehicle.” Is my understanding correct in that discharging the fuel from the tank through the delivery hoses, if it is considered a portable tank, would be in violation of 177.834(h)?

Question 5: Is my understanding correct that the fuel tank with a capacity less than 1,000 gallons must be marked on two opposing sides with the identification number prescribed for either diesel fuel entry, in accordance with § 172.302(a)(2), and § 172.332, regardless of the placarding exception eligibility?

I look forward to your response.

Technical Trooper Nick Wright, K-100
Kansas Highway Patrol

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