



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

SEP 11 2013

Mr. David Ebbers P.E.
Senior Engineer
Western International, Inc.
290 Quarry Rd.
Milford, CT 06460

Ref. No. 13-0120

Dear Mr. Ebbers:

This is in response to your letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR 171-180) applicable to trailer-mounted tanks containing diesel fuel used to power back-up generators, pumps, and other construction equipment installed on the same transport vehicle (e.g., flat-bed trailer). You state the bulk tanks range in capacity from 132 gallons to 1240 gallons for IBCs and 2450 and 5000 gallons for UN portable tanks (T9). You ask whether the fuel tanks you describe in your letter are subject to the HMR and, if not, what actions you can voluntarily take to communicate the hazards posed by transporting such units on a public highway.

First, please note that an IBC may not have a volumetric capacity greater than 3000 liters (793 gallons). That said, it is the opinion of this Office that if the tanks described in your letter meet the requirements for fuel systems under 49 CFR 393.65 and 393.67 of the Federal Motor Carrier Safety Regulations (FMCSR), they are not subject to the HMR. As defined in 49 CFR 171.8, a fuel tank means "a tank, other than a cargo tank, used to transport flammable or combustible liquid, or compressed gas for the purpose of supplying fuel for propulsion of the transport vehicle to which it is attached, *or for the operation of other equipment on the transport vehicle.*"

Regarding voluntary hazard communication, it is permissible to display the FLAMMABLE or COMBUSTIBLE placard prescribed in 49 CFR 172.542 and 172.544, respectively. The HMR authorize placards to be displayed for a hazardous material, even when not required, provided the placarding conforms to the requirements in Subpart F of Part 172. See 49 CFR 172.502(c).

I trust this information is helpful. Please contact us if you require further assistance.

Sincerely,

b27
T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

WESTERN



ENVIRONMENTAL FUEL DEPLOYMENTSOLUTIONS

Stevens

\$173.220

\$173.502(c)

Applicability Placarding

13-0120

5/30/13

U.S. DOT

PHMSA Office of Hazardous Materials Standards
Attn: PHH-10
East Building
1200 New Jersey Avenue, SE.
Washington, DC 20590-0001

Ref: **Primarily** clarification as to the Applicability of 49 CFR 173.220 for Fuel tanks being transported by motor vehicles for the operation of other equipment on the transport vehicle.
Secondly as to the Applicability of "Permissive Placarding" of the before mentioned Fuel tanks, according to 49 CFR 172.502 (c).

Western International has been building fuel storage and Transportation tanks for since 1964. We are committed to the safe storage and transport of fuel. Our mission statement is to be the "**Most Trusted Fuel Handling Resource,**" and we take that goal very seriously.

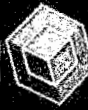
We manufacture a range of tanks called the Transcube. The Transcube is a double walled UN approved IBC with sizes ranging from 132 US gallons through to 1240 US gallons. Larger sized Transcubes are built to UN portable tank (T9) standards and are made in 2450 and 5000 gallon capacities. We manufacture these to all applicable regulations, to the highest standard. We have an excellent safety record and have never had a serious Environmental or HazMat incident resulting from failure of a tank.

Our tanks are usually used to provide additional fuel to back up generators and pumps and other construction equipment. The tanks are transported to and from the job site or location of work via flatbed truck or trailer along with the piece of machinery that is being fueled. (See attached pictures).

It is in the light of this that we write to you, on behalf of our business and our client base, we are seeking a written interpretation and confirmation of guidance provided in referenced letters of interpretation (McAda drilling Ref No. 11-0181) and correspondence provided by the DOT/Haz Mat Specialist (Ref. David Ford).

The purpose of our letter of interpretation is to provide factual documentation to highway regulators and our customers

Per DOT 49 CFR, and the clarification correspondence from David Ford, US DOT Hazardous Materials Specialist, dated 10 May 2013, "the exception in 173.220 is generally applicable to engines and equipment that have an integrated fuel tank that is permanently connected. As referenced in the McAda letter, certain exceptions exist for fuel tanks that are not intended for propulsion of the transport vehicle, however, is intended for the operation of equipment installed on the transport vehicle. As explained, by David Ford, the McAda letter discusses propane tanks; however, Mr. Ford



contends that the applicability is for diesel fuel tanks as well. Per Mr. Ford, if the tank meets the definition of a fuel tank in Section 171.8 (see below), then 173.220 applies. Subparagraph (h) take the tank completely out of the Hazardous Material Regulations, so placards and therefore a CDL are not required.

A fuel tank means "a tank, other than a cargo tank, used to transport flammable liquid or combustible liquid or compressed gas for the purpose of supplying fuel for propulsion of the transport vehicle to which it is attached, or for the operation of other equipment on the transport vehicle."

We agree with Mr. Ford in that a delivery of a fuel tank with other equipment in transport on the transport vehicle meets this definition and would like a clear ruling that the HMR would not apply in this case (as shown in photographs).

- Additionally, in the spirit of Hazard Communication and certain customer requirements, we also seek clarification and approval to voluntarily placard the fuel tanks as prescribed in 49 CFR 172.532, as referenced in the McAda letter, and that in doing so, will not subject our company or our customers to HMR.

In closing, we would appreciate a letter of confirmation of the above HMR exemption for fuel tanks for the operation of other equipment on the transport vehicle and clarification that voluntary use of placarding is authorized without triggering HMR.

We will be glad to supply you with additional photos of our equipment upon your request. We can do this by Email or direct mail if you would like, or you can view our equipment on our website at: www.western-intl.com.

Thank you,

David Ebbers P.E.
Senior Engineer
Western International, Inc.
290 Quarry Rd.
Milford, CT 06460
E | debbers@western-intl.com

References and Attachments:

- McAda Letter dated Nov 16, 2011 Ref No. 11-0181
- David Ford, DOT Haz Mat Specialist correspondence regarding exemption of fuel tanks from HMR
- Photographs of typical fuel tank transports for the operation of other equipment on the transport vehicle

C.C. Tim Doling tdoling@western-intl.com



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

NOV 16 2011

Mr. James S. McAda
President
McAda Fluids Heating Services
P.O. Box 1080
Bay City, Texas 77404

Ref. No. 11-0181

Dear Mr. McAda:

This responds to your letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to trailer-mounted oilfield water heating units with burners fueled by propane gas. The gas is transported in MC 331 specification tanks constructed in accordance with the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) and are mounted to the same trailer as the heating units. You ask whether the water heating units you describe in your letter are subject to the HMR and, if not, what actions you can voluntarily take to communicate the hazards posed by transporting such units on a public highway.

It is the opinion of this Office the tanks you describe are fuel tanks and, therefore, are not subject to the HMR. As defined in 49 CFR 171.8, a fuel tank means "a tank, other than a cargo tank, used to transport flammable or combustible liquid, or compressed gas for the purpose of supplying fuel for propulsion of the transport vehicle to which it is attached, *or for the operation of other equipment on the transport vehicle.*" Fuel systems that meet the requirements under 49 CFR 393.65 and 393.67 of the Federal Motor Carrier Safety Regulations (FMCSR) and are not used as packaging for hazardous materials are subject only to the FMCSR. As prescribed in 49 CFR 393.69(a), a fuel system that uses liquefied petroleum gas as a fuel for the operation of a motor vehicle *or for the operation of auxiliary equipment installed on*, or used in connection with, a motor vehicle must conform to the "Standards for the Storage and Handling of Liquefied Petroleum Gases" of the National Fire Protection Association (NFPA), Battery March Park, Quincy, MA 02269.

Regarding voluntary hazard communication, it is permissible to display the FLAMMABLE GAS placard prescribed in 49 CFR 172.532. The HMR authorize placards to be displayed for a hazardous material, even when not required, provided the placarding conforms to the requirements in Subpart F of Part 172. See 49 CFR 172.502(c).

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

Sincerely,

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

McADA DRILLING FLUIDS INC.

P.O. Box 1080
Bay City, Texas 77404-1080
(979) 244-3444

Stevens
§ 171.8
Definitions
11-0181

25 July 2011

Mr. Charles E. Betts
Director, Office of Hazardous Materials Standards
U.S. DOT/PHMSA (PHH-10)
1200 New Jersey Avenue, SE East Building, 2nd Floor
Washington, DC 20590

Ref: Clarification as to *Placard or Not To Placard "Fuel Tanks"* as defined *CFR 49 Part 171.8*

Mr. Betts:

The primary purpose of this letter is to try to resolve an issue we have as to either Placard or not Placard the LPG (Propane) Fuel Tanks on our Hydro-Thermal Units, which are trailer mounted oilfield water heating units with burners being fueled with Propane. These tanks are ASME constructed MC-331 LPG tanks having capacity of 3000 gallons, used exclusively to fuel burners ranging from 16MM BTU, 21MM BTU and 35MM BTU units as needed to heat large amounts of water for oilfield applications. However, it is a general rule that when we are in transit relocating the units to another location we will only have near 10% capacity of the fuel tank with propane as we refill the units after they are set up on the new location.

Our concern is that Troopers in Texas as well as in other states occasionally interpret regulations in the CFR 49 to mean these Fuel Tanks may not apply to the definition of *Fuel Tanks* and feel we are required to Placard these "*Fuel Tanks*". In referencing CFR 49 Part 171.8, defining "*FUEL TANK*"----- *or for the operation of other equipment on the transport vehicle*", as well as the definition of "*Hazardous Material*" states the material to be Hazardous when "*Transported in Commerce*", which is not applicable in our case as the fuel is used only to fuel our units, we clearly see that we do fit the CFR 49 Part 171.8 criteria thus not required to Placard.

We would like a clear ruling as applicable to our Hydro Thermal Units, if we can Placard these units permissively with PHMSA consent to help with maintaining a diligent effort with Troopers, but without having to comply with other regulations in the CFR 49 such as shipping papers, markings and other applicable regulations that we now are not subject to as per CFR 49 Part 171.8.

McADA DRILLING FLUIDS INC.

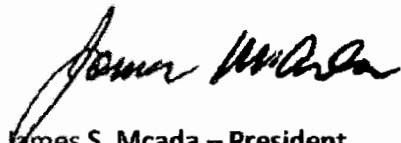
P.O. Box 1080
Bay City, Texas 77404-1080
(979) 244-3444

With regards to the Safety Issues for all First Responders as well as any Troopers or any FMCSA enforcement officers, as they may be responding to emergencies, we would like to do what we can to help in that respect, but without being held accountable for any non-applicable regulations.

We respectfully request that you respond with your recommendations to us in writing as we wish to be able to discuss and review your findings with our operators as well as applicable FMCSA Enforcement personnel and State Troopers from all states as we maintain a diligent and knowledgeable approach to our handling of material in our Oilfield Industry.

We will be glad to supply you with photos of our equipment upon your request. We can do this by Email or direct mail if you would like, or you can view our equipment on our website at:
www.mcadafluidsheating.com

Thank you,



James S. Mcada – President
McAda Fluids Heating Services
P.O. Box 1080
Bay City, Texas 77404

Cc: Sgt. David Johnson – Commercial Vehicle Enforcement
Texas Department of Public Safety – 6A03
Victoria, TX

Cc: Roy Smith – Safety Coordinator
McAda Drilling Fluids, Inc.
Bay City, TX 77404

----- Original Message -----

Subject:Equipment Fuel Tanks

Date: Fri, 10 May 2013 10:45:47 -0400

From: <david.ford@dot.gov>

To: <jeff@onehorn.com>

Jeff,

The exception in 173.220 is generally applicable to engines and equipment that have an integrated fuel tank that is permanently connected.

Attached is an interpretation that explains it pretty well. Although it discusses propane tanks, the applicability is the same for diesel tanks.

If the tank meets the definition of a fuel tank in Section 171.8 (see below), then 173.220 applies, particularly (b)(4)(i) and (h). Subparagraph (h) takes the tank completely out of the Hazardous Materials Regulations, so placards and therefore a CDL are not required.

A fuel tank means "a tank, other than a cargo tank, used to transport flammable liquid or combustible liquid or compressed gas for the purpose of supplying fuel for propulsion of the transport vehicle to which it is attached, or for the operation of other equipment on the transport vehicle."

There is no requirement the fuel tank be attached to the equipment and there is no quantity restriction.

In my opinion, the transportation of the fuel tank you described is not subject to the Hazardous Materials Regulations. I do recommend that you drain as much of the diesel fuel as possible.

I hope this is helpful.

David W. Ford

USDOT/FMCSA/Southern Service Center

Hazardous Materials Program Manager

404-327-7374

david.ford@dot.gov

