



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

JUL 07 2011

Mr. Craig Updyke
Manager, Trade & Commercial Affairs
National Electrical Manufacturers Association
1300 North 17th St., Suite 1752
Rosslyn, VA 22209

Reference No. 11-0060

Dear Mr. Updyke,

This is in response to your request for clarification of the Hazardous Materials Regulations (HMR; 49 CFR, Parts 171-180) applicable to the transportation by highway of fuel tanks on mobile generators. Your questions are paraphrased and answered below.

Q1. What are the HMR requirements for the transportation of fuel tanks on “mobile generator sets” (“gensets”)? The fuel tanks have varying capacities, from 160 gallons to 1,400 gallons for diesel fuel.

A1. If by “mobile generator sets” you mean portable generators, provided the fuel tanks are securely closed, the portable generators are not otherwise subject to the HMR when being transported by motor vehicle and rail when the fuel tank contains more than 500 mL (17 ounces) of liquid fuel. Also see § 173.220(h). The § 173.220 (b)(4)(i) modal exceptions for transportation by motor vehicle and rail provide for quantities of flammable liquid fuel greater than 500 mL (17 ounces) to remain in the fuel tank in self-propelled vehicles and mechanical equipment if the fuel tanks are securely closed.

If the fuel tanks are empty, unless other hazardous materials that are subject to the HMR are involved, the generator is not subject to the HMR, including the requirement for fuel tanks to be securely closed. Under the HMR, a fuel tank is considered empty when the fuel tank and the fuel lines have been completely drained, sufficiently cleaned of residue, and purged of vapors to remove any potential hazard (see § 173.220(a)(2)).

Q2. Are there any exemptions or “alternate regulatory approach” to the transportation of fuel tanks on mobile generators?

A2. With respect to portable generators being transported by motor vehicle, the modal exceptions in § 173.220 make regulatory options unnecessary (see A1).

Q3. Does PHMSA or state regulators have jurisdiction for regulating portable generators?

A3. PHMSA has jurisdiction for regulating the transportation of portable generators in commerce. States must adopt regulations that are comparable to, and do not conflict with, the HMR.

Q4. How should Canada's recent amendment to the original Transportation of Dangerous Goods Act of 1992 be interpreted or addressed?

A4. Interpretations pertaining to Canadian regulations should be directed to Linda Hume at Transport Canada, TDG Canadian Government Publishing Center, Supply and Services, Canada, Ottawa, Ontario, Canada K1A, 0S9, 416-973-1868, <http://www.tc.gc.ca>. Ms. Hume's e-mail address is linda.hume-sastre@tc.gc.ca.

I hope this information is helpful. Please contact this office should you have additional questions.

Sincerely,

A handwritten signature in cursive script that reads "T. Glenn Foster". The signature is written in black ink and is positioned above the typed name and title.

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

Drakeford, Carolyn (PHMSA)

McIntyre
§173.220
Fuel Tanks

11-0060

From: Betts, Charles (PHMSA)
Sent: Tuesday, March 08, 2011 6:58 AM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Questions on U.S.-Canada Regs for Specific Mobile Fuel Tanks

Carolyn –

Please log in this new request for interpretation and assign for proper handling.

Thanks,
Charles

From: Updyke, Craig [mailto:Cra_Updyke@nema.org]
Sent: Monday, March 07, 2011 1:07 PM
To: Betts, Charles (PHMSA)
Cc: Kelley, Shane (PHMSA)
Subject: Questions on U.S.-Canada Regs for Specific Mobile Fuel Tanks

Hi Charles,

I hope you are doing well. A member company of ours is seeking clarification regarding regulation of fuel tanks on mobile generator sets. Thanks in advance for your replies to the following questions.

1. What are the requirements from DOT/PHMSA for Rental/Mobile Genset fuel tanks?
 - a. Capacity of diesel fuel (UN1202), packaging group-III, varies from 160 gallons to 1400 gallons.
 - b. The equipment in question are fuel tanks on rental/mobile gensets and the number of gensets on the road at any given time can vary.
2. Are there any exemptions or an alternate regulatory approach that we can adhere to so we comply with the regulations? Would these options below work?
 - a. UL-142: Steel aboveground tanks for Flammable and combustible liquids
 - b. Place a label/placard on fuel tanks, stating "Do not fill the tank while on the road" to end-users.
 - c. Any exemption (potentially grandfathered) where we could sell these products without complying to DOT regulations as rental/mobile genset fuel tanks are not literal mobile products in comparison to other on/off-road products?
3. Who has jurisdiction for regulating fuel tanks in mobile gensets?
 - a. PHMSA?
 - b. State regulators?
4. Is there any consensus building at the U.S. DOT regarding how to interpret or address Canada's recent amendment to the original Transportation of Dangerous Goods Act of 1992?

Below is a view of Transport Canada's regulation of fuel tanks on mobile gensets:

- a. CPG must comply with "Transportation of Dangerous Goods" regulations.
- b. There is no capacity exemption for fuel tanks.

- c. Canada does have regulations in force related to compliance of basic fuel tanks but none of the regulations specifically apply to stationery applications. All of the fuel tank regulations are now incorporated in Transport Canada, through the Transportation of Dangerous Goods Act.
- d. Transport Canada have complete jurisdiction on regulating fuel tanks.

Sincerely and respectfully,

Craig Updyke
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