



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

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

SEP 28 2011

Mr. Jim La Porte  
AT&T  
1670 Axtell  
Troy, Michigan 48084

Ref. No.: 11-0205

Dear Mr. La Porte:

This responds to your August 19, 2011 email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) applicable to the transportation of combustible liquids. In your email, you ask for confirmation that the transportation by highway of combustible liquids in non-bulk packagings is not regulated under the HMR. Additionally, you ask for confirmation that the empty packaging requirements in § 173.29 are also not required for those packagings.

The transportation by highway of combustible liquids in non-bulk packagings is not regulated under the HMR. A “combustible liquid” is defined as a material that has a flash point above 60 °C (140 °F) and below 93 °C (200 °F) and does not meet the definition of any other hazard class under the HMR (see § 173.120(b)(1)). Further, a flammable liquid with a flash point at or above 38 °C (100 °F) that does not meet the definition of any other hazard class may also be reclassified as a combustible liquid by certain modes of transport (see § 173.120(b)(2)). As such, a combustible liquid that is not a hazardous substance, hazardous waste, or a marine pollutant and is packaged in a non-bulk packaging (i.e., a packaging having a liquid capacity of 450 L (119 gallons) or less) is not subject to any other requirements under the HMR (see § 173.150(f)(2)).

Section 173.29 requires that an empty packaging containing a residue of a hazardous material be offered for transportation and transported in the same manner as when it previously contained a greater quantity of that hazardous material, unless it has been sufficiently cleaned of residue and purged of vapors to remove any potential hazard. However, you state in your Email that your material has a flash point at or above 100°F, does not meet the definition of any other hazard class, and it was reclassified as a combustible liquid and shipped by highway in non-bulk packagings. Therefore, as provided under § 173.150(f)(2), no other requirements of the subchapter, including the requirements in § 173.29, apply.

I hope 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

**Drakeford, Carolyn (PHMSA)**

Nickels  
§173.29  
§173.150

**From:** McIntyre, Joan (PHMSA)  
**Sent:** Friday, August 19, 2011 5:19 PM  
**To:** Drakeford, Carolyn (PHMSA); Foster, Glenn (PHMSA)  
**Subject:** FW: Request for written response

Empty  
11-0205

**From:** LA PORTE, JAMES J (ATTSI) [<mailto:jl7454@att.com>]  
**Sent:** Friday, August 19, 2011 4:51 PM  
**To:** McIntyre, Joan (PHMSA)  
**Subject:** RE: Request for written response

Joan,  
Hello! I have a question regarding transport trailers and fuel bladders (tanks mounted on skids) that have been specifically designed to refuel our small diesel generators. These tanks are transported via ground transports and are less than 119 gallons in capacity. These tanks are three quarters filled with diesel fuel which has a flashpoint greater than 100 degrees F. The trailers are 6' X 10' equipped with a 100 gallon fuel tank, a 50' hose on a take up reel, a 50' bonding ribbon, a lifting arm to load and transport small generators if required, and secured storage area for up to 4 portable generators. The trailer is designed so that it can be stacked two high for transport. This will allow 6 trailers to be shipped on a standard 48' flatbed. These are used in severe storm conditions or disaster areas.

It is our understanding that a liquid with a flashpoint between 100 and 200 F transported by ground in the United States in a non-bulk package is not subject to regulation as a hazardous material unless it meets the criteria for another class of hazardous material (poison, corrosive, etc.) or is a hazardous waste, hazardous substance, or marine pollutant; 49 CFR 173.120, 173.121, and 173.150. Additionally, a non-bulk package that contains a residue of such a combustible liquid would therefore not be subject to the exacting "empty-ness" criteria in 49 CFR 173.29, and could be transported as non-hazmat without having to purge the container.

Therefore since these fuel bladders or tanks are less than 119 gallons, transported via ground transport, contain diesel fuel that has a flash point greater than 100 F these fuel bladders mounted on trailers are not regulated as a DOT hazardous material and can contain diesel fuel when being transported.

Can I get a written response.

Please advise.

Jim La Porte  
1670 Axtell  
Troy, Michigan 48084

02-0209  
10-0059