



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

MAY 09 2012

Mr. Charley Simpson
Blue Sky Technologies
396 CR 4929
Newark, TX 76071

Ref. No. 12-0053

Dear Mr. Simpson:

This responds to your February 9, 2012 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). According to your letter, your company uses liquefied petroleum gas (LPG) propane fuel tanks to fuel your desiccant drying units which are trailer-mounted drying machines with burners fueled by propane. The fuel for these drying machines is stored in 4 separate DOT420 tanks, each with a capacity of 100 gallons. These tanks are permanently mounted and hard-plumbed together for the sole purpose of fueling your trailer-mounted drying machines. You state that our Hazardous Materials Information Center (HMIC) informed you that you do not have to placard your vehicle based on our previous interpretation letter Ref. No. 11-0181. Specifically, you request confirmation that interpretation letter Ref. No. 11-0181 is applicable to your fuel tanks.

Based on the information you provided, interpretation letter Ref. No. 11-0181 is applicable to your fuel tanks. It is the opinion of this office that the tanks you describe are fuel tanks and are not subject to the HMR, as long as they meet the requirements pursuant to 49 CFR 393.65 and 393.67 of the Federal Motor Carrier Safety Regulations (FMCSR). Fuel tanks used in the manner in which you described are subject only to the FMCSR.

I hope this answers your inquiry. If you need additional assistance, please contact this office at 202-366-8553.

Sincerely,

Ben Supko
Acting Chief, Standards Development Branch
Standards and Rulemaking Division

Boothe
§ 171.8.
Definitions
12-0053

February 9, 2012

U.S. DOT/PHMSA

Request for Formal Letter Of Interpretation

Regarding: Clarification as to Placard or Not to Placard fuel tanks as defined CFR 49 part 171.8

(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.)

Although we have already been verbally informed by the U.S. DOT Hazardous Materials Information Center that we are not required to Placard based on existing Interpretation #11-0181, which is similar to if not identical to Blue Sky Technologies circumstances' described below, Blue Sky Technologies is requesting a Formal Letter of Interpretation specifically addressing the transport of Blue Sky Technologies propane fueled equipment, or to be added by name to existing Interpretation.

The primary purpose of this letter is to clarify the issue of whether we need to placard or not placard the LPG (propane) fuel tanks that fuel our Desiccant Drying Units which are trailer mounted Drying Machines with burners fueled by propane. These drying machines are fueled by 4 separate DOT#420 tanks with a capacity of 100 gallons per tank and are permanently mounted, and hard plumbed together for the sole purpose of fueling our trailer mounted drying machines.

Our concern is that Troopers in Texas as well as other states and or propane distributors may occasionally interpret regulations in the CFR 49 regarding "Fuel Tanks" incorrectly and in a manner that may not apply to our circumstance and may 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" and referencing the definition of "Hazardous Material" as stating the material to be Hazardous when "Transmitted in Commerce" which is not applicable in our case as the fuel is used for the sole purpose of fueling our units. We believe and have had verbal confirmation from U.S. DOT Hazardous Materials Information Center that we are not required to Placard.

We would like a clear ruling as applicable to transporting Blue Sky Technologies Mobil Drying Units including their permanently plumbed and mounted DOT #420 Fuel Tanks to and from job sites and propane distributors stating we are not required to Placard.

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. To that end, we would like to know if we can voluntarily Placard these units permissively with the PHMSA in a diligent effort to inform Troopers, and other First Responders that could be responding to emergencies, but without having to comply or be accountable for any non- applicable regulations in the CFR 49.

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, State Troopers from all states, and propane distributors as we maintain a diligent and knowledgeable approach to our handling of material in our Restoration 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.

Thank You,

Charley Simpson

817-498-7558

simcrs@charter.net

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