



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

DEC 20 2007

Ms. Angela Hankins
Law Offices of
Paul D. Borghesani
307 S. Main Street
Suite 300
Elkhart, IN 46516

Ref. No. 07-0203

Dear Ms. Hankins:

This responds to your letter regarding the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to the transportation of diesel fuel in an auxiliary fuel tank on a pick-up truck. You state that the diesel fuel is contained in a tank with a capacity of less than 119 gallons and that the diesel fuel is used to power the pick-up truck.

A motor vehicle fuel tank that: (1) meets the requirements for liquid fuel systems under §§ 393.65 and 393.67 of the Federal Motor Carrier Safety Regulations, including marking; (2) is maintained in accordance with NFPA/ASME standards for fuel systems; and (3) is not used as a packaging for hazardous materials is not subject to the requirements of the HMR. In addition, under § 173.150(f) of the HMR, a flammable liquid with a flashpoint of 38°C (100°F) or higher that does not meet the definition of any other hazard class, may be reclassified as a combustible liquid. Combustible liquids, such as diesel fuel, transported in non-bulk packagings (i.e. < 450 liters/119 gallons) are not subject to the HMR.

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

Sincerely,

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards

Stevens
§ 173.150 (f)
§ 177.817(a)
Highway
07-0203

October 18, 2007

U.S. Department of Transportation
Pipeline and Hazardous Material Safety Administration
Office of Hazardous Material Safety
1200 New Jersey Ave., Southeast
East Building, Second Floor
Washington, D.C. 20590

RE: Applicability of Hazardous Materials Regulation- Auxiliary Fuel Systems- Pick-up trucks

Motor Carrier Services ("MCS") is engaged in providing advisory and compliance services to the motor carrier industry including but not limited to assisting motor carriers in complying with the Federal Motor Carrier Safety Regulations as well as the Hazardous Materials Regulations. Most recently, several of the motor carriers operating pick-up trucks and utilizing the services of MCS have been receiving citations from various State enforcement agencies including Michigan and Iowa. The cited violations of the Hazardous Material Regulations include but are not limited to Part 177.817A (failure to have hazmat shipping papers for diesel fuel carried) and 177.823A (no labels for the diesel fuel carried.) In all instances, the diesel fuel was contained in an auxiliary fuel tank of less than 119 gallons for the purpose of supplying fuel for the propulsion of the pick-up truck to which it is attached.

Based upon the foregoing, MCS respectfully requests an interpretation that the Hazardous Materials Regulations do not apply to the transportation of diesel fuel in a tank with a capacity of less than 119 gallons when used for the purpose of supplying fuel for the propulsion of the pick-up truck.

This request is based upon the fact that diesel fuel would be considered a combustible liquid within the exceptions noted in 49 CFR 173.150(f). Accordingly, the requirements of the Hazardous Materials Regulations applicable to placarding, shipping papers, labeling, etc., would not be applicable under 49 CFR 173.150 (f)(2).

Drakeford, Carolyn <PHMSA>

From: Angela Hankins [angela.pdborglaw@verizon.net]
Sent: Friday, October 19, 2007 3:28 PM
To: Drakeford, Carolyn <PHMSA>
Subject: Re: Request for Written Interpretation

Law Offices of Paul D. Borghesani
307 S. Main Street, Suite 300
Elkhart, IN 46516
(574) 389-0804

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

From: carolyn.drakeford@dot.gov
To: angela.pdborglaw@verizon.net
Sent: Friday, October 19, 2007 9:59 AM
Subject: RE: Request for Written Interpretation

Could you please send me your address and telephone number? Thanks.

From: INFOCNTR <PHMSA>
Sent: Friday, October 19, 2007 9:33 AM
To: Drakeford, Carolyn <PHMSA>
Subject: FW: Request for Written Interpretation

Carolyn,

Could you process this as an interp. letter request please? Thanks a million buddy!

Erin

From: Angela Hankins [mailto:angela.pdborglaw@verizon.net]
Sent: Thursday, October 18, 2007 4:42 PM
To: INFOCNTR <PHMSA>
Subject: Request for Written Interpretation

Based upon the factors set forth in the attachment, a written interpretation is respectfully requested.

No virus found in this incoming message.

Checked by AVG Free Edition.

Version: 7.5.488 / Virus Database: 269.15.1/1078 - Release Date: 10/18/2007 5:47 PM