



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

NOV 21 2013

Mr. Mark Carpenter
Chief Financial Officer
Select Sire Power, Inc.
1 Stony Mountain Road
Tunkhannock, PA 18657

Ref. No.: 13-0196

Dear Mr. Carpenter:

This is in response to your email dated October 1, 2013, requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) relating to exceptions provided under § 173.320 for cryogenic liquids. Your organization transports nitrogen, refrigerated liquid in insulated portable tanks mounted in motor vehicles. The tanks have capacities equal to or greater than 119 gallons and are equipped with pressure relief devices that vent at a maximum pressure of 22 psig. You ask if the exceptions provided in § 173.320 are applicable to this arrangement. You further ask if the transport vehicles are required to display placards in accordance with subpart F of part 172 since the tanks may meet the definition of a bulk package, and if your company is required to be registered in accordance with subpart G of part 107.

The transportation of nitrogen, refrigerated liquid by motor vehicle, as described, is eligible for the relief from the HMR provided in § 173.320. The exceptions contained in § 173.320 are applicable to transportation by motor vehicle of atmospheric gases, and helium, cryogenic liquids, in Dewar flasks, insulated cylinders, insulated portable tanks, and insulated cargo tanks designed and constructed so that the pressure in such packagings will not exceed 25.3 psig under ambient temperature conditions during transportation. The § 171.8 definition of an atmospheric gas includes nitrogen. Section 173.320(a) further provides that transportation meeting these criteria is not subject to the requirements of the HMR except those specified in paragraphs (a)(1), (a)(2), and (a)(3) of § 173.320. Paragraphs (a)(1), (a)(2), and (a)(3) do not reference compliance with subpart F of part 172 (Placarding) or subpart G of part 107 (Registration of Persons Who Offer or Transport Hazardous Materials), therefore the display of placards on the transport vehicles and registration with the Pipeline and Hazardous Materials Safety Administration is not required.

I trust this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

Duane A. Pfund
International Standards Coordinator
Standards and Rulemaking Division

Drakeford, Carolyn (PHMSA)

Babich
§173.220
Applicability
13-0196

From: INFOCNTR (PHMSA)
Sent: Thursday, October 17, 2013 11:43 AM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Request for formal interpretation letter

Hi Carolyn,

This caller requested we submit this e-mail as a formal letter of interpretation.

Thanks,
Victoria

check
MVE-190

From: Mark Carpenter [<mailto:mcarpenter@selectsirepower.com>]
Sent: Tuesday, October 01, 2013 1:30 PM
To: PHMSA HM InfoCenter
Cc: CARPENTER, Mark A
Subject: Request for formal interpretation letter

Date: October 1, 2013

To: Office of Hazardous Materials Standards
Via: Email to: phmsa.hm-infocenter@dot.gov

From: Select Sire Power, Inc.
Mark A Carpenter, Chief Financial Officer
1 Stony Mountain Road
Tunkhannock, PA 18657

Re: Request for formal letter of interpretation – Ref: Sample 03-0059

I write you today with a request for a formal letter of interpretation regarding the applicability of the cryogenic exemption under section 173.320 for registration and placarding requirements.

Our organization transports nitrogen, refrigerated liquid in insulated portable tanks with capacities of 119, 150, and 190 gallons. These tanks are mounted in vehicles registered below 10,000 GVWR and are equipped with devices that will vent at a maximum pressure of 22 psig.

Recently we have been challenged on this exemption in the field with reference to the definition of bulk. 49 CFR 171.8 defines bulk as:

A bulk packaging is a packaging, other than a vessel or a barge, with (1) a maximum capacity greater than 450 liters (119 gallons) as a receptacle for a liquid; (2) a maximum net mass greater than 400 kilograms (882 pounds) and a maximum capacity greater than 450 liters (119 gallons) as a receptacle for a solid; or (3) a water capacity greater than 454 kilograms (1000 pounds) as a receptacle for a gas.

By this definition any product carried in excess of 119 gallons would be considered bulk and required to be registered and therefore placarded; which would also result in different licensing requirements under FMCSA. Would you please offer a formal interpretation on the applicability of the cryogenic exemption?

Thank you in advance for your time and consideration.

Mark A. Carpenter
Chief Financial Officer
Select Sire Power, Inc.
1 Stony Mountain Road
Tunkhannock, PA 18657
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