



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

MAY 18 2015

Kyle Sparks
Pinnacle Propane
2825 Pecos Highway
Carlsbad, NM 88220

Ref. No. 15-0013

Dear Mr. Sparks:

This responds to your January 15, 2015 email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask for clarification of the placarding requirements for a propane tank trailer used to move ASME domestic propane storage tanks ranging in size from 100-gallon capacity to 1,200 gallon capacity.

You state that the trailer is unloaded (i.e., the tank is removed) and remains placarded even though there is no hazardous material present. Additionally, there are no identifying markings or inspections on the trailer or motor vehicle pulling the trailer. You believe this is in violation of the HMR and the FMCSA requirements. Finally, you include photographs to illustrate the scenario described.

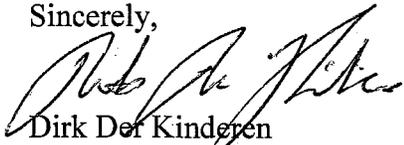
In accordance with § 172.502 (prohibited and permissive placarding), no person may affix or display a placard on a motor vehicle unless the material offered is a hazardous material and the placard represents the hazard of material. Thus, if there is no hazardous material on the trailer, it may not be placarded. However, the placarding requirements for hazardous materials apply to transportation subject to the HMR.

Section 171.1(d) specifies functions that are not subject to the requirements of the HMR. As defined in § 171.8, "transportation" means the movement of property and loading, unloading, or storage incidental to that movement. For a private motor carrier, transportation in commerce does not begin until the motor vehicle driver takes possession of the hazardous material for the purpose of transportation. Transportation continues until the driver relinquishes possession of the hazardous material at its destination and is no longer responsible for performing functions subject to the HMR (see § 171.1(d)).

Based on the photographs and information you provided, it is the opinion of this Office that the trailer (and motor vehicle) is not in transportation. It appears to be on a private facility and not in commerce, and therefore, is not subject to the HMR including any hazard communication elements such as prohibited placarding.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Dirk Der Kinderen". The signature is written in a cursive style with a large initial "D".

Dirk Der Kinderen
Acting Chief, Standards Development Branch
Standards and Rulemaking Division

Goodall, Shante CTR (PHMSA)

Booth
172,500
Placarding
15-0013

From: Ciccarone, Michael CTR (PHMSA)
Sent: Thursday, January 15, 2015 4:53 PM
To: Hazmat Interps
Subject: FW: Propane tank trailer

Shante/Alice,

Please submit this for a formal letter of interpretation.

Thanks,

Mike

From: Kyle Sparks [mailto:sparks.kylet@gmail.com]
Sent: Thursday, January 15, 2015 4:08 PM
To: Ciccarone, Michael CTR (PHMSA)
Subject: RE: Propane tank trailer

Pinnacle Propane
ATTN: Kyle Sparks
2825 Pecos Hwy
Carlsbad NM 88220

On Jan 15, 2015 2:04 PM, <m.ciccarone.ctr@dot.gov> wrote:

Dear Kyle,

We have received your request for a written letter of interpretation regarding the hazardous materials regulations (49 CFR Parts 171-180).

Please include your company's physical address to expedite the submission process.

Sincerely,

Mike, Hazardous Materials Specialist

An e-mail response from this office is considered informal guidance. Formal guidance may be requested in accordance with 49 CFR 105.20. <http://phmsa.dot.gov/hazmat/regs/interps>

From: Kyle Sparks [mailto:sparks.kylet@gmail.com]
Sent: Thursday, January 15, 2015 4:02 PM
To: INFOCNTR (PHMSA)
Subject: Propane tank trailer

Hello, I wrote awhile back to ask questions about a placarding situation.

I would like a interpretation letter.

Attached find pictures of a propane tank moving trailer. It is used for the movement of ASME domestic storage propane tanks ranging from 100 gallon capacity to 1200 gallon capacity. As you can see in the pictures the trailer is unloaded and remains placarded even though there is no hazardous material present. Also there are no identifying markings on trailer or pickup pulling it as well as no inspections on either vehicle. I believe this is in violation of fmsa and phmsa. Please inform.

Kyle Sparks

Boothe, Deborah (PHMSA)

From: Ciccarone, Michael CTR (PHMSA)
Sent: Wednesday, January 28, 2015 11:12 AM
To: Boothe, Deborah (PHMSA)
Subject: FW: Propane tank trailer
Attachments: IMG_20150115_134814207.jpg; IMG_20150115_134803812.jpg; IMG_20150115_134752170.jpg; IMG_20150115_134740572.jpg; IMG_20150115_134730836.jpg

From: Kyle Sparks [<mailto:sparks.kylet@gmail.com>]
Sent: Thursday, January 15, 2015 4:02 PM
To: INFOCNTR (PHMSA)
Subject: Propane tank trailer

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Kyle Sparks