



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

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

APR - 7 2010

Mr. James La Porte
1670 Axtell
Troy, MI 48084

Ref. No. 09-0305

Dear Mr. La Porte:

This responds to your November 9, 2009 request for clarification concerning the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to materials of trade (MOTS). Specifically, you ask whether the Federal Motor Carrier Safety Administration (FMCSA) regulations include restrictions on the transportation of gasoline on a commercial motor vehicle that are in addition to the MOTS exception in § 173.6 of the HMR.

The Federal Motor Carrier Safety Regulations (FMCSRs; 49 CFR Parts 390-397) do not specifically address MOTS. Provided all applicable requirements in § 173.6 are met, gasoline transported as MOTS is not subject to any other requirements in the HMR. However, the FMCSA mandates the minimum levels of financial responsibility required for motor carriers in 49 CFR Part 387. The table in § 387.9 delineates financial responsibility by type of carrier and commodity transported, and lists the subsequent financial responsibility amount relevant to transport of these shipments. If the vehicle weighs over 10,000 pounds GVW and transports hazardous materials listed in the § 172.101 Hazardous Materials Table of the HMR, you are subject to the financial responsibility requirements at a minimum of \$1,000,000

I hope this answers your inquiry. If you need additional assistance, do not hesitate to contact this Office.

Sincerely,

Charles E. Betts
Chief, Standards Development
Office of Hazardous Materials Standards

Boothe
\$173.6
MOT

Drakeford, Carolyn (PHMSA)

09-0305

From: LA PORTE, JAMES J (ATTSI) [jl7454@att.com]
Sent: Tuesday, December 15, 2009 9:35 AM
To: LA PORTE, JAMES J (ATTSI); Drakeford, Carolyn (PHMSA)
Subject: RE: Re PHMSA Hazmat Center Inquiry

Carolyn,
Thanks for all your assistance. Here is another question.

When transporting gasoline under the materials of trade there is a per package limitation of eight gallons. Are there any additional restrictions if the vehicle is a commercial motor vehicle under the Federal Motor Carrier Safety Administration (FMCSA)? Would like a written response.

Regards,
Jim La Porte
1670 Axtell
Troy, MI 48084
(248) 649-7865

From: LA PORTE, JAMES J (ATTSI)
Sent: Tuesday, October 20, 2009 2:11 PM
To: 'carolyn.drakeford@dot.gov'
Subject: RE: Re PHMSA Hazmat Center Inquiry

Carolyn,
I have another question. Under the HM regulations transport of diesel fuel in a non-bulk container by ground is not regulated by the HMR. What about a non-bulk package of diesel fuel (50 gallons) with a dispensing hose and pump within an enclosed trailer. What are the HM regulations that would apply. Would like a written response.
Regards,
Jim La Porte
1670 Axtell
Troy, MI 48084
(248) 649-7865

From: carolyn.drakeford@dot.gov [mailto:carolyn.drakeford@dot.gov]
Sent: Thursday, July 02, 2009 2:25 PM
To: LA PORTE, JAMES J (ATTSI)
Subject: FW: Re PHMSA Hazmat Center Inquiry

From: Drakeford, Carolyn (PHMSA)
Sent: Thursday, July 02, 2009 2:22 PM
To: 'LA PORTE, JAMES J (ATTSI) '
Cc: Boothe, Deborah (PHMSA)

12/15/2009

Subject: RE: Re PHMSA Hazmat Center Inquiry

Good afternoon Mr. LaPorte.

I've been assigned to work on your letter of clarification (Ref. No. 09-0145). Your fax did not include your mailing address and telephone number. Will you please provide me your mailing address and your telephone number.

Thank you. Have a great day!

Deborah Boothe
Transportation Regulations Specialist
USDOT/PHMSA
Office of Hazardous Materials Standards/PHH-10
202-366-8553

From: INFOCNTR (PHMSA)
Sent: Thursday, June 18, 2009 8:23 AM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Re PHMSA Hazmat Center Inquiry

Carolyn,
This gentleman would like a written letter of interpretation on the topic discussed below.
Thanks,
Rob

From: LA PORTE, JAMES J (ATTSI) [mailto:jl7454@att.com]
Sent: Wednesday, June 17, 2009 3:17 PM
To: training (PHMSA)
Subject: FW: Re PHMSA Hazmat Center Inquiry

Was at the regional DOT training in Troy, MI and was told I could request an answer in writing and it should be no problem:

Would like an e-mail response.

When transporting portable generators that contain fuel under 49 CFR 173.220 Section b(4)(e) they are exempted from the HMR regulations. It states that for quantities of flammable liquid fuel (gasoline) greater than 500 mL (17 ounces) may remain in self-propelled vehicles and mechanical equipment (portable generators) only under the following conditions:

- Transportation by motor vehicle or rail car with the following requirements:
 - The fuel tank caps, engine components and lines must be securely closed to prevent leakage of fuel during transport.
 - Fuel tanks must not be filled to more than 90% of their total capacity.
 - Thoroughly wiped to remove any residue of diesel on the outside of the generator.
 - If practical, the generator should be stored away from direct sunlight and potential ignition sources.

12/15/2009

This is also true for diesel fuel (combustible liquid) This only applies to rail and ground transport.

My question is two fold. Is this true. Second, if transporting generators on a trailer (let say 10 generators that have 12 gallons of fuel). If these are exempted from the HMR then does the weight of fuel count if transporting these under the Materials of Trade and the 440 pound limit?

Please advise.

Jim La Porte

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

From: victoria.lehman@dot.gov [mailto:victoria.lehman@dot.gov]

Sent: Wednesday, June 17, 2009 8:43 AM

To: LA PORTE, JAMES J (ATTSI)

Subject: Re PHMSA Hazmat Center Inquiry

Dear James LaPorte,

We have received your inquiry about the hazardous materials regulations (49 CFR Parts 171-180). The hazardous materials regulations are available at the following URL:

<http://hazmat.dot.gov/regs/rules.htm>

A hazardous materials regulatory specialist would be happy to speak with you regarding your inquiry. You may contact the Hazardous Materials Information Center, which is staffed with regulatory specialists who can quickly answer your questions by phone, Monday through Friday, 9 AM - 5 PM EST at (800) 467-4922 or (202) 366-4488. Alternatively, if you would like a regulatory specialist to contact you directly, please respond to this e-mail with a telephone number where you can be reached between 9 AM and 5 PM EST.

Sincerely,

Victoria, 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://hazmat.dot.gov/infocent.htm>