



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

OCT 01 2012

Mr. David Goff
Facility Manager
Arcet Cylinder Services Div.
10095 Whitesel Rd.
Ashland, VA 23005

Reference No. 12-0105

Dear Mr. Goff:

This is in response to your email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to external visual inspections on certain MC 338 cargo tank motor vehicles. In your letter, you state that the cargo tank motor vehicles have a device that maintains the pressure at 17 psi. You ask whether an external visual inspection on an MC 338 cargo tank motor vehicle that transports liquid argon and liquid nitrogen at low pressure not to exceed 25.3 psi is required by §§ 173.33 and 180.407, or whether the inspection is excepted by § 173.320(a).

Section 173.320(a) excepts motor vehicles and rail cars from the requirements of the subchapter when the vehicle is carrying atmospheric gases and helium, cryogenic liquid; is insulated; and designed and constructed so that the pressure in such packaging will not exceed 25.3 psig under ambient temperature conditions during transportation, except as specified in § 173.320(a)(1), (a)(2) and (a)(3). Provided that the cargo tank motor vehicle meets these specified requirements, it is excepted from all other requirements in the HMR, including an external visual inspection. The cargo tank as described in your letter appears to qualify for this exception. However, it should be noted that in order to display MC 338 markings, a cargo tank must meet the continuing qualification, maintenance, and periodic testing requirements for a MC 338 cargo tank as specified in § 180.407.

I hope this information is helpful. Please contact this office should you have additional questions.

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

McIntyre
§173.320
Exceptions

Drakeford, Carolyn (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Thursday, May 03, 2012 1:51 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Interpretation of CFR49-Part 173.320

12-0105

Hi Carolyn,

We received the following request for a letter of interpretation.

Thanks,
Victoria

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

From: davidg@arcet.com [<mailto:davidg@arcet.com>]
Sent: Wednesday, May 02, 2012 9:26 AM
To: INFOCNTR (PHMSA)
Subject: Interpretation of CFR49-Part 173.320

Completed via phone by VL on 5/3 @ 12:35 Hello, I need some help. There is a disagreement between several of us here at Arcet Equipment Co. about the interpretation of 173.320. We have some cargo tanks, DOT Specification MC338, that carry liquid argon and liquid nitrogen at low pressure not to exceed 25.3psi. We actually have a device that maintains the pressure at 17psi.

There are those of the opinion that part 173.320 does away with the requirements of part 180.407.

The question is; do we need to do an annual external visual inspection on our MC338 cargo tank trucks as required in part 180.407? If I am reading the compliance table correctly it also says that the MC338 is excepted from the internal visual, leakage test, pressure test, and thickness test.

My own understanding (if I am interpreting part 173.320 correctly) is that at the end of 173.320(a) where it reads ".....are not subject to the requirements of this subchapter when transported by motor vehicle or railcar except (except is the key word) as specified in paragraphs (a)(1), (a)(2), and (a)(3) of this section." If I go to (3) Subparts A and B of part 173 and look especially at Subpart B-Preparation of Hazardous Materials for Transportation then go down the list to 173.33-Hazardous materials in cargo tank motor vehicles where it reads "No person may fill or offer for transportation a specification cargo tank motor vehicle for which the prescribed periodic retest or inspection under subpart E of part 180 of this subchapter is past due until the retest or inspection has been successfully completed."

I say the DOT MC 338 needs to be externally visually inspected every year. What do you say? Your prompt response would be greatly appreciated.

Sincerely,
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