



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

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

JAN 22 2013

Mr. Don Custer  
Safety Coordinator  
Enservco  
501 S. Cherry Street, Suite 320  
Denver, CO 80246

Ref. No.: 12-0188

Dear Mr. Custer:

This responds to your August 14, 2012 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to truck- or trailer-mounted oilfield water heating units with integral burners fueled by propane gas. The propane gas is transported in MC 331 specification tanks constructed in accordance with the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code). The tanks are mounted to the same trailer as the heating units. You ask whether the water heating units you describe in your letter are subject to the HMR and, if not, if you can voluntarily communicate the hazards posed by transporting such units on a public highway without being penalized for not complying with additional requirements in the HMR.

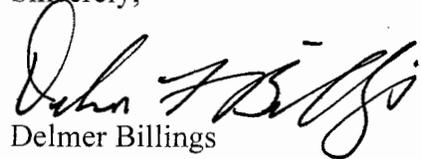
As defined in 49 CFR § 171.8, a fuel tank means “a tank, other than a cargo tank, used to transport flammable or combustible liquid, or compressed gas for the purpose of supplying fuel for propulsion of the transport vehicle to which it is attached, or for the operation of other equipment on the transport vehicle.” Fuel systems that meet the requirements under 49 CFR §§ 393.65 and 393.67 of the Federal Motor Carrier Safety Regulations (FMCSRs) and are not used as packaging for hazardous materials are subject only to the FMCSRs. As prescribed in 49 CFR § 393.69(a), a fuel system that uses liquefied petroleum gas as a fuel for the operation of a motor vehicle or for the operation of auxiliary equipment installed on, or used in connection with, a motor vehicle must conform to the “Standards for the Storage and Handling of Liquefied Petroleum Gases” of the National Fire Protection Association (NFPA), Battery March Park, Quincy, MA 02269.

It should be noted that, while MC 331 specification tanks may be used to package a material not subject to the HMR, no person may represent or offer a packaging as meeting the requirements of the HMR unless the packaging is maintained, marked, and retested in accordance with the applicable requirements of the HMR. These requirements are applicable whether or not the packaging is used for the transportation of a hazardous material. Therefore, if the tank is not maintained in accordance with the HMR, we recommend you securely cover any identifying marks or specification plates representing it as such.

With respect to your question regarding placarding, the HMR do not prohibit placarding, provided you meet the requirements in § 172.502. However, you should be aware that placarding a package or fuel tank that does not otherwise comply with the HMR may frustrate your shipment.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Delmer Billings".

Delmer Billings  
Senior Regulatory Advisor  
Standards and Rulemaking Division



# HEAT WAVES

## Hot Oil Service, LLC

Acidizing • Hot Oiling • Water Hauling • Frac Heating

Winter  
\$171.8  
\$172.101  
Placarding  
12-0188

August 14, 2012

Office of Hazardous Materials Safety  
Pipeline and Hazardous Materials Safety Administration  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
East Building, 2nd Floor  
Washington, DC 20590

To whom it may concern:

The purpose of this letter is to resolve an issue we have as to placarding our frac water heating units. These units are truck mounted or trailer mounted oilfield water heating units with burners being fueled with propane. These ASME constructed MC-331 LPG tanks range in size from 2400 gallons to 2800 gallons and are used exclusively to fuel burners on the units which are used to heat water. As a general rule the tanks are almost empty in transit from one location to another and are re-fueled on location.

Our concerns are with the Port of Entry's and roadside inspections interpreting regulations in the CFR 49 that these fuel tanks may not apply to the definition of "Fuel Tanks" and feel we are required to placard these vehicles. Fuel Tank, as defined in CFR 49 Part 171.8, is "for the operation of other equipment on the transport vehicle". Also, the definition of "Hazardous Material" states that the material is hazardous when "transported in commerce", which is clearly not applicable in our case because the fuel used is strictly used in our own units. We feel that we fit the CFR 49 Part 171.8 criteria and thus not required to placard these vehicles.

We would like a clarification ruling on our frac heaters. We would like to stay compliant in all DOT and HAZMAT issues, but without having to comply with other regulations in the CFR 49 such as shipping papers, markings, and other applicable regulations that we are not subject to, such as CFR 49 Part 171.8.

We also understand the issues for First Responders and Law Enforcement responding to emergencies and would like to help in that respect, but without being held accountable for any non-applicable regulations.

We would respectfully request that you respond, in writing, with your recommendations in this matter so we may be able to discuss and review your clarification with our operators and managers as well as all applicable FMCSA Enforcement personnel that this may concern. If you would like to see pictures of our equipment, they are available on our website: [www.enservco.com](http://www.enservco.com).

Thank you,

A handwritten signature in black ink, appearing to read "Don Custer". The signature is fluid and cursive, with a large initial "D" and "C".

Don Custer

Safety and Compliance Coordinator

Enservco

501 S. Cherry Suite 320

Denver, Co 80246