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## PHMSA Interpretation #15-0135

Dec 11, 2015



### PHMSA Response Letter

December 11, 2015

Audrey Hallinger  
 HWN Resources, LLC  
 PO Box 242  
 El Campo, TX 77437

Ref No. 15-0135

Dear Ms. Hallinger:

This responds to your May 28, 2015 email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to a trailer with a permanently mounted generator and 350-gallon diesel fuel tank. Your questions are paraphrased and answered as follows:

Q1. Is the 350-gallon diesel fuel tank subject to the HMR?

A1. A fuel tank meeting the requirements of 49 CFR §§ 393.65 and 393.67 of the Federal Motor Carrier Safety Regulations (FMCSR) for fuel systems and used only for supplying fuel for the operation of the motor vehicle or its auxiliary equipment is not subject to the HMR with respect to its use on the vehicle. If it is not a fuel tank for this purpose, then the material is subject to the HMR when transported in commerce. A common shipping name for such a shipment is "Engines, internal combustion."

Q2. If the fuel tank meets the requirements of FMCSR §§ 393.65 and 393.67 and is deemed a fuel system, is the 350-gallon tank on our equipment subject to the HMR, and commercial driver's license (CDL) hazmat endorsement requirements?

A2. See A1. With regard to the requirement for a CDL with a hazmat endorsement, if the vehicle meets the definition of a commercial motor vehicle under 49 CFR Part 383, the driver would be required to have a CDL in conformance with Subpart B of Part 383; however, the hazmat endorsement would not be required since the vehicle would not be required to display placards.

Q3. Would § 173.220(a) be applicable to the trailer?

A3. Section 173.220(a) is applicable to an internal combustion engine and its fuel tank (if it contains flammable or gaseous fuel) being transported as cargo on a transport vehicle in commerce. If your equipment meets requirements of § 173.220(b)(4)(i), it is not subject to any other requirements of the HMR.

Q4. If § 173.220 applies, does it mean that the fuel tanks of the generator need non-vented caps or valves or quick disconnects in the lines to be considered "securely closed"?

A4. Section 173.220(b)(4)(i) does not specifically require non-vented caps, valves or quick disconnects in the lines to be considered "securely closed." The fuel tank can be securely closed using any method that prevents leakage.

Q5. Would an equipment trailer with two mounted tanks of 119 gallons or less and used for the transportation of diesel qualify for the exception in § 173.150(f)(2)?

A5. Yes, if the diesel can be reclassified as a combustible liquid. The diesel being transported would need to be at or above a flashpoint of 100 degrees Fahrenheit to be reclassified as a combustible liquid and thus qualify for the exception in § 173.150(f)(2). Additionally, each tank would need to meet the definition of a non-bulk package in § 171.8. Note that if the two mounted tanks are manifolded or connected, and do not have stop valves between them in the closed position, they would be treated as a single package (see Letter Ref. No. 11-0153).

#### Regulation References

49 CFR 173.302

- [More Interpretations on this topic](#)
- [Read the Regulation](#)

49 CFR 173.301

- [More Interpretations on this topic](#)
- [Read the Regulation](#)

Q6. Is there a limit on the number of the above described non-bulk tanks containing a combustible liquid on a transport vehicle?

A6. No. The exception in § 173.150(f)(2) is based on the material, package size and mode of transportation.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

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

393.65, 173.220(a), 173.150(f)(2)

DMS ID# 15-0135

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