

NC
FILE

PO BOX 72, LOMA, COLORADO 81524

RECEIVED PUNJIT...

2017 APR 17 PM 3:06

PUCO

18

TO WHOM IT MAY CONCERN,

17-1082-TR-LVF

We are submitting in writing a Request for an Administrative hearing on case # OH1239002315C in regards to Violations that occurred back in October of 2016.

I provided proof that we were not hauling a hazardous load, and we have the insurance that is required of us. I am attaching the documentation that proves we were not hauling a Hazardous Load.

Please contact me, Sherry Spangenberg

Planet Freight LLC

1000 N. 9th St. Suite 27 1/2

Grand Junction, Co 81501 or

PO Box 72

Loma, CO 81524

970-424-9561

Sincerely,



Sherry Spangenberg

Manager

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician AC Date Processed APR 17 2017



Public Utilities Commission

Asim Z. Haque, Chairman

Commissioners

Lynn Slaby
M. Beth Trombold
Thomas W. Johnson
Lawrence K. Friedeman

03/16/2017

OHI 239002315C
SHERRY SPANGENBERG
P O BOX 72
LOMA, CO 81524

RE: **NOTICE OF PRELIMINARY
DETERMINATION**
Case No. OHI 239002315C

Dear Sir or Madam:

On 10/13/2016, a vehicle operated by PLANET FREIGHT LLC, and driven by WILLIAM H PETERSON, was inspected within the State of Ohio. As the result of discovery of the following violations of the Commission's rules, Staff of the Commission timely notified PLANET FREIGHT LLC (Respondent) pursuant to rule 4901:2-7-07, Ohio Administrative Code (O.A.C.), that it intended to assess a civil forfeiture against the Respondent in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
387.301 A	4	No evidence of public liability and property damage insurance	500.00
387.301 A	4	No evidence of public liability and property damage insurance	500.00
4901:2-6-03H1-		Failure to obtain a uniform program permit prior to transporting hazardous materials	500.00
		Total of Group 4	1 000.00
		Total Hazmat	500.00

TOTAL AMOUNT DUE: \$1,500.00

A conference was conducted pursuant to rule 4901:2-7-10, O.A.C., at which the Respondent had a full opportunity to present any reasons why the violation did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.

As a result of the conference, Staff has made a Preliminary Determination that the Commission should assess a civil forfeiture against PLANET FREIGHT LLC in the following amount:

180 East Broad Street
Columbus, Ohio 43215-3793

(614) 466-3016
www.PUCO.ohio.gov





Public Utilities Commission

Asim Z. Haque, Chairman

Commissioners

Lynn Slaby
M. Beth Trombold
Thomas W. Johnson
Lawrence K. Friedeman

CODE	GROUP	VIOLATION	FORFEITURE
387.301 A	4	No evidence of public liability and property damage insurance	500.00
		Total of Group 4	500.00

TOTAL AMOUNT DUE: \$500.00

Within 30 days of this notice, you must either: (1) pay the assessed civil forfeiture or (2) file a written request for an administrative hearing pursuant to rule 4901:2-7-13, O.A.C. Failure to file a written request for an administrative hearing within 30 days shall constitute a waiver of your right to further contest the violations and will conclusively establish the occurrence of the violations. Such failure shall also constitute a waiver of your right to further contest liability to the state of Ohio for the civil forfeiture described in the notice and will result in the forfeiture amount being referred to the Ohio Attorney General's office for collection.

Please consult the enclosed instruction sheet for additional information regarding this Notice of Preliminary Determination.

Sincerely,

Milan Orbovich, Director
Transportation Department

Compliance Officer: Michael Hines





The Public Utilities
Commission of Ohio
180 E. Broad St. - Fourth Floor
Columbus, OH 43215

OMCIS VOUCHER

Date: 3/16/2017
Legal Name: PLANET FREIGHT LLC
Address: P O BOX 72
City: LOMA
State: CO
Zip: 81524
Case Number: OH1239002315C
PIN: JPP0

Item	DueDate	Amount
1	4/30/2017	\$500.00
Total		\$500.00

Pay online at <https://omcis.puc.state.oh.us/home.aspx> or enclose this voucher with your check or money order if paying by mail.



OH1239002315C



**ROADSIDE INSPECTION
INSTRUCTION SHEET
NOTICE OF PRELIMINARY DETERMINATION**

Please read this instruction sheet care fully. It contains information about your rights and responsibilities in regard to this Notice of Preliminary Determination.

You have received a "Notice of Preliminary Determination" as described in Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.). **Within 30 days of this notice, you must either: (1) pay the assessed civil forfeiture or (2) file a written request for an administrative hearing.** If you do not pay the forfeiture or file a request for an administrative hearing within 30 days of this notice, your case will be placed in our default process. Both procedures are described below.

1. How to Pay the Forfeiture

If you do not wish to further contest the violations described in this notice, you may make payment of the civil forfeiture indicated in this notice via one of the following methods:

Online at <https://omcis.puc.state.oh.us/home.aspx>. You will need your case number and PIN located on the voucher.

enclosed

Mail: send a check or money order (no Canadian postal money orders) made payable to "Treasurer, State of Ohio." **In order to assure proper credit, you must write the case number on the face of the check or money order.** Please send payment to the following address:

Public Utilities Commission of Ohio
Attn: CF Processing
180 East Broad Street, 4th Floor
Columbus, OH 43215-3793

2. How to File a Request for an Administrative Hearing

If you wish to further contest the violations described in this notice, **you should file a "Request for an Administrative Hearing" with the Commission's Docketing Division as described in Rule 4901:2-7-13, O.A.C.** Your "Request for an Administrative Hearing" must be **in writing** and must contain the **case number** indicated on this notice. Also, please include the **contact name, address, and telephone number**, of the person to whom further communications regarding this matter should be directed. The request shall be signed by the respondent or its authorized representative. A copy of this "Notice of Preliminary Determination" must be attached to your request.

Your "Request for an Administrative Hearing" must be mailed or hand-delivered **within 30 days of this notice** to the following address:

Public Utilities Commission of Ohio
Attn: Docketing Division
180 East Broad Street
Columbus, OH 43215-3793

3. Failure to Submit a Request for an Administrative Hearing

If you do not serve a timely "Request for an Administrative Hearing" in the manner described above, you will forfeit your right to further contest the violations described in this notice and the occurrence of the violations will be conclusively established. Such



failure shall also constitute a waiver of your right to further contest liability to the state of Ohio for the civil forfeiture described in this notice and will result in the forfeiture amount being referred to the Ohio Attorney General's office for collection.

4. Codes, Violation Groups, and Forfeiture Amounts

"Code" in this notice identifies the rule that was violated. Numbers in a 100 or 300 series refer to specific sections of the Hazardous Materials Regulations or the Federal Motor Carrier Safety Regulations located in Title 49 of the Code of Federal Regulations (C.F.R.). Some section numbers may have suffixes beyond those which appear in the C.F.R. These are used for internal data collection purposes. Codes in other formats refer to violations of Ohio's statutes or regulations.

"Violation Group" identifies the numerical group (1-4) of the violation for purposes of calculating the civil forfeiture. Section 4923.99, Ohio Revised Code, authorizes the Public Utilities Commission of Ohio to assess a civil forfeiture of up to \$25,000 for each day of each violation. The amount of any forfeiture depends upon the nature, gravity, circumstances, and extent of the violation, the offender's degree of culpability for the violation, and the offender's history of violations. "Total Amount Due" is the total amount of the civil forfeiture assessed for all violations described in this notice.

For additional information regarding the civil forfeiture program, please contact the Compliance Division.

5. Violations of 49 C.F.R. 383.51, 391.15, 392.5(c)(2), 392.10, 392.80(a), 392.82(a), 395.13(d), 396.9(c)(2), and rule 4901:2-5-07(D) of the Ohio Administrative Code

If you are "convicted" of violating any of the following: 49 C.F.R. 383.51, 391.15, 392.5(c)(2), 392.10, 392.80(a), 392.82(a), 395.13(d), 396.9(c)(2), or rule 4901:2-5-07(D) of the Ohio Administrative Code, you may be disqualified from operating a commercial motor vehicle for a minimum of 60 days. The federal regulations defines conviction as, "An unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by **an authorized administrative tribunal**, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the **payment of a fine** or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated."

6. Copies of Inspection Reports

A copy of the inspection report for the violations described in this notice was given to the driver at the time of inspection. You may request additional copies of inspection reports.

Obtain copies at this web site:

<https://www.puc.state.oh.us/secure/OMCIS/public/searchcarrierreports.aspx>

Or you may email your request to:

cmvreports@puc.state.oh.us. Please provide the **inspection number and inspection date** in your request.





U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

JUL 07 2011

Mr. Craig Updyke
Manager, Trade & Commercial Affairs
National Electrical Manufacturers Association
1300 North 17th St., Suite 1752
Rosslyn, VA 22209

Reference No. 11-0060

Dear Mr. Updyke,

This is in response to your request for clarification of the Hazardous Materials Regulations (HMR; 49 CFR, Parts 171-180) applicable to the transportation by highway of fuel tanks on mobile generators. Your questions are paraphrased and answered below.

Q1. What are the HMR requirements for the transportation of fuel tanks on “mobile generator sets” (“gensets”)? The fuel tanks have varying capacities, from 160 gallons to 1,400 gallons for diesel fuel.

A1. If by “mobile generator sets” you mean portable generators, provided the fuel tanks are securely closed, the portable generators are not otherwise subject to the HMR when being transported by motor vehicle and rail when the fuel tank contains more than 500 mL (17 ounces) of liquid fuel. Also see § 173.220(h). The § 173.220 (b)(4)(i) modal exceptions for transportation by motor vehicle and rail provide for quantities of flammable liquid fuel greater than 500 mL (17 ounces) to remain in the fuel tank in self-propelled vehicles and mechanical equipment if the fuel tanks are securely closed.

If the fuel tanks are empty, unless other hazardous materials that are subject to the HMR are involved, the generator is not subject to the HMR, including the requirement for fuel tanks to be securely closed. Under the HMR, a fuel tank is considered empty when the fuel tank and the fuel lines have been completely drained, sufficiently cleaned of residue, and purged of vapors to remove any potential hazard (see § 173.220(a)(2)).

Q2. Are there any exemptions or “alternate regulatory approach” to the transportation of fuel tanks on mobile generators?

A2. With respect to portable generators being transported by motor vehicle, the modal exceptions in § 173.220 make regulatory options unnecessary (see A1).

Q3. Does PHMSA or state regulators have jurisdiction for regulating portable generators?

A3. PHMSA has jurisdiction for regulating the transportation of portable generators in commerce. States must adopt regulations that are comparable to, and do not conflict with, the HMR.

Q4. How should Canada's recent amendment to the original Transportation of Dangerous Goods Act of 1992 be interpreted or addressed?

A4. Interpretations pertaining to Canadian regulations should be directed to Linda Hume at Transport Canada, TDG Canadian Government Publishing Center, Supply and Services, Canada, Ottawa, Ontario, Canada K1A, 0S9, 416-973-1868, <http://www.tc.gc.ca>. Ms. Hume's e-mail address is linda.hume-sastre@tc.gc.ca.

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

Sincerely,

A handwritten signature in black ink, reading "T. Glenn Foster". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

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

McIntyre
\$173.220
Fuel Tanks
11-0060

Drakeford, Carolyn (PHMSA)

From: Betts, Charles (PHMSA)
Sent: Tuesday, March 08, 2011 6:58 AM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Questions on U.S.-Canada Regs for Specific Mobile Fuel Tanks

Carolyn –

Please log in this new request for interpretation and assign for proper handling.

Thanks,
Charles

From: Updyke, Craig [<mailto:Craig.Updyke@nema.org>]
Sent: Monday, March 07, 2011 1:07 PM
To: Betts, Charles (PHMSA)
Cc: Kelley, Shane (PHMSA)
Subject: Questions on U.S.-Canada Regs for Specific Mobile Fuel Tanks

Hi Charles,

I hope you are doing well. A member company of ours is seeking clarification regarding regulation of fuel tanks on mobile generator sets. Thanks in advance for your replies to the following questions.

1. What are the requirements from DOT/PHMSA for Rental/Mobile Genset fuel tanks?
 - a. Capacity of diesel fuel (UN1202), packaging group-III, varies from 160 gallons to 1400 gallons.
 - b. The equipment in question are fuel tanks on rental/mobile gensets and the number of gensets on the road at any given time can vary.
2. Are there any exemptions or an alternate regulatory approach that we can adhere to so we comply with the regulations? Would these options below work?
 - a. UL-142: Steel aboveground tanks for Flammable and combustible liquids
 - b. Place a label/placard on fuel tanks, stating "Do not fill the tank while on the road" to end-users.
 - c. Any exemption (potentially grandfathered) where we could sell these products without complying to DOT regulations as rental/mobile genset fuel tanks are not literal mobile products in comparison to other on/off-road products?
3. Who has jurisdiction for regulating fuel tanks in mobile gensets?
 - a. PHMSA?
 - b. State regulators?
4. Is there any consensus building at the U.S. DOT regarding how to interpret or address Canada's recent amendment to the original Transportation of Dangerous Goods Act of 1992?

Below is a view of Transport Canada's regulation of fuel tanks on mobile gensets:

- a. CPG must comply with "Transportation of Dangerous Goods" regulations.
- b. There is no capacity exemption for fuel tanks.

- c. Canada does have regulations in force related to compliance of basic fuel tanks but none of the regulations specifically apply to stationery applications. All of the fuel tank regulations are now incorporated in Transport Canada, through the Transportation of Dangerous Goods Act.
- d. Transport Canada have complete jurisdiction on regulating fuel tanks.

Sincerely and respectfully,

Craig Updyke
Manager, Trade & Commercial Affairs
National Electrical Manufacturers Association (NEMA)
703 841 3294
703 841 3394 (fax)
703 350 6887 (mobile)
cra_updyke@nema.org
www.nema.org



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

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

SEP 11 2013

Mr. David Ebberts P.E.
Senior Engineer
Western International, Inc.
290 Quarry Rd.
Milford, CT 06460

Ref. No. 13-0120

Dear Mr. Ebberts:

This is in response to your letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR 171-180) applicable to trailer-mounted tanks containing diesel fuel used to power back-up generators, pumps, and other construction equipment installed on the same transport vehicle (e.g., flat-bed trailer). You state the bulk tanks range in capacity from 132 gallons to 1240 gallons for IBCs and 2450 and 5000 gallons for UN portable tanks (T9). You ask whether the fuel tanks you describe in your letter are subject to the HMR and, if not, what actions you can voluntarily take to communicate the hazards posed by transporting such units on a public highway.

First, please note that an IBC may not have a volumetric capacity greater than 3000 liters (793 gallons). That said, it is the opinion of this Office that if the tanks described in your letter meet the requirements for fuel systems under 49 CFR 393.65 and 393.67 of the Federal Motor Carrier Safety Regulations (FMCSR), they are not subject to 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.*"

Regarding voluntary hazard communication, it is permissible to display the FLAMMABLE or COMBUSTIBLE placard prescribed in 49 CFR 172.542 and 172.544, respectively. The HMR authorize placards to be displayed for a hazardous material, even when not required, provided the placarding conforms to the requirements in Subpart F of Part 172. See 49 CFR 172.502(c).

I trust this information is helpful. Please contact us if you require further assistance.

Sincerely,

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

WESTERN



INTERNATIONAL FUEL DEPLOYMENTSOLUTIONS

Stevens

8173.220

8173.502(c)

Applicability Placarding
13-0120

5/30/13

U.S. DOT

PHMSA Office of Hazardous Materials Standards
Attn: PHH-10
East Building
1200 New Jersey Avenue, SE.
Washington, DC 20590-0001

Ref: **Primarily** clarification as to the Applicability of 49 CFR 173.220 for Fuel tanks being transported by motor vehicles for the operation of other equipment on the transport vehicle.

Secondly as to the Applicability of "Permissive Placarding" of the before mentioned Fuel tanks, according to 49 CFR 172.502 (c).

Western International has been building fuel storage and Transportation tanks for since 1964. We are committed to the safe storage and transport of fuel. Our mission statement is to be the "**Most Trusted Fuel Handling Resource**," and we take that goal very seriously.

We manufacture a range of tanks called the Transcube. The Transcube is a double walled UN approved IBC with sizes ranging from 132 US gallons through to 1240 US gallons. Larger sized Transcubes are built to UN portable tank (T9) standards and are made in 2450 and 5000 gallon capacities. We manufacture these to all applicable regulations, to the highest standard. We have an excellent safety record and have never had a serious Environmental or HazMat incident resulting from failure of a tank.

Our tanks are usually used to provide additional fuel to back up generators and pumps and other construction equipment. The tanks are transported to and from the job site or location of work via flatbed truck or trailer along with the piece of machinery that is being fueled. (See attached pictures).

It is in the light of this that we write to you, on behalf of our business and our client base, we are seeking a written interpretation and confirmation of guidance provided in referenced letters of interpretation (McAda drilling Ref No. 11-0181) and correspondence provided by the DOT/Haz Mat Specialist (Ref. David Ford).

The purpose of our letter of interpretation is to provide factual documentation to highway regulators and our customers

Per DOT 49 CFR, and the clarification correspondence from David Ford, US DOT Hazardous Materials Specialist, dated 10 May 2013, "the exception in 173.220 is generally applicable to engines and equipment that have an integrated fuel tank that is permanently connected. As referenced in the McAda letter, certain exceptions exist for fuel tanks that are not intended for propulsion of the transport vehicle, however, is intended for the operation of equipment installed on the transport vehicle. As explained, by David Ford, the McAda letter discusses propane tanks; however, Mr. Ford

WESTERN



FUEL DEPLOYMENT SOLUTIONS

contends that the applicability is for diesel fuel tanks as well. Per Mr. Ford, if the tank meets the definition of a fuel tank in Section 171.8 (see below), then 173.220 applies. Subparagraph (h) take the tank completely out of the Hazardous Material Regulations, so placards and therefore a CDL are not required.

A fuel tank means "a tank, other than a cargo tank, used to transport flammable liquid 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."

We agree with Mr. Ford in that a delivery of a fuel tank with other equipment in transport on the transport vehicle meets this definition and would like a clear ruling that the HMR would not apply in this case (as shown in photographs).

- Additionally, in the spirit of Hazard Communication and certain customer requirements, we also seek clarification and approval to voluntarily placard the fuel tanks as prescribed in 49 CFR 172.532, as referenced in the McAda letter, and that in doing so, will not subject our company or our customers to HMR.

In closing, we would appreciate a letter of confirmation of the above HMR exemption for fuel tanks for the operation of other equipment on the transport vehicle and clarification that voluntary use of placarding is authorized without triggering HMR.

We will be glad to supply you with additional photos of our equipment upon your request. We can do this by Email or direct mail if you would like, or you can view our equipment on our website at: www.western-intl.com.

Thank you,

David Ebberts P.E.
Senior Engineer
Western International, Inc.
290 Quarry Rd.
Milford, CT 06460
E| debberts@western-intl.com

References and Attachments:

- McAda Letter dated Nov 16, 2011 Ref No. 11-0181
- David Ford, DOT Haz Mat Specialist correspondence regarding exemption of fuel tanks from HMR
- Photographs of typical fuel tank transports for the operation of other equipment on the transport vehicle

C.C. Tim Doling tdoling@western-intl.com



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

NOV 16 2011

Mr. James S. McAda
President
McAda Fluids Heating Services
P.O. Box 1080
Bay City, Texas 77404

Ref. No. 11-0181

Dear Mr. McAda:

This responds to your letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to trailer-mounted oilfield water heating units with burners fueled by propane gas. The 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) and 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, what actions you can voluntarily take to communicate the hazards posed by transporting such units on a public highway.

It is the opinion of this Office the tanks you describe are fuel tanks and, therefore, are not subject to 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 (FMCSR) and are not used as packaging for hazardous materials are subject only to the FMCSR. 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.

Regarding voluntary hazard communication, it is permissible to display the FLAMMABLE GAS placard prescribed in 49 CFR 172.532. The HMR authorize placards to be displayed for a hazardous material, even when not required, provided the placarding conforms to the requirements in Subpart F of Part 172. See 49 CFR 172.502(c).

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

Sincerely,

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

MCADA DRILLING FLUIDS INC.

P.O. Box 1080
Bay City, Texas 77404-1080
(979) 244-3444

Stevens
§ 171.8
Definitions
11-0181

25 July 2011

Mr. Charles E. Betts
Director, Office of Hazardous Materials Standards
U.S. DOT/PHMSA (PHH-10)
1200 New Jersey Avenue, SE East Building, 2nd Floor
Washington, DC 20590

Ref: Clarification as to *Placard or Not To Placard "Fuel Tanks"* as defined CFR 49 Part 171.8

Mr. Betts:

The primary purpose of this letter is to try to resolve an issue we have as to either Placard or not Placard the LPG (Propane) Fuel Tanks on our Hydro-Thermal Units, which are trailer mounted oilfield water heating units with burners being fueled with Propane. These tanks are ASME constructed MC-331 LPG tanks having capacity of 3000 gallons, used exclusively to fuel burners ranging from 16MM BTU, 21MM BTU and 35MM BTU units as needed to heat large amounts of water for oilfield applications. However, it is a general rule that when we are in transit relocating the units to another location we will only have near 10% capacity of the fuel tank with propane as we refill the units after they are set up on the new location.

Our concern is that Troopers in Texas as well as in other states occasionally interpret regulations in the CFR 49 to mean these Fuel Tanks may not apply to the definition of *Fuel Tanks* and feel we are required to Placard these "*Fuel Tanks*". In referencing CFR 49 Part 171.8, defining "*FUEL TANK*"----- *or for the operation of other equipment on the transport vehicle*", as well as the definition of "*Hazardous Material*" states the material to be Hazardous when "*Transported in Commerce*", which is not applicable in our case as the fuel is used only to fuel our units, we clearly see that we do fit the CFR 49 Part 171.8 criteria thus not required to Placard.

We would like a clear ruling as applicable to our Hydro Thermal Units, if we can Placard these units permissively with PHMSA consent to help with maintaining a diligent effort with Troopers, but without having to comply with other regulations in the CFR 49 such as shipping papers, markings and other applicable regulations that we now are not subject to as per CFR 49 Part 171.8.

McADA DRILLING FLUIDS INC.

P.O. Box 1080
Bay City, Texas 77404-1080
(979) 244-3444

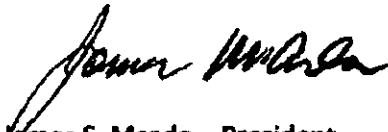
With regards to the Safety Issues for all First Responders as well as any Troopers or any FMCSA enforcement officers, as they may be responding to emergencies, we would like to do what we can to help in that respect, but without being held accountable for any non-applicable regulations.

We respectfully request that you respond with your recommendations to us in writing as we wish to be able to discuss and review your findings with our operators as well as applicable FMCSA Enforcement personnel and State Troopers from all states as we maintain a diligent and knowledgeable approach to our handling of material in our Oilfield Industry.

We will be glad to supply you with photos of our equipment upon your request. We can do this by Email or direct mail if you would like, or you can view our equipment on our website at:

www.mcadafuildsheating.com

Thank you,



James S. McAda -- President
McAda Fluids Heating Services
P.O. Box 1080
Bay City, Texas 77404

Cc: Sgt. David Johnson -- Commercial Vehicle Enforcement
Texas Department of Public Safety -- 6A03
Victoria, TX

Cc: Roy Smith -- Safety Coordinator
McAda Drilling Fluids, Inc.
Bay City, TX 77404

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

Subject:Equipment Fuel Tanks

Date: Fri, 10 May 2013 10:45:47 -0400

From: <david.ford@dot.gov>

To: <jeff@onehorn.com>

Jeff,

The exception in 173.220 is generally applicable to engines and equipment that have an integrated fuel tank that is permanently connected.

Attached is an interpretation that explains it pretty well. Although it discusses propane tanks, the applicability is the same for diesel tanks.

If the tank meets the definition of a fuel tank in Section 171.8 (see below), then 173.220 applies, particularly (b)(4)(i) and (h). Subparagraph (h) takes the tank completely out of the Hazardous Materials Regulations, so placards and therefore a CDL are not required.

A fuel tank means "a tank, other than a cargo tank, used to transport flammable liquid 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."

There is no requirement the fuel tank be attached to the equipment and there is no quantity restriction.

In my opinion, the transportation of the fuel tank you described is not subject to the Hazardous Materials Regulations. I do recommend that you drain as much of the diesel fuel as possible.

I hope this is helpful.

David W. Ford

USDOT/FMCSA/Southern Service Center

Hazardous Materials Program Manager

404-327-7374

david.ford@dot.gov

