



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety Administration**

AUG 10 2006

400 Seventh Street, S.W.  
Washington, D.C. 20590

Ms. Crystal Callaway  
Environmental Compliance Specialist  
Missouri Gas Energy  
3420 Broadway  
Kansas City, MO 64111

Ref. No.: 06-0162

Dear Ms. Callaway:

This is in response to your July 11, 2006 letter regarding applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to unloading and storage of hazardous materials. In your letter you describe a scenario where Missouri Gas Energy transports a trailer loaded with twelve or more compressed natural gas cylinders. The trailer is delivered to a customer whose natural gas supply (via pipeline) has been interrupted. You ask if the driver must stay at the customer site and attend the cylinders while they are in use by your customer (i.e., until the customer's natural gas supply is restored).

The HMR regulate the transportation of hazardous materials in commerce. Transportation of a hazardous material in commerce begins when a carrier takes physical possession of a hazardous material and continues until the package containing the hazardous material is delivered to the destination indicated on a shipping document. Therefore, if the shipping paper indicates that the destination of your compressed natural gas cylinders is the customer's site, the cylinders are no longer subject to the HMR when the driver unloads the cylinders from the transport vehicle or disconnects the mode of power from the trailer and leaves the premises.

In your letter you also ask about the applicability of 49 CFR § 397.5 (Attendance and surveillance of motor vehicles) to your scenario. Section 397.5 falls under the jurisdiction of the Federal Motor Carrier Safety Administration (FMCSA; <http://www.fmcsa.dot.gov/>). For questions regarding § 397.5 please contact the Hazardous Materials Division of the FMCSA at 400 Seventh Street, S.W., Washington, DC 20590, or (202) 366-6121.

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

Sincerely,

Hattie L. Mitchell  
Chief, Regulatory Review and Reinvention  
Office of Hazardous Materials Standards



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**MISSOURI GAS ENERGY**

3420 Broadway • Kansas City, MO • 64111 • (816) 756-5261

July 11, 2006

Director, Office of Hazardous Materials Standards  
U.S. DOT/PHMSA (PHH-10)  
400 7<sup>th</sup> St. S.W.  
Washington, D.C. 20590

Dear Regulatory Authority:

I am writing to you in regards to the interpretation of the attendance requirements as specified in 49 CFR 397.5. This regulation refers predominately to carriers of explosives; however, it also addresses other hazardous materials which are located on a public street, highway, or the shoulder of a public highway that must be attended by its driver. I have also looked at the Federal Register: October 30, 2003 (Volume 68, Number 210) pages 61905-61942, which refers to some terminology referred to as "storage incidental to movement."

The company that I work for is in the natural gas utility business. What we do is at certain times when we need to take a customer out of service temporarily, we will pull a small trailer that disconnects from the service truck that contains approximately 12 to 24 natural gas cylinders approximately 5 feet in height and will connect the business to these gas cylinders and leave the trailer behind with the cylinders on the property, until such time we can reconnect them to service. The company at one time had the driver stay with the cylinders until we reconnected, but have since no longer made it a requirement. Is there some exemption that we could fall under or do we need to comply with the attendance / storage regulation?

Thank You,

Crystal Callaway, B.S.N., R.N., C.H.M.M.  
Environmental Compliance Specialist

Missouri Gas Energy  
3420 Broadway  
Kansas City, MO. 64111

Phone 816-360-5047  
Fax 816-360-5569

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Applicability  
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