



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

Ms. Lindsey L. Smith
Attorney
Hedrick, Gardner, Kincheloe & Garofalo, LLP
P.O. Box 30397
Charlotte, NC 28230

JUN 18 2015

Ref. No. 15-0035

Dear Ms. Smith:

This responds to your request for clarification on testing requirements for cargo tanks under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you request verification that letter of interpretation Ref. No. 01-0230 is consistent with current HMR requirements in § 180.407 on cargo tank testing requirements. Letter of interpretation Ref. No. 01-0230 stated that it is acceptable to test a cargo tank within the month that the test is due.

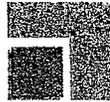
The answer is yes. The response in letter of interpretation Ref. No. 01-0230 is consistent with the current HMR requirements in § 180.407. Our position remains that for the month when a test becomes due, the test must be completed prior to the end of the month. For example, for tests required at one-year intervals, if the most recent test was conducted on March 19, 2014, then the next test must be completed by March 31, 2015. Or, if the test was conducted on March 30, 2014, the next test must be completed by March 31, 2015.

I hope this answers your inquiry. If you need additional assistance, please contact this Office at 202-366-8553.

Sincerely,

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

Boothe
180.407
Requirement for
test cargo tanks
15-0035



HEDRICK GARDNER
HEDRICK GARDNER KINCHELOE & GAROFALO LLP
ATTORNEYS AT LAW

CHARLOTTE • RALEIGH • WILMINGTON • COLUMBIA

February 23, 2015

Via U.S. Mail & Facsimile

Mr. Charles Betts
Director, Standards and Rulemaking
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
East Building, 2nd Floor
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Reply To:
LINDSEY L. SMITH
Attorney
P.O. Box 30397
Charlotte, NC 28230
Direct: (704) 319-5459
Fax: (704) 602-8163
Email: LSmith@hedrickgardner.com

RE: Alamance County v. Hot-Z Food Marts, Inc. d/b/a Hot-Z Transport Company
Case No.: 14CVD1199 (Alamance)
Claim No.: 253311-6

Dear Mr. Betts:

I represent Hot-Z Food Marts, Inc. in the above-referenced lawsuit, pending in North Carolina Superior Court. I am writing to request clarification of the testing requirements for cargo tanks under the Hazardous Materials Regulations, 49 C.F.R. §§ 171-180.

Enclosed is a letter from the former U.S. Department of Transportation Research and Special Programs Administration. Please confirm that the Pipeline and Hazardous Materials Safety Administration is the appropriate division to address this inquiry. If so, kindly respond to this letter and confirm whether the enclosed September 21, 2001 correspondence is consistent with your interpretation of the law as it stands today.

Thank you in advance for your assistance with this inquiry. Please feel free to contact me should you have any questions.

Sincerely,

Lindsey L. Smith
NC State Bar No. 38665

Enclosure(s)



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

SEP 21 2001

Mr. Clifford Rawn
Ventura-Lesbro
2418 E 23rd Street
Long Beach, California 90810

Reference No: 01-0230

Dear Mr. Rawn:

This responds to your letter of August 28, 2001, requesting clarification of the testing requirements for cargo tanks under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You provide an example where a cargo tanks had a thickness test (due every 2 years) performed on 8/1/99 and the cargo tank was marked 8/99. You ask whether the cargo tank must be retested by August 1, 2001 or if it may be tested anytime within the month of August, 2001.

It is acceptable to test a cargo tank within the month that the test is due (the month that is marked on the cargo tank). In your example, the cargo tank may be retested anytime within the month of August, 2001.

I hope this information is helpful.

Sincerely,

Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards



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Fax:310-835-9175

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Retesting Cargo Tanks

01-0230



August 28, 2001

Mr. Edward Mazzullo
Director OHMS
USDOT/ RSPA (DHM-10)
400 7th Street South West
Washington D.C. 20590-0001

Dear Mr. Mazzullo

This letter is to request a written interpretation of RSPA's position when it comes to the cargo tank inspection dates and the annual inspections due for tractors and trailers. It is my understanding that for cargo trailers tested for Pressure, Leaks, Visual Internal, Visual External, and Thickness; that as long as the test is done within the month they are due they are okay. For example, if a trailer has a thickness test done on 8/1/99, there is a two year requirement for the re-test, but as long as the trailer has been re-tested within the month of August 2001 (for example 8/15/01) it is considered to have not gone out of compliance. It would not have to be tested 8/1/01 to remain in compliance.

The same reasoning applies for annual inspections due on tractors and trailers. As long as they are inspected within the month they are due then they too have not fallen out of compliance even if they have gone past a 365 day period.

Is my understanding of these regulations correct? Please advise in writing so that if there is a question as to the interpretation of this rule we can document that we are in fact operating in compliance with the regulations, and if my interpretation is incorrect that we can adjust our policies accordingly. Thanks for your help.

Sincerely,

Clifford Rawn
Director of Safety and Compliance