



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

FEB 05 2019

Mark Smith  
Service Manager  
Began Tank Truck  
7605 NE 21st Avenue  
Portland, OR 97211

Reference No. 18-0114

Dear Mr. Smith:

This letter is in response to your August 2, 2018, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to a missing manufacturer's certificate for a DOT specification cargo tank motor vehicle (CTMV). Specifically, you provide a scenario in which a DOT 406 CTMV that was manufactured in 1999 is missing its manufacturer's certificate, and you ask if the manufacturer's certificate can be replaced by the method specified in § 180.417(a)(3)(i).

The answer is no. The methods indicated in § 180.417(a)(3)—including paragraph (i), for non-ASME Code stamped cargo tanks—are authorized for DOT specification cargo tanks manufactured before September 1, 1995, only. Because the CTMV in your scenario was manufactured in 1999, those methods are not authorized for replacing the manufacturer's certificate.

The HMR do not currently provide a method for replacing a missing manufacturer's certificate for those DOT specification CTMVs manufactured on or after September 1, 1995. However, the CTMV may be able to return to hazardous materials service under the controls of a special permit, provided the applicant can demonstrate an equivalent level of safety.

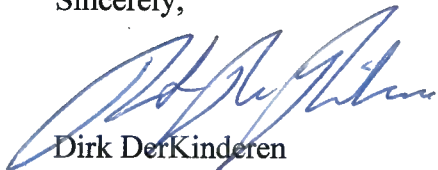
To apply for a special permit, the CTMV owner must submit an application to the Associate Administrator for Hazardous Materials Safety in conformance with the requirements prescribed in 49 CFR Part 107, Subpart B. You may obtain information on the special permit application process from our website at: <http://www.phmsa.dot.gov/hazmat/regs/sp-a>.

Please note that PHMSA has received and accepted a petition (P-1685) from Polar Service Centers to address this issue in a future rulemaking. You may obtain information on our petition for rulemaking process from our website at:

<https://www.phmsa.dot.gov/hazmat/rulemakings/hazardous-materials-petitions>.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dirk DerKinderen", written in a cursive style.

Dirk DerKinderen  
Chief, Standards Development  
Standards and Rulemaking Division

Geller  
§ 180.417  
Cargo Tanks  
18-0114

**Dodd, Alice (OST)**

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**From:** INFOCNTR (PHMSA)  
**Sent:** Friday, August 03, 2018 12:47 PM  
**To:** Hazmat Interps  
**Subject:** FW: requesting an interpretation -

Hi Ikeya,

Below is a request for a letter of interpretation. Mr. Smith spoke with Breanna. Please let me know if you have any questions.

Thanks,  
Jonathon

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**From:** Mark Smith [mailto:smitty@begantanktruck.com]  
**Sent:** Thursday, August 02, 2018 3:44 PM  
**To:** PHMSA HM InfoCenter <PHMSAHMInfoCenter@dot.gov>; INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>  
**Cc:** Bob Berry <bob.berry@begantanktruck.com>  
**Subject:** requesting an interpretation -

Greetings,

We would like to obtain some information and submit for a letter of interpretation in a scenario of a lost Certificate of Compliance (COC) for a CTMV. Below is the scenario:

Scenario) An owner of a DOT 406 CTMV does not have a COC for the Cargo Tank or the CTMV. The Cargo Tank and CTMV was manufactured in 1999. The original CTMV manufacturer, which is also the cargo tank manufacturer, no longer has a copy of the COC.

180.417(a) requires the owner to maintain a copy of the certificates for the cargo tank and the CTMV.

***§ 180.417 Reporting and record retention requirements.***

***(a) Vehicle certification.***

***(1) Each owner of a specification cargo tank must retain the manufacturer's certificate, the manufacturer's ASME U1A data report, where applicable, and related papers certifying that the specification cargo tank identified in the documents was manufactured and tested in accordance with the applicable specification. This would include any certification of emergency discharge control systems required by § 173.315(n) of this subchapter or § 180.405(m). The owner must retain the documents throughout his ownership of the specification cargo tank and for one year thereafter. In the event of a change in ownership, the prior owner must retain non-fading photo copies of these documents for one year.***

If the owner of the vehicle does not have the Manufacturers certificate for a cargo tank, 180.417 (a)(3)(i) goes on to specify what must be done in order to produce an alternative report (often known as a Supplemental Certificate of Compliance). However, this is only for a cargo tank manufactured before September 1, 1995.

***(3) DOT Specification cargo tanks manufactured before September 1, 1995 -***

**(i) Non-ASME Code stamped cargo tanks** - If an owner does not have a manufacturer's certificate for a cargo tank and he wishes to certify it as a specification cargo tank, the owner must perform appropriate tests and inspections, under the direct supervision of a Registered Inspector, to determine if the cargo tank conforms with the applicable specification. Both the owner and the Registered Inspector must certify that the cargo tank fully conforms to the applicable specification. The owner must retain the certificate, as specified in this section

My questions are as follows:

- If the original Certificates are not available, how should the owner of a vehicle manufactured **after** September 1, 1995 obtain a copy of a certificate that will meet the requirements of 180.417(a)?
- What options does the owner of the vehicle have to satisfy the requirements of 180.417(a)?
- Is a Registered inspector allowed to perform the inspections as laid out in 180.417 (a)(3)(i) and provide an alternative report/ Supplemental Certificate if the unit meets the requirements of 178.345 and 178.346
- As allowed in 180.413(e)(2) a Registered Inspector can mount a cargo tank and provide a Certificate of Compliance, is it possible for a Registered Inspector to perform a required set of inspections and testing so a replacement Supplemental Certificate of Compliance can be provided to the owner?

Thank you very much for your time. Please let me know if you need any clarifications.

Sincerely,

"Smitty"  
Mark Smith  
Service Manager

**BEGAN TANK TRUCK**

7605 NE 21st Ave

Portland, OR 97211

CT-0875 R-4103

Office: (503) 286-3731

Cell: (503) 710-6609

Fax: (503) 286-3447

Email: [mark.smith@begantanktruck.com](mailto:mark.smith@begantanktruck.com)

Website: [begantanktruck.com](http://begantanktruck.com)