

# INTERPRETATION LETTERS

<b>Requester</b>	Kristen Powell	<b>Date Received:</b>	10/17/2019
<b>Company</b>	Guthrie Heli-Arc, Inc	<b>Tracking</b>	19-0125
<b>Phone</b>	585-494-2600	<b>Revision Date:</b>	10/30/2019

<b>Date Assigned</b>	10/17/2019	<b>Date of Letter</b>	10/30/2019
<b>Staff</b>	Ballengee	<b>First Draft Due:</b>	11/7/2019
<b>Section</b>		<b>First Draft Date:</b>	
<b>Subject</b>			
<b>Concurrence</b>			
<b>Status</b>	PHH-10-Specialist	<b>Status Date</b>	10/30/2019
<b>Sign Date</b>		<b>Signor</b>	
<b>Comment</b>	HBP <input type="checkbox"/> Copy to Docket <input type="checkbox"/> Copy to DHM-60 <input type="checkbox"/>		

11/20/19

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19-0125

**Dodd, Alice (PHMSA)**

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**From:** INFOCNTR (PHMSA)  
**Sent:** Wednesday, October 30, 2019 2:24 PM  
**To:** Hazmat Interps  
**Subject:** FW: Guthrie Heli-Arc, Inc. -Request of Interpretation  
**Attachments:** Guthrie-Request of interpretation.pdf

Hello Alice and Ikeya,

Please see attached for letter of interpretation request. The requester spoke with Sarah and Jonathon in the HMIC who were unable to find any letters or guidance that addressed the question. After reaching out to Ryan, they went to Victor Casillas who confirmed with Mike C and Dirk that the regulations do not define hazardous material transportation service so there is no way to indicate if it has to be *legal* transportation to be considered "in service" to determine when tests have to be completed.

Please contact our office with any questions.

Thank you,

Kathryn, HMIC

**From:** kristen@guthrieheliarc.com [mailto:kristen@guthrieheliarc.com]  
**Sent:** Wednesday, October 30, 2019 12:08 PM  
**To:** INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>  
**Cc:** 'Matt Ryan' <matrr@guthrieheliarc.com>; megr@guthrieheliarc.com  
**Subject:** Guthrie Heli-Arc, Inc. -Request of Interpretation

Please see the attached Request of Interpretation.

Mailing Address: 6276 Clinton Street Rd Bergen , NY 14416

Thank You,  
Kristen Powell  
Guthrie Heli-Arc, Inc

6276 Clinton Street Road  
Bergen, NY 14416

Phone: 585-494-2600  
Fax: 585-494-2662



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[www.avast.com](http://www.avast.com)

# Guthrie Heli-Arc, Inc./Guthrie Sales & Service

6276 Clinton Street Road  
Bergen, NY 14416

Phone: 585-494-2600

Fax: 585-494-2662

R stamp Number: 2711

Email: [mattr@guthrieheliarc.com](mailto:mattr@guthrieheliarc.com)



To whom it may concern:

We have been involved in the federal tank inspection since 1991. We currently have a situation that we would like to have reviewed and a letter of interpretation provided.

We have a long standing customer which we perform all annual V, K and I , P testing on their MC331 propane bobtail trucks. The truck in question had an annual V, K performed by our facility on 9/2017. The customer did not have an annual test performed at all in 2018. It is now October 2019 and this tank has been out of federal compliance for more than a year (13 months) since its last V , K test date. However, the customer has told us that it was still being used (illegally/out of compliance) for deliveries to date. As we were scheduled to perform annual V, K testing on his other equipment, this particular truck in question was also in need of an annual V, K.

According to the DOT regulation, 180.415 (b) (3) , "The cargo tank has been out of hazardous material transportation service for a period of one year or more. Each cargo tank has been out of hazardous materials transportation service for a period of one year or more must be pressure tested in accordance with 180.407 (g) prior to further use."

It is our interpretation that this unit is in need of a pressure test (180.407 (g)) prior to us performing the request for an annual V, K. The customer disagrees and states that the equipment is still in service because it is able to deliver product and has continued to be on the road regardless of it being illegal/out of compliance.

Per the regulation, what is the definition of "service" ? It is our belief that if a federal regulated vessel does not follow the mandatory testing to be DOT compliant then they are rendered "out of service". Therefore in this situation, the customer has been "out of service" for over the one year period.

Please provide us with your input and a letter of interpretation regarding this situation.

Best Regards,  
Matthew Ryan-Owner/Registered Inspector

**BRUSH HAWG**





U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

**FEB 27 2020**

Kristen Powell  
Guthrie Heli-Arc, Inc  
6276 Clinton Street Road  
Bergen, NY 14416

Reference No. 19-0125

Dear Ms. Powell:

This letter is in response to your October 30, 2019, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the testing requirements for a Department of Transportation (DOT) Specification MC 331 cargo tank. You describe a scenario in which an MC 331 cargo tank underwent external visual inspection and leakage testing in September 2017, but did not undergo any testing in 2018. Your company was scheduled to perform external visual inspection and leakage testing on the cargo tank in October 2019 and determined that a pressure test was also required. However, your customer stated that the cargo tank is still being used for deliveries and is, therefore, still in “hazardous materials transportation service” even though it has been out of Federal compliance for more than a year. Specifically, you ask for the definition of “service” and seek confirmation of your understanding that an MC 331 cargo tank that is not compliant with the HMR would be considered “out of service.”

In your email, you reference § 180.415(b)(3); however, it is § 180.407(b)(3) that states:

*The cargo tank has been out of hazardous materials transportation service for a period of one year or more. Each cargo tank that has been out of hazardous materials transportation service for a period of one year or more must be pressure tested in accordance with § 180.407(g) prior to further use.*

The HMR do not define the phrase “hazardous materials transportation service,” as used in § 180.407(b)(3). However, this Office generally agrees with your understanding that an MC 331 cargo tank that is not compliant with the requirements of the HMR would be considered out of service and would require pressure testing in accordance with § 180.407(b)(3).

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

Sincerely,

A handwritten signature in blue ink that reads "T. Glenn Foster". The signature is written in a cursive style with a long horizontal flourish extending to the right.

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