



U.S. Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

April 21, 2021

J. Andrew Schaffer  
Executive Vice President  
Rescar Companies  
900 Oklahoma Salem Road  
DuBois, PA 15801

Reference No. 21-0005

Dear Mr. Schaffer

This letter is in response to your January 21, 2021, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the requirements for a Quality Assurance Program (QAP) for tank service equipment maintenance, repair, removal, and replacement. Specifically, you ask whether the original tank car service equipment drawings provided to the Association of American Railroads (AAR) by the component manufacturers during the approval process for tank car service equipment must be obtained by the repair facility under § 179.7(b)(3) and (6), or if the monitoring and control of processes and product characteristics during tank car service equipment maintenance, repair, removal, and replacement as specified in §§ 180.509(k) and 180.513(b) may fulfill these requirements.

Section 179.7(a) requires tank car facilities to have a QAP approved by AAR that (1) ensures the finished product conforms to the requirements of the applicable specification and regulations of this subchapter; (2) has the means to detect any nonconformity in the manufacturing, repair, inspection, testing, and qualification or maintenance program of the tank car; and (3) prevents non-conformities from recurring. Pursuant to § 179.7(b), the QAP must have certain elements, to include “[p]rocedures to ensure that the latest applicable drawings, design calculations, specifications, and instructions are used in manufacture, inspection, testing, and repair” as specified in paragraph (3). As such, these elements are necessary to meet the requirements of both § 179.7(a) and (b) and to ensure the maintained and repaired tank cars conform to the specification to which they were originally manufactured.

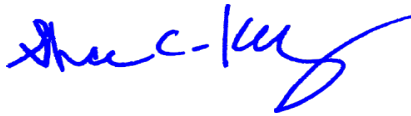
Section 179.7(d) states that each tank car facility shall provide written procedures to its employees to ensure that the work on the tank car conforms to the specification, AAR approval, and owner’s acceptance criteria. In the absence of the latest applicable specification drawings, written procedures may be acceptable for this purpose provided they are appropriately detailed and include all the information necessary to ensure the tank car service equipment and,

subsequently, the tank cars conform to the specification to which they were originally manufactured. If a tank car facility relies on written procedures alone, without associated drawings and specifications, they must ensure that the instructions are developed utilizing an AAR approved design(s). The instructions must contain enough information that any nonconformity in the tank car or equipment can be identified, remedied, and prevented from recurring in accordance with § 179.7(a). This is determined on a case-by-case basis and subject to the tank car and service equipment specifications.

Finally, please note that §§ 180.509(k) and 180.513(b), and § 179.7(b)(3) and (6) are complementary requirements. Therefore, compliance with §§ 180.509(k) and 180.513(b) may not be viewed as creating an exception from any of the QAP requirements in § 179.7.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Shane C. Kelley". The signature is fluid and cursive, with a long horizontal stroke at the end.

Shane C. Kelley  
Director, Standards and Rulemaking Division  
Office of Hazardous Materials Safety

**From:** [INFOCNTR \(PHMSA\)](#)  
**To:** [Hazmat Interps](#)  
**Subject:** FW: Request for Interpretation of 49 CFR §179.7 (b) (3) and (b) (6) Quality Assurance Program  
**Date:** Monday, January 25, 2021 4:46:37 PM  
**Attachments:** [PHMSA Letter of Interpretation 179.7.b.3 and 6 - 01.21.2021JAS.docx](#)

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Hello,

Please see attached for letter of interpretation request.

Thank you,  
Kathryn

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**From:** Andy Schaffer [mailto:aschaffer@rescar.com]  
**Sent:** Thursday, January 21, 2021 4:08 PM  
**To:** INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>  
**Cc:** Jay Standish <standish@rescar.com>; Susan Schieszler <sschieszler@rescar.com>; Dan Madock <madock@rescar.com>  
**Subject:** Request for Interpretation of 49 CFR §179.7 (b) (3) and (b) (6) Quality Assurance Program

**CAUTION:** This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

To Whom it Mat Concern:

Please see the attached letter requesting an Interpretation of 49 CFR §179.7 (b) (3) and (b) (6) Quality Assurance Program.

Please call if you have any questions or need additional information.

Sincerely;  
Andy Schaffer

J. Andrew Schaffer  
Executive Vice President  
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Cell = 814-771-4621  
Email = [Aschaffer@rescar.com](mailto:Aschaffer@rescar.com)





Ballengee

21-0005

January 21, 2021,

Mr. Shane Kelley  
Director, Standards and Rulemaking Division  
U.S. DOT/PHMSA (PHH-10)  
1200 New Jersey Avenue, SE East Building, 2nd Floor  
Washington, DC 20590

SUBJECT: Request for Interpretation of 49 CFR §179.7 (b) (3) and (b) (6) Quality Assurance Program

Mr. Kelley:

Rescar Companies (Rescar) is requesting a formal letter of interpretation regarding the applicability 49 CFR § 179.7 (b) (3) and (b) (6) as they relate to the maintenance, repair, removal and replacement of tank car service equipment.

During recent inspections at several of our tank car repair facilities, Association of American Railroads (AAR), Bureau of Explosives auditors, have issued findings stating that the repair facilities have violated 49 CFR § 179.7 (b) (3) and (b) (6) by failing to obtain tank car service equipment drawings that were submitted to the AAR as part of the AAR Applications for Approval process: 4-3, Pressure Relief Device; 4-5, Valves, Closures and Fittings; and 4-7, Application for Renewal of Approval for Pressure Relief Devices, Valves, Closures and Fittings pursuant to the AAR Specification for Tank Cars, M-1002, Section C-III, Chapter 1, sections 1.4.5 – 1.4.8 when performing tank service equipment maintenance, repair, removal and replacement. Apparently, AAR auditors believe these original drawings are required to perform this work under 49 CFR § 179.7 (b) (3) and (b) (6).

49 CFR §179.7 Quality Assurance Program, Section (b) states “At a minimum, the quality assurance program must have the following elements...”

(3) “Procedures to ensure that the latest applicable drawings, design calculations, specifications, and instructions are used in manufacture, inspection, testing, and repair.”

(6) “Monitoring and control of processes and product characteristics during production.”

Under 49 CFR § 180.513 (b), tank car repair facilities are required to perform repairs and qualification of tank car service equipment per the requirements and criteria dictated by the equipment owner. Equipment owners typically supply this information in the form of the original equipment manufacturer (OEM) inspection, maintenance and repair instructions, that include the required characteristics to inspect, drawings, sketches, and acceptance criteria for the maintenance and qualification of tank car service equipment components being serviced.

As a result of past AAR audit findings, Rescar has contacted multiple valve/component manufacturers requesting the drawings that are listed on an AAR 4-3, 4-5, and 4-7 forms, and in all cases, the manufacturers refused to provide the drawings on the basis that they are proprietary in nature. We have also contacted several equipment owners, and all have stated that they do not have these drawings either. Lastly, we contacted Mr. Ken Dorsey of the AAR asking for assistance / guidance on how to proceed when the valve manufacturers are refusing to provide the drawings. Mr. Dorsey responded that the AAR is aware of the issue and will need further AAR and DOT discussion to determine when the original OEM drawings will be required and how they will be obtained.

Due to the fact that Rescar has received multiple audit findings for violation of 49 CFR §179.7 Quality Assurance Program, subsection (b)(3) and (b)(6), Rescar is seeking an interpretation from PHMSA on whether the drawings provided to the AAR by the component manufacturers during the AAR approval process for tank car service equipment are required to be obtained by the repair facility under 49 CFR §179.7 Quality Assurance Program, subsection (b)(3) and (b)(6), or if the monitoring and control of processes and product characteristics during tank car service equipment maintenance, repair, removal and replacement as specified in 180.513(b) and 180.509(k) fulfill the requirements of the cited sections.

180.513(b)

“... the tank car facility must use the written instructions furnished by the owner or have written confirmation from the owner allowing the use of written instructions furnished by the owner or have written confirmation from the owner allowing the use of written instructions furnished by another.”

180.509(k)

(2) Each tank car facility must qualify service equipment, including reclosing pressure relief devices and interior heater systems in accordance with the applicable provisions of Appendix D of the AAR Specifications for Tank Cars (IBR, see §171.7 of this subchapter).

Rescar appreciates your time regarding this matter and looks forward to your response.

Sincerely;



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