



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

March 2, 2023

Dan Welch
Vice President – Sourcing & Regulatory Compliance
SMBC Rail Services LLC
300 South Riverside Plaza
Suite 1925
Chicago, IL 60606

Reference No. 22-0134

Dear Mr. Welch:

This letter is in response to your December 12, 2022, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to tank car lining qualification. Specifically, you ask whether an owner of the internal coating or lining of a tank car must receive approval from the Federal Railroad Administration (FRA) Associate Administrator for Railroad Safety in order to qualify tank car internal coatings or linings with an interval of more than eight (8) years between qualification events.

The answer is yes. In accordance with § 180.509(i)(2), the owner of the tank car internal coating or lining must use its knowledge of the service life of each coating or lining and commodity combination to establish an appropriate inspection interval for that coating or lining and commodity combination. This interval may only exceed eight (8) years if the coating or lining owner can establish, document, and show that the service history or scientific analysis of the coating or lining and commodity pairing supports a longer inspection interval. The authorization in § 180.509(i)(2) to exceed an 8-year qualification interval is an alternate inspection and test procedure than what is specified by rule in § 180.509; therefore, subject to § 180.509(l) and approval by the Associate Administrator for Railroad Safety, FRA.

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 Der Kinderen".

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

Patrick

22-0134

From: [Patrick, Eamonn \(PHMSA\)](#)
To: [Dodd, Alice \(PHMSA\)](#)
Cc: [DerKinderen, Dirk \(PHMSA\)](#); [Freeman, Cheryl \(PHMSA\)](#); [Majors, Leonard \(PHMSA\)](#)
Subject: FW: SMBC Rail Services Request for Interpretation
Date: Monday, December 12, 2022 4:16:00 PM
Attachments: [image001.png](#)
[SMBC Rail LOI Request 2022.pdf](#)

Good afternoon Alice,

Please assign the attached as a request for a Letter of Interpretation.

-Eamonn

From: Dan Welch <Dan.Welch@smbcrail.com>
Sent: Monday, December 12, 2022 4:13 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Cc: Keltz, Randy (FRA) <randy.keltz@dot.gov>; Gildea, David (FRA) <david.gildea@dot.gov>; Strouse, Larry (FRA) <larry.strouse@dot.gov>; Konrad, Adam (FRA) <adam.konrad@dot.gov>; Fairbanks, Gary (FRA) <gary.fairbanks@dot.gov>; King, Charles (FRA) <charles.king@dot.gov>; Henriksen, Lucinda (FRA) <lucinda.henriksen@dot.gov>; Stewart, Roberta (FRA) <roberta.stewart@dot.gov>; Baxley, Richard (FRA) <richard.baxley@dot.gov>; Maday, Mark (FRA) <mark.maday@dot.gov>; Alexy, Karl (FRA) <karl.alex@dot.gov>; Patrick, Eamonn (PHMSA) <eamonn.patrick@dot.gov>; DerKinderen, Dirk (PHMSA) <Dirk.DerKinderen@dot.gov>; Freeman, Cheryl (PHMSA) <cheryl.freeman@dot.gov>; Majors, Leonard (PHMSA) <leonard.majors@dot.gov>; Schoonover, William (PHMSA) <william.schoonover@dot.gov>; Larry Loman - AllTranstek LLC (loman@alltranstek.com) <loman@alltranstek.com>; Perry Fix <Perry.Fix@smbcrail.com>; Ashish Seth <Ashish.Seth@smbcrail.com>; Mike McCarthy <Mike.McCarthy@smbcrail.com>
Subject: SMBC Rail Services Request for Interpretation

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 May Concern,

Please find attached SMBC Rail Services LLC's request for interpretation on 49 CFR 180.509(i)(2).

As noted, please contact me if there are any questions or concerns.

Thank you,

Dan Welch
VP, Sourcing and Regulatory Compliance
Phone: 312-559-4804
Fax: 312-559-4829
Cell: 312-256-3434

Email: dan.welch@smbcrail.com

www.smbcrail.com



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SMBC Rail Services, LLC

300 South Riverside Plaza
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Chicago, IL 60606
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Fax (312) 559-4829
E-mail dan.welch@smbcrail.com

Monday, December 12, 2022

To:
Standards and Rulemaking Division
Pipeline and Hazardous Materials Safety Administration
Attn: PHH-10, U.S. Department of Transportation, East Building
1200 New Jersey Avenue, SE.
Washington, DC 20590-0001

Ref: Request for Interpretation of 180.509(i)(2)

To Whom It May Concern,

SMBC Rail Services LLC requests PHMSA confirmation of our interpretation that when an inspection interval meets the requirements of 180.509(i)(2), it does not require specific application and approval as an alternative testing program under 180.509(1).

SMBC recognizes that 49 CFR 180.509(i)(2) allows intervals in excess of 8 years when:

“(This interval must not exceed eight (8) years, unless) the coating or lining owner can establish, document, and show that the service history or scientific analysis of the coating or lining and commodity pairing supports a longer inspection interval. The owner must maintain at its principal place of business a written procedure for collecting and documenting the performance of the coating or lining applied within the tank car for its service life. The internal coating or lining owner must provide this documentation, including inspection and test, repair, removal, and application procedures, to the FRA or car owner upon request.”

FRA personnel have told SMBC that they interpret Sub Part F to read that a coating/lining interval greater than 8 years requires specific application and approval for an alternative testing program listed under 180.509(1) regardless of an owner’s ability to meet the requirements of 180.509(i)(2), and that any cars marked with an interval more than 8 years without an approved alternative testing program per 180.509(1) are non-compliant.

As additional background:

- An interval of more than eight years was proposed to Karl Alexy of the FRA in 2011 by SMBC Rail's predecessor, American Railcar Leasing as meeting these requirements, and was agreed to in spite of the fact that 180.509(1) existed at that time. In his agreement, Mr. Alexy did not require or direct our employees to request an alternate approval under 180.509(1).
- 180.509(i)(2) was added in 2012 (when 180.509(1) was already in place) without any reference to requirements under 180.509(1).

Should you have any questions or concerns, please let us know.

A handwritten signature in blue ink, appearing to read 'Dan Welch', with a stylized flourish extending to the right.

Sincerely,

Dan Welch
Vice President – Sourcing & Regulatory Compliance

SMBC Rail Services LLC