



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

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

MAR 27 2002

Mr. Bruce E. Morales
Tomah Products, Inc.
474 West 19th Street
Reserve, LA 70084

Ref. No.: 02-0070

Dear Mr. Morales:

This is in response to your letter dated February 7, 2002 requesting clarification of the periodic retest and reinspection requirements specified in 49 CFR § 173.33(a)(3). Specifically, you ask when a cargo tank motor vehicle is supplied by the motor carrier is the shipper responsible for assuring that the retest or reinspection dates are not past due prior to loading the material?

As provided by § 173.33(a)(3), when the prescribed periodic retest or reinspection under § 180.407 is past due, a specification cargo tank motor vehicle may not be filled and offered for transportation until the retest or reinspection has been successfully completed. However, the shipper's responsibilities concerning the filling of carrier supplied cargo tanks extend to the requirements in part 173 and not to the continuing requalification requirements contained in part 180. In essence, this requirement does not apply to an offeror (shipper) when the cargo tank is supplied by the motor carrier.

I trust this satisfies your inquiry. If we can be of further assistance, please contact us.

Sincerely,

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



020070

173.33(a)(3)



Reserve Plant

February 7, 2002

Clarification of CFR 49 173.33(a)(3)

Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S. DOT/RSPA (DHM-10)
400 7th Street S.W.
Washington, D.C. 20590-0001

Webb
§ 173.33(a)(3)
Applicability
02-0070

Dear Mr. Mazzullo:

I am writing to for assistance in clarification of CFR 49 173.33(a)(3). In the sub-paragraph of this section the last sentence states that "This requirement does not apply to a cargo tank supplied by a motor carrier who is other than the person offering the hazardous material for transportation, or to any cargo tank filled prior to the retest or inspection due date".

We have reviewed this section and have the following question. Do we have to assure that the retest or reinspection dates are not past due before loading the material if we are the shipper, and are loading a cargo tank supplied by a common carrier, or cargo tank not belonging to us.

Any assistance in clarifying this matter would be greatly appreciated.

Sincerely,

Bruce E. Morales
Health and Safety Coordinator
Tomah Reserve, Inc.