



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

AUG - 6 2001

Mr. Charles Boudin
Quality Distribution
3802 Corporex Park Drive
Tampa, Florida 33619

Ref. No. 01-0193

Dear Mr. Boudin:

This responds to your request to Mr. William Quade, Chief, Hazardous Materials Division, Federal Motor Carrier Safety Administration, for an interpretation related to cargo tank test and inspection report retention requirements specified in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask for clarification of the exception from the requirement to retain copies of test and inspection reports for a motor carrier leasing a cargo tank for fewer than 30 days.

You describe a common arrangement in the chemical industry under which a motor carrier agrees to transport a shipper's cargo tank without a formal lease for the tank. The agreement between shipper and carrier may cover transportation of a single load or several loads during which the carrier operates the cargo tank for a period under 30 days. Alternatively, the agreement may cover transportation of multiple loads during which the carrier operates the cargo tank for more than 30 days. You ask how the record retention requirements in § 180.417(b)(2) of the HMR apply in these situations.

Section 180.417(b)(2) requires the owner and operator of a cargo tank to retain copies of test and inspection reports until the next test or inspection of the same type is successfully completed. This requirement does not apply to a motor carrier leasing a cargo tank for fewer than 30 days. Although the exception uses the term "leasing," the intent of this provision is to except a motor carrier from the requirement to retain test and inspection reports for any cargo tank it uses for transportation for fewer than 30 days. The exception applies regardless of whether there is a formal lease, where possession of the cargo tank is a secondary result of a contract to transport a load or several loads. Similarly, the intent of § 180.417(b)(2) is to require a motor carrier to



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180.417(b)(2)

retain test and inspection reports for any cargo tank it uses for transportation for more than 30 days. Again, the record retention requirement applies regardless of whether there is a formal lease, where possession of the cargo tank is a secondary result of a contract to transport a load or several loads.

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,



Thomas G. Allan
Senior Transportation Regulations Specialist
Office of Hazardous Materials Standards

Gorsky, Susan

From: Quade, William
Sent: Wednesday, July 25, 2001 8:44 AM
To: Gorsky, Susan <RSPA>
Subject: Interpretation

Gorsky
§ 180.417(b)
Cargo Tanks
01-0193



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Susan,

Chuck Boudin of Quality Distribution in Tampa, FL has questions about the 180.417(b) requirements for carriers to maintain copies of test/inspection reports. His scenario and my paraphrasing of his questions is attached. Can you please prepare a written interpretation to clarify his issues?

Thanks,
BQ

Scenario 1: It is common in the chemical industry for a carrier to transport a load using a shipper's cargo tank without having a formal lease for that tank. The agreement between carrier and shipper can be for a few or even single load that keeps the cargo tank in the carrier's "control" for less than 30 days, or for multiple loads that result in the carrier operating or "controlling" the cargo tank for more than 30 days.

Question 1: 180.417(b)(2) requires that the owner and motor carrier keep a copy of the test and inspection reports. The section goes on to provide an exception for a motor carrier leasing a cargo tank for less than 30 days. If a carrier transports a cargo tank for which they have no formal lease and that transportation results in the carrier's "controlling" the tank for less than 30 days, is the motor carrier required to keep copies of the inspection/test reports?

Answer 1: In 180.417(b)(2), RSPA intended to except a carrier from having to maintain copies of inspection/test reports for any cargo tank it uses for transportation for less than 30 days. This is true regardless of whether there is a formal lease, or the possession of the cargo tank is a secondary result of a contract to transport loads.

Question 2: If a carrier transports a cargo tank for which they have no formal lease and that transportation results in the carrier's "controlling" the tank for more than 30 days, is the motor carrier required to keep copies of the inspection/test reports?

Answer 2: In 180.417(b)(2), RSPA intended for a carrier to have inspection/test reports for any cargo tank it uses for transportation for more than 30 days. This is true regardless of whether there is a formal lease, or the possession of the cargo tank is a secondary result of a contract to transport loads.