



U.S. Department  
of Transportation

Pipeline and Hazardous  
Materials Safety  
Administration

1200 New Jersey Avenue, SE  
Washington, D.C. 20590

Mr. Larry Nielsen  
Safety and Compliance Manager  
Pioneer Tank Lines, Inc.  
12501 Hudson Road South  
Afton, MN 55001

JUL 06 2016

Reference No. 16-0030

Dear Mr. Nielsen:

This letter is in response to your February 12, 2016, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the transport of a package in service beyond its requalification date. Specifically, you ask if a motor carrier is culpable for violations of the HMR if it transports an Intermediate Bulk Container (IBC) that was refilled and offered for transportation beyond its requalification date and if the motor carrier can rely on the shipper's certification on the shipping paper to determine whether an IBC was filled prior to its requalification date.

An IBC that is filled before its requalification becomes due may remain in service until it is emptied and may be transported in commerce by highway, rail, aircraft, or vessel provided all applicable HMR requirements are met (see § 173.35(a)). Section 172.204 requires the shipper to certify on the shipping paper that the materials are properly classified, described, packaged, marked and labeled, and in proper condition for transportation. However, § 171.2(f) provides that a carrier who transports a hazardous material in commerce may rely on information provided by the offeror of the hazardous material or a prior carrier, unless the carrier knows or, a reasonable person, acting in the circumstances and exercising reasonable care, would have knowledge that the information provided by the offeror or prior carrier is incorrect. As such, the motor carrier cannot rely on the shipper's certification on the shipping paper and may be culpable for violation if the motor carrier knows or should have reason to believe that the information provided is incorrect.

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

Sincerely,

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

Goodall, Shante CTR (PHMSA)

Stevens  
180.352  
TBC  
16-0030

**From:** Geller, Shelby CTR (PHMSA)  
**Sent:** Monday, February 22, 2016 9:29 AM  
**To:** Hazmat Interps  
**Subject:** RE: request for interpretation

Dear Shante and Alice,

I wanted to follow up on Mr. Nielsen's request as I didn't see it logged in the database.

Thanks,  
Shelby

**From:** Rivera, Jordan CTR (PHMSA)  
**Sent:** Friday, February 12, 2016 4:26 PM  
**To:** Hazmat Interps  
**Subject:** FW: request for interpretation

Hi Shante/Alice,

Please submit the inquiry below as a letter of interpretation. Mr. Nielsen spoke to me today, February 12.

Thank you,  
Jordan

**From:** Larry Nielsen [<mailto:larryn@pioneertanklines.com>]  
**Sent:** Friday, February 12, 2016 11:53 AM  
**To:** INFOCNTR (PHMSA)  
**Subject:** request for interpretation

February 12, 2016

PHMSA Info Center

Please issue a formal interpretation on the following issue:

Question:

May a carrier be deemed to be in violation of any part of 180.352 (more specifically 180.352(b)) when transporting an IBC containing hazardous materials where the expiration date on the IBC has expired, provided the shipper has signed the shipper's certification stating that the "materials are properly classified, described, packaged, marked and labeled, and are in proper condition for transportation"?

I contend that the carrier should be able to rely on the certification of the shipper to determine whether the IBC was filled prior to the expiration date. I cite the following rules and interpretation:

49CFR173.35(a) states in part: "This requirement does not apply to any IBC filled prior to the retest or inspection due date".