



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

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

APR 23 2007

Mr. James. T. Osterhaus
LPG Program Manager
Safety Division, Railroad
Commission of Texas
1701 North Congress
P. O. Box 12967
Austin, Texas 78711

Reference No. 07-0032

Dear Mr. Osterhaus:

This is in response to your recent e-mail and telephone conversation with a member of my staff concerning a MC 331 bobtail cargo tank owned by Henderson Butane of 401 North Highway 156, P.O. Box 5, Justin, TX 76247, that contained "UN 1075, Petroleum gases, liquified, 2.1 (flammable gas)" and was involved in a rollover accident in Texas on January 17, 2007.

You state the cargo tank was not equipped with an emergency discharge control equipment as required under § 173.315(n) of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) and asked if it should be in service. You supplied a copy of the cargo tank test and inspection report prepared by Ricky Taylor of D.L. Morrison Welding and Construction Company, 217 Morrison Hill Lane, Gainesville, TX 76240-1619, CT Identification No. 2990, that states the cargo tank was inspected and certified as meeting requirements for service on July 22, 2004. You also asked if a penalty will be assessed against the inspector.

The Federal Motor Carrier Safety Administration (FMCSA) is responsible for ensuring the compliance of "cargo tank facilities," which includes cargo tank manufacturers, owners, and inspectors, as well as enforcement matters concerning these devices and individuals under FMCSA regulations and the HMR. Therefore, we are forwarding your letter for response to Mr. James O. Simmons, Chief, Hazardous Materials Division, Office of Enforcement and Compliance, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, Room 2328, 400 7th Street, SW., Washington, DC, 20590, (202) 493-0496.

I hope this satisfies your request.

Sincerely,

Hattie L. Mitchell, Chief
Regulatory Review and Reinvention
Office of Hazardous Materials Standards

173.315 (n)



070032

cc: James O. Simmons
Chief, Hazardous Materials Division
Office of Enforcement and Compliance
Federal Motor Carrier Safety Administration
U.S. Department of Transportation

Edmonson 002
§180.417 (b)(c)
§173.315 (n)
Cargo Tanks

Request for Interpretation of 49 CFR § 180.417 (b)(2)(viii) 07-0032

Please see Tanker Test and Inspection Report in this fax, listing the owner & carrier of an MC331 Cargo tank as Henderson Butane.

This bobtail cargo tank (East Fab, Inc./serial number – 12135-3) was involved in a rollover accident on 1-17-07.

An inspector of the Railroad Commission of Texas conducted an inspection of the bobtail and discovered the cargo tank was not provided with the emergency discharge control equipment required per 49 CFR § 173.315(n). Specifically, the cargo tank was not provided with an off-truck remote means to close the internal self-closing stop valve(s) and shut off all motive and auxiliary power equipment.

The cargo tank was pressure tested (hydrostatic test) by Ricky Taylor, CT2990, on 7-22-04. He indicates on the Tanker Test and Inspection Report that the cargo tank MEETS THE REQUIREMENTS OF THE DOT SPECIFICATIONS IDENTIFIED ON THIS REPORT. That specification is MC 331.

However, without the emergency off-truck remote required to be installed per 49 CFR § 173.315(n)(5)(ii), this cargo tank did NOT meet the requirements of the DOT specification (MC331) specified on the report.

In Texas, the Railroad Commission regulates the retail/wholesale LPG businesses and establishes and/or adopts safety rules for LP-Gas. The commission has adopted 49 CFR. Our inspection staff has found numerous bobtail delivery trucks (less than 3,500 gallons) that are marked with the correct test dates, but are not equipped with emergency discharge equipment as required by 49 CFR § 173.315(n).

Would someone at DOT please review the attached tanker test & inspection report and let me know if the cargo tank shown on the Tanker Test and Inspection Report should have been in service?

If it should not have been in service, will DOT consider assessing a penalty against the CT who signed the report and/or the company operating the cargo tank?

Thank You,

James T. Osterhaus
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