

## § 1.910

## 21 CFR Ch. I (4–1–23 Edition)

(b)(2) of this section. Such demonstration may be accomplished by any appropriate means agreeable to the carrier and shipper, such as the carrier presenting measurements of the ambient temperature upon loading and unloading or time/temperature data taken during the shipment.

(3) Before offering a vehicle or transportation equipment with an auxiliary refrigeration unit for use for the transportation of food that requires temperature control for safety under the conditions of the shipment during transportation, a carrier must pre-cool each mechanically refrigerated cold storage compartment as specified by the shipper in accordance with paragraph (b)(2) of this section.

(4) If requested by the shipper, a carrier that offers a bulk vehicle for food transportation must provide information to the shipper that identifies the previous cargo transported in the vehicle.

(5) If requested by the shipper, a carrier that offers a bulk vehicle for food transportation must provide information to the shipper that describes the most recent cleaning of the bulk vehicle.

(6) A carrier must develop and implement written procedures subject to the records requirements of § 1.912(b) that:

(i) Specify practices for cleaning, sanitizing if necessary, and inspecting vehicles and transportation equipment that the carrier provides for use in the transportation of food to maintain the vehicles and the transportation equipment in appropriate sanitary condition as required by § 1.906(b);

(ii) Describe how it will comply with the provisions for temperature control in paragraph (e)(2) of this section, and;

(iii) Describe how it will comply with the provisions for the use of bulk vehicles in paragraphs (e)(4) and (5) of this section.

### TRAINING

#### **§ 1.910 What training requirements apply to carriers engaged in transportation operations?**

(a) When the carrier and shipper have agreed in a written contract that the carrier is responsible, in whole or in part, for the sanitary conditions during transportation operations, the carrier

must provide adequate training to personnel engaged in transportation operations that provides an awareness of potential food safety problems that may occur during food transportation, basic sanitary transportation practices to address those potential problems, and the responsibilities of the carrier under this part. The training must be provided upon hiring and as needed thereafter.

(b) Carriers must establish and maintain records documenting the training described in paragraph (a) of this section. Such records must include the date of the training, the type of training, and the person(s) trained. These records are subject to the records requirements of § 1.912(c).

### RECORDS

#### **§ 1.912 What record retention and other records requirements apply to shippers, receivers, loaders, and carriers engaged in transportation operations?**

(a) Shippers must retain records:

(1) That demonstrate that they provide specifications and operating temperatures to carriers as required by § 1.908(b)(1) and (2) as a regular part of their transportation operations for a period of 12 months beyond the termination of the agreements with the carriers.

(2) Of written agreements and the written procedures required by § 1.908(b)(3), (4), and (5), for a period of 12 months beyond when the agreements and procedures are in use in their transportation operations.

(b) Carriers must retain records of the written procedures required by § 1.908(e)(6) for a period of 12 months beyond when the agreements and procedures are in use in their transportation operations.

(c) Carriers must retain training records required by § 1.910(b) for a period of 12 months beyond when the person identified in any such records stops performing the duties for which the training was provided.

(d) Any person subject to this subpart must retain any other written agreements assigning tasks in compliance with this subpart for a period of 12 months beyond the termination of the agreements.

(e) Shippers, receivers, loaders, and carriers, which operate under the ownership or control of a single legal entity in accordance with the provisions of § 1.908(a)(5), must retain records of the written procedures for a period of 12 months beyond when the procedures are in use in their transportation operations.

(f) Shippers, receivers, loaders, and carriers must make all records required by this subpart available to a duly authorized individual promptly upon oral or written request.

(g) All records required by this subpart must be kept as original records, true copies (such as photocopies, pictures, scanned copies, microfilm, microfiche, or other accurate reproductions of the original records), or electronic records.

(h) Records that are established or maintained to satisfy the requirements of this subpart and that meet the definition of electronic records in § 11.3(b)(6) of this chapter are exempt from the requirements of part 11 of this chapter. Records that satisfy the requirements of this subpart, but that also are required under other applicable statutory provisions or regulations, remain subject to part 11 of this chapter.

(i) Except for the written procedures required by § 1.908(e)(6)(i), offsite storage of records is permitted if such records can be retrieved and provided onsite within 24 hours of request for official review. The written procedures required by § 1.908(e)(6)(i) must remain onsite as long as the procedures are in use in transportation operations. Electronic records are considered to be onsite if they are accessible from an onsite location.

(j) All records required by this subpart are subject to the disclosure requirements under part 20 of this chapter.

#### WAIVERS

##### **§ 1.914 Under what circumstances will we waive a requirement of this subpart?**

We will waive any requirement of this subpart with respect to any class of persons, vehicles, food, or nonfood products, when we determine that:

(a) The waiver will not result in the transportation of food under conditions that would be unsafe for human or animal health; and

(b) The waiver will not be contrary to the public interest.

##### **§ 1.916 When will we consider whether to waive a requirement of this subpart?**

We will consider whether to waive a requirement of this subpart on our own initiative or on the petition submitted under § 10.30 of this chapter by any person who is subject to the requirements of this subpart with respect to any class of persons, vehicles, food, or nonfood products.

##### **§ 1.918 What must be included in the Statement of Grounds in a petition requesting a waiver?**

In addition to the requirements set forth in § 10.30 of this chapter, the Statement of Grounds in a petition requesting a waiver must:

(a) Describe with particularity the waiver requested, including the persons, vehicles, food, or nonfood product(s) to which the waiver would apply and the requirement(s) of this subpart to which the waiver would apply; and

(b) Present information demonstrating that the waiver will not result in the transportation of food under conditions that would be unsafe for human or animal health and will not be contrary to the public interest.

##### **§ 1.920 What information submitted in a petition requesting a waiver or submitted in comments on such a petition is publicly available?**

We will presume that information submitted in a petition requesting a waiver and comments submitted on such a petition does not contain information exempt from public disclosure under part 20 of this chapter and would be made public as part of the docket associated with this request.

##### **§ 1.922 Who will respond to a petition requesting a waiver?**

The Director or Deputy Directors of the Center for Food Safety and Applied Nutrition (CFSAN) or the Center for Veterinary Medicine (CVM), or the Director, Office of Compliance, CFSAN, or the Director, Office of Surveillance