



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

July 19, 2021

Mr. Kenneth Dorsey
Executive Director of Tank Car Safety
425 3rd St SW
Washington, DC 20024

Reference No. 21-0039

Dear Mr. Dorsey:

This is in response to your April 13, 2021, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to identification plates on rail tank cars. Your questions are paraphrased and answered below.

Q1: You seek clarification as to which modifications to a rail tank car would require the use of a variable identification plate as described in § 179.24(a)(3) of the HMR. Specifically, you ask whether the term “modification” as referenced in § 179.24(a)(3) is intended to have the identical meaning as the term “modification” as defined in § 180.503.

A1: The answer is no. Section 180.503 defines a “modification” as “any change to a tank car that affects the certificate of construction prescribed in § 179.5, including an alteration prescribed in § 179.6, or conversion.” Section 179.24(a)(3) states that when a modification to the tank changes any of the information shown in paragraph (a)(2) of § 179.24, the car owner or the tank car facility making the modification must install an additional variable identification plate on the tank in accordance with § 179.24(a)(1) and stamp, emboss, or otherwise mark the information identified in § 179.24(a)(3)(i)-(ii). Therefore, it is the opinion of this Office that a modification as described in § 180.503 would not always necessitate a modification as described in § 179.24(a)(3).

Q2: You seek confirmation that the tank car’s identification plate required in § 179.24(a)(2) is used to indicate the configuration of the tank car at the time it entered service and that the additional variable identification plate required in § 179.24(a)(3) is used to record changes to that tank car’s original configuration.

A2: Your understanding is correct.

Finally, your letter notes that § 179.24(a)(3) establishes that an additional variable identification plate must show—among other requirements—all of the items in § 179.24(a)(2) that were modified. In addition, § 179.24(a)(2)(iv) requires the original identification plate include the “specification to which the tank was built from line 7 of Association of American Railroads (AAR) Form 4-2.” However, you note that a modification that would trigger a change to a tank car’s Department of Transportation (DOT) specification occurs through AAR-established processes by way of change to the stencil specification in line 8 of the AAR Form 4-2, not line 7 as referenced in § 179.24(a)(2)(iv). You add that the information required in § 179.24(a)(2)(iv) will never change on an AAR Form 4-2. PHMSA appreciates AAR bringing this information to our attention and will take your comments into consideration.

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

Andrews

21-0039

From: [Kelley, Shane \(PHMSA\)](#)
To: [INFOCNTR \(PHMSA\)](#); [Hazmat Interps](#); [Foster, Glenn \(PHMSA\)](#); [DerKinderen, Dirk \(PHMSA\)](#); [Nickels, Matthew \(PHMSA\)](#); [Ballengee, Lily \(PHMSA\)](#); [Patrick, Famonn \(PHMSA\)](#)
Subject: Fwd: Request
Date: Tuesday, April 13, 2021 10:23:39 AM
Attachments: [Request for Interp 4-9.doc](#)

For processing as an interp. Thanks

From: Dorsey, Ken <kdorsey@aar.org>
Sent: Tuesday, April 13, 2021 10:18:20 AM
To: Kelley, Shane (PHMSA) <shane.kelley@dot.gov>
Cc: St. Peter, Joseph <Jstpeter@aar.org>
Subject: Request

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Mr. Kelley

Please find the attached request for interpretation regarding 49 C.F.R. 179.24.

Kenneth Dorsey
Executive Director of Tank Car Safety
425 3rd St SW
Washington DC 20024
202-639-2262



ASSOCIATION OF AMERICAN RAILROADS

Andrews

21-0039

Safety and Operations
Kenneth B. Dorsey
Executive Director - Tank Car Safety

4/13/2021

Mr. Shane C. Kelley

Director, Office of Standards and Rulemaking Office of Hazardous Materials Safety
Pipeline and Hazardous Materials Safety Administration
United States Department of Transportation
1200 New Jersey Avenue SE East Building, PHH-10
Washington, DC 20590-0001

Subject: Request for Interpretation 49 C.F.R. § 179.24

Dear Mr. Kelley:

AAR is requesting an interpretation of the requirements of 49 C.F.R. § 179.24(a)(3). First, AAR is requesting guidance on DOT's intent regarding the additional variable identification plate contemplated by that section, and what "modifications" would require use of a variable identification plates. We are requesting confirmation that term "modification" in § 179.24(a)(3) is intended to have the same meaning as the definition of that term at 49 C.F.R. § 180.503, which states that a "modification" means ". . . any change to a tank car that affects the certificate of construction prescribed in §179.5, including an alteration prescribed in §179.6, or conversion."

Next, AAR would like confirmation of its understanding that a tank car's identification plate under § 179.24(a)(2) would indicate the configuration of the tank car at the time it entered service, and that the additional variable identification plate required § 179.24(a)(3) should be used to record changes to that tank car's original configuration. AAR's understanding is that the additional identification plate would be used to provide information that would be of use to responders or anyone else that needed to know the features of the tank car tank.

Finally, §179.24(a)(3) establishes that an additional variable identification plate must show, among other requirements, "[a]ll items in paragraph (a)(2) of this section that were modified" Section 179.24(a)(2)(iv) describes that the "specification to which the tank was built from line 7 of AAR form 4-2." is one of the items that must be included on the original identification plate. AAR notes here, however, that a modification that would trigger a change to a tank car's DOT specification occurs through AAR-established processes by way of change to the Stencil Specification in line 8 of the AAR Form 4-2, not the line 7 referenced in §179.24(a)(2)(iv). Further, the information contemplated in § 179.24(a)(2)(iv) will never change on an AAR Form 4-2.

Thank you for your consideration in this matter, and please contact me if you have any questions regarding this request.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Kenneth B. Dorsey".

K.B. Dorsey