

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****49 CFR Parts 173 and 178**

[Docket No. HM-172; Amdt. No. 173-156, 178-70]

Marketing and Record Retention Requirements for Cylinders**AGENCY:** Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.**ACTION:** Final rule.

SUMMARY: These amendments: (1) Specify the markings that must be made on cylinders for compressed gases, (2) revise cylinder inspection report submission and retention requirements, (3) eliminate the registration of optional marking, and (4) clarify regulations on the location of markings on cylinders other than those markings required by the regulations. MTB believes that cylinder marking consisting of the optional numbers and symbols of the purchaser or the user together with the required marker's symbol tends to be confusing. Further, although the cylinder specifications contain a requirement that cylinder test reports be sent to the cylinder maker, purchaser, and MTB, there is no requirement that these reports be retained. Therefore, MTB is issuing pertinent changes to the cylinder specifications and cylinder marking requirements to: (1) Revise, clarify and simplify the regulations pertaining to cylinder marking, optional marking registration, and test report submissions, and (2) reduce unnecessary and costly submission of reports. In addition, cylinder test report retention requirements are established.

EFFECTIVE DATE: July 1, 1982.**FOR FURTHER INFORMATION CONTACT:**

David E. Henry or James E. Jones, Approvals Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, telephone (202-472-5982).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking covering cylinder marking requirements and proposing to adopt test report retention requirements for certain cylinders was published under Docket HM-172 on February 14, 1980 (45 FR 9960). The current cylinder specifications in Part 178 of the Hazardous Materials Regulations require that each cylinder be marked with a serial number and an

identifying symbol of the maker. Numbers and symbols of the purchaser or the user are also permitted if the maker's symbol appears on the cylinder near the original test date. The cylinder specifications also contain a requirement that complete reports be sent to the cylinder maker, purchaser, and MTB. However, there is no requirement that anyone retain the report.

MTB believes that deletion of the references in Part 178 to the purchaser's or user's markings in each cylinder specification eliminates confusion between the required markings of the maker and the optional markings of the purchaser or user.

All cylinder specifications contain a prohibition against duplication of serial numbers. The deletion of the purchaser's and user's markings from the individual cylinder specifications does not prohibit a maker from marking on cylinders a series of numbers specified by an original purchaser. The maker's serial number may be any number conceived by or suggested to the maker as long as that maker uses it only once so that the number, in association with the maker's mark, is unique.

Several comments to this proposal were received in response to the Notice. Three commenters suggested that MTB establish a register of cylinder owners as a provision for ownership control. This is outside the scope of the notice. A registry of cylinder owners would not appreciably improve transportation safety while requiring a large outlay of funds by MTB for development and a large annual investment of funds for maintenance of such a system.

One commenter recommended that the revision to § 173.34(c)(1) authorize additional markings to accompany the required marking. This is authorized by the wording of the revision; however, the specified marking may not be altered or rearranged.

Several comments were received concerning the retention of test reports. Based on a consideration of these comments, MTB has decided to establish a 15 year test report retention period for all cylinders considered in the notice, except for DOT Specification 3HT cylinders which are installed aboard aircraft. The DOT Specification 3HT cylinder test reports must be maintained for the cylinder's authorized service life. MTB is including the 4BA, 4AA480 and 4BW specifications which were omitted from the Notice. This will provide for consistency among similar specifications. MTB believes that the 15 year test report retention period is sufficient to monitor the durability of

cylinders including those having no prescribed retest period.

Three commenters suggested that it would be advantageous for MTB to receive summary reports. MTB believes this has merit, however, this was not proposed in the Notice of Proposed Rulemaking, would result in additional costs to the public as well as DOT, and is not in accordance with efforts to reduce the paperwork burden on the public.

One commenter indicated that a requirement for the inspector and the maker to retain the test reports would increase costs. Inspections by MTB of cylinder manufacturing facilities have revealed that it is a common practice of independent inspection agencies and manufacturers to retain test reports as proof of performance of their responsibilities. MTB believes that by formalizing the test report retention requirements that have been a common industry practice, a savings will result to the industry through the elimination of the reporting requirements that are cancelled by this rulemaking.

One commenter recommended that a restriction similar to that specified by § 178.45-17(e) for the DOT Specification 3T cylinder be made applicable to other cylinders. This restriction prohibits a cylinder from being marked DOT-3T unless specific requirements are met. While MTB feels that this restriction is appropriate, it should be noted that § 178.0-2 (a) and (b) contain similar provisions for all specification packagings, including cylinders, and thus the prohibition in each specification would be superfluous.

One commenter suggested that regulatory control over the quality of cylinders being produced would be lost or greatly decreased unless MTB registered all cylinders. MTB does not agree. MTB believes the quality of cylinders can be maintained only through the cooperation of the cylinder industry and an effective surveillance program.

One commenter suggested that the transfer of cylinder ownership should be accompanied by the addition of the new owner's marks as an ownership guarantee. MTB believes that owner's marks on cylinders would not necessarily be effective in protecting owners against misuse of their cylinders because the presence of a symbol on a cylinder does not prove ownership. MTB does believe that the conveyance of a cylinder bearing the unique manufacturer's mark and serial number when supported by proper documentation can be used as an indication of ownership.

Specific Requirements

Paragraph (c)(1) of § 173.34 is revised to clarify the authority for placing markings other than required markings on cylinders. This paragraph also prohibits indentations from being made in the sidewall of a cylinder unless specifically permitted in the applicable specification for the cylinder. Paragraph (c)(3) is revised to combine paragraph (i) into (c)(3) since paragraph (ii) is deleted as proposed.

Except for the cylinders which are identified by lot numbers, the specifications are amended to specify that the required cylinder marking must consist of the maker's symbol and a serial number.

Except for the cylinders for which there is no requirement for report submittal, the specifications are amended to change the inspector's duties to require the cylinder inspector to submit reports required by the cylinder specifications to the cylinder maker and, upon request, to the purchaser. This amendment also establishes a general requirement that the inspector retain the cylinder test reports for 15 years from the original test date of the cylinders. For the DOT Specification 3HT cylinders, the inspector must retain the cylinder test reports for the authorized service life of the cylinders.

Except for the cylinders for which there is no requirement for report submittal, the cylinder specifications are amended to establish a general requirement for the manufacturer of the cylinders under these specifications to retain the cylinder test report for 15 years from the original test date of the cylinders. However, the manufacturers of the DOT Specification 3HT cylinders must retain the cylinder test reports for the authorized service life of the cylinders.

List of Subjects

49 CFR Part 173

Hazardous materials transportation, Cylinders, Markings, Service pressure

49 CFR Part 178

Hazardous materials transportation, Cylinders, Marking and serial number, Test report, Report retention

In consideration of the foregoing, 49 CFR Parts 173 and 178 are amended as follows:

PART 173—CYLINDERS, MARKINGS, AND SERVICE PRESSURE

1. In 49 CFR 173.34 paragraphs (c)(3)(i) and (c)(3)(ii) are removed and

paragraphs (c)(1) and (c)(3) are revised to read as follows:

§ 173.34 Qualification, maintenance and use of cylinders.

* * * * *

(c) * * *

(1) Additional information not affecting the markings prescribed in the applicable cylinder specification may be placed on the cylinder. No indentation may be made in the sidewall of the cylinder unless specifically permitted in the applicable specification.

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(3) Except for marked service pressure, markings required on cylinders may not be altered or removed. The marked service pressure may be changed only upon application to the Associate Director for Hazardous Materials Regulation and receipt of written instructions as to the procedure to be followed.

(i) [Removed]

(ii) [Removed]

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PART 178—SHIPPING CONTAINER SPECIFICATIONS

§§ 178.51-19, 178.56-19 and 178.61-20 [Amended]

2. 49 CFR 178.51-19(a)(2), 178.56-19(a)(2), and 178.61-20(a)(2) are amended by revising the first sentence of § 178.51-19(a)(2) and the first and second sentences of §§ 178.56-19(a)(2) and 178.61-20(a)(2) to read: "A serial number and an identifying symbol of the maker. The symbol must be registered with the Associate Director for OHMR".

§§ 178.36-20, 178.37-20, 178.38-20, 178.39-19, 178.42-14, 178.44-23, 178.47-21, 178.50-19, 178.53-18, 178.54-20, 178.55-20, 178.57-20, 178.58-21, 178.59-18, 178.60-22 and 178.68-19 [Amended]

3. In addition, 49 CFR Part 178 is amended by revising the second and third sentences of the following sections to read: "The symbol and numbers must be those of the maker. The symbol must be registered with the Associate Director for OHMR; duplications are not authorized".

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§ 178.36-20(a)(3) § 178.53-18(a)(2)
§ 178.37-20(a)(3) § 178.54-20(a)(2)
§ 178.38-20(a)(2) § 178.55-20(a)(2)
§ 178.39-19(a)(2) § 178.57-20(a)(3)
§ 178.42-14(a)(2) § 178.58-21(a)(2)
§ 178.44-23(a)(2) § 178.59-18(a)(2)
§ 178.47-21(a)(2) § 178.60-22(a)(2)
§ 178.50-19(a)(2) § 178.68-19(a)(2)

§§ 178.36-4, 178.37-4, 178.38-4, 178.39-4, 178.42-4, 178.47-4, 178.50-4, 178.51-4, 178.53-4, 178.54-5, 178.55-4, 178.56-4, 178.57-4, 178.58-4, 178.61-4 and 178.68-4 [Amended]

4. Also, 49 CFR Part 178 is amended by revising the following sections to read: "Furnish complete test reports required by this specification to the maker of the cylinder and, upon request, to the purchaser. The test report must be retained by the inspector for fifteen years from the original test date of the cylinder."

§ 178.36-4(d) § 178.53-4(d)
§ 178.37-4(d) § 178.54-4(d)
§ 178.38-4(d) § 178.55-4(d)
§ 178.39-4(d) § 178.56-4(d)
§ 178.42-4(d) § 178.57-4(d)
§ 178.47-4(d) § 178.58-4(d)
§ 178.50-4(d) § 178.61-4(d)
§ 178.51-4(d) § 178.68-4(d)

5. Further, 49 CFR Part 178 is amended by revising § 178.44-4(d) to read as follows: "Furnish complete test reports required by this specification to the maker of the cylinder and, upon request, to the purchaser. Test reports must be retained by the inspector for the authorized service life of the cylinder".

§§ 178.36-23, 178.37-23, 178.38-23, 178.39-22, 178.42-16, 178.47-24, 178.50-22, 178.51-22, 178.53-21, 178.54-23, 178.55-23, 178.56-22, 178.57-23, 178.58-24, 178.59-21, 178.60-25, 178.61-22 and 178.68-21 [Added]

6. In addition, 49 CFR Part 178 is amended by adding the following sections to read: "Report retention. The maker of cylinders under this specification must retain the test reports required by this specification for fifteen years from the original test date of the cylinder".

§ 178.36-23 § 178.54-23
§ 178.37-23 § 178.55-23
§ 178.38-23 § 178.56-22
§ 178.39-22 § 178.57-23
§ 178.42-16 § 178.58-24
§ 178.47-24 § 178.59-21
§ 178.50-22 § 178.60-25
§ 178.51-22 § 178.61-22
§ 178.53-21 § 178.68-21

7. 49 CFR Part 178 is further amended by adding § 178.44-26 to read as follows:

§ 178.44 Specification 3HT; inside containers, seamless steel cylinders for aircraft use made of definitely prescribed steel.

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§ 178.44-26 Report retention.

The maker of the cylinder under this specification must retain the test reports required by this specification for the authorized service life of the cylinder.

8. 49 CFR Part 178 is additionally amended by revising § 178.59-3(c) to read as follows:

§ 178.59 Specification 8; steel cylinders with approved porous filling for acetylene.

§ 178.59-3 Inspection by whom and where.

(c) Duties of inspector of completed cylinders: determine porosity of filling and tare weights; verify compliance of marking with prescribed requirements; obtain necessary copies of steel shell reports prescribed in paragraph (b) of this section; and furnish complete reports required by this specification to the person who has completed the manufacture of the cylinders and, upon request, to the purchaser. The test reports must be retained by the inspector for fifteen years from the original test date of the cylinder.

9. In addition to the above amendments 49 CFR Part 178 is amended by revising § 178.60-3(c) to read as follows:

§ 178.60 Specification 8AL; steel cylinders with approved porous filling for acetylene.

§ 178.60-3 Inspection by whom and where.

(c) Duties of inspector of completed cylinders: determine porosity of filling and tare weights; verify compliance of marking with prescribed requirements; obtain necessary copies of steel shell reports prescribed in paragraph (b) of this section; and furnish complete test reports required by this specification to the person who has completed the manufacturer of the cylinders and, upon request, to the purchaser. The test reports must be retained by the inspector for fifteen years from the original test date of the cylinder.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and App. A to Part 1)

10. Paperwork Reduction Act: Information collection requirements contained in the following sections of this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 2150-0122.

Following the text of each section listed below, add parenthetically OMB Control No. 2150-0122.

- List of CFR sections to be amended with OMB Control No. 2150-0122, including § 178.36-4(d), § 178.36-20(a)(3), § 178.36-23, § 178.37-4(d), § 178.37-20(a)(3), § 178.37-23, § 178.38-4(d), § 178.38-20(a)(2), § 178.26-23, § 178.39-4(d), § 178.39-19(a)(2), § 178.39-22, § 178.42-4(d), § 178.42-14(a)(2), § 178.42-16, § 178.44-4(d), and § 178.44-23(a)(2).

- Table of CFR sections to be amended with OMB Control No. 2150-0122, including § 178.44-26, § 178.47-4(d), § 178.47-21(a)(2), § 178.47-24, § 178.50-4(d), § 178.50-19(a)(2), § 178.50-22, § 178.51-4(d), § 178.51-19(a)(2), § 178.51-22, § 178.53-4(d), § 178.53-18(a)(2), § 178.53-21, § 178.54-4(d), § 178.54-20(a)(2), § 178.54-23, § 178.55-4(d), § 178.55-20(a)(2), § 178.55-23, § 178.56-4(d), § 178.56-19(a)(2), § 178.56-22, § 178.57-4(d), § 178.57-20(a)(3), § 178.57-23, § 178.58-4(d), § 178.58-21(a)(2), § 178.58-24, § 178.59-3(c), § 178.59-18(a)(2), § 178.59-21, § 178.60-3, § 178.60-22(a)(2), § 178.60-25, § 178.61-4(d), § 178.61-20(a)(2), § 178.61-22, § 178.68-4(d), and § 178.68-19(a)(2).

Note.—The Materials Transportation Bureau has determined that this document will not result in a "major rule" under terms of Executive Order 12291 and DOT implementing procedures (44 FR 11043) nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket. I certify that this final rule will not have a significant adverse economic impact on a substantial number of small entities because present reporting requirements and optional marking registration are being eliminated, and the recordkeeping requirement contained in the rule change is the formalization of a practice that is generally followed by the cylinder manufacturing industry as proof of performance of their responsibility.

Issued in Washington, D.C., on April 8, 1982.

L. D. Santman, Director, Materials Transportation Bureau.

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