

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

Federal Communications Commission.

Wallace E. Johnson,
Chief, Broadcast Bureau.

[BC Docket No. 78-321; RM-3124]

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DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

49 CFR Parts 173, 179

Shippers—General Requirements for Shipments and Packaging; Specifications for Tank Cars; Marking of Tank Car Tanks

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, D.O.T.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to place all of the requirements in Parts 172 and 173 of Title 49 for the marking of tank car tanks with the proper shipping name or the authorized common name. The regulations provide, in most cases, that tank car tanks transporting certain materials be marked in accordance with the requirements of § 172.330. However, the marking requirements in several sections of Parts 173 and 179 are conflicting and place the burden of compliance with the requirements on both the shipper and the tank car builder. This change ensures that the responsibility for these particular marking requirements will be uniform and will rest with the shipper and not the tank car builder.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: R. W. Folden, Railroad Safety Specialist (Hazardous Materials), Federal Railroad Administration, 2100 Second Street, S.W., Washington, D.C. 20590, 202-426-2748.

SUPPLEMENTARY INFORMATION: The marking of tank car tanks has been a subject which was addressed a number of years ago. Based on observations during accident situations and on recommendations from fire, safety, and police personnel, the Department determined that markings on tank car tanks with regard to specific commodity descriptions, letter heights, stroke size, letter spacing and background color contrasts were not adequate. Therefore, a notice of proposed rulemaking covering marking of tank car tanks was published in the Federal Register under Docket HM-101 (37 FR 7104, April 8, 1972). The provisions of this notice were

eventually incorporated and expanded in another notice of proposed rulemaking published as Docket HM-103 (39 FR 3164, January 24, 1974). Subsequently, the proposals in this latest notice were adopted as final rules under Docket HM-103/112 (41 FR 15972, April 15, 1976). Under these final rules the marking requirements became standardized, particularly for tank car tanks; however, there were a number of sections in the regulations which continued to require the obsolete tank car tank markings. These sections were inadvertently overlooked when the final rules to Docket HM-103/112 were published. The changes in this document will correct that oversight.

The only sections in Part 173 which require the marking of tank car tanks with the name of the material being shipped and have no cross reference to § 172.330 are Sections 173.183(a)(2) and 173.336(a)(4). Therefore, these sections are being amended by deleting the sentences referring to stenciling requirements and substituting language with reference to marking requirements in accordance with § 172.330. In addition, the reference for the requirements for stenciling the name of material being transported on tanks is being deleted from §§ 179.102-2(a)(5), 179.102-8(a)(1), 179.102-9(a)(1), 179.102-10(a)(1), 179.102-12(a)(1), 179.102-14, 179.202-4(a), 179.202-15, and 179.202-18(a)(1). All of the references deleted from Part 179 are presently contained in Part 173.

These amendments are editorial changes to the present regulations. They neither impose new requirements nor relax existing requirements and are not expected to impose any additional costs or burdens to the public, industry or government, or to have any environmental or economic impact.

The primary drafters of this document are R. W. Folden, Office of Safety, Federal Railroad Administration, Joseph T. Horning, Standards Division, Office of Hazardous Materials Regulation, and Evan Braude, Office of Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, 49 CFR Parts 173 and 179 are amended as follows:

1. In § 173.183 paragraph (a)(2) is amended by revising the last sentence to read as follows:

§ 173.183 Potassium nitrate mixed (fused) with sodium nitrite.

(a) * * *

(2) * * * Each tank car must be marked "Fused Potassium Nitrate and Sodium Nitrite" in accordance with the

requirements of § 172.330 of this subchapter.

2. In § 173.336 paragraph (a)(4) is revised to read as follows:

§ 173.336 Nitrogen dioxide, liquid; nitrogen peroxide, liquid; and nitrogen tetroxide, liquid.

(a) * * *

(4) Specification 105A500W (§§ 179.100, 179.101 of this subchapter) tank cars. Authorized for nitrogen tetroxide only. Tanks must be lagged with not less than a four-inch thickness of cork. All valves and fittings must be protected by a securely attached cover made of metal not subject to deterioration by the lading, and all valve openings, except the safety valve, must be fitted with screw plugs or caps to prevent leakage in the event of valve failure. Safety valve must be equipped with an approved stainless steel or platinum frangible disc. Each tank car must be marked "NITROGEN TETROXIDE" in accordance with the requirements of § 172.330 of this subchapter. Written procedures covering details of tank car appurtenances, dome fittings and safety devices, and marking, loading, handling, inspection and testing practices, must be filed with and approved by the Bureau of Explosives before any tank car is offered for transportation of nitrogen tetroxide

3. § 179.102 is amended by deleting paragraph (a)(5) in § 179.102-2; paragraph (a)(1) is revised in §§ 179.102-8, 179.102-9, 179.102-10 and 179.102-12; 179.102-14 is revised to read as follows:

§ 179.102 Special commodity requirements for pressure tanks.

* * * * *

§ 179.102-2 Chlorine.

(a) * * *

(5) Deleted.

§ 179.102-8 Motor fuel anti-knock compound.

(a) * * *

(1) Openings in tank heads to facilitate application of nickel lining are authorized if closed in an approved manner.

§ 179.102-9 Nitrogen tetroxide or Nitrogen tetroxide-nitric oxide mixtures.

(a) * * *

(1) Tanks must be insulated with not less than four inches of corkboard. All valves and fittings must be protected by the securely attached cover made of metal not subject to rapid deterioration by the lading, and all valve openings, except the safety relief valves, must be

fitted with screw plugs or caps to prevent leakage in the event of valve failure. Safety relief valve must be equipped with an approved stainless steel or platinum frangible disc. Written procedures covering details of tank car appurtenances, manway fittings and safety relief devices, and marking, loading, handling, inspection and testing practices, must be filed with and approved by the Bureau of Explosives before any tank car is offered for transportation of these commodities.

§ 179.102-10 Hydrocyanic acid.

(a) * * *

(1) Each tank car must be registered and the jacket stenciled "DOT-105A300W" and be equipped with the safety relief valves required by that specification. Tanks must be insulated with not less than four inches of corkboard. Written procedures covering details of tank car appurtenances, manway fittings and safety relief devices, and marking, loading, handling, inspection and testing practices must be filed with and approved by the Bureau of Explosives before any tank car is offered for transportation of hydrocyanic acid.

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§ 179.102-12 Ethylene oxide.

(a) * * *

(1) The tank must be constructed in accordance with DOT-105A ***W specification, and its jacket stenciled "DOT-105A100W."

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§ 179.102-14 Acrolein inhibited.

Each tank car used to transport acrolein, inhibited, must be a Specification DOT-105A300W or higher rated tank, registered and the jacket stenciled "DOT-105A200W" and be equipped with the safety relief valve required by that specification.

4. § 179.202 is amended by deleting the last sentence in § 179.202-4; § 179.202-15 and paragraph (a)(1) in § 179.202-18 are revised to read as follows:

§ 179.202 Special commodity requirements for non-pressure tank car tanks.

* * * * *

§ 179.202-15 Formic acid and formic acid solutions.

If a Specification DOT-103EW tank car tank is used, it must be fabricated from Type 316 stainless steel.

§ 179.202-18 Ethylene oxide.

(a) * * *

(1) The tank must be constructed in accordance with the DOT-111A100W4 specification.

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Authority: 49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53.

NOTE.—The Materials Transportation Bureau has determined that this amendment will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9583). A regulatory evaluation is available in the public docket.

Issued in Washington, D.C. on March 27, 1979.

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

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 573

Defect and Noncompliance Reports

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Response to petition for reconsideration.

SUMMARY: This notice responds to a petition for reconsideration submitted by the Motor and Equipment Manufacturers Association (MEMA) asking the agency to reconsider portions of its newly amended reporting regulation, Part 573, *Defect and Noncompliance Reports*. This notice responds to the issues raised by the MEMA and amends the regulation in several minor aspects in accordance with the recommendations of that organization.

EFFECTIVE DATE: Since the amendments made in response to the petition for reconsideration are minor clarifications of the regulation and do not make any substantive changes, the agency sees no reason to alter the existing effective date of the regulation. The amendments set forth in this notice and the entire Part 573 regulation are effective April 1, 1979.

FOR FURTHER INFORMATION: Mr. James Murray, Office of Defects Investigation, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2840).

SUPPLEMENTARY INFORMATION: On December 26, 1978, the National Highway Traffic Safety Administration published a final rule on Part 573, *Defect*

and Noncompliance Reports (43 FR 60165). Subsequently, the effective date of Part 573 was extended twice, first to March 1, 1979 (44 FR 5137) then to April 1, 1979 (44 FR 11551), to give the agency time to complete interdepartmental coordination and to permit a considered response to petitions for reconsideration. One petition for reconsideration has been received from the Motor and Equipment Manufacturers Association (MEMA).

The Part 573 reporting regulation requires manufacturers to file reports with the NHTSA pertaining to safety-related defects and noncompliances. These reports enable the agency to monitor manufacturer campaigns for recalling and remedying defective and noncomplying motor vehicles and motor vehicle equipment. Through this monitoring process, the agency can determine whether a manufacturer's efforts to correct a defect or noncompliance are successful or whether further action is necessary on the part of the agency to ensure that a potential safety hazard is removed from the highways. Thus, the reporting regulation is a necessary tool for the agency's enforcement of the National Traffic and Motor Vehicle Safety Act of 1966 (the Act) (15 U.S.C. 1381 *et seq.*). The agency notes, for example, that section 156 of the Act authorizes the agency on its own motion to hold a hearing on the question of whether a manufacturer has reasonably met its recall and remedy obligations.

Prior to the Motor Vehicle and Schoolbus Safety Amendments of 1974 (Pub. L. 93-492), only motor vehicle manufacturers were responsible for conducting notification and recall campaigns. The 1974 amendments altered that situation by requiring equipment manufacturers to shoulder some of the responsibility for defects or noncompliances in their replacement equipment. Accordingly, the Act now requires some equipment manufacturers to make defect or noncompliance determinations and notifications in a manner similar to vehicle manufacturers.

The original Part 573 became effective in October 1971, and applied only to motor vehicle manufacturers in accordance with the then applicable defect determination and notification section of the Act. The 1974 amendments to the Act extending notification and remedy responsibilities to some equipment manufacturers require a corresponding extension of the reporting requirements to those manufacturers. Without this extension, the agency would be unable to carry out