



DEPARTMENT OF TRANSPORTATION  
MATERIALS TRANSPORTATION BUREAU  
WASHINGTON, D.C. 20590

39792

(Docket No. HM-144; Amdt. No. 179-24)

**PART 179—SPECIFICATIONS FOR  
TANK CARS**

**Specification for Pressure Tank Car  
Tanks: Compliance Reporting**

AGENCY: Materials Transportation  
Bureau, DOT.

ACTION: Final rule.

SUMMARY: The Materials Transportation Bureau (the Bureau) is issuing this amendment to the Department's hazardous materials regulations to require owners of DOT specification 112 and 114 pressure tank cars to provide to the Bureau a listing of those cars bearing the owner's reporting mark and the plans of the owner to retrofit them with safety devices. In addition, the rule requires quarterly reporting concerning the efforts of the owner to meet established compliance deadlines and provides a definition of the term "tank car owner." The purpose of this rule is to monitor the compliance of tank car owners with regulatory deadlines.

EFFECTIVE DATE: This amendment effective September 7, 1978.

ADDRESS: All written comments received in this proceeding are available for examination during regular business hours in Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

**FOR FURTHER INFORMATION  
CONTACT:**

William F. Black, Office of Safety,  
Federal Railroad Administration,  
Washington, D.C. 20590, 202-426-  
2748.

SUPPLEMENTARY INFORMATION: The Materials Transportation Bureau published on September 15, 1977, a final rule establishing additional safety requirements for DOT specification 112 and 114 tank cars (42 FR 46306). The requirements included improved couplers, tank head protection and thermal protection. Tank car owners were afforded a four-year period to complete the application of required protective systems to cars built prior to January 1, 1978. On July 13, 1978, the Bureau published a supplemental amendment shortening the period allowed for retrofit of these cars (43 FR 30057). This rulemaking is issued as a means of facilitating the implementation of the retrofit program.

On June 8, 1978, the Bureau published a notice of proposed rulemaking, Docket No. HM-144; notice No. 78-8 (43 FR 24865). The purpose of that notice was to elicit public com-

ment on a proposed rule which would define "tank car owner" and require owners of DOT specifications 112 and 114 tank cars to provide:

1. A listing of cars owned;
2. Plans of the owner regarding retrofit; and
3. Quarterly reports concerning the owner's efforts to meet established compliance deadlines.

The reasons for considering these compliance reporting requirements were discussed in considerable detail in the Notice. Six submissions were received and have been fully considered by the Federal Railroad Administration (FRA) and the Bureau. After analysis of these comments it has been determined that the rule should be issued in the form proposed.

Three commenters opposed implementation of this reporting requirement. These commenters are shipper-owners of specification 112 and 114 tank cars. Two of these respondents assured DOT that their retrofit activities would be completed within the time limits prescribed. The third respondent suggested that time extensions might be requested to complete the retrofit program. These three believed that implementation of the compliance reporting requirements would be an unnecessary burden on tank car owners.

However, two commenters including one tank car shipper-owner favored the compliance reporting as a method to inform the FRA and the Bureau of retrofit status.

The FRA and the Bureau believe that it is necessary to monitor compliance with the regulatory deadlines. As was stated in the Notice, neglect by a tank car owner or owners to establish an adequate pace of retrofit could result in a failure to meet regulatory deadlines. Such failure could result in an accumulation of unequipped cars which would be prohibited from use in transportation. It will, therefore, be necessary for the FRA, which is responsible for enforcing the tank car regulations, to monitor closely the manner in which tank owners comply with the regulatory deadlines. In the event it appears that any tank car owner has failed to establish a program leading to the timely completion

of the retrofit tasks, FRA may find it necessary to institute compliance order proceedings under 49 CFR Part 209 (42 FR 56742; October 28, 1977) or take other, appropriate legal action. The reporting rule contained in this Amendment will provide the FRA with the information necessary to carry out its enforcement mission.

One commenter suggested that use of the "UMLER" (Universal Machine

Language Equipment Register) might afford FRA and the Bureau with adequate information. The "UMLER" keeps information concerning the tank car specification of every listed car. However, FRA experience with "UMLER" is that information is at least ninety-days behind events; and "UMLER" would provide no information regarding "shelf coupler" retrofit (which is not a specification change). Nor would "UMLER" indicate owners' plans. Because of the compressed retrofit time schedule and our commitment to rapid completion of this important phase of the retrofit program, it is believed that this reporting system is necessary to obtain the needed information on an accurate, timely basis.

Additionally, one commenter recommended that the quarterly reports received from tank car owners be summarized and published in the FEDERAL REGISTER until full retrofit compliance is met. It is believed that by having these reports available for public inspection, adequate availability of information is afforded regarding the status of the retrofit program. Accordingly, it is not planned to publish quarterly summaries.

One respondent who owns specification 112 and 114 tank cars under more than one reporting mark requested that for purposes of this rule and compliance with the retrofit schedule his several reporting marks be treated as a unit. The FRA and the Bureau concurred provided such a request is included when the information required by section 179.105-9(a) is submitted. However, leased tank cars cannot be considered as "owned" by lessees.

One commenter requested that departmental attention be focused on the cause of railroad accidents and that expeditious movement of liquefied petroleum gas not be disrupted. The FRA is taking all feasible action to address the causes of train accidents but believes that compliance reporting is also necessary. Also, the FRA and the Bureau believe that monitoring retrofit compliance will help to assure adequate tank car capacity for the transportation of liquefied flammable gases and anhydrous ammonia.

Accordingly, this rule is adopted as proposed in docket No. HM-144; notice No. 78-8.

Primary drafters of this document are William F. Black, Office of Safety, and Grady C. Cothen, Jr., Office of Chief Counsel, Federal Railroad Administration.

In consideration of the foregoing, part 179 of title 49, Code of Federal Regulations is amended as follows:

In § 179.105, paragraph (d) is added,

in § 179.105-1 and a new § 179.105-9 is added to read as follows:

§ 179.105 Special requirements for Specifications 112 and 114 tank cars.

§ 179.105-1 General.

. . . . .

(d) As used in this section 179.105, "tank car owner" means a person whose reporting mark appears on any specification 112 or 114 tank car.

. . . . .

§ 179.105-9 Compliance reporting.

(a) By October 16, 1978, each tank car owner shall report in writing to the Associate Administrator for Safety, FRA (Attention: RRS-25), the following information concerning specification 112 and 114 pressure tank cars bearing the owner's reporting mark:

(1) The total number of such cars and a list of applicable reporting marks (by consecutive series, where appropriate);

(2) A declaration of intent concerning the number of cars scheduled to be equipped to each of the respective specifications subject to this section (i.e., 112A/114A, 112S/114S, 112T/114T, 112J/114J) and the disposition of any remaining 112/114 cars; and

(3) A description of steps being taken to comply with § 179.105-3 (previously built cars), including—

(i) The number of cars scheduled to be equipped to specifications 112S/114S and 112T/114T, respectively, which have been equipped with a tank head puncture resistance system meet-

ing the requirements of § 179.105-5, and remain to be equipped with a tank head puncture resistance system;

(ii) The number of cars scheduled to be equipped to specification 112T/114T which have been equipped with a thermal protection system that meets the requirements of § 179.105-4, and remain to be equipped with a thermal protection system;

(iii) The number of cars scheduled to be equipped to specification 112J/114J which have been equipped with the thermal protection system and tank head protection system required by §§ 179.105-4 and 179.105-5, and remain to be equipped to specification 112J/114J; and

(iv) The number of cars which have been equipped with a coupler restraint system meeting the requirements of § 179.105-6, and remain to be equipped with such a system.

(b) By the last day of the calendar month following the end of each quarter, each tank car owner shall submit to the Associate Administrator for Safety, Federal Railroad Administration (Attention: RRS-25), a written progress report updating the information required to be submitted by paragraphs (a)(2) and (a)(3) of this section. The first report shall be submitted by January 31, 1979.

(c) When a tank car owner has equipped all 112 and 114 cars built prior to January 1, 1978 with the devices required by § 179.105 for the type of service in which the cars are to be utilized, the tank car owner shall certify in a final compliance report to the Associate Administrator for Safety, Federal Railroad Administration (Attention: RRS-25), that all 112 and 114 tank cars are properly equipped. Following the submission of that certifi-

cate, no further reports shall be required under paragraph (b) of this section, unless the tank car owner subsequently acquires additional cars requiring the application of devices required by § 179.105.

(d) Each tank car owner, including any person attaining to that status at any time prior to December 31, 1980, shall include in the quarterly report required by paragraph (b) of this section a listing by reporting mark of all 112 and 114 tank cars acquired, transferred, or destroyed during the quarter, specifying the action taken with respect to each car. In the case of cars newly acquired, the quarterly report shall also provide the information required by paragraph (a)(2), and (a)(3) of this section.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e))

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring the preparation of an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). An evaluation of the estimated cost and anticipated benefits of this amendment has been prepared in accordance with departmental policies and procedures for simplification, analysis and review of regulations (43 FR 9582) and has been placed in the public docket for this proceeding.

The reporting and recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act 1942; OMB No. 4R5726.

Issued in Washington, D.C., August 31, 1978.

L. D. SANTMAN,  
Acting Director,  
Materials Transportation Bureau.  
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