



DEPARTMENT OF TRANSPORTATION
HAZARDOUS MATERIALS REGULATIONS BOARD

WASHINGTON, D.C. 20590

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[49 CFR Parts 173, 178]

[Docket No. HM-74; Notice No. 71-16]

TRANSPORTATION OF HAZARDOUS
MATERIALS

Cylinders Manufactured Outside
United States

The Hazardous Materials Regulations Board is considering amendment of Parts 173 and 178 of the Department's Hazardous Materials Regulations to authorize the performance, outside the limits of the United States, of chemical analyses and tests prescribed for DOT specification compressed gas cylinders, under conditions approved by the Department. In addition, the Board is proposing to require Departmental approval of disinterested inspectors and inspection procedures prescribed for all DOT specification cylinders, whether they are made inside or outside the United States.

This proposal is based on petitions from foreign compressed gas cylinder manufacturers, received over a period of several years, requesting relief from the provisions of the regulations requiring specified chemical analyses and tests to be performed within the United States (see, for example, 49 CFR 178.36-3). In response to these petitions and in an endeavor to gather information on the necessity for continuing to require the prescribed analyses and tests to be performed within the United States, the Board sought public participation in its publication of a notice of public hearing (Docket No. HM-74, 36 F.R. 838, 35 F.R. 3836), which was held on February 23 and March 16, 1971. An additional item prompting resolution of this question was the publication by the National Highway Safety Bureau (now the National Highway Traffic Safety Administration) of motor vehicle Standard No. 208 (35 F.R. 16927), specifying occupant crash protection requirements for certain motor vehicles manufactured after July 1, 1973, including those of foreign manufacture sold in the United States. One major type of passive restraint system contemplated employs a high pressure gas cylinder, which would be subject to the requirement that chemical analyses and tests be performed within the United States.

The record of the hearing, available for inspection in the public file of the Secretary of the Board, confirms the

need for greater flexibility in the regulations for those foreign manufacturers who can assure the Department of their competence and ability to produce compressed gas cylinders meeting U.S. safety standards. Questions raised in the hearing regarding the need for more effective approval and inspection procedures for domestic production of cylinders have been carefully noted, and will be treated in later rule making action. The Board is proposing, however, to withdraw the authority presently vested in the Bureau of Explosives to approve inspectors in the United States and would place within the Department the authority for approval of both domestic and foreign inspectors.

It is the Board's conclusion, on the basis of its investigations and the public record, that approval to perform specified chemical analyses and tests outside the United States may be granted to foreign manufacturers upon favorable consideration of several matters, including the acceptance of quality of production materials, manufacturing procedures, testing methods, inspection methods, and the inspectors. In addition, each foreign manufacturer requesting approval would be required to specify an agent, domiciled within the United States, upon whom service of process effectively could be made.

In consideration of the foregoing, the Board proposes to amend 49 CFR Parts 173 and 178 as follows:

I. Part 173.

In § 173.301, paragraph (i) and the introductory text of paragraph (j) would be amended to read as follows:

§ 173.301 General requirements for
shipment of compressed gases in cylinders.

* * * * *

(1) *Foreign containers in domestic use.* Except as authorized by § 173.9, a charged container of foreign manufacture must not be offered for transportation in the United States unless it has been manufactured and tested in accordance with an applicable DOT Specification as set forth in Part 178 of this chapter. A request for written Departmental approval for inspection and testing of cylinders outside of the United States must be made to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, Washington, D.C. 20590. The request for approval must be made in writing and

should include at least the following information:

(1) A chemical analysis of the material and a description of its physical properties;

(2) A detailed description of manufacturing processes;

(3) A description of each method and procedure used in testing, and

(4) The identification, qualifications, number, and assignment of inspectors.

(j) *Charging of foreign containers for export.* Containers of foreign manufacture, received from foreign countries for charging with compressed gas, which were not made in accordance with a DOT specification and approved by the Department, may be charged and shipped for export only:

II. In Part 178.

(A) In the following sections, paragraph (a) would be amended:

178.36-3	178.44-3	178.54-3
178.37-3	178.47-3	178.58-3
178.41-3	178.48-3	
178.43-3	178.49-3	

(a) Inspection must be by competent and disinterested inspector approved in writing by the Department. Chemical analyses and tests, as specified, must be made within the United States unless otherwise approved in writing by the Department. See § 173.301(i) of this chapter.

(B) In the following sections, paragraph (a) would be amended; paragraph (b) would be added to read as follows:

178.38-3	178.51-3	178.57-3
178.39-3	178.52-3	178.61-3
178.40-3	178.53-3	178.63-3
178.42-3	178.55-3	178.68-3
178.50-3	178.56-3	

(a) For cylinders manufactured in the United States, inspection must be by competent and interested or disinterested inspector approved in writing by the Department. Chemical analyses and tests, as specified, must be made within the United States.

(b) For cylinders manufactured outside the United States, inspection must be by competent and disinterested inspector approved in writing by the Department. Chemical analyses and tests, as specified, must be made within the United States unless otherwise approved

in writing by the Department. See § 173.301(i) of this chapter.

(C) In the following sections, paragraph (a) would be amended; paragraphs (b) and (c) would be redesignated paragraphs (c) and (d) respectively; a new paragraph (b) would be added to read as follows:

178.59-3
178.60-3

(a) For cylinders manufactured in the United States, inspection must be by competent and interested or disinterested inspector approved in writing by the Department. Chemical analyses and tests, as specified, must be made within the United States.

(b) For cylinders manufactured outside the United States, inspection must be by competent and disinterested inspector approved in writing by the Department. Chemical analyses and tests, as specified, must be made within the United States unless otherwise approved in writing by the Department. See § 173.301(i) of this chapter.

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before September 9, 1971, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831-835 of title 18, United States Code, section 9 Department of Transportation Act (49 U.S.C. 1657), and title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430 and 1472(h)).

Issued in Washington, D.C., on June 7, 1971.

W. J. BURNS,
Chairman, Hazardous
Materials Regulations Board.
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