

Consumer and Marketing Service
[7 CFR Part 1004]
MILK IN MIDDLE ATLANTIC
MARKETING AREA

Notice of Proposed Suspension of
Certain Provisions of the Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Middle Atlantic marketing area is being considered for the months of December 1970 and January and February 1971.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, DC 20250, not later than 3 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Proposed to be suspended for the months of December 1970 and January and February 1971 are those provisions of paragraph (c) of § 1004.15 (Producer) which follow the parenthetical text "(other than a producer-handler plant)" as it appears in the first sentence.

If this proposed action is taken, paragraph (c) of § 1004.15 would read as follows:

§ 1004.15 Producer.

(c) A dairy farmer with respect to milk which is diverted to a nonpool plant (other than a producer-handler plant).

The proposed suspension would remove all limitations on milk diversions for the months of December 1970 and January and February 1971. Diversion otherwise is limited (during the months of September through February) to not more than 10 days' production of an individual producer or in the alternative, in the case of a cooperative association which diverts for its account to nonpool plants, not more than 15 percent of the volume of milk of all members of such cooperative association received at all pool plants during the month. Likewise, a proprietary handler may divert milk under the alternative 15 percent limitation, the milk of his nonmember producers.

The suspension was requested by the Inter-State Milk Producers' Cooperative, Inc., a major milk producer's organization representing a substantial number of producers on the market.

The cooperative representative states that the partial closing of a pool plant located at Chambersburg, Pennsylvania

(for a 6-month period in order to expand its manufacturing facilities) results in the need for the association to divert from such plant substantial volumes of its member production to a nonpool manufacturing facility.

Further, there will be a school recess period in the Philadelphia area (and similarly elsewhere in the market) from December 23, 1970, to January 4, 1971, which will make it necessary for the association to divert to nonpool plants additional volumes of milk which normally would have been packaged as Class I by plants and distributed to these schools.

Petitioner states that diversion of milk of its patrons during the 3-month period, because of this market situation, could be in excess of the 15 percent standard allowed.

Signed at Washington, D.C., on December 10, 1970.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 70-16810; Filed, Dec. 11, 1970;
 8:49 a.m.]

DEPARTMENT OF
TRANSPORTATION

Hazardous Materials Regulations
Board

[49 CFR Parts 170-189]

[Docket No. HM-70]

TRANSPORTATION OF HAZARDOUS
MATERIALS

Hydrogen Sulfide Gas in Cargo Tank
Trucks and Tank Cars

The Hazardous Materials Regulations Board of the Department of Transportation is proposing to take action with regard to the transport of hydrogen sulfide gas (H₂S) in cargo tank trucks and tank cars.

Hydrogen sulfide is presently classified under § 172.5 of the Hazardous Materials Regulations as a flammable gas, and is authorized for transport in certain compressed gas cylinders and DOT spec. 106A800X tanks. Transport of hydrogen sulfide in spec. MC 330 and MC 331 tank trucks and DOT spec. 105A600W tank cars is also authorized under certain special permits. Additional petitions for special permit authorization for such transport of large quantity shipments of hydrogen sulfide have been received by the Board.

Hydrogen sulfide, though presently classified as a flammable gas, is also a severe irritant and is highly toxic. This gas has the further insidious property of causing olfactory fatigue, and dangerous concentrations cannot be smelled after short exposure. The gas is heavier than air and thus tends to "pool" rather than to dissipate into the atmosphere to harmless concentrations. Obviously, the greater the quantity of this dangerous

gas present, the greater will be the transportation hazard inherent in its movement, and the greater the number of injuries or fatalities suffered in case of accidental release of the gas.

It is the conclusion of the Board that the public interest precludes amendment of the regulations to provide a general authorization for transport of hydrogen sulfide in cargo tank trucks or tank cars. The Board further concludes that this limitation on authorization should not be weakened by issuance of additional special permits for such transport. The Board does not consider it appropriate to deny new petitions for cargo tank truck and tank car shipments of hydrogen sulfide while continuing the existence of those special permits already issued. For this reason, the Board is hereby proposing to rescind such existing permits.

Interested persons are invited to comment on the Board's proposed action in this rescission. The Board is also requesting advice regarding alternative large quantity packaging which would provide the public with a margin of safety equivalent to that offered by the DOT spec. 106A800X tank. Comments, identifying the docket number, should be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, D.C. 20590. Communications received on or before February 10, 1971 will be considered before final action is taken on this notice. 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, and section 9 of the Department of Transportation Act (49 U.S.C. 1657).

Issued in Washington, D.C., on December 8, 1970.

ROBERT A. KAYE,
Director, Bureau of Motor Car-
rier Safety, Federal Highway
Administration.

CARL V. LYON,
Acting Administrator,
Federal Railroad Administration.

[F.R. Doc. 70-16731; Filed, Dec. 11, 1970;
 8:46 a.m.]

[49 CFR Parts 173, 178]

[Docket No. HM-68; Notice 70-24]

TRANSPORTATION OF HAZARDOUS
MATERIALS

Portable Tank Specification

The purpose of this notice of proposed rule making is to request public comment on a proposed amendment to Parts 173 and 178 of the Hazardous Materials Regulations (49 CFR Parts 170-189) to prescribe a new specification for portable tanks (bins) and the uses of that new tank. The existing specifications 52 and 53 portable tanks (§§ 178.246, 178.247)

no longer meet the needs of industry, and many new portable tanks are being shipped under the terms of DOT Special Permits. The specification 56 tanks proposed in this notice would replace the specifications 52 and 53 tanks, although continued use of the latter tanks would be allowed, and would eliminate the need for future special permits of this type.

The proposed specification is based primarily on performance standards, rather than detailed engineering design requirements. The Board announced in the FEDERAL REGISTER on August 21, 1968 (33 F.R. 11862), its intention to convert the regulations from design specifications to performance standards. Public comment on that announcement was for the most part favorable, and several performance-type standards have already been issued by the Board.

The existing specifications 52 and 53 for portable tanks are deficient in that they do not provide for the use of steel, and they do not allow the sizes of tanks now being shipped. The proposed specification provides for the new aluminum alloys, for combinations of metals, and for metal quality testing. New standards are also being proposed for fitting protection, venting capacity, and stacking, mounting, and tie-down provisions, similar to those provided for in the general cargo tank specifications for MC 306, MC 307, and MC 312 (§ 178.340). No limitation is proposed in the specification for the size of openings, although the Board, when authorizing use of specifications 56A and 56B in Part 173, may include opening limitations according to the particular product being authorized. As written, the proposal does provide for hopper-type and side-opening doors. Specific comment is requested on this aspect of the proposal. A series of performance tests on the completed tanks would take the place of a specific metal wall thickness requirement.

The proposed specification provides for two types of tank specifications—56A and 56B. Specification 56A would be authorized in Part 173 for appropriate dry flowable or solid materials, but would not be authorized for liquids. Specification 56B would be authorized for liquids having in the container an absolute vapor pressure not exceeding 16 p.s.i. at 100° F. The specifications are written in such a way that they could be expanded to cover higher vapor pressure materials—up to perhaps 25 p.s.i.a. Public comment is specifically invited as to how this might be done in a later rule-making action.

The primary benefit to shippers and manufacturers from this type of specification is that it provides for maximum design and construction latitude. The choice of materials, appurtenances, and design configuration is placed in the hands of shippers and the tank designers. The minimum performance criteria must be met by specific proof testing procedures or analyses.

During the development of this specification, the question arose regarding minimum wall thickness. The Board prefers to specify performance rather than design, but recognizes that meaningful

puncture tests are not yet developed. Since a minimum wall thickness itself implies a certain puncture resistance, it may be necessary to prescribe a minimum. For example, the present specification 53 (§ 178.247) prescribes 0.25-inch thick aluminum for the bottom of the tank and 0.09-inch thick aluminum for the sides and top. The Board believes that the design and testing requirements of this proposed specification will automatically provide sufficient wall thickness to include puncture resistance, but invites specific public comment on this point.

Consistent with the proposed new tank specification, the appropriate paragraphs of § 173.32 relating to retest of portable tanks would be revised to consolidate the retest requirements and to provide for the new tanks.

Appropriate changes would also be made (although not specifically listed herein) to Subparts C, D, E, and G of Part 173 to authorize the appropriate type of specification 56 tank for hazardous materials now authorized in specification 52 or 53 tanks. For example, § 173.128(a)(3) authorizes the specification 52 tank for paints; the specification 56B tank would also be authorized; the same would be done for cements in § 173.132(a)(2).

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

I. Part 173:

(A) In the Table of Contents, § 173.32 would be amended to read:

Sec.
173.32 Qualification, testing, maintenance, and use of portable tanks.

(B) In § 173.32, the heading and paragraphs (e) through (i) would be amended and paragraph (d) would be added, to read as follows:

§ 173.32 Qualification, testing, maintenance, and use of portable tanks.

(d) *Use of specifications 52 and 53 tanks.* Continued use of existing portable tanks constructed to specification 52 or 53 is authorized only for tanks constructed on or before April 1, 1971.

(e) *Retest.* Each portable tank container used for the transportation of hazardous materials must be successfully retested before further use for such transportation in accordance with the following:

(1) *Schedule.* Each tank must be retested as prescribed in subparagraph (2) of this paragraph, in accordance with the following schedule:

(i) Specification 51 (§ 178.245 of this chapter): At least once every 5 years.

(ii) Specifications 52, 53, 56A, 56B (§§ 178.246, 178.247, 178.251 of this chapter): At least every 2 years.

(iii) Specification 60 (§ 178.255 of this chapter): At the end of the first 4-year period after the original test; at least once every 2 years thereafter up to a total of 12 years of service; and at least once annually thereafter. Retests are not required on rubber-lined tanks except before each relining.

(iv) Other portable compressed gas tanks authorized in this part for transportation of compressed gases (including liquefied compressed gases): At least once every 5 years.

(2) *Test procedures.* Unless otherwise specified, each tank must be retested in accordance with the following test procedures:

(i) *Pressure.* Specification 60 tanks must be retested in accordance with § 178.255-12 of this chapter. Specifications 56A and 56B tanks must be retested in accordance with § 178.251-9(b)(1) of this chapter. Each other tank must be tested by a minimum pressure (air or hydrostatic) of at least 2 p.s.i.g., or at least one and one-half times the design pressure (maximum allowable working pressure, or related pressure) of the tank, whichever is greater. During each air pressure test, the entire surface of all joints under pressure must be coated with, or immersed in, a solution of soap and water, heavy oil, or other materials suitable for the purpose of detecting leaks. The pressure must be held for a period of time sufficiently long to insure detection of leaks. For either an air or hydrostatic test, all closure fittings must be in place during the test, but safety relief devices may be removed. Tank lagging, if any, and its jacket need not be removed from lagged tanks unless it is found to be impossible to reach test pressure and maintain a condition of pressure equilibrium after test pressure is reached during tank retesting.

(ii) *Visual.* While under the test pressure, the tank must be visually inspected for leakage, corrosion, defective fittings and welds, defective closures, significant dents, or other defects or abnormalities which indicate a potential or actual weakness that might render the tank unsafe for transportation of hazardous materials.

(iii) *Rejection criteria.* A tank fails to meet the requirements of the pressure test if during the test there is any leakage or permanent distortion of the tank, or if any deficiencies described in subdivision (ii) of this subparagraph are found. Any tank that fails must be rejected and may not be used for the transportation of hazardous materials, unless the tank is suitably repaired and thereafter a successful test is conducted in accordance with the requirements of this paragraph.

(3) *Marking.* The date of the last periodic retest must be marked on the tank, near the metal certification plate. Marking must be in accordance with § 173.24.

(4) *Records.* A written record indicating the dates and results of all required tests, and the name and address of the tester, must be retained by the owner of the tank, or his authorized agent, until the next retest has been satisfactorily completed and recorded.

(f) *Special tanks.* Each portable tank authorized by this part, including each special permit tank (other than a tank covered by paragraph (e)(1)(iv) of this section) which does not comply with any of the specifications listed in paragraph

(e) of this section, must be tested in accordance with the procedures prescribed in paragraph (e) of this section for the type of portable tank most nearly equivalent in design and usage. Tanks constructed in accordance with paragraph U-68 or U-69 of previous editions of the ASME Code, and which have not been rerated, must be hydrostatically retested at twice the design pressure instead of the one and one-half times prescribed in paragraph (e) (2) (i) of this section.

(g) *Deteriorated tanks.* Without regard to any other retest requirement, any tank that shows evidence at any time of bad dents, corroded areas, leakage, or other conditions that indicate weakness which might render the tank unsafe for transportation service, must be retested as prescribed in paragraph (e) (2) of this section.

(h) *Damaged tanks.* Any tank that has been in an accident and that has been damaged to an extent likely to adversely affect product retention capability must be tested as prescribed in paragraph (e) (2) of this section.

(i) *Unused tanks.* Any tank that has been out of hazardous materials transportation service for a period of 1 year or more must not be returned to or placed in such service until it has been tested successfully in accordance with the requirements of paragraph (e) (2) of this section.

II. Part 178:

(A) In the table of contents, § 178.251 would be added to read:

Sec.
178.251 Specification 56; portable tanks.

(B) In § 178.246-1 paragraph (b) would be added to read as follows:

§ 178.246 Specification 52; aluminum or magnesium portable tanks.

§ 178.246-1 Compliance.

(b) Use for transportation of hazardous materials is not authorized for tanks constructed after April 1, 1971.

(C) In § 178.247-1 paragraph (b) would be added to read as follows:

§ 178.247 Specification 53; cylindrical aluminum portable tanks.

§ 178.247-1 Compliance.

(b) Use for transportation of hazardous materials is not authorized for tanks constructed after April 1, 1971.

(D) Section 178.251 would be added to read as follows:

§ 178.251 Specification 56; portable tanks.

§ 178.251-1 General requirements.

(a) Specification 56A applies to tanks to be used for dry materials (flowable or solid), and specification 56B is for liquid materials. Specification 56B tanks are authorized for liquids having in the con-

tainer an absolute vapor pressure not exceeding 16 p.s.i. at 100° F.

(b) The specifications apply to tanks of any shape (cylindrical, conical, cubical, or other).

(c) Each tank must meet all applicable requirements of §§ 173.24 and 173.32 of this chapter.

(d) Tanks are not intended to be stacked while being transported.

§ 178.251-2 Rated capacity.

(a) Specification 56A tanks must not exceed 6,000 pounds gross weight.

(b) Specification 56B tanks must not exceed 650 gallons in capacity.

§ 178.251-3 Materials of construction.

(a) All construction material, except gaskets, valve seats, and linings, must be metal.

(b) Hardware for handling and securing, fitting protection, outlet piping, valves, and closures, must be made of material which is electrolytically compatible with, or suitably protected from, electrolytic action when joined to the product retention components of the tank.

(c) *Material specification:* All sheet and plate material for shell, heads, bulkheads, and baffles for portable tanks must meet the following minimum requirements:

(1) *Aluminum alloys.* Only aluminum alloy materials suitable for fusion welding and in compliance with one of the following ASTM B-209-69 specifications may be used: 5052, 5086, 5154, or 5454. Shells must be of materials with properties equivalent to H32 or H34 tempers, except that when the shell thickness is 0.25 inch or more, the H112 temper is authorized. Heads, baffles, and shell stiffeners may use 0 temper (annealed) or stronger tempers.

(2) *Steel.* Steel used in the construction must meet the following minimum requirements:

	TABLE		
	Mild steel	Low alloy, low carbon	Stainless
Minimum yield strength, p.s.i.	25,000	45,000	25,000
Minimum ultimate strength, p.s.i.	45,000	60,000	70,000
Minimum elongation, standard 2" sample	20%	25%	30%

(3) *Magnesium alloys.* Magnesium alloy used in the construction of magnesium tanks must conform to ASTM B-90-62, Grade ZE-10A.

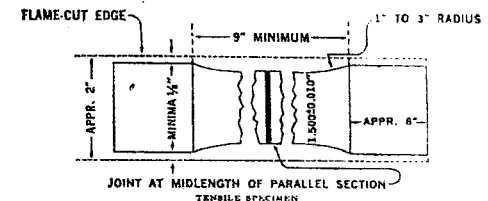
§ 178.251-4 General construction requirements.

(a) *Thickness.* Material thickness must be such that each tank is capable of successfully withstanding the tests prescribed in this specification.

(b) *Method of joining.* All joints between tank shells, heads, baffles (or baffle attaching rings), and bulkheads must be welded in accordance with the requirements contained in this section.

(c) *Strength of joints.* The strength of a joint should be at least equal to that of the adjacent material.

(d) *Compliance test.* Compliance with the requirements for welded joints must be determined by preparing from materials representative of those to be used in tanks subject to this specification and by the same technique of fabrication, two test specimens conforming to the figure as shown below and testing them to failure in tension. One pair of test specimens may represent all the tanks to be made of the same combination of materials by the same technique of fabrication, and in the same shop, within 6 months after the tests on such samples have been completed. The butt-welded specimens tested may be considered as qualifying the other types or combinations of types of weld using the same filler material and welding process as long as parent metals are of the same types of material.



§ 178.251-5 Openings.

(a) Each fill and discharge opening must be equipped with a closure and locking device which complies with the following requirements:

(1) Closures for fill openings in excess of 20 square inches must be equipped with a device to prevent the closure from fully opening under internal pressure.

(2) Drum-type locking ring closures are authorized. If used, they must not exceed 23 inches in diameter and must be at least a 12-gauge bolted ring with drop-forged lugs, with at least a 5/8-inch steel bolt tapped into one of the lugs. They must be equipped with a lock nut or equivalent device.

(3) Product discharge valves, if used, must be provided with a leak-tight device, such as a cap or plug.

(b) For tanks which incorporate a hopper-type product discharge opening, closure devices must be designed to retain product under the dynamic loading conditions normally incident to transportation. Closures for those openings must be designed with positive mechanical locking devices to prevent leakage during the normal conditions incident to transportation.

§ 178.251-6 Protection of fittings.

Each fitting which could be damaged sufficiently to result in leakage of contents, must be protected by suitable guards or protective housings. The term "fitting" includes valves, closure devices, safety relief devices, and other accessories, through which contents could leak from the tank. Each such fitting or fitting protection device must be capable of withstanding the fitting protection test specified in § 178.251-9.

§ 178.251-7 Venting.

(a) Each specification 56B tank must be equipped with at least one pressure

relief (venting) device. Frangible rupture discs are prohibited.

(b) Each pressure relief device must communicate with the vapor space with the tank in its normal operating attitude. Shutoff valves must not be installed between the tank opening and any safety device. Safety relief devices must be so mounted, shielded, or drained as to prevent the accumulation of any material which could impair the operation or discharge capability of the device.

(c) The total emergency venting capacity (cu. ft./hr.) of each portable tank must be not less than that determined from the following table:

Total surface area square feet	Cubic feet free air per hour
20	15,800
30	23,700
40	31,600
50	39,500
60	47,400
70	55,300
80	63,300
90	71,200
100	79,100
120	94,900
140	110,700
160	126,500
180	142,300
200	158,100
225	181,300
250	203,100
275	214,300
300	225,100
350	245,700
400	265,000
450	283,200
500	300,600
550	317,300

NOTE 1: Interpolate for intermediate sizes.

(1) The pressure relief device must be set to open at not less than 3 p.s.i.g. and not more than 4.5 p.s.i.g. The minimum venting capacity for pressure-actuated vents shall be 6,000 cubic feet of free air per hour (14.7 p.s.i.a. and 60° F.) from a tank pressure of 3 p.s.i.g.

(2) Fusible venting: If the pressure-actuated venting required by subparagraph (1) of this paragraph does not provide the total venting capacity required, additional capacity may be provided by adding fusible venting devices each having a minimum area of 1.25 square inches. Fusible devices must be so located as to communicate with the vapor space with the tank in its normal operating attitude. The fusible vent or vents shall be actuated by elements which operate at a temperature between 220° F. and 300° F., with the tank pressure less than its test pressure.

§ 178.251-8 Stacking, mounting, and tie-down provisions.

(a) *Load support devices.* Tanks which are designed to be stacked must be provided with load support devices. The devices must be so designed that, under whichever of the following stress conditions is greater, there will be no stress generated in excess of the yield strength of the material of either the devices or the tanks themselves:

(1) Tanks loaded to their maximum authorized gross weight and stacked at least 18 feet high, or

(2) A load on the support devices at least three times the maximum gross weight of the tank.

(b) *Base mounting.* Tanks must be designed and constructed with mountings to provide a secure base during transportation. The mounting may be in the form of a skid or other similar device.

(c) *Securement.* The devices for stacking or tie-down to the transport vehicle must be designed to prevent significant relative motion between the tank, the load support system, and the base/mounting system during transportation.

(d) *Mounting pads.* All appurtenance attachments made by welding to shell or head material must be made by means of mounting pads. Mounting pad thickness must not be less than the shell thickness. Each pad must extend not less than 2 inches in each direction beyond the appurtenance attachment. Pad corners must be round or otherwise prepared so as not to cause stress concentration.

(e) *Tie-down system.* (1) If there is a system of tie-down devices which is a structural part of the tank, the system must be capable of withstanding the static shock force listed herein without generating stress in any material of the tank in excess of its yield strength. The static shock force applied must have, with respect to the center of gravity of the tank:

(i) A vertical component of at least two times the weight of the package at its maximum gross weight;

(ii) A horizontal longitudinal component along the direction in which the vehicle travels of at least seven times the weight of the package at its maximum gross weight; and

(iii) A horizontal component in the transverse direction of five times the weight of the package at maximum gross weight.

(2) If there is a structural part of the tank which could be employed to tie the tank down and which does not comply with subparagraph (1) of this paragraph, that part must be securely covered or locked during transportation in such a manner as to prevent its use for that purpose.

§ 178.251-9 Testing.

(a) *Design qualification testing.* Design qualification tests, as prescribed in this paragraph, must be made on at least one of each design and size of tank except that one set of tests, when made on a tank of one size, may serve to qualify smaller tanks made of same kind and thickness of material, by the same fabrication technique, with identical supports, closures, and other appurtenances. Tests must be performed sequentially on a single tank in the order listed herein. Additional tests must be made on any increase in size of the tank, any reduction in thickness of material, or any change in material or fabrication technique. Test samples must be retained until after satisfactory completion of the

next test, or for 1 year, whichever is shorter.

(1) *Vibration tests.* The tank, filled to the maximum authorized gross weight, must be capable of withstanding without leakage the vibration test prescribed in ASTM-D999-1968, "Vibration Test for Shipping Containers", for a period of 1 hour.

(2) *Design qualification drop test.* Each tank, when filled to its maximum authorized gross weight, must be capable of withstanding, without leakage of contents, a 2-foot free drop onto a flat essentially unyielding horizontal surface, striking the target surface in a position and attitude for which maximum damage to the tank is expected. For the test, specification 56B tanks must be filled with a liquid having the maximum allowable density for that tank.

(3) *Structural integrity tests.* (i) *Lifting devices.* If there is a system of lifting devices which is a structural part of the tank or attached thereto or to the support structure, the system must be capable of supporting at least three times the maximum gross weight of the tank, and each individual lifting device must be capable of supporting at least the maximum gross weight of the tank, without generating stress in excess of its yield strength in either the lifting device system or in any material of the tank.

(ii) *Shipment structure.* If a system of support structures (legs) is a structural part of the tank, each leg must be capable of withstanding a force of at least two times the maximum gross weight of the tank without generating stress in excess of its yield strength in the leg material or any other part of the tank. The force must be applied to the leg at ground level from at least two horizontal directions at right angles to each other, one direction at a time.

(iii) *Stacking support devices.* If stacking support devices are a structural part of the tank, each device must be capable of withstanding whichever is greater of the following stress conditions without generating stress in excess of the yield strength of either the device or the tank itself:

(a) Tanks loaded to their maximum authorized gross weight and stacked at least 18 feet high; or

(b) A load on the stacking support devices of at least three times the maximum gross weight of the tank.

(iv) *Fittings and protection devices.* Each fitting (or its protection device) subject to this test requirement must be capable of withstanding a force of at least two times the maximum gross weight of the tank without resultant damage to the fitting. The force must be applied to the fitting or its protection device in at least two horizontal directions at right angles to each other, one direction at a time, and in alignment with the fitting.

(4) *Design qualification pressure test.* Each tank must be capable of maintaining, under hydrostatic test for at least 5 minutes, at least one and one-half times

the design pressures prescribed in this paragraph, without visible permanent deformation or detectable leakage. The pressure must be measured at the top of the tank. All closures must be in place (and blocked if necessary) as for shipment and must be standard except that tapping for pressurizing and gauging is allowable. Design pressure must be determined as follows:

(i) Specification 56A:

$$P = \frac{hd_1}{1,150}$$

(ii) Specification 56B:

$$P = \frac{hd_2}{115} + 3$$

Where:

P=Design pressure in p.s.i.g.;

h=Inside height of tank in inches;

d₁=Maximum allowable density in pounds per cubic foot;

d₂=Maximum allowable density in pounds per gallon;

1,150=Number of cubic inches in 1 cubic foot (1728) divided by a safety factor of 1.5;

115=Number of cubic inches in 1 gallon (231) divided by a safety factor of two.

(b) *Production quality control, testing, and inspection*—(1) *Leakage test*. Each tank must be tested by a minimum air or hydrostatic pressure of at least 3 p.s.i.g. applied to the entire tank. During the air pressure test (if used), the entire surface of all joints under pressure must be coated with, or immersed in, a solution of soap and water, heavy oil, or other materials suitable for the purpose of detecting leaks. The hydrostatic pressure test (if used) must be carried out by using water or other liquid having a similar viscosity, the temperature of which must not exceed 100° F. during the test, and at which time all joints under pressure must be inspected for the issuance of liquid to indicate leaks. For either test, the pressure must be held for a period of time sufficiently long to insure detection of leaks. All closures must be in place during the test, but safety relief devices may be removed. Any visible permanent deformation or detectable leakage discovered will be deemed evidence of failure to meet the requirements of this specification. Tanks failing to pass this test may not be placed in service until they have been suitably repaired, and the tests repeated until satisfactory results are obtained.

(2) *Visual test*. Each tank must be visually inspected for defects such as improper welds, defective closures, and other manufacturing defects. Tanks failing to pass this test may not be placed in service until any defects found have been repaired and retested satisfactorily.

§ 178.251-10 Identification and marking.

(a) Each tank must have a metal certification plate permanently affixed and readily accessible for inspection. The plate must be marked in letters and numerals at least 3/4-inch high by stamping, embossing, or other means of forming letters into or on the metal plate it-

self. The marking must contain at least the information indicated below:

Tank manufacturer.....
Specification: DOT 56*
Design pressure.....
Serial number.....
Original test date.....
Tare weight..... lbs.
Maximum gross weight..... lbs.
Volumetric capacity..... U.S. gal.
(or cu. ft.)

Materials of construction.....

* Asterisk to be replaced by the appropriate letter to denote specification, e.g., DOT 56B.

* E.g., Al for aluminum, MG for magnesium alloy, MS for mild steel, HSLA for high strength low alloy, SS for austenitic stainless steel; including ASTM/ASME code reference, if appropriate.

(b) Unless the tank has been designed for stacking and meets the appropriate stacking integrity requirements of this specification, it must also be marked in letters at least 2 inches high in contrasting colors "Do Not Stack" and "Do Not Place Other Freight on Top of This Tank" on at least two sides of the tank and on the certification plate.

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 February 23, 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, and section 9 of the Department of Transportation Act (49 U.S.C. 1657).

Issued in Washington, D.C., on December 2, 1970.

CARL V. LYON,
Acting Administrator,
Federal Railroad Administration.

ROBERT A. KAYE,
Director, Bureau of Motor Car-
rier Safety, Federal Highway
Administration.

SAM SCHNEIDER,
Board Member, for the
Federal Aviation Administration.

[F.R. Doc. 70-16537; Filed, Dec. 11, 1970;
8:45 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 4]

CERTAIN MAIL CONTRACTS OF OWNER-OPERATORS

Proposed Exemption From Service Contract Act of 1965

The Service Contract Act of 1965 (79 Stat. 1034, 41 U.S.C. 351 et seq.) applies

to contracts entered into by the United States, the principal purpose of which is the furnishing of services through the use of service employees. In administering the Act, the Department of Labor has taken the position that a contract principally for services is subject to the Act if any of the services which it is the principal purpose of the contract to obtain will be furnished through the use of any service employee or employees.

Where no service employees are to be used by the contractor in any event, the Act would not apply and there is no requirement to include the contract clauses specified in 29 CFR 4.6 or 4.7. However, even where it is contemplated that the services will be performed individually by the contractor himself, the contract cannot be considered outside the scope of the Act unless it is definitely known in advance that the contractor will in no event use any service employee during the term of the contract in furnishing the required services. In all cases where the contracting officer does not have such definite prior knowledge that service employees will not be used, he is required to include the appropriate contract stipulations contained in 29 CFR 4.6 or 4.7 in the eventuality that service employees may be used in performing the contract services. This position is further discussed in 29 CFR 4.113(a).

Several years of experience with Post Office contracts for mail service by individual owner-operators have shown that strict application of this policy has resulted in unnecessarily burdensome administrative procedures for both the U.S. Postal Service and the Department of Labor, so as to constitute a serious impairment of the conduct of Government business. Under these contracts, the individual owner-operator occasionally finds it necessary to employ a substitute relief driver for a short duration because of unanticipated emergency circumstances such as illness, accident, etc., or for vacation. Except for such occasional employment, these owner-operator contracts would otherwise not be subject to the Act. The facts show that the application of the Act in such situations has not resulted in the extension of the Act's benefits to any significant number of workers and that any benefits which do result are not in proportion to the Administrative costs involved.

Accordingly, I propose to provide the following exemption pursuant to the authority contained in section 4(b) of the Service Contract Act of 1965 upon the basis of a proposed finding that it is necessary and proper in the public interest to avoid the serious impairment of Government business. This proposal would appear as a new category of contracts exempt under 29 CFR 4.6(m)(9).

Interested persons may within 30 days from the date of publication of this notice in the FEDERAL REGISTER submit in writing data, views, or arguments to the Office of Government Contracts Wage Standards, W.S.A., U.S. Department of Labor, Washington, D.C. 20210, relative to the proposal.