



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

1200 New Jersey Avenue, SE
Washington, D.C. 20590

JUN 21 2012

Mr. Enrique A. Araniz
Boyle Transportation
15 Riverhurst Road
Billerica, MA 01821

Ref. No. 12-0048

Dear Mr. Araniz:

This responds to your February 2, 2012 letter requesting clarification of applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). In your letter, you indicate that it is your understanding that the temperature control units installed on your company's trailers are not cargo heaters. Specifically, you request clarification whether your company's temperature control units are excepted from the requirements of § 177.834(1)(1) when the trailers are used to transport Class 1 (explosive) material.

The answer is no. A motor vehicle equipped with a cargo heater of **any type** that is used for the transportation of Class 1 (explosive) material is subject to the conditions of § 177.834(1)(1). The temperature control unit on the trailer must be rendered inoperable by: 1) draining or removing the temperature control unit fuel tank; and 2) disconnecting the unit's power source.

This interpretation is offered based on language from rulemakings under Docket No. HM-110 (copies enclosed). The rulemakings proposed that an explosive may not be loaded into the truck body or a trailer equipped with operable automatic temperature control equipment and that all automatic heating and refrigeration machinery must be rendered inoperative by disconnection of controls and power sources. This proposed language was subsequently revised to the current format in the HMR ("a cargo heater of any type"). The purpose of the revision was to clarify the requirements rather than to make a substantive change. Therefore, we conclude that a cargo heater as used in § 177.834(1)(1) includes a temperature control unit. We apologize for any confusion and note that Letter of Interpretation Ref. No. 06-0265 will be retracted.

I hope this information is helpful. If you have further questions, please contact this office.

Sincerely,

Robert Benedict
Chief, Standards Development Branch
Standards and Rulemaking Division

[14 CFR Part 71]

[Airspace Docket No. 73-CE-10]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations so as to designate a transition area at Chillicothe, Missouri.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before September 28, 1973 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A new public use instrument approach procedure is being developed for the Chillicothe Municipal Airport, Chillicothe, Missouri. Consequently it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Chillicothe, Missouri.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation regulations as hereinafter set forth:

In § 71.181 (38 FR 435), the following transition area is added:

CHILICOTHE, MISSOURI

That airspace extending upwards from 700' above the surface within a 5-mile radius of the Chillicothe Municipal Airport (latitude 39°45'45" N., longitude 93°30'00" W.); and within 3 miles either side of the 337° bearing from the MHW facility extending from the 5-mile radius to 8.5 miles northwest, and that airspace extending upwards from 1,200' above the surface 5 miles southwest and 9.5 miles northeast of the 337° bearing from the Chillicothe MHW facility extending from 6.5 miles southeast to 18.5 miles northwest of the Chillicothe MHW facility, excluding that portion which overlies the Trenton, Missouri, transition area.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 8(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Kansas City, Missouri, on August 10, 1973.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc. 73-18024 Filed 8-24-73; 8:45 am]

Hazardous Materials Regulations Board

[49 CFR Parts 173, 177]

[Docket No. HMF-110; Notice No. 73-5]

HANDLING OF HAZARDOUS MATERIALS ON MOTOR VEHICLES

Miscellaneous Amendments

The Hazardous Materials Regulations Board is considering amendment of several sections of the Department's Hazardous Materials regulations. Commenters need only identify the particular proposal on which they wish to comment when responding. The proposals covered in this document are:

- A. Emergency discharge controls on MC 330 cargo tanks.
- B. Cargo tank certificate retention.
- C. Hydrostatic and pneumatic testing of cargo tanks.
- D. Cargo heaters with explosives and flammable commodities.
- E. Attendance of tank vehicles during loading and unloading.
- F. Openings on cargo tank to be closed during transportation.
- G. Repairs and maintenance to vehicles in closed garages.
- H. Warning devices on vehicles containing hazardous materials.

PROPOSAL A

EMERGENCY DISCHARGE CONTROLS ON MC 330 CARGO TANKS

The Hazardous Materials Regulations Board is considering amendment of § 173.33 of the Department's Hazardous Materials regulations to require that all Specification MC 330 cargo tanks used for the transportation of flammable compressed gases and anhydrous ammonia be equipped with emergency discharge controls as is now required on Specification MC 331 cargo tanks. At the time Specification MC 331 cargo tank specification was adopted, the Interstate Commerce Commission decided not to require an updating of the standards for Specification MC 330 cargo tanks.

The Board believes that it is now necessary to require that these tanks conform to the same emergency discharge control standards as are required for MC 331 cargo tanks to assure the same degree of safety. A recent accident involving an MC 330 cargo tank has demonstrated the need to require that these tanks be retrofitted with remote controlled internal shutoff valves. In this accident, the propane from an MC 330 cargo tank provided fuel to a fire which resulted from the accidental rupture of a manifolded storage tank intake line into which the cargo tank was unloading. The escaping propane from the cargo tank was not

discharging at a rate high enough to activate the excess flow valve. The fire was directed to another cargo tank that eventually exploded. As a result of the fire and explosion, one person was killed and over \$200,000 in property damage occurred. There is little doubt that if an internal valve, as specified in section 178.337-11(c) had been installed on the cargo tank, the flow of propane could have been shutoff by manual means, if not automatically by the melting of the fusible element.

In order not to impose an undue burden on tank owners, the Board is proposing that the emergency discharge controls may be installed when the cargo tanks are scheduled for the 5-year retest required in § 173.33.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 173 as follows:

In § 173.33, paragraph (1) would be added as follows:

§ 173.33 Cargo tank use authorization.

(1) MC 330 cargo tanks used for flammable compressed gas or anhydrous ammonia must be equipped with an emergency discharge control that conforms to the requirements of § 178.337-11(c) of this subchapter at each liquid or vapor discharge opening. The control must be installed not later than the date the tests prescribed by paragraph (e) of this section are required.

PROPOSAL B

CARGO TANK CERTIFICATE RETENTION

The Hazardous Materials Regulations Board is considering an amendment to clarify the requirement for retention of the manufacturer's certificate for specification cargo tanks.

The Board has found that many motor carriers are not aware of a requirement that the manufacturer's certificate for a specification cargo tank must be retained by the motor carrier for as long as the tank is in service and for 1 year thereafter. The confusion may be caused by the fact that the certificate-retention requirements are presently contained in the cargo tank specifications in Part 178, and many of the specifications no longer appear in the published codification of the regulations, although the tanks may be continued in use. The Board believes that a general retention provision is needed in Part 177 to resolve this problem. In addition, the Board is proposing to require carriers to retain all retest and inspection reports in the same file with the manufacturer's certificate.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 177 as follows:

(A) In Part 177 Table of Contents, § 177.814 would be added to read as follows:

Sec. 177.814 Retention of manufacturer's certificate

(B) Section 177.814 would be added to read as follows:

§ 177.814 Retention of manufacturer's certificate.

(a) Each motor carrier who uses a cargo tank vehicle shall have in his files a certificate signed by a responsible official of the manufacturer or fabricator of the cargo tank, or a competent testing agency, certifying that the cargo tank has been designed, constructed, and tested in accordance with, and complies with, the requirements contained in the specification for the tank set forth in this subchapter. The certificate and any other data furnished as required by the specification must be retained at the principal office of the carrier during the time that the cargo tank is used by the carrier and for 1 year thereafter. However, the motor carrier may himself perform the tests and inspections to determine whether the tank meets the requirements of the specification. If the motor carrier does so and determines that the tank conforms to the specification, he may use the tank if he retains the test data, in place of a certificate in his files at his principal office for as long as he uses the tank and 1 year thereafter. Each motor carrier who uses a specification cargo tank which he does not own and has not tested or inspected shall obtain a copy of the certificate and retain it in his files at his principal office during the time he uses the tank and for 1 year thereafter.

(b) Upon a written request to, and with the approval of, the Director, Regional Motor Carrier Safety Office, for the region in which a motor carrier has his principal place of business, a motor carrier may retain the certificate and other data specified in paragraph (a) of this section at a regional or terminal office. The address and jurisdictions of the Directors of Regional Motor Carrier Safety Offices are shown in § 390.40 of Chapter III of this title.

(c) *Withdrawal of certification.*—See § 177.824(l).

(d) A copy of retest and inspection reports required by §§ 173.33 and 177.824 and all records of repairs to each cargo tank must be retained in the same file with the manufacturer's certificate for that tank as specified in paragraph (a) of this section.

PROPOSAL C

HYDROSTATIC AND PNEUMATIC TESTING OF CARGO TANKS

The Hazardous Materials Regulations Board is considering amendment of § 177.824 of the Department's Hazardous Materials Regulations to clarify the hydrostatic and pneumatic testing procedures for cargo tanks.

Present requirements specify hydrostatic or pneumatic testing of cargo tanks under certain conditions. But the procedures for pneumatic testing are not contained in the regulations. Therefore, the Board is proposing that these procedures be incorporated into the regulations.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 177 as follows:

In § 177.824, subparagraph (d) (2) would be revised to read as follows:

§ 177.824 Retesting and inspection of cargo tanks.

(d)

(2) For hydrostatic testing, the tank (including its domes, if any) must be completely filled with water or a liquid having a viscosity similar to water and the pressure must be gaged at the top of the tank. Pressure must be applied in accordance with the following chart and increased for pneumatic testing by a pressure equivalent to the static head in the tank when fully loaded with the heaviest lading authorized to be transported or water, whichever is heavier. The tank must hold the prescribed pressure for at least 10 minutes. All tank valves, piping, and other accessories in communication with the lading must be pressure tested and proved tight at the tank design pressure. During the pneumatic test the entire surface of all joints under pressure must be coated with a solution of soap and water, heavy oil, or other materials suitable for the purpose of foaming or bubbling to indicate the presence of leaks. Other methods equally sensitive for determining leaks may be used.

PROPOSAL D

CARGO HEATERS WITH EXPLOSIVES AND FLAMMABLE COMMODITIES

The Hazardous Materials Regulations Board is considering amendment of § 177.834 of the Department's Hazardous Materials Regulations, to clarify the prohibition against the use of certain heaters in a transport vehicle which is loaded with explosives or flammable commodities.

There has been much confusion concerning the use of catalytic cargo heaters in vehicles transporting flammable liquids and flammable gases. The Federal Highway Administration has taken the position that, for the purposes of these regulations, a catalytic heater is a combustion heater. This proposal would specifically state that catalytic heaters are considered as such, and not permitted in vehicles transporting flammable materials. However, commenters are invited to submit test data and other evidence in support of the use of catalytic heaters as a safe means of heating the cargo spaces of motor vehicles.

The Board also feels that the precautions against the loading of explosives into transport vehicles containing a heater should be the same as that pertaining to flammables, and that the specific provision should be included under general requirements.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 177 as follows:

(A) In § 177.834, paragraph (l) would be amended to read as follows:

§ 177.834 General requirements.

(1) *Use of cargo heaters with explosives and flammable commodities.*—(1) *Flammable liquids and flammable gases.*—Except as provided in paragraph (1) (2) of this section, a flammable liquid or a flammable gas must not be loaded into a truck body or a trailer containing a combustion heater or equipped with operable automatic temperature control equipment. For purposes of this section, a catalytic heater is a combustion heater. Fuel tanks for automatic temperature control equipment must be empty or removed from the vehicle, except that liquefied petroleum gas fuel tanks exterior to the vehicle body may have their valves closed and disconnected from the fuel feed lines instead of being emptied or removed.

(2) *Exception for certain automatic temperature control equipment.*—A flammable liquid or a flammable gas may be transported in a vehicle equipped with automatic temperature control equipment, if (i) the lading space is equipped with no electrical apparatus or electrical apparatus of the nonsparking or explosion-proof type, (ii) no combustion apparatus is in the lading space; and (iii) there is no connection for return of air from the lading space to any combustion apparatus. The heating system must prevent heating of any part of the lading to a temperature of more than 130°F. and must conform to the requirements of § 393.77, of this title.

(3) *Explosives.*—An explosive must not be loaded into a truck body or trailer which contains a combustion heater or is equipped with operable automatic temperature control equipment. For the purposes of this paragraph, catalytic heaters are combustion heaters. All fuel tanks for a heater or automatic temperature control equipment with which a truck body or trailer is equipped must be drained. All automatic heating or refrigeration machinery must be rendered inoperative by disconnection of the automatic controls and sources of power for its operation.

(B) In § 177.835, paragraph (c) (1) would be deleted as follows:

§ 177.835 Explosives.

(e)

(1) [deleted].

PROPOSAL E

ATTENDANCE OF TANK MOTOR VEHICLES DURING LOADING AND UNLOADING OPERATIONS

The Hazardous Materials Regulations Board is considering amendment of § 177.834 to clarify the meaning of "attendance" as it pertains to a tank motor vehicle being loaded or unloaded.

The Board has found that several dangerous incidents have occurred during the loading or unloading of tank motor vehicles which could have been avoided, if there had been someone near the cargo

tank to take corrective or precautionary action. The Board feels that there may be some confusion as to the intent of the term "attendance" as it is used in § 177.834(d).

In consideration of the foregoing, it is proposed to amend 49 CFR Part 177 as follows:

In § 177.834, paragraph (1) would be revised as follows:

§ 177.834 General requirements.

(1) *Tank motor vehicles must be attended during loading and unloading.*—Each tank motor vehicle must be attended at all times by its driver or a qualified representative of the motor carrier that operates it during the loading or unloading of the tank motor vehicle. For the purposes of this subsection—

(1) A tank motor vehicle is attended when the person in charge of the vehicle is awake and not in a sleeper berth, and is within 25 feet of the tank motor vehicle and has it within his unobstructed field of view;

(2) A "qualified representative" of a motor carrier is a person who has been designated by the carrier to attend the vehicle, is aware of the nature of the hazardous material contained in the tank motor vehicle he attends, has been instructed on the procedures he must follow in emergencies, is authorized to move the vehicle, and has the means to do so; and

(3) The delivery hose, when attached to the tank motor vehicle, is a part of the vehicle.

PROPOSAL F

OPENINGS ON CARGO TANKS TO BE CLOSED DURING TRANSPORTATION

The Hazardous Materials Regulations Board is considering amendment of § 177.839 by adding a requirement that internal valves and manholes be in a closed and secured position during transportation. A similar provision was added during recent rule making pertaining to the transportation of compressed gases, and the Board now proposes to add similar requirements for the transportation of flammable liquids, poisons and corrosive materials in cargo tanks. In consideration of the foregoing, it is proposed to amend 49 CFR Part 177 as follows:

(A) In § 177.837, paragraph (e) would be added to read as follows:

§ 177.837 Flammable liquids.

(e) *Manholes and valves closed.*—A person shall not drive a tank motor vehicle and a motor carrier shall not require or permit a person to drive a tank motor vehicle containing a flammable liquid unless—

(1) All manhole closures on the cargo tank are closed and secured; and

(2) All valves and other closures on liquid discharge openings are closed and free of leaks.

(B) In § 177.839, paragraph (d) would be added to read as follows:

§ 177.839 Corrosive liquids.

(d) *Cargo Tanks.*—A person shall not drive a tank motor vehicle and a motor carrier shall not require or permit a person to drive a tank motor vehicle containing a corrosive liquid unless—

(1) All manhole closures on the cargo tank are closed and secured; and

(2) All valves and other closures on liquid discharge openings are closed and free of leaks.

(C) In § 177.841, paragraph (d) would be added to read as follows:

§ 177.841 Poisons.

(d) *Poisons in cargo tanks.*—A person shall not drive a tank motor vehicle and a motor carrier shall not require or permit a person to drive a tank motor vehicle containing poisons unless—

(1) All manhole closures on the cargo tank are closed and secured; and

(2) All valves and other closures on liquid discharge openings are closed and free of leaks.

PROPOSAL G

REPAIRS AND MAINTENANCE TO MOTOR VEHICLES CONTAINING HAZARDOUS MATERIALS

The Hazardous Materials Regulations Board is considering amendment of § 177.854 of the Department's Hazardous Materials Regulations to authorize repairs to a motor vehicle containing hazardous materials in a closed garage.

This proposal is based, in part, on a petition from Consolidated Freightways Corp. of Delaware. Petitioner states that " . . . minor repairs as adjustment of brakes, changing of tires, replacing burned out lamps, etc., would necessarily have to be made in the open or under a shed-type building . . . this rule causes undue hardship on our, or any motor carrier's operation, especially during the hours of darkness and also inclement weather.

The Board has concluded that the petitioner's request may have merit. A carrier faced with the prohibition in § 177.854(g) might well choose to delay making necessary, though perhaps minor, repairs until after the vehicle has reached its destination and has been emptied. By doing so, a greater hazard may exist than the potential hazard posed by the making of repairs in a garage, especially since many repairs do not involve any particular risk of explosion or fire.

However, the Board believes that the prohibition should be removed only if adequate safeguards against explosion are maintained. The safeguards proposed include protecting the vehicle from open flames or welding devices in use, and requiring every vehicle to have a means of motive power while it is in the garage.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 177 as follows:

In § 177.854, paragraph (g) would be revised to read as follows:

§ 177.854 Disabled vehicles and broken or leaking packages; repairs.

(g) *Repairs and maintenance to vehicles.*—(1) No maintenance or repair using open flame or any type of welding may be performed on vehicles containing hazardous materials.

(2) When a vehicle containing hazardous materials is inside a building for repairs or other reasons—

(i) There must be no flame-producing or welding devices in operation within the same enclosed area of the building; and

(ii) The vehicle must have an operable means of motive power or must be connected to an operable truck or truck tractor to facilitate its quick removal from the building.

PROPOSAL H

WARNING DEVICES FOR STOPPED VEHICLES

The Hazardous Materials Regulations Board is considering editorial changes to §§ 177.854, 177.856, and 177.859 to reflect recent changes to the Motor Carrier Safety regulations (49 CFR Parts 390-397) pertaining to warning devices for stopped vehicles.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 177 as follows:

(A) In § 177.854, the last sentence in paragraph (a) and the entire subparagraph (f) (1) would be amended to read as follows:

§ 177.854 Disabled vehicles and broken or leaking packages; repairs.

(a) . . . Sections 392.22, 392.24, and 392.25 of this title for signals required to be displayed on the highway.

(f) . . .

(1) For motor vehicles other than cargo tank motor vehicles used for the transportation of flammable liquids or flammable compressed gases and not transporting explosives, Class A, or Class B, flares (pot torches), fuses, red electric lanterns, red emergency reflectors, red emergency reflective triangles, or red flags must be set out in the manner prescribed by §§ 392.22, 392.24, and 392.25 of this title.

(B) In § 177.856, the second sentence in paragraph (d) would be amended to read as follows:

§ 177.856 Accidents; flammable liquids.

(d) . . . In such cases red electric lanterns, red emergency reflectors, red emergency reflective triangles, or red flags must be set out in the manner prescribed by §§ 392.22, 392.24, and 392.25 of this title. . . .

(C) In § 177.859, the third sentence in paragraph (b) would be amended to read as follows:

§ 177.859 Accidents; compressed gases.

(b) * * * Red electric lanterns, red emergency reflectors, red emergency reflective triangles, or red flags must be set out in the manner prescribed in §§ 392.22, 392.24, and 392.25 of Chapter III of this title.

Interested persons are invited to give their views on these proposals. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, Washington, D.C. 20590. Communications received on or before October 30, 1973, will be considered before final action is taken on these proposals. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, Room 8215, Buzzards Point Building, Second and V Streets SW., Washington, D.C., 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 August 21, 1973.

ROBERT A-KAYE,
Board Member for the
Federal Highway Administration.

[FR Doc.73-18142 Filed 8-24-73;8:45 am]

National Highway Traffic Safety
Administration

[49 CFR Part 571]

[Docket No. 4-2; Notice 9]

WARNING DEVICES

Optional Labeling With Manufacturer or
Distributor Name

This notice proposes to amend Standard 125, Warning Devices, 49 CFR 571.125, to permit the use of the manufacturer's or distributor's name on the device to satisfy identification requirements.

The standard (effective date January 1, 1974) presently requires marking with the manufacturer's name. A recent proposal (38 FR 14968, June 7, 1973) would also require the use of manufacturer codes on all regulated vehicles and equipment other than tires, including warning devices. A manufacturer of warning devices, Miro-Flex Co. of Wichita, Kansas, has proposed the use of such a code instead of the manufacturer's name to permit merchandizing of its device through private label programs.

The NHTSA has determined that this petition for rulemaking should be granted in part. The use of a code would aid in distinguishing manufacturers with nearly identical names and permit rapid retrieval of identification information in

the event of notification and recall. At the same time, notification and recall would be further aided by a manufacturer or distributor's brand name which the purchaser would be likely to remember and recognize as the source of his warning device. Because the code has already been proposed elsewhere and should be evaluated as one part of a uniform labeling system (NETSA Docket 73-14; No. 1, comment closing date September 7, 1973), this notice only proposes that the manufacturer be permitted the option of marking the device with his name or a distributor's name.

Accordingly, it is proposed that Standard No. 125, Warning devices, 49 CFR 571.125, be amended by changing subparagraph S5.1.4(a) to read:

(a) Name of manufacturer or distributor;

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered by the Administration. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Administration will continue to file relevant material, as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: November 22, 1973.

Proposed effective date: January 1, 1974.

(Secs. 103, 112, 119, Pub. L. 89-563, 80 Stat. 718, (15 U.S.C. 1392, 1401, 1407); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on August 21, 1973.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.73-18097 Filed 8-24-73;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Parts 1, 17]

NATIONAL CEMETERY SYSTEM

Eligibility for Interment; Memorial Services

Public Law 93-43 (87 Stat. 75), enacted June 18, 1973, established a National Cemetery System within the Veterans Administration. This system will have jurisdiction over cemeteries under jurisdiction of the Veterans Administration as well as certain cemeteries to be

transferred from the Department of the Army. Accordingly, §§ 17.200, 17.205, and 17.206 are revoked and it is proposed to add §§ 1.600 and 1.606 to provide for eligibility for interment and memorial services conducted in national cemeteries.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (232H), Veterans Administration, Central Office, 810 Vermont Avenue NW., Washington, D.C. 20420. All relevant material received before September 26, 1973, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and will be furnished the address of the above room number.

The provisions relating to interment in the former Veterans Administration cemeteries (now a part of the National Cemetery System) will be effective June 18, 1973. Eligibility for interments in those cemeteries of the Department of the Army being transferred to the Veterans Administration on September 1, 1973, will be effective on that date. The effective date of § 1.606 relating to memorial services conducted in national cemeteries will be effective June 18, 1973.

1. In 38 CFR Part 1, a center title and §§ 1.600 and 1.606 are added to read as follows:

NATIONAL CEMETERIES

§ 1.600 Interment in national cemeteries.

The National Cemetery System established by Public Law 93-43, the National Cemeteries Act of 1973 (87 Stat. 75) consists of all cemeteries under the jurisdiction of the Veterans Administration on June 18, 1973, and the national cemeteries transferred on September 1, 1973, from the Department of the Army to the Veterans Administration. The following rules of eligibility for interment in national cemeteries apply to all former Veterans Administration cemeteries as of June 18, 1973. These rules of eligibility for interment also apply to all cemeteries transferred on September 1, 1973, from the Department of the Army to the Veterans Administration, and to any other cemetery later acquired or developed by the Veterans Administration. Burial is authorized in national cemeteries of the remains of the following:

(a) Any person who served in the active military, naval, or air service who was discharged or released therefrom under conditions other than dishonorable.

(b) Any member of the Armed Forces who died in the active military, naval, or air service.

75-RM-6 (40 F.R. 17248), is further amended to read as follows:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of General Brees Field, Laramie, Wyoming (Lat. 41°18'50"N, Long. 105°40'25"W); within 5.5 miles south and 9.5 miles north of the Laramie, Wyoming VORTAC 301° radial extending from the 9-mile radius area to 18.5 miles northwest of the VORTAC and within 5 miles each side of the Laramie VORTAC 126° radial extending from the 9-mile radius area to 21 miles southeast of the VORTAC.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1349(a)), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Aurora, Colorado, on May 16, 1975.

M. M. MARTIN,
Director,

Rocky Mountain Region.

[FR Doc. 75-12870 Filed 5-15-75; 8:43 am]

[14 CFR Part 71-]

[Airspace Docket No. 75-CE-5]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Neodesha, Kansas.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64108. All communications received on or before June 16, 1975 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64108.

A new public-use instrument approach procedure has been established for the Neodesha Municipal Airport, Neodesha, Kansas. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a 700-foot transition area at Neodesha, Kansas.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (40 FR 441), the following transition area is added:

NEODESHA, KANSAS

That airspace extending upward from 700 feet above the surface within a 9½ mile radius of the Neodesha, Kansas Municipal Airport, excluding that portion which coincides with the Parsons, Kansas transition area.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Kansas City, Missouri, on April 18, 1975.

C. R. MELUON, Jr.,
Director, Central Region.

[FR Doc. 75-12871 Filed 5-15-75; 8:48 am]

[14 CFR Parts 25 and 121]

[Docket No. 9811; Notice No. 75-3A]

SMOKE EMISSION FROM COMPARTMENT INTERIOR MATERIALS IN TRANSPORT CATEGORY AIRPLANES

Extension of Comment Period

The Federal Aviation Administration proposed in Notice 75-3, published in the FEDERAL REGISTER on February 12, 1975 (40 FR 6508), to amend Parts 25 and 121 of the Federal Aviation Regulations to establish standards for the smoke emission characteristics of compartment interior materials used in transport category airplanes. It was indicated in Notice 75-3 that comments received on or before May 12, 1975, would be considered by the Administrator before taking action on the proposed rules.

By letter dated May 5, 1975, Peter M. Nemkov, Esq., on behalf of the Society of the Plastics Industry, Inc. (SPI), a trade association, requested a 30-day extension of time provided in Notice 75-3 for the submission of comments in order that the SPI position, with respect to certain areas of the proposed rules, could be fully coordinated with its membership. In view of the technical experience of the SPI members, some of which are aircraft compartment material manufacturers, the FAA believes that the requested extension of time should be granted.

I find that the petitioner has shown a substantive interest in the proposed rules, that good cause exists for the extension, and that the extension is consistent with the public interest.

Therefore, pursuant to the authority delegated to me by the Administrator, (14 CFR 11.45), the time within which comments on Notice 75-3 will be received is extended to June 11, 1975.

Issued in Washington, D.C. on May 9, 1975.

RICHARD P. SKULLY,
Director,
Flight Standards Service.

[FR Doc. 75-12867 Filed 5-16-75; 8:45 am]

Hazardous Materials Regulations Board

[49 CFR Part 177]

[Docket No. HM-110; Notice No. 75-5]

USE OF CATALYTIC HEATERS IN CERTAIN MOTOR VEHICLES, AND REPAIRS TO VEHICLES IN CLOSED BUILDINGS

Proposed Rule Making

On December 2, 1974, the Hazardous Materials Regulations Board (The Board) published Amendments Nos. 173-87 and 177-31 under Docket HM-110 (39 FR 41741). One portion of the amendment pertained to the use of catalytic heaters in the cargo compartment of a motor vehicle transporting flammable liquids or flammable compressed gases. The revision authorizes use of catalytic heaters in these motor vehicles if guards are installed to keep the cargo at least one foot away from the heater. The amendment was to become effective April 1, 1975, but those sections covered by this notice were postponed until October 1, 1975 (40 FR 12269).

After the revision was issued, a petition for reconsideration was received from Cargo Safe, Inc., a manufacturer of catalytic heaters, containing the following statement:

We believe the wording as it currently exists does not deal adequately with the temperature problem and can allow for dangerous catalytic heaters to be produced even though they conform to the present requirements.

Specifically, the petitioner seeks the addition of a limitation upon the temperature that may be reached on the outside surface of a catalytic heater used in the cargo compartment of a vehicle transporting flammable liquids or flammable compressed gases. Petitioner cited tests of a prototype heater, with guards 12 inches away from the heater, which allowed the outside skin temperature of the guard to reach 284° F.

After reviewing the data submitted in support of the petition, the Board has concluded that the petitioner's contention has merit. Accordingly, the Board proposes to add to paragraph (1) of § 177.834 a limit to the maximum temperature permitted on the outside surface of a catalytic heater which is used in the cargo compartment of motor vehicles transporting flammable liquids or flammable gases. However, the Board has not removed the requirement for the guard on the heater as the petitioner suggested because the guard affords protection against damage to packages coming in contact with the heater. The Board further believes that a catalytic heater needs to be marked so carriers will know if the heater complies with these requirements. Therefore, the Board is proposing that "Meets DOT Requirements" be marked on the heaters as a manufacturer's certification that the heater complies with the requirements of § 177.834 (1).

Upon further consideration, the Board believes that catalytic heaters should not be lighted or used in the cargo compartment of a motor vehicle containing flammable liquids or flammable gases if any

flame is present on the catalyst or visible anywhere in the heater. Such a restriction is proposed to be added to § 177.834 (1) along with a requirement that catalytic heater manufacturers place a sign on each heater warning of this danger.

The Board also received a letter from Phillips-Petroleum Company concerning the § 177.854(g) amendment being different from what was proposed in the notice. After further review, it appears that the preamble did not clearly explain the rationale behind the final amendment, and that § 177.854(g) as amended does not clearly state the Board's intent. Therefore, what follows is a further explanation of the Board's decision and a proposed editorial revision of the section.

Prior to this rule making, § 177.854(g) contained a blanket prohibition against a vehicle containing any hazardous material being in a closed garage for repairs. In response to a petition, the Board proposed that this prohibition be lifted provided certain conditions existed in the closed garage. The proposed restriction was without regard to any particular class of hazardous material. Following a review of comments submitted, the Board decided that vehicles containing material which posed an inherent fire or explosion danger, i.e., explosives, flammable liquids or gases, should not be in a closed garage for repairs or maintenance regardless of the added conditions. Therefore, the amendment was written to allow vehicles containing hazardous materials, with certain exceptions, to be in a closed garage for repairs. This decision was a compromise between the original blanket prohibition and the proposed relaxation without regard to type of material on the vehicle. The Board is also proposing a definition for a closed building for purposes of § 177.854(g).

In consideration of the foregoing, in 49 CFR 177.834, paragraph (1) would be revised to read as follows:

§ 177.834 General requirements.

(1) *Use of cargo heaters with explosives and flammable commodities*—(1) *Flammable liquids and flammable gases*. Except as provided in paragraphs (1)(2) and (1)(3) of this section, a flammable liquid or a flammable gas must not be loaded into a truck body or a trailer containing a combustion heater, or equipped with operable automatic temperature control equipment. Fuel tanks for automatic temperature control equipment must be emptied or removed from the vehicle, except that liquefied petroleum gas fuel tanks exterior to the vehicle body may have their valves closed and disconnected from the fuel feed lines instead of being emptied or removed.

(2) *Exceptions for catalytic heaters*. Flammable liquids and flammable gases may be loaded into or transported in the same cargo space of a truck body or trailer containing an operating catalytic heater provided—

(1) Guards are installed to prevent any cargo from being closer than 30.05 cm (12 inches) to the heater;

(ii) The heater is designed so that no part of the catalytic heater or its guard, which may come into contact with the cargo, will reach a temperature over 130° F. (55° C.);

(iii) There is no flame on the catalyst or anywhere in the heater;

(iv) The heater is marked "DO NOT LOAD INTO OR USE IN CARGO COMPARTMENT CONTAINING FLAMMABLE LIQUIDS OR GASES IF FLAME IS VISIBLE ON CATALYST OR IN HEATER;" and

(v) The heater is marked "MEETS DOT REQUIREMENTS." This marking will be considered a certification that the heater was manufactured in accordance with the requirements of this section.

(3) *Exception for certain automatic temperature control equipment*. A flammable liquid or a flammable gas may be transported in a vehicle equipped with automatic temperature control equipment if, (i) any electrical apparatus in the cargo compartment is of the non-sparking or explosion-proof type, (ii) no combustion apparatus is in the lading space; and (iii) there is no connection for return of air from the lading space to any combustion apparatus. The heating system must prevent heating of any part of the lading to a temperature of more than 130° F. (55° C.) and must conform to the requirements of § 393.77 of this title.

(4) *Explosives*. An explosive may not be loaded into a truck body or trailer which contains a combustion heater including a catalytic heater, or is equipped with operable automatic temperature control equipment. All fuel tanks for a heater or automatic temperature control equipment with which a truck body or trailer is equipped must be drained. All automatic heating or refrigeration machinery must be rendered inoperative by disconnection of the automatic controls and sources of power for its operation.

In 49 CFR 177.854, paragraph (g) would be revised to read as follows:

§ 177.854 Disabled vehicles and broken or leaking packages; repairs.

(g) *Repairs and maintenance to vehicles*. Except as provided in paragraph (h) of this section, no maintenance or repair using open flame or any type of welding may be performed on vehicles containing flammable liquids, flammable gases, oxidizers, or explosives.

(1) A vehicle containing explosives or a cargo tank containing a flammable liquid or a flammable gas (regardless of quantity) may not be inside a closed building for repairs or maintenance.

(2) A vehicle containing hazardous materials (other than one containing explosives or a cargo tank containing a flammable liquid or a flammable gas) may be inside a closed building for repairs or maintenance provided—

(1) There is no flame-producing or welding device in operation within the same enclosed area of the building; and

(ii) The vehicle has an operable means of motive power or is connected to an operable truck or truck tractor to facilitate its quick removal from the building.

(3) For purposes of this section, a closed building is any structure having a roof and at least three side walls, including any roll-up, sliding, or swing-out doors.

Interested persons are invited to give their views on these proposals. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, Washington, D.C. 20590. Communications received on or before July 15, 1975 will be considered before final action is taken on these proposals. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, room 6215 Trans Point Building, Second and V Streets, SW., Washington, D.C., both before and after the closing date for comments.

This notice of proposed rule making is issued under the authority of the Transportation of Explosives Act (18 U.S.C. 831-835), and Section 6 of the Department of Transportation Act (49 U.S.C. 1655).

Issued in Washington, D.C. on May 9, 1975.

ROBERT A. KAYE,
Board Member for the
Federal Highway Administration.

[FR Doc. 75-12908 Filed 5-15-75; 8:45 am]

**National Highway Traffic Safety
Administration**

[49 CFR Part 552]

[Docket No. 75-12; Notice 1]

PETITION PROCEDURES

Proposed Rulemaking

This notice proposes a new regulation specifying the requirements for submission of petitions for rulemaking, and petitions for the commencement of defect or noncompliance proceedings, in accordance with section 124 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1410a. It also describes the procedures the NHTSA would follow in acting upon the petition.

Section 124 of the Act was enacted as part of the Motor Vehicle and Schoolbus Safety Amendments of 1974. It provides that "Any interested person may file with the Secretary a petition requesting him (1) to commence a proceeding respecting the issuance of an order pursuant to section 103 or to commence a proceeding to determine whether to issue an order pursuant to section 152(b) of this Act." Section 103 is the basic authority for the issuance of motor vehicle safety standards. Section 152(b) is the provision, also enacted

Title 49—Transportation
CHAPTER I—MATERIALS
TRANSPORTATION BUREAU

SUBCHAPTER C—HAZARDOUS MATERIALS
REGULATIONS BOARD

[Docket No. HM 110; Amdt. 177-34].

PART 177—SHIPMENTS MADE BY WAY
OF COMMON, CONTRACT, OR PRIVATE
CARRIERS, BY PUBLIC HIGHWAY

Use of Catalytic Heaters

The purpose of this amendment to Part 177 of the Hazardous Materials Regulations is to permit the use of catalytic heaters in motor vehicle cargo compartments during the transportation of flammable liquid or flammable gas.

On May 16, 1975, the Hazardous Materials Regulations Board published a notice of proposed rulemaking, Docket No. HM-110; Notice No. 75-5 (40 FR 21485), which proposed this amendment. It proposed:

(1) To establish a maximum allowable temperature of 130° F. (54° C.) for all surfaces of the heater which might contact the cargo of flammable liquid or gas;

(2) To require installation of a guard on a heater to prevent the hazardous material cargo from being closer than 12 inches (30.05 cm) to the heater, as a means of preventing exposure of the cargo to more than 130° F. (54° C.);

(3) To prohibit heater ignition before the vehicle is loaded;

(4) To prohibit flame, either in the catalyst or in any part of the heater, and to require that notice to this effect be marked on the heater;

(5) To require the use of a heater that has been certified by the manufacturer that the heater meets all the Department's requirements by properly marking the heater with the certification; and

(6) To clarify the restrictions on the use of automatic cargo-space-heating temperature control equipment with explosives or flammable liquid and gas.

Interested persons were invited to give their views on these proposals. Of the comments received, no objection was made to the proposals as outlined in items (3), (4), and (6) above. Rewording these proposals in this amendment clarifies, rather than changes, substance.

There was one comment, a significant one, regarding the manufacturer's certification-marking requirement. As proposed, the wording was so similar to marking requirements under the Federal Motor Carrier Safety Regulations that confusion, threatening a compromise of safety, was fostered. Consequently, the certification-marking language for catalytic heaters is changed.

All other comments addressed the proposed maximum allowable temperature and guard requirements.

Several commenters objected that the requirement to install a heater guard was unnecessary in view of the proposed maximum temperature standard and the high cost resulting from installation, retrofitting, and loss of revenue producing cargo space.

There was no significant objection to approaching the problem of assuring safety in the use of catalytic heaters by establishing a maximum temperature for heater surfaces. Nor was there any significant objection to establishing 130° F. (54° C.) as the standard. One objection, based upon the premise that a higher maximum was proper, was withdrawn after close examination.

The Materials Transportation Bureau, which is now vested with the authority to issue hazardous materials regulations, concluded that assuring safety in the use of catalytic cargo heaters for transporting flammable liquid or gas is properly approached by establishing a maximum allowable temperature for heater surfaces of 130° F. (54° C.). It was further concluded that the use of a 12 inch heater guard, as the means of keeping heater surface temperatures within the temperature standard, is not required.

In support of these conclusions, the evidence indicated the following:

(1) 130° F. (54° C.) is the maximum temperature at which human skin may be subjected for short duration without causing non-reversible tissue damage. See, for example, the Calspan Corporation's study for the Consumer Products Safety Commission, entitled, "Investigation of Safety Standards for Flame-fired Furnaces, Hot-Water Heaters, Clothes Dryers and Ranges."

(2) 130° F. (54° C.) permits a wide and comfortable safety factor before auto-ignition occurs with properly packaged flammable liquid and gas that is listed under 49 CFR 172.5 as hazardous material.

(3) Two of the major manufacturers of commercial catalytic heaters came forth to assure the Bureau that heaters may be readily designed to operate within the 130° F. (54° C.) maximum, in an outside or ambient temperature range beyond which there is no reasonable expectation to find a heater in operation.

(4) It is reasonable to expect that a heater would not be operated when the outside or ambient temperature is above 60° F. (15.6° C.).

(5) Heaters with 12 inch-guards, if the guards were installed on some of the heaters currently available, could reach a surface temperature as high and as dangerous as 284° F. (140° C.).

In consideration of the foregoing, 49 CFR 177.834(1) is amended to read as follows:

§ 177.834 General requirements.

(1) *Use of cargo heaters when transporting certain hazardous material.* Transportation includes loading, carrying, and unloading.

(1) *When transporting explosives.* A motor vehicle equipped with a cargo heater of any type may transport explosives only if the cargo heater is rendered inoperable by: (i) Draining or removing the cargo heater fuel tank; and (ii) disconnecting the heater's power source.

(2) *When transporting certain flammable material—(1) Use of combustion cargo heaters.* A motor vehicle equipped with a combustion cargo heater may be used to transport flammable liquid or flammable gas only if each of the following requirements are met—

(A) It is a catalytic heater.

(B) The heater's surface temperature cannot exceed 130° F. (54° C.)—either on a thermostatically controlled heater or on a heater without thermostatic control when the outside or ambient temperature is 60° F. (15.6° C.) or less.

(C) The heater is not ignited in a loaded vehicle.

(D) There is no flame, either on the catalyst or anywhere in the heater.

(E) The manufacturer has certified that the heater meets the requirements under paragraph (1)(2)(1) of this section by permanently marking the heater "MEETS DOT REQUIREMENTS FOR CATALYTIC HEATERS USED WITH FLAMMABLE LIQUID AND GAS."

(F) The heater is also marked "DO NOT LOAD INTO OR USE IN CARGO COMPARTMENTS CONTAINING FLAMMABLE LIQUID

OR GAS IF FLAME IS VISIBLE ON CATALYST OR IN HEATER."

(G) Heater requirements under § 303.77 of this title are compiled with.

(1) *Effective date for combustion heater requirements.* The requirements under paragraph (1)(2)(1) of this section govern as follows—

(A) Use of a heater manufactured after November 14, 1975, is governed by every requirement under (1)(2)(1) of this section;

(B) Use of a heater manufactured before November 15, 1975, is governed only by the requirements under (1)(2)(1)(A), (C), (D), (F) and (G) of this section until October 1, 1976; and

(C) Use of any heater after September 30, 1976, is governed by every requirement under (1)(2)(1) of this section.

(iii) *Restrictions on automatic cargo-space-heating temperature control devices.* Restrictions on these devices have two dimensions: restrictions upon use and restrictions which apply when the device must not be used.

(A) *Use restrictions.* An automatic cargo-space-heating temperature control device may be used when transporting flammable liquid or flammable gas only if each of the following requirements is met—

(1) Electrical apparatus in the cargo compartment is nonsparking or explosion proof.

(2) There is no combustion apparatus in the cargo compartment.

(3) There is no connection for return of air from the cargo compartment to the combustion apparatus.

(4) The heating system will not heat any part of the cargo to more than 130° F. (54° C.).

(5) Heater requirements under § 303.77 of this title are compiled with.

(B) *Protection against use.* Flammable liquid or flammable gas may be transported by a vehicle, which is equipped with an automatic cargo-space-heating temperature control device that does not meet each requirement of paragraph (1)(2)(iii)(A) of this section, only if the device is first rendered inoperable, as follows—

(1) Each cargo heater fuel tank, if other than LPG, must be emptied or removed.

(2) Each LPG fuel tank for automatic temperature control equipment must have its discharge valve closed and its fuel feed line disconnected.

Effective date. This amendment is effective October 1, 1975.

(Transportation of Explosives Act (18 U.S.C. 831-835); Sec. 6 Department of Transportation Act. (49 U.S.C. 1055); 49 CFR 1.04(g)).

Issued in Washington, D.C., on October 1, 1975.

JAMES T. CURTIS, Jr.,
Director, Materials
Transportation Bureau.

[FR Doc. 75-20735 Filed 10-3-75; 8:45 am]

Title 50—Wildlife.

CHAPTER I—FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Sherburne National Wildlife Refuge, Minn.

Correction

In FR Doc. 75-24121, appearing on page 42198-9 of the issue for Thursday, Sep-

February 2, 2012

Mr. Charles Betts
Director (PHH-10)
Office of Hazmat Standards
Office of Hazmat Safety
Pipeline and Hazardous Materials
Safety Administration
1200 New Jersey Ave., S.E.
Washington, D.C. 20590-0001

Engram
§177.834(i)
Loading & Unloading
12-0078

Dear Mr. Betts,

Please clarify whether our temperature control trailers are exempt from the following regulation under CFR 49 Title 177.834, specifically the requirement to drain the fuel tank and disconnect the power source:

Regulation:

(1) When transporting Class 1 (explosive) materials. A motor vehicle equipped with a cargo heater of any type may transport Class 1 (explosive) materials only if the cargo heater is rendered inoperable by: (i) Draining or removing the cargo heater fuel tank; and (ii) disconnecting the heater's power source.

Background:

Some of our shippers, on occasion require the use of temperature control trailers when transporting Class 1 items. Our temp-control trailers have the capacity to regulate for heating or cooling. We have some shippers interpreting that "when" the trailers are not requested as a temp-control loads, that we must drain the fuel from the unit and disconnect the power source as stated in 177.834(l) *use of cargo heaters when transporting certain hazardous material*

Most of the shippers "don't" require draining the fuel on these trailers and perhaps interpret (as we do) the equipment as a temperature control unit and not a "cargo heater", per 177.834(l)(2)(iii) *restrictions on automatic cargo-space heating temperature control devices. Per this section, a restriction on Class 1 would likely not exist.*

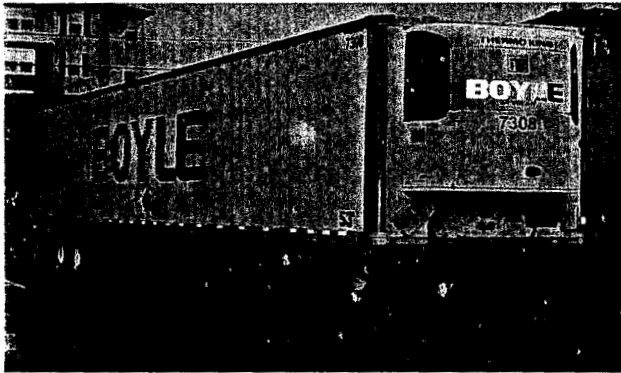
Our understanding of a previous DoT interpretation:

Based on a DoT interpretation from Mr. John A. Gale, Chief, Standards Development, Office of Hazardous Materials on July 2007 (see enclosed), we would determine that our temperature controlled trailers would not be constitute a "cargo heater".

Although our temperature controlled units are slightly different than in the previous interpretation, they have many similarities and provide the same functions. We have enclosed a photograph of one of our temperature controlled trailers, along with some specifications from the manufacturer to summarize the capabilities:

- Diesel powered mechanical temperature controlled unit
- Installed on an insulated van body, mounted to the front of the trailer
- Condenser is installed on the exterior/evaporator installed on the inside
- System can maintain temperatures from -20 degrees to +85 degrees Fahrenheit
- Unit uses external diesel fuel tank attached to chassis of trailer
- Operator controls are on external, front-mounted unit.

Our fleet currently consists of Thermo King SB-210 and Thermo King SB-230 trailers. As shown below, our trailers use temperature control systems and not cargo heaters – also depicted.



PORTABLE (TOP) CATALYTIC CARGO HEATER

See enclosed manual for fully comprehensive safety instructions, complete details, warnings and proper operation.

- To start this unit, see the manual.
- Do not tamper with the thermostat.
- From shipping, the thermostat is reset.

Proper operation is essential to the safe and efficient operation of this heater. The enclosed manual contains detailed instructions for the proper use of this heater. The enclosed manual is a preliminary copy of the manual. The manual will be available in the near future.

The enclosed manual contains detailed instructions for the proper use of this heater. The enclosed manual is a preliminary copy of the manual. The manual will be available in the near future.

If you need additional information, please contact me at your convenience. We thank you and appreciate your assistance on this matter.

Respectfully,

Enrique A. Araniz
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