



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

JAN -5 2006

400 Seventh Street, S.W.
Washington, D.C. 20590

Ms. Pamela D. Guffain
The Fertilizer Institute
Union Center Plaza
820 First Street, NE Suite 430
Washington, DC 20002

Ref. No.: 05-0207

Dear Ms. Guffain:

This is in response to your August 19, 2005 letter regarding transportation of anhydrous ammonia in nurse tanks under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). The Fertilizer Institute has been granted a special permit (DOT SP-13554), which allows its members to use nurse tanks that have missing or unreadable nameplates, provided certain tests or re-tests are conducted. With your letter you include a proposed amendment to the Iowa Code that would allow ASME containers with missing or unreadable nameplates to have new nameplates installed. You ask that we review the Iowa Code amendment and interpret its relevance to your special permit.

The transportation of anhydrous ammonia in commerce in non-DOT specification cargo tanks (nurse tanks) must conform to the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Section 173.315(m) specifies the requirements for nurse tanks. In conformance with § 173.315(m) (1), each tank must be marked in accordance with the edition of Section VIII of the ASME Code that was incorporated by reference in § 171.7 at the time it was manufactured. The marking is the manufacturer's certification that the tank conforms to all applicable ASME Code requirements. This marking includes the ASME code symbol stamped on the plate and only the original "U" stamp certificate holder is authorized to use that symbol.

Any nurse tank authorized under § 173.315(m) for which the ASME nameplate is missing or unreadable must be brought into compliance with the applicable marking requirements in the ASME Code. To do this, the owner of the nurse tank must first provide documentation to the original manufacturer that demonstrates that the nurse tank was designed and constructed



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173.315 (m)
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in accordance with the ASME code. Once this occurs, the manufacturer will be in a position to issue and stamp a replacement ASME name plate. Replacement ASME name plates must be attached in accordance with the (NBIC) National Board Inspection Code, Part RB 1030(b). The only other alternative is to apply for a new special permit or obtain party status to an applicable special permit as specified under Part 107, Subpart B.

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Hattie L. Mitchell". The signature is written in dark ink and is positioned below the word "Sincerely,".

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards



The Fertilizer Institute

Nourish, Replenish, Grow

Pam Guffain
Director
Government Relations

August 19, 2005

Mr. Edward Mazzullo
Director
Office of Hazardous Materials Standards
Pipeline and Hazardous Materials Safety Administration
400 7th Street, S.W.
Washington, D.C. 20590

Dear Mr. Mazzullo:

It is our understanding of Department of Transportation (DOT) regulations that nurse tanks without the required ASME nameplate are not legal for transportation in commerce. As TFI became aware of many nurse tanks in anhydrous ammonia service without the required ASME identification plate, TFI filed an exemption application which DOT has granted (DOT E-13554). In granting the exemption, DOT requires certain tests and re-tests on anhydrous ammonia nurse tanks.

Recently the attached proposal was brought to our attention. We would appreciate an interpretation by DOT regarding our understanding of the DOT regulations in this regard.

Please feel free to contact me via telephone at (202) 515-2704 or via e-mail at pguffain@tfi.org.

Sincerely yours,

Pamela D. Guffain

Pollack
\$173.315 (m)
Cargo Tanks
05-0207

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT [21]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 159.5(11) and 200.14, the Department of Agriculture and Land Stewardship hereby amends Chapter 43, "Fertilizers and Agricultural Lime," Iowa Administrative Code.

The proposed amendment strikes an exception to the requirement of nameplates on anhydrous ammonia tanks and is to add a new rule pertaining to the certification/re-nameplating of anhydrous ammonia applicators and nurse tanks with unreadable or missing nameplates under the jurisdiction of the Department. This proposed rule has delegated the certification/re-nameplating process to firms that hold a valid R-stamp, in compliance with the current edition of the National Board Inspection Code. The Federal Department of Transportation regulations require legible nameplates on applicators and nurse tanks.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation are impractical. The Department has had numerous conversations with industry regarding an Iowa certification/re-nameplating program. Notice and public participation would needlessly delay enactment of this program. Participation in the program is voluntary for the agency.

The Department also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these amendments, 35 days after publication, should be

waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator. The amendment confers a benefit to the fertilizer industry because it permits those firms that wish to participate a way achieve compliance with Federal Department of Transportation regulations.

No waiver provision is included in this amendment. However, the Department has a general rule which allows for waivers in appropriate cases. The waiver rule applies to these amendments.

This amendment is also published herein under Notice of Intended Action as **ARC _____** to allow for public comment.

This amendment is intended to implement Iowa Code chapter 200.

This amendment became effective upon filing.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code Supplement §17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

ITEM 1. Amend rule **21-43.6(200)** by striking numbered exception 8 and inserting in lieu thereof the following:

8. Insert a new subrule 5.4.2.9 to read as follows:

5.4.2.9 Recertification of Non-Refrigerated Containers and Systems Other Than DOT Containers. Containers with unreadable or missing nameplates may be recertified and have nameplates installed with the following information:

A. An identification number issued by the department.

- B. The certification date.
- C. The maximum allowable working pressure.
- D. The wall thickness of the container shell and heads in inches or millimeters.
- E. The water capacity of the container in pounds or kilograms or United States standard gallons or cubic meters (m3) at 60 degrees Fahrenheit (15.6 degrees centigrade).

Items A through E must be determined and documented on forms provided by the department by a company that holds a valid R-stamp in compliance with the current edition of the National Board Inspection Code.

Nurse tanks and applicator tanks with unreadable or missing nameplates may be recertified and have name plates installed by July 1, 2008.

Patty Judge
Secretary of Agriculture

Date