



Date:	3/20/2015
Subject:	§172.336 Identification numbers: special provisions
Distributed By:	Rick Heylmun

Summary: PHMSA published a new proposed rulemaking (NPRM) [HM-219](#) on Thursday May 24, 2012 that proposed several changes and clarification to the HMR. The NPRM proposed that all references to "gasohol" would be removed and that a table would be added to [§172.336](#) ***"that will more clearly indicate the identification number marking requirements for compartmented cargo tanks, tank cars, or cargo tanks containing these fuels"***. The NPRM did not state that changes were being made to the marking requirements but that the table was for the purpose of clarity.

On Thursday March 7, 2013 Final Rule HM-219 was published and made effective May 6, 2013. The proposed table was added to §172.336. I contacted the PHMSA information office in order to receive clarification of the effect that the new language of the table would have on the requirement and on previously issued interpretations. I was told that there was no change to the requirement and that the final rule did not change the previously published interpretations of §172.336. I asked if under the final rule a CTMV may continue to be marked for gasoline (1203) when transporting diesel fuel and having no gasoline on board as had been previously authorized, I was told yes. I stated that if it was not intended to make a change to the requirement that the new language was very confusing.

Recently I contacted the PHMSA information office in order to further discuss this regulation and I was informed that PHMSA had written a new interpretation of this section that substantially changes previous interpretations and makes a different requirement for the marking of cargo tanks transporting petroleum distillate fuels. I was told that the new reference number for the interpretation is **14-0178**. The new interpretation has not yet been published and is being reviewed by PHMSA attorneys prior to being made public.

In summary, the change to the regulation is a considerable burden to the petroleum industry, particularly to the operators of CTMV transporting petroleum distillate fuels. Companies transporting petroleum distillate fuels may not be aware of the new rule or be prepared to comply. It is common practice for CTMV's to be marked for gasoline (1203) when transporting only diesel fuel or other petroleum distillate fuels, with no gasoline on board. A large number of vehicles will be subject to penalties if strict attention to this new rule is not observed.

The final rule identifies that comments were made to the NPRM but that no comments were made by affected parties to the "*clarification*" of §172.336. I doubt that would be the case if the NPRM had clearly stated that this section was being changed by this NPRM, rather than just indicating that the rule is being *clarified* by inserting a table.

Best Regards,
Professional Emergency Resource Services (PERS)