

**DEPARTMENT OF TRANSPORTATION****Research and Special Programs Administration**

**49 CFR Parts 171, 172, 173, 174, 175, 177, 178, 179 and 180**

[Docket No. RSPA-99-6213 (HM-218)]

RIN 2137-AD16

**Hazardous Materials; Miscellaneous Amendments**

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** RSPA proposes to make miscellaneous amendments to the Hazardous Materials Regulations (HMR) based on petitions for rulemaking and RSPA initiative. These proposed amendments are intended to update, clarify or provide relief from certain regulatory requirements.

**DATES:** Comments must be received by November 29, 1999.

**ADDRESSES:** Submit written comments to the Dockets Management System, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590-0001. Comments should identify Docket Number RSPA-99-6213 and be submitted in two copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. Comments may also be submitted to the docket electronically by logging onto the Dockets Management System website at <http://dms.dot.gov>. Click on "Help & Information" to obtain instructions for filing the document electronically. In every case, the comment should refer to the Docket number "RSPA-99-6213".

The Dockets Management System is located on the Plaza Level of the Nassif Building, at the above address. Public dockets may be reviewed at the address above between the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday, excluding Federal holidays. In addition, the NPRM and all comments can be reviewed on the Internet by accessing the Hazmat Safety Homepage at "<http://hazmat.dot.gov>."

**FOR FURTHER INFORMATION CONTACT:** Charles Betts or Diane LaValle, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001, telephone (202) 366-8553.

**SUPPLEMENTARY INFORMATION:****Background**

This NPRM is designed primarily to reduce regulatory burden on industry by incorporating changes into the HMR based on RSPA's own initiative and petitions for rulemaking submitted in accordance with 49 CFR 106.31. This NPRM also is consistent with the goals of the President's Regulatory Reinvention Initiative. On March 4, 1995, the President directed Federal agencies to perform an extensive review of all agency regulations and eliminate or revise those requirements that are outdated or in need of reform. In a continuing effort to review the HMR for necessary revisions, RSPA is also proposing to eliminate, revise, clarify and relax certain other regulatory requirements.

The following is a section-by-section summary of the proposed changes.

**Section-by-Section Review***Part 171**Section 171.7*

RSPA proposes to update the incorporation by reference of the American Society of Mechanical Engineers (ASME) Code to the 1998 Edition. Currently, the 1992 Edition and the Addenda through December 31, 1993 are incorporated by reference. After a review, RSPA believes that the 1998 Edition should be incorporated by reference. However, at this time RSPA is not proposing to adopt any Addenda to the 1998 Edition of the ASME Code because we have not fully reviewed them.

*Section 171.8*

The definition for "Aerosol" would be revised to remove reference to a "metal" receptacle to align the HMR with the UN Recommendations.

RSPA proposes to revise the definition for "EX number." Currently, the definition states that an EX number is assigned by the Associate Administrator for Hazardous Materials Safety (AAHMS) to identify an explosive which has been approved. However, RSPA presently assigns EX numbers to track materials evaluated by the AAHMS under the provisions of § 173.56, regardless of whether or not they are approved under a different hazard class.

The definition for "Placarded car" would be revised to remove reference to a "FUMIGATION placard." As used in the HMR, a railcar containing lading which has been fumigated or is undergoing fumigation is required to display the "FUMIGANT marking" shown in § 173.9.

*Section 171.11*

RSPA is proposing to remove paragraph (d)(5), which requires the identification of a poison material on the shipping paper. The International Civil Aviation Organization (ICAO) Technical Instruction already requires the shipping paper to identify subrisks and RSPA believes paragraph (d)(5) is unnecessary. RSPA is proposing to add a new paragraph (d)(5) to require that the original approval (EX) number or traceable product code issued to an air bag inflator or seat-belt pretensioner be entered on the shipping paper in association with the basic description, as specified in § 173.166 (c). Currently, shipping papers for devices offered under the ICAO Technical Instruction are not required to contain the EX number or product code for an approved inflator or pretensioner. RSPA believes this shipping paper provision should include air bags or seat-belt pretensioners when offered and transported in the United States under the authority of international regulations. Devices containing a pressure vessel and transported as Division 2.2 (UN3353) would be excluded from this shipping paper notation requirement. In addition, paragraph (d)(14) would be revised to clarify that "Aerosols" transported in the U.S. under the provisions of the ICAO Technical Instructions must be in metal packagings if the packaging exceeds 7.22 cubic inches.

*Section 171.12*

RSPA is proposing to revise paragraph (a) to clarify that the shipping paper documentation required under the International Maritime Dangerous Goods Code (IMDG) or International Atomic Energy Agency (IAEA) must be written in English as currently required by § 172.201(a)(2). Similar to the proposed change to § 171.11 above, RSPA proposes to add paragraph (b)(5) to require that the approval (EX) number or traceable product code be entered on shipping papers for airbag inflators and seat belt pretensioners offered under the International Maritime Dangerous Goods (IMDG) Code.

*Part 172**Section 172.101*

Paragraphs (b)(2) and (b)(6) would be revised to clarify that proper shipping names denoted with an "A" or "W" in Column (1), in the HMT, may be used to describe hazardous materials transported by all modes when all applicable requirements are met.

RSPA proposes to remove paragraph (c)(8), which is specific to determining

a proper shipping description for hazardous substances as it is redundant with § 172.101(c).

Paragraph (c)(8) would be replaced to allow the words "liquid" or "solid" to be added to a proper shipping name when a hazardous material specifically listed by name may due to differing physical states be a liquid or solid. This is consistent with existing provisions in the UN Recommendations, the ICAO TI and the IMDG Code.

The entry "Chemical kits or First aid kits (*containing hazardous materials*)" would be separated into two individual entries for easier reference. In addition, the wording "(*containing hazardous materials*)" is unnecessary and would be removed.

The entry "1-chloro-3-bromopropane" would be changed to read "1-bromo-3-chloropropane" to be in accordance with the UN Recommendations.

A new entry "Fumigated transport vehicle or freight container, see § 173.9" would be added to reference § 173.9 which contains requirements for transporting fumigated lading. This change would facilitate the location of these requirements by readers.

For the entries, "Polychlorinated biphenyls, liquid" and "Polychlorinated biphenyls, solid," UN2315, in Column 1, the symbols "A, W" would be removed and a new Special Provision 140 would be added in Column 7. Special Provision 140 would state that the material is only regulated when it meets the defining criteria for a hazardous substance or a marine pollutant.

For the entry "Air, compressed," Special Provision 78 would be added in Column 7 to specify that only mixtures with not more than 23.5 percent oxygen may be transported under this entry. An OXIDIZER label is not required for mixtures containing not more than 23.5 percent oxygen. This change will align the HMR with a recent amendment adopted in the eleventh revised edition of the UN Recommendations. In addition, for the entry "Rare gases and oxygen mixtures, compressed," Special Provision 79 would be added to state that this entry may not be used for mixtures meeting the criteria for oxidizing gas in § 171.8. RSPA believes that it is more appropriate to use a generic oxidizing gas entry (i.e., Compressed gas, oxidizing, n.o.s.) when such mixtures meet the criteria of an oxidizing gas.

For the entry, "Sodium chlorate, aqueous solution," PG II, Special Provision "B6" would be removed. It was pointed out to RSPA that similar entries (Potassium chlorate, aqueous

solution and Chlorates, inorganic, aqueous solution) are not assigned this Special Provision. RSPA agrees that the Special Provision was mistakenly assigned.

In response to comments submitted by the Vessel Operators Hazardous Materials Association (VOHMA), in response to the NPRM of HM-215C, RSPA is proposing to revise a number of HMT entries with inconsistently applied Codes 34 and 95 in column 10B. These codes pertain to segregation of Division 2.3 and 6.1 and Class 8 hazardous materials with foodstuffs. These changes will align the HMR with the IMDG Code. In total, there are twenty (20) deletions of Code 95, nine (9) additions of Code 95, three (3) changes from Code 34 to 95, and three (3) deletions of Code 34 from Column 10B.

#### Section 172.102

In paragraph (c)(1), a new Special Provision 78 would be added to specify that the entry "Air, compressed" may not be used to describe compressed air which contains more than 23.5% of oxygen. This change would align the HMR with a recent amendment adopted in the eleventh revised edition of the UN Recommendations. In addition, a new Special Provision 79 would be added to specify that the entry "Rare gases and oxygen mixtures, compressed" may not be used for gas mixtures which meet the criteria for an oxidizing gas. This change would ensure that the correct emergency response information is provided for mixtures which meet the criteria for oxidizing gas. We are also proposing to add a new Special Provision 140 to the entries "Polychlorinated biphenyls, liquid" and "Polychlorinated biphenyl, solid," UN 2315 to state that the material is only regulated when it meets the defining criteria for a hazardous substance or marine pollutant. This change would be consistent with international regulations.

We propose, in paragraph (c)(5), to revise Special Provision N10 regarding lighters. Currently, approvals for lighters require the approval number to be marked on the package and on the shipping papers. We believe that this requirement should be contained in the regulations.

#### Section 172.201

Paragraph (a)(1)(ii) would be revised to clarify that when a reproduced shipping paper identifies hazardous materials entries by highlighting the basic description in a contrasting color, the packing group must be highlighted. The packing group is identified as a

basic description element by § 172.202(a)(4) and (b).

#### Section 172.204

For consistency with paragraphs (a)(1), (a)(2) and the ICAO Technical Instructions, paragraph (c)(1) would be revised to change the word "packed" to read "packaged." A transition period of 10 years would be provided for depletion of preprinted shipping papers showing the word "packed" to reduce costs.

#### Sections 172.332 and 172.336

In response to a petition for rulemaking from the American Trucking Association (ATA) [P-1364], RSPA proposes to amend §§ 172.332(a) and 172.336(b) to authorize the use of white square-on-point configurations for display of identification number markings regardless of whether a placard is required for that material. RSPA agrees with ATA that it is unnecessarily restrictive to prevent the use of identification number markings displayed on square-on-point configurations in conjunction with placards.

#### Section 172.504

RSPA proposes to revise the Class 9 table entry to reference § 172.504(f)(9), which provides an exception from displaying a Class 9 placard for domestic transportation. In addition, paragraph (f)(8), regarding the placarding of a material classed as a combustible liquid that also meets the definition of a Class 9, would be removed. A new paragraph (f)(8) would be added to provide an exception, in domestic transportation, for placarding a transport vehicle displaying a POISON INHALATION placard if it is already placarded with a POISON GAS placard.

#### Section 172.516

Paragraph (a) would be revised by changing the wording "motor vehicle" to "transport vehicle" the second time it appears in the first sentence, to correct an inaccurate usage of the term "motor vehicle". This change clarifies that each placard on a motor vehicle must be clearly visible from the direction it faces, except from the direction of another transport vehicle to which the motor vehicle is coupled.

#### Section 172.519

Paragraph (b)(3) would be revised to clarify that text is required on the DANGEROUS placard. In addition, the provision would be revised to clarify that text is not required on an OXYGEN placard when the specific identification number is displayed.

## Section 172.604

Paragraph (c)(2) would be revised to clarify that hazardous materials transported under the proper shipping name "Consumer commodity" do not require emergency response information, regardless of whether the hazard class is "ORM-D" as provided by the HMR, or "9" as provided by the ICAO Technical Instructions.

## Section 172.704

In § 172.704, paragraph (b) would be revised to add the reference, "29 CFR 1910.1200," in addition to 29 CFR 1910.120 of the Department of Labor's Occupational Safety and Health Administration (OSHA). This change is needed to clarify that any training received due to OSHA's requirements need not be repeated to meet DOT training requirements.

## Part 173

## Section 173.4

RSPA proposed to revise paragraphs (a)(1)(i) (ii) and (iii) to clarify that the limit of one gram for Division 6.1 material per inner receptacle applies only to materials that are poisonous by inhalation. In addition, RSPA proposes to add a note to § 173.4(a)(6)(ii) to clarify that one package need not be subjected to all of the tests specified in § 173.4; a separate, but identical, packaging may be used for each test.

## Section 173.5

In § 173.5, paragraph (a) would be revised to grant an exception from the emergency response and training requirements in subparts G and H of Part 172 respectively to Class 2 agricultural products that are transported over local roads between fields of the same farm. Currently, agricultural products other than Class 2 materials are completely excepted from the HMR when transported between fields of the same farm. RSPA believes that similar relief is warranted for Class 2 materials.

## Section 173.7

We are proposing to add a new paragraph (e) which would incorporate and expand the existing exception in § 173.62, paragraph (d) for Class 1 explosives owned by the Department of Defense (DOD). Section 173.62, paragraph (d) would be deleted. Currently DOD is authorized to ship their Class 1 materials that were packaged prior to January 1, 1990, without regard to the current packaging requirements in Part 178. In addition to the existing exception, we are proposing to also except these packagings from the

marking and labeling requirements. This would alleviate the need to remark and re-label DOD stockpiled hazardous materials. Considering that the revised exception applies to marking and labeling of DOD packagings in addition to packaging requirements, RSPA believes it is more appropriate that the exceptions appear in § 173.7.

## Section 173.12

In § 173.12, paragraph (b)(3) would be revised to clarify that materials poisonous by inhalation are not authorized for the lab pack provisions.

## Section 173.13

In § 173.13, paragraph (a) would be revised to clarify that use of the CARGO AIRCRAFT ONLY label is required. As discussed in the preamble to Docket HM-222 [May 30, 1996; 61 FR 27169], it was RSPA's intention to except use of primary and subsidiary hazard labels only. Hazardous materials transported under the provisions of § 173.13 are not authorized for transportation by passenger carrying aircraft. When transported without the CARGO AIRCRAFT ONLY label, RSPA believes that some packagings offered for transportation under § 173.13 may inadvertently be placed on a passenger carrying aircraft in violation of the HMR. This change would be consistent with § 172.402(c) regarding display of the CARGO AIRCRAFT ONLY label.

## Section 173.32

In § 173.32, we propose to amend paragraph (e)(3) to authorize smaller markings on specification portable tanks that were originally authorized to be marked with letters and numerals as small as 1/8 of an inch in height. The specification plates originally attached to these packagings do not have sufficient space to accommodate larger size markings after retesting.

## Section 173.60

In § 173.60, a new paragraph (b)(14) would be added consistent with the UN Recommendations to allow large explosive articles normally intended for military use, to be transported unpackaged under specific conditions. This provision is currently found in § 173.62 Packing Instruction (PI) 130; however, the provision only applies to those explosives assigned to PI 130. Inclusion of this new paragraph would allow any large explosive article normally intended for military use to be transported unpackaged under the specified conditions.

## Section 173.61

In § 173.61, paragraph (a) would be revised to clarify that explosives may be packed with non hazardous materials that will not adversely affect the explosive. RSPA believes that relaxation of this provision will avoid the need for exemptions.

## Section 173.62

In § 173.62, paragraph (d) would be removed. Reference the preamble discussion under § 173.7.

## Section 173.150

RSPA proposes to remove the wording "and combustible liquids" in the first sentence of § 173.150(b). Referring to combustible liquids is unnecessary because there is no requirement for labeling or specification packaging. In addition, paragraph (f)(3)(iv) would be revised to clarify that placards are not required for a combustible liquid that is a hazardous substance, hazardous waste or marine pollutant in a non-bulk packaging.

We propose to revise paragraph (f)(3)(viii) by changing a reference from § 177.834 to § 177.834(j). Paragraph (j) requires that manholes and valves be closed during transportation. This proposed change would clarify that combustible liquids are not subject to other provisions of § 177.834, such as those pertaining to attendance, and is responsive to a petition for rulemaking (P-1386) from the Petroleum Marketers Association of America.

## Section 173.166

We propose to revise the introductory text in paragraph (e) to clarify that all airbag modules and inflators and seat belt pretensioners including those in Division 2.2 that are transported under UN 3353 must be packaged in UN packagings meeting the Packing Group III performance level. At present, since no packing group is provided in § 172.101 for UN 3353, the required level of testing for UN packagings authorized for use in paragraph (e) for devices transported under UN 3353 is not stated in the HMR. The proposal to require a Packing Group III performance level is consistent with the provisions in the eleventh revised edition of the UN Recommendations.

We also propose to authorize an air bag module or a seat belt pretensioner that has been removed from a motor vehicle that was manufactured as required for use in the United States to be offered for transportation in commerce without marking the EX number or product code on the shipping paper, as required by current paragraph (c). Instead, the word "Recycled" would

be entered immediately after the basic description prescribed in § 172.202. This proposed change will facilitate transportation of these devices for recycling and eliminate the need for exemption, DOT-E 12189 granted to the Automotive Recyclers Association and several other grantees.

#### Section 173.242

In paragraph (c)(1), a reference to obsolete § 178.253-4 would be removed and replaced with the specific portable tank venting requirements that were contained in that section.

#### Section 173.247

Paragraph (g)(1)(iii)(C) would be revised to clarify the pressure relief device requirements for bulk packagings transported by rail. The current regulatory text may be misunderstood as requiring the use of a combination pressure relief device, such as a reclosing pressure relief device (a safety valve) incorporating a rupture disc on the upstream side. The paragraph would be revised to clarify the requirement for a nonreclosing pressure relief device that incorporates a rupture disc conforming to the requirements of § 179.15.

#### Section 173.306

Paragraph (h)(2) would be revised to clarify that shipping papers are required for a Class 2 material that has been reclassified as a consumer commodity if it also meets the definition for "marine pollutant." This change would provide consistency with corresponding HMR limited quantity provisions.

#### Section 173.307

Paragraph (a)(4) would be revised to except from the HMR, refrigerating machines, including dehumidifiers and air conditioners and components thereof, containing up to 12 kg (25 pounds) or less of a non-flammable, non-toxic gas; 12 L (3 gallons) or less of ammonia solution (UN2672) and except for air transportation, 12 kg (25 pounds) of flammable non-toxic gas, and 20 kg (44 pounds) or less of a Group A1 refrigerant specified in ANSI/ASHRAE Standard 15. In addition, for air transportation consistent with Special Provision A103 of the ICAO Technical Instructions an exception would be provided for refrigerating machines containing 100 g (4 ounces) or less of a flammable, non-toxic liquified gas. This paragraph is also revised for clarity and to reference both International System of Units (SI) and customary units.

#### Part 174

##### Section 174.26

The section heading would be revised by removing the phrase "of placarded cars." This change clarifies that the prescribed shipping paper requirements apply to any person who accepts hazardous materials for transportation by rail.

##### Section 174.50

As set forth in § 174.50, the Federal Railroad Administration (FRA) has authority to approve for movement a tank car not conforming to the HMR. Since the adoption of the provision, FRA has issued approximately 400 movement approvals for tank cars that no longer conform to the regulations, for reasons such as leaking fittings, accident damage and exceeding the gross rail load. RSPA proposes to expand FRA's approval authority from tank cars to all rail cars. This would allow FRA to grant approval for the movement of covered hopper cars, gondola cars, and other types of railroad equipment when they no longer conform to Federal law, but may safely be moved to a repair location and eliminate the need for exemption for such movements.

#### Part 175

##### Section 175.25

Paragraph (a)(2)(ii) would be revised to authorize lettering of at least 4 mm (.16 inch) in height, based on RSPA initiative. Currently, the height requirement is 6mm (0.2 inch) minimum for some of the information required on the notification to air passengers of hazardous materials restrictions. The smaller lettering does not significantly impact readability and encourages use of space on signs for other information such as graphics.

##### Section 175.30

An exception in paragraph (d)(1) for inspecting packages of consumer commodities packaged in a freight container would be expanded to include consumer commodities that are palletized or overpacked. RSPA believes that it is impracticable for consumer commodities that are palletized or overpacked to be broken down and inspected by the operator of the aircraft. This amendment would allow consumer commodities that are overpacked or palletized to be handled in the same manner as consumer commodities in freight containers.

#### Part 177

##### Section 177.848

Paragraph (c) would be revised to clarify that the prohibition against loading or storing cyanides or cyanide mixtures with acids applies only if hydrogen cyanide would be generated when the materials come into contact with each other.

#### Part 178

##### Section 178.3

RSPA proposes to amend the introductory text to paragraph (a) to clarify that the specification markings on a UN standard packaging may not be marked on a removable component of a packaging.

##### Section 178.345-13

In paragraph (a), a reference to obsolete §§ 178.346-13(a), 178.347-13(a), and 178.348-13(a) would be removed.

##### Section 178.603

RSPA proposes to revise paragraph (f)(5) to allow a slight discharge from a closure if it ceases immediately after impact with no further leakage. Currently this allowance applied only to drums, jerricans or bags. This proposed change would align the criteria for passing the drop test with international regulations.

##### Section 178.605

RSPA proposes to revise the last sentence in paragraph (d)(1) to correctly reference the maximum filling limits in § 173.24a(d).

##### Section 178.703

RSPA proposes to revise § 178.703(a)(1)(ii) to correctly reference all of paragraph (a) of § 178.702, and not merely paragraphs (a)(1) and (2), for the code number used to designate an IBC design type.

##### Section 178.815

Paragraph (c)(4)(iii) would be added to authorize dynamic compression testing for IBCs in the same manner as is currently authorized for non-bulk packagings. RSPA considers the dynamic compression test to be an equivalent test method and that by allowing more flexibility in the stacking test requirements will provide a cost saving to the regulated industry.

#### Part 179

##### Section 179.100-20

RSPA proposes to remove the water capacity entry in the table that requires each DOT-105A100W tank car to be

stamped with the water capacity in pounds because it is redundant. Section 179.22 requires a tank car to be marked in accordance with Appendix C of the Association of American Railroads (AAR) Tank Car Manual. Section C3.03 of the AAR manual already requires marking the water capacity, in gallons and liters, on the side of the tank car. Consequently, the requirement proposed for deletion is redundant and conflicting with other requirements. Therefore, as a result, its removal will have no effect on safety.

#### Part 180

#### Section 180.417

RSPA proposes to revise paragraph (a)(2) to allow a cargo tank owner to retain the vehicle certification report and related papers at a company's principal place of business or at the location where the vehicle is housed or maintained, without obtaining prior approval from the Regional Director, Office of Motor Carrier Safety, Federal Highway Administration. This change offers motor carriers greater flexibility in the location where these documents are retained.

#### Regulatory Analyses and Notices

##### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

The costs and benefits associated with this proposed rule are considered to be so minimal as to not warrant preparation of a regulatory impact analysis or regulatory evaluation. This determination may be revised as a result of public comment.

##### B. Executive Order 12612

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"). Federal law expressly preempts State, local, and Indian tribe requirements, applicable to the transportation of hazardous materials, that cover certain subjects and are not substantively the same as the Federal requirements. 49 U.S.C. 5125(b)(1). These subjects are:

- (i) The designation, description, and classification of hazardous materials;
- (ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

- (iii) The preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements respecting the number, content, and placement of those documents;

- (iv) The written notification, recording, and reporting of the unintentional release in transportation of hazardous materials; or

- (v) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials.

This proposed rule concerns the classification, packaging, marking, labeling, and handling of hazardous materials, among other covered subjects.

If adopted as final, this rule would preempt any State, local, or Indian tribe requirements concerning these subjects unless the non-Federal requirements are "substantively the same" (see 49 CFR 107.202(d)) as the Federal requirements.

Federal law (49 U.S.C. 5125(b)(2)) provides that if DOT issues a regulation concerning any of the covered subjects after November 16, 1990, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. That effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA requests comments on what the effective date of Federal preemption should be for the requirements in this proposed rule that concern covered subjects.

##### C. Executive Order 13084

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because this proposed rule would not significantly or uniquely affect the communities, the funding and consultation requirements of the Executive Order do not apply.

##### D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. This proposed rule would amend miscellaneous provisions in the HMR, to generally to clarify those provisions and to relax requirements that are overly burdensome. The proposed changes in this rule are generally intended to provide relief to shippers, carriers, and

packaging manufacturers, some of whom are small entities (e.g., governmental jurisdictions and not-for-profit organizations). The costs and benefits associated with this proposed rule are considered to be so minimal as to not warrant preparation of a regulatory impact analysis or regulatory evaluation. Therefore, I certify that this proposal will not, if promulgated, have a significant economic impact on a substantial number of small entities.

##### E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid Office of Management and Budget (OMB) control number. This NPRM does not propose any new information collection burdens. The information collection associated with the proposal to provide for nonconforming railcars under § 174.50 is currently being reported under the information collection for exemption applications under § 107.105. Information collection requirements contained in § 174.50 have been approved by the OMB under control number 2137-0559.

##### F. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

##### G. Unfunded Mandates Reform Act

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

##### H. Impact on Business Processes and Computer Systems

Many computers that use two digits to keep track of dates will, on January 1, 2000, recognize "double zero" not as 2000 but as 1900. This glitch, the year 2000 problem, could cause computers to stop running or to start generating erroneous data. The Year 2000 problem poses a threat to the global economy in which Americans live and work. With the help of the President's Council on Year 2000 Conversion, Federal agencies are reaching out to increase awareness

of the problem and to offer support. We do not want to impose new requirements that would mandate business process changes when the resources necessary to implement those requirements would otherwise be applied to the Year 2000 problem. This proposed rule does not mandate business process changes or require modifications to computer systems. Because this proposed rule does not affect organizations' ability to respond to the Year 2000 problem, we do not intend to delay the effectiveness of the requirements.

#### List of Subjects

##### 49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

##### 49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

##### 49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

##### 49 CFR Part 174

Hazardous materials transportation, Radioactive materials, Railroad safety.

##### 49 CFR Part 175

Air Carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

##### 49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

##### 49 CFR Part 178

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

##### 49 CFR Part 179

Hazardous materials transportation, Railroad safety, Reporting and recordkeeping requirements.

##### 49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Railroad

safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR chapter I is proposed to be amended as follows:

#### PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 would continue to read as follows:

**Authority:** 49 U.S.C. 5101–5127, 49 CFR 1.53.

##### § 171.7 [Amended]

2. In § 171.7, in paragraph (a)(3), in the table of material incorporated by reference, the entry “ASME Code, Sections II (Parts A and B), V, VIII (Division 1), and IX of 1992 Edition of American Society of Mechanical Engineers Boiler and Pressure Vessel Code and Addenda through December 31, 1993” would be removed and the wording “ASME Code, Sections II (Parts A and B), V, VIII (Division 1), and IX of 1998 Edition of American Society of Mechanical Engineers Boiler and Pressure Vessel Code” would be added in its place.

3. In § 171.8, the definitions of “Aerosol,” “EX number” and “Placarded car” would be revised to read as follows:

##### § 171.8 Definitions and abbreviations.

\* \* \* \* \*

*Aerosol* means any non-refillable receptacle containing a gas compressed, liquefied or dissolved under pressure, the sole purpose of which is to expel a nonpoisonous (other than an Division 6.1 Packing Group III material) liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.

\* \* \* \* \*

*EX number* means a number preceded by the prefix “EX”, assigned by the Associated Administrator for Hazardous Materials Safety, to an item that has been evaluated under the provisions of § 173.56 of this subchapter pertaining to explosives.

\* \* \* \* \*

*Placarded car* means a rail car which is placarded in accordance with the requirements of part 172 of this subchapter.

\* \* \* \* \*

4. In § 171.11, paragraph (d)(5) would be revised and a sentence would be added at the end of paragraph (d)(14) to read as follows:

##### § 171.11 Use of ICAO Technical Instructions.

\* \* \* \* \*

(d) \* \* \*

(5) Except for a Division 2.2 air bag, air bag module, or seat-belt pretensioner, the shipping paper description must conform to the requirements of § 173.166(c) of this subchapter.

\* \* \* \* \*

(14) \* \* \* In addition, an aerosol must be in a metal packaging if the packaging exceeds 7.22 cubic inches.

\* \* \* \* \*

5. In § 171.12, a sentence would be added at the end of paragraph (a) and a new paragraph (b)(19) would be added to read as follows:

##### § 171.12 Imports and export shipments.

(a) \* \* \* All shipping paper information required under paragraph (b) or (d) of this section must be in English.

(b) \* \* \*

(19) Except for Division 2.2, the shipping paper description for an air bag, air bag module, or seat-belt pretensioner must conform to the requirements of § 173.166(c) of this subchapter.

\* \* \* \* \*

#### PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

6. The authority citation for part 172 would continue to read as follows:

**Authority:** 49 U.S.C. 5101–5127; 49 CFR 1.53.

7. In § 172.101, paragraphs (b)(2), (b)(6), as redesignated at 64 FR 10753 effective October 1, 1999, and (c)(8) would be revised to read as follows:

##### § 172.101 Purpose and use of hazardous materials table.

\* \* \* \* \*

(b) \* \* \*

(2) The letter “A” denotes a material that is subject to the requirements of this subchapter only when offered or intended for transportation by aircraft, unless the material is a hazardous substance or a hazardous waste. A shipping description entry preceded by an “A” may be used to describe a material for other modes of transportation provided all applicable requirements for the entry are met.

\* \* \* \* \*

(6) The letter “W” denotes a material that is subject to the requirements of this subchapter only when offered or intended for transportation by vessel, unless the material is a hazardous substance or a hazardous waste. A shipping description entry preceded by

a “W” may be used to describe a material for other modes of transportation provided all applicable requirements for the entry are met.

(c) \* \* \*

(8) Use of the words “*liquid*” or “*solid*”. The words “liquid” or “solid” may be added to a proper shipping name when a hazardous material specifically listed by name may due to differing physical states be a liquid or solid. When the packaging specified in Column 8 is inappropriate for the physical state of the material the table provided in paragraph (i)(4) of this

section should be used to determine the appropriate packaging section.

\* \* \* \* \*

**§ 172.101 [Amended]**

8. In addition, in § 172.101, in the Hazardous Materials Table, the following changes would be made:

a. For the entry “Air, compressed”, Special Provision “78” would be added in column 7.

b. For the entry, “Polychlorinated biphenyls, liquid, UN2315” in Column (1) Symbols, “A, W” would be removed and Special Provision “140” would be added in column 7 in numerical order.

c. For the entry, “Polychlorinated biphenyls, solid, UN2315” in Column

(1) Symbols “A, W” would be removed and Special Provision “140” would be added in column 7 in numerical order.

d. For the entry, “Sodium chlorate, aqueous solution”, PG II, Special Provision “B6,” would be removed in column 7.

9. In § 172.101, the Hazardous Materials Table would be amended by removing and adding, in appropriate alphabetical sequence, the following entries to read as follows:

**§ 172.101 Purpose and use of hazardous materials table.**

\* \* \* \* \*





9a. In addition, in § 172.101, in the Hazardous Materials Table, for the following entries, Column 10B would be revised to read as follows:

Column (2) entry	Column (4) entry	PG	Old column (10B) entry	Revised to read:
Chloroacetone, stabilized .....	UN1695	I	20, 40, 95 .....	20, 40.
Compressed gases, toxic, flammable, n.o.s. Inhalation hazard Zone A.	UN1953		40, 95 .....	40.
Cupriethylenediamine solution .....	UN1761	II	95 .....	
Cyclohexyl isocyanate .....	UN2488	I	20, 40, 95 .....	20, 40.
3,5-Dichloro-2,4,6-trifluoropyridine .....	NA9264	I	40, 95 .....	40.
Ethyl phosphonothioic dichloride, anhydrous.	NA2927	I	20, 40, 95 .....	20, 40.
Ethyl phosphorodichloridate .....	NA2927	I	20, 40, 95 .....	20, 40.
Hydrofluoric acid and Sulfuric acid mixtures.	UN1786	I	40, 95 .....	40.
Lead dioxide .....	UN1872	III	34 .....	
Methyldichloroarsine .....	NA1556	I	40, 95 .....	40.
Oxidizing liquid, corrosive, n.o.s. ....	UN3098	I/II/II	34, 56, 58, 69, 106 .....	56, 58, 69, 106.
		I		
Oxidizing liquid, toxic, n.o.s. ....	UN3099	I/II/II	56, 58, 95, 106 .....	56, 58, 106.
		I		
Oxidizing solid, corrosive, n.o.s. ....	UN3085	I/II/II	13, 34, 56, 58, 69, 106 .....	13, 56, 58, 69, 106.
		I		
Oxidizing solid, toxic, n.o.s. ....	UN3087	I/II/II	56, 58, 69, 95, 106 .....	56, 58, 69, 106.
		I		
Phenyl isocyanate .....	UN2487	I	20, 40, 95 .....	20, 40.
Polychlorinated biphenyls .....	UN2315	II	34 .....	95.
Polyhalogenated biphenyls, liquid or Polyhalogenated terphenyls liquid.	UN3151	II	34 .....	95.
Polyhalogenated biphenyls, solid or Polyhalogenated terphenyls, solid.	UN3152	II	34 .....	95.
Potassium hydrogendifluoride, [solution].	UN1811	II	26, 40, 95 .....	20, 40.
Radioactive material, low specific activity, n.o.s. or Radioactive material, LSA, n.o.s.	UN2912		.....	95.
Radioactive material, special form, n.o.s.	UN2974		.....	95.
Radioactive material, surface contaminated object, n.o.s. or Radioactive material, SCO, n.o.s.	UN2913		.....	95.
Sodium hydrosulfide, solution .....	NA2922	II	40, 95 .....	40.
Thorium metal, pyrophoric .....	UN2975		.....	95.
Thorium nitrate, solid .....	UN2976		.....	95.
Toxic liquids, corrosive, organic, n.o.s., inhalation hazard, Packing Group I, Zone A.	UN2927	I	20, 40, 95 .....	20, 40.
Toxic liquids, corrosive, organic, n.o.s., inhalation hazard, Packing Group I, Zone B.	UN2927	I	20, 40, 95 .....	20, 40.
Toxic liquids, flammable, organic, n.o.s., inhalation hazard, Packing Group I, Zone A.	UN2929	I	20, 40, 95 .....	20, 40.
Toxic liquids, flammable, organic, n.o.s., inhalation hazard, Packing Group I, Zone B.	UN2929	I	20, 40, 95 .....	20, 40.
Toxic, liquids, organic, n.o.s. Inhalation hazard, Packing Group I, Zone B.	UN2810	I	20, 40, 95 .....	20, 40.
Toxic, liquids, organic, n.o.s. Inhalation hazard, Packing Group I, Zone A.	UN2810	I	20, 40, 95 .....	20, 40.
Uranium hexafluoride, fissile (with more than 1 percent U-235).	UN2977		.....	95.
Uranium metal, pyrophoric .....	UN2979		.....	95.
Uranyl nitrate hexahydrate solution ....	UN2980		.....	95.
Uranyl nitrate, solid .....	UN2981		.....	95.

10. In § 172.102, in paragraph (c)(1), Special Provisions 78, 79 and 140 would be added and in paragraph (c)(5)

Special Provision N10 would be amended by adding a sentence at the end to read as follows:

**§ 172.102 Special provisions.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

*Code/Special Provisions*

\* \* \* \* \*

78 This entry may not be used to describe compressed air which contains more than 23.5 percent oxygen. An oxidizer label is not required for any oxygen concentration less than or equal to 23.5 percent.

79 This entry may not be used for mixtures that meet the definition for oxidizing gas.

\* \* \* \* \*

140 This material is regulated only when it meets the defining criteria for a hazardous substance or a marine pollutant.

\* \* \* \* \*

(5) \* \* \*

*Code/Special Provisions*

\* \* \* \* \*

N10 \* \* \* The approval number (*i.e.*, T- \* \* \*) must be marked on each outer package and on the shipping paper.

\* \* \* \* \*

**§ 172.201 [Amended]**

11. In § 172.201, paragraph (a)(1)(ii) would be amended by revising the

reference “§ 172.202(a)(1) and (2), and (3)), or” to read “§ 172.202(a)(1), (2), (3), and (4)), or”.

12. In § 172.204, in paragraph (c)(1), in the certification the word “packed” would be removed and the word “packaged” would be added in its place and a note would be added following the certification to read as follows:

**§ 172.204 Shipper's certification.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

**Note** to paragraph (c)(1): In the certification, the word “packed” may be substituted for the word “package” until [10 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE].

\* \* \* \* \*

13. In § 172.332, paragraph (a) would be revised to read as follows:

**§ 172.332 Identification number markings.**

(a) *General.* When required by §§ 172.302, 172.336, 172.328, 172.330, or § 172.331, identification number

markings must be displayed on orange panels or placards as specified in this section, or on white square-on-point configurations as prescribed in § 172.336(b).

\* \* \* \* \*

**§ 172.336 [Amended]**

14. In § 172.336, in paragraph (b), the first sentence would be amended by removing the wording “in hazard classes for which hazard warning placards are not specified,”.

15. In § 172.504, in paragraph (e), Table 2 would be amended by revising the entry for category 9, and paragraph (f)(8) would be revised to read as follows:

**§ 172.504 General placarding requirements.**

\* \* \* \* \*

(e) \* \* \*

TABLE 2

Category of material (Hazard class or division number and additional description, as appropriate)	Placard name	Placard design section reference (§)
9 .....	Class 9 (see § 172.504(f)(9)) .....	172.560
* .....	* .....	*

(f) \* \* \*

(8) For domestic transportation, a POISON INHALATION HAZARD placard is not required on a transport vehicle or freight container that is already placarded with the POISON GAS placard.

\* \* \* \* \*

16. In § 172.516, the first sentence of paragraph (a) would be revised to read as follows:

**§ 172.516 Visibility and display of placards.**

(a) Each placard on a motor vehicle and each placard on a rail car must be clearly visible from the direction it faces, except from the direction of another transport vehicle or rail car to which the motor vehicle or rail car is coupled. \* \* \*

\* \* \* \* \*

17. In § 172.519, paragraph (b)(3) would be revised to read as follows:

**§ 172.519 General specifications for placards.**

\* \* \* \* \*

(b) \* \* \*

(3) For other than Class 7 or the DANGEROUS placard, text indicating a hazard (for example, “FLAMMABLE”) is not required. In addition, text is not required on the OXYGEN placard provided that the specific identification number is displayed.

\* \* \* \* \*

18. In § 172.604, paragraph (c)(2) would be revised to read as follows:

**§ 172.604 Emergency response telephone number.**

\* \* \* \* \*

(c) \* \* \*

(2) Materials properly described under the shipping names:

Battery powered equipment

Battery powered vehicle

Carbon dioxide, solid

Castor bean

Castor pomace

Castor flake

Castor meal

Consumer commodity

Dry ice

Engines, internal combustion

Fish meal, stabilized  
Refrigerating machine  
Wheelchair, electric

**§ 172.704 [Amended]**

19. In § 172.704, the second parenthetical notation in paragraph (b) would be amended by adding the wording “or 1910.1200” immediately after the wording “1910.120”.

**PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS**

20. The authority citation for part 173 would continue to read as follows:

**Authority:** 49 U.S.C. 5101–5127; 44701; 49 CFR 1.45, 1.53.

**§ 173.4 [Amended]**

21. In § 173.4 the following changes would be made:

a. In paragraph (a)(1)(i), the wording “Division 6.1, Packing Group I materials” would be removed and “materials poisonous by inhalation” added in its place.

b. In paragraph (a)(1)(ii), the wording "Division 6.1, Packing Group I materials" would be removed and "materials poisonous by inhalation" added in its place.

c. In paragraph (a)(1)(iii), the wording "Division 6.1, Packing Group I" would be removed and "materials poisonous by inhalation" added in its place.

22. In addition, in § 173.4, a note would be added following paragraph (a)(6)(ii) to read as follows:

#### § 173.4 Small quantity exceptions

- (a) \* \* \*  
(6) \* \* \*  
(ii) \* \* \*

**Note** to paragraph (a)(6): Each of the tests in paragraph (a)(6) of this section may be performed on a different but identical package; i.e., all tests need not be performed on the same package.

\* \* \* \* \*

23. In § 173.5, paragraph (a) introductory text would be revised to read as follows:

#### § 173.5 Agricultural operations.

(a) For other than a Class 2 material, the transportation of an agricultural product over local roads between fields of the same farm is excepted from the requirements of this subchapter. A Class 2 material transported over local roads between fields of the same farm is excepted from subparts G and H of part 172 of this subchapter. In either case, transportation of the hazardous material is subject to the following conditions:

\* \* \* \* \*

24. In § 173.7, a new paragraph (e) would be added to read as follows:

#### § 173.7 U.S. Government material.

\* \* \* \* \*

(e) Class 1 (explosive) materials owned by the Department of Defense and packaged prior to January 1, 1990, in accordance with the requirements of this subchapter in effect at that time, are excepted from the marking and labeling requirements of part 172 of this subchapter and the packaging and package marking requirements of part 178 of this subchapter provided the packagings have maintained their integrity and the explosive material is declared as "government-owned goods packaged prior to January 1, 1990" on the shipping papers.

25. In § 173.12, paragraph (b)(3) would be revised to read as follows:

#### § 173.12 Exceptions for shipment of waste materials

\* \* \* \* \*

- (b) \* \* \*

(3) *Prohibited materials.* Materials meeting the definition of Division 6.1

Packing Group I, or Division 4.2 Packing Group I, and bromine pentafluoride; bromine trifluoride; chloric acid; and oleum (fuming sulfuric acid) may not be packaged or described under the provisions of this paragraph (b). In addition, a material that meets the definition of a material poisonous by inhalation may not be offered for transportation or transported under the provisions of this paragraph (b).

\* \* \* \* \*

#### § 173.13 [Amended]

26. In § 173.13, paragraph (a) would be amended by adding the parenthetical phrase "(except for the CARGO AIRCRAFT ONLY label)" after the word "labeling" in the first sentence.

27. In § 173.32, paragraph (e)(3) is revised to read as follows:

#### § 173.32 Qualification, maintenance and use of portable tanks other than Specification IM portable tanks.

\* \* \* \* \*

- (e) \* \* \*

(3) *Marking.* The date of the most recent periodic retest must be marked on the tank, on or near the metal certification plate. Marking must be in accordance with § 178.3 of this subchapter, except that a container manufactured under previously authorized specifications may continue to be marked with smaller markings if originally authorized under that specification (e.g., DOT Specification 57 portable tanks).

\* \* \* \* \*

28. In § 173.60, a new paragraph (b)(14) would be added, to read as follows:

#### § 173.60 General packaging requirements for explosives.

\* \* \* \* \*

- (b) \* \* \*

(14) Large and robust explosives articles, normally intended for military use, without their means of initiation or with their means of initiation containing at least two effective protective features, may be carried unpackaged. When such articles have propelling charges or are self-propelled, their ignition systems shall be protected against stimuli encountered during normal conditions of transport. A negative result in Test Series 4 on an unpackaged article indicates that the article can be considered for transport unpackaged. Such unpackaged articles may be fixed to cradles or contained in crates or other suitable handling, storage or launching devices in such a way that they will not become loose during normal conditions of transport and are in accordance with

established and approved DOD procedures.

29. In § 173.61, paragraph (a) would be revised to read as follows:

#### § 173.61 Mixed packaging requirements.

(a) An explosive may not be packed in the same outside packaging with any material that will adversely affect the explosive. This provision does not apply to an explosive packaged by the DOD or DOE in accordance with § 173.7(a).

\* \* \* \* \*

#### § 173.62 [Amended]

30. In § 173.62, paragraph (d) would be removed.

#### § 173.150 [Amended]

31. In § 173.150, the following changes would be made:

a. In paragraph (b) introductory text, the first sentence would be amended by removing the wording "and combustible liquids".

b. In paragraph (f)(3)(iv), the wording "Placarding" would be removed and the wording "For bulk packagings only, placarding" added in its place.

c. In paragraph (f)(3)(viii) the wording "177.834" would be removed and the wording "177.834(j)" added in its place.

32. In § 173.166, paragraph (e) introductory text would be revised, paragraph (f) would be redesignated as paragraph (g) and a new paragraph (f) would be added to read as follows:

#### § 173.166 Air bag inflators, air bag modules and seat-belt pretensioners.

\* \* \* \* \*

(e) *Packagings.* The following packagings at the Packing Group III performance level are authorized:

\* \* \* \* \*

(f) *Shipments for recycling.* When offered for domestic transportation by highway or cargo aircraft only, a serviceable air bag module or seat-belt pretensioner that has been removed from a motor vehicle manufactured as required for use in the United States may be offered for transportation and transported without compliance with the shipping paper requirement prescribed in paragraph (c) of this section. However, the word "Recycled" must be entered on the shipping paper immediately after the basic description prescribed in § 172.202 of this subchapter. No more than one device is authorized in the packaging prescribed in paragraph (e)(1), (2) or (3) of this section. The device must be cushioned and secured within the package to prevent movement during transportation.

\* \* \* \* \*

33. In § 173.242, paragraph (c)(1) would be revised to read as follows:

**§ 173.242 Bulk packaging for certain medium hazard liquids and solids, including solids with dual hazards.**

\* \* \* \* \*

(c) \* \* \*

(1) Each tank must have a minimum design pressure of 62 kPa (9 psig) and be equipped in accordance with the following, except that frangible devices are not authorized:

(i) Each tank must be equipped with at least one pressure relief device such as a spring-loaded valve or fusible plug.

(ii) Each pressure relief device must communicate with the vapor space of the tank when the tank is in a normal transportation attitude. Shutoff valves may not be installed between the tank opening and any pressure relief device. Pressure relief devices must be mounted, shielded, or drained to prevent the accumulation of any material that could impair the operation or discharge capability of the device.

(iii) The total emergency venting capacity (cu. ft./hr.) of each portable tank must be at least that determined from the following table:

Total surface area square feet <sup>1 2</sup>	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

<sup>1</sup> Interpolate for intermediate sizes.

<sup>2</sup> Surface area excludes area of logs.

(A) The pressure operated relief device must open at not less than 3 psig and at not more than the design test pressure of the tank. The minimum venting capacity for pressure activated vents must be 6,000 cubic feet of free air per hour (measured at 14.7 psia and 60° F.) at not more than 5 psig.

(B) If a fusible device is used for relieving pressure, the device must have a minimum area of 1.25 square inches. The device must function at a temperature between 220° F. and 300° F. and at a pressure less than the design test pressure of the tank, unless this latter function is accomplished by a separate device.

(iv) No relief device may be used which would release flammable vapors under normal conditions of

transportation (temperature up to and including 130° F.).

\* \* \* \* \*

34. In § 173.247, paragraph (g)(1)(iii)(C) would be revised to read as follows:

**§ 173.247 Bulk packaging for certain elevated temperature materials (Class 9) and certain flammable elevated temperature materials (Class 3).**

\* \* \* \* \*

(g) \* \* \*

(1) \* \* \*

(iii) \* \* \*

(C) For transportation by rail, a nonreclosing pressure relief device incorporating a rupture disc conforming to the requirements of § 179.15 of this subchapter.

\* \* \* \* \*

**§ 173.306 [Amended]**

35. In § 173.306, in paragraph (h)(2), the wording "hazardous substance or hazardous waste" would be removed and the wording "hazardous substance, a hazardous waste, or a marine pollutant" would be added in its place.

36. In § 173.307, paragraph (a)(4) would be revised to read as follows:

**§ 173.307 Exceptions for compressed gases.**

(a) \* \* \*

(4) Refrigerating machines, including dehumidifiers and air conditioners, and components thereof such as precharged tubing containing:

(i) 12 kg (25 pounds) or less of a non-flammable, non-toxic gas;

(ii) 12 L (3 gallons) or less of ammonia solution (UN2672);

(iii) Except when offered or transported by air, 12 kg of a flammable, non-toxic gas;

(iv) Except when offered or transported by air or vessel, 20 kg (44 pounds) or less of a Group A1 refrigerant specified in ANSI/ASHRAE Standard 15; or

(v) 100 g (4 ounces) of a flammable, non-toxic liquified gas.

\* \* \* \* \*

**PART 174—CARRIAGE BY RAIL**

37. The authority citation for part 174 would continue to read as follows:

**Authority:** 49 U.S.C. 5101–5127; 49 CFR 1.53.

**§ 174.26 [Amended]**

38. In § 174.26, the section heading is revised to read as follows:

**§ 174.26 Notice to train crews.**

\* \* \* \* \*

39. Section 174.50 would be revised to read as follows:

**§ 174.50 Nonconforming or leaking packages.**

Leaking non-bulk packages may not be forwarded until repaired, reconditioned, or overpacked in accordance with § 173.3 of this subchapter. Except as otherwise provided in this section, a bulk packaging that no longer conforms to this subchapter may not be forwarded by rail unless repaired or approved for movement by the Associate Administrator for Safety, Federal Railroad Administration. Notification and approval must be in writing, or through telephonic or electronic means, with subsequent written confirmation provided within two weeks. For the applicable address and telephone number, see § 107.117(d)(4) of this chapter. A leaking bulk package containing a hazardous material may be moved without repair or approval only so far as necessary to reduce or eliminate an immediate threat or harm to human health or the environment when it is determined its movement would provide greater safety than allowing the car to remain in place. In the case of a liquid leak, measures must be taken to prevent the spread of liquid.

**PART 175—CARRIAGE BY AIRCRAFT**

40. The authority citation for part 175 would continue to read as follows:

**Authority:** 49 U.S.C. 5101–5127; 49 CFR 1.53.

**§ 175.25 [Amended]**

41. In § 175.25, in paragraph (a)(2)(ii), the wording "6.0 mm (0.2 inch)" would be removed and the wording "4.0 mm (0.16 inch)" would be added in its place.

**§ 175.30 [Amended]**

42. In § 175.30, paragraph (d)(1) would be amended by adding the wording ", on a pallet or in an overpack" after the words "freight container".

**PART 177—CARRIAGE BY PUBLIC HIGHWAY**

43. The authority citation for part 177 would continue to read as follows:

**Authority:** 49 U.S.C. 5101–5127; 49 CFR 1.53.

44. In § 177.848, paragraph (c) would be revised to read as follows:

**§ 177.848 Segregation of hazardous materials.**

\* \* \* \* \*

(c) In addition to the provisions of paragraph (d) of this section, cyanides or cyanide mixtures may not be loaded or stored with acids if the cyanide

material or mixture, when placed in an acid solution, would generate hydrogen cyanide.

\* \* \* \* \*

#### PART 178—SPECIFICATIONS FOR PACKAGINGS

45. The authority citation for part 178 would continue to read as follows:

**Authority:** 49 U.S.C. 5101–5127; 49 CFR 1.53.

##### § 178.3 [Amended]

46. In § 178.3, in paragraph (a) introductory text, the wording “on a non-removable component of the packaging” would be added immediately following the word “marked”.

##### § 178.345–13 [Amended]

47. In § 178.345–13, in paragraph (a), the wording “and §§ 178–346–13(a), 178–347–13(a) or 178.348–13(a), as applicable” would be removed.

48. In § 178.603, paragraph (f)(5) is revised to read as follows:

##### § 178.603 Drop test.

\* \* \* \* \*

(f) \* \* \*

(5) Any discharge from a closure is slight and ceases immediately after impact with no further leakage; and

\* \* \* \* \*

##### § 178.605 [Amended]

49. In § 178.605, in paragraph (d)(1), in the last sentence, the reference “§ 173.24a (b)(3)” would be revised to read “§ 173.24a (d)”.

##### § 178.703 [Amended]

50. In § 178.703, in paragraph (a)(1)(ii), the wording “(1) and (2)” would be removed.

51. In § 178.815, a new paragraph (c)(4)(iii) would be added to read as follows:

##### § 178.815 Stacking test.

\* \* \* \* \*

(c) \* \* \*

(4) \* \* \*

(iii) The packaging may be tested using a dynamic compression testing machine. The test must be conducted at room temperature on an empty, unsealed packaging. The test sample must be centered on the bottom platen of the testing machine. The top platen must be lowered until it comes in contact with the test sample. Compression must be applied end to end. The speed of the compression tester must be one-half inch plus or minus one-fourth inch per minute. An initial preload of 50 pounds must be applied to ensure a definite contact between the test sample and the platens. The distance between the platens at this time must be recorded as zero deformation. The force “A” to then be applied must be calculated using the applicable formula:

Liquids:  $A = (n-1)[w + (s \times v \times 8.3 \times .98)] \times 1.5$ ;  
or

Solids:  $A = (n-1)[w + (s \times v \times 8.3 \times .95)] \times 1.5$

Where:

A=applied load in pounds.

n=minimum number of containers that, when stacked, reach a height of 3 m.

s=specific gravity of lading.

w=maximum weight of one empty container in pounds.

v=actual capacity of container (rated capacity + outage) in gallons.

And:

8.3 corresponds to the weight in pounds of 1.0 gallon of water.

1.5 is a compensation factor that converts the static load of the stacking test into a load suitable for dynamic compression testing.

\* \* \* \* \*

#### PART 179—SPECIFICATIONS FOR TANK CARS

52. The authority citation for part 179 would continue to read as follows:

**Authority:** 49 U.S.C. 5101–5127; 49 CFR 1.53.

##### § 179.100–20 [Amended]

53. In the table to § 179.100–20, the last entry for “Water capacity” would be removed.

#### PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

54. The authority citation for part 180 would continue to read as follows:

**Authority:** 49 U.S.C. 5101–5127; 49 CFR 1.53.

55. In § 180.417, paragraph (a)(2) would be revised to read as follows:

##### § 180.417 Reporting and record retention requirements.

(a) \* \* \*

(2) Each motor carrier who uses a specification cargo tank motor vehicle must obtain a copy of the manufacturer's certificate and related papers or the alternative report authorized by paragraph (a)(3)(i) or (ii) of this section and retain the documents as specified in this paragraph. A motor carrier who is not the owner of a cargo tank motor vehicle must also retain a copy of the vehicle certification report for as long as the cargo tank motor vehicle is used by that carrier and for one year thereafter. The vehicle certification report and related papers must be maintained at the company's principal place of business or at the location where the vehicle is housed or maintained. The provisions of this section do not apply to a motor carrier who leases a cargo tank for less than 30 days.

\* \* \* \* \*

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**Alan I. Roberts,**

*Associate Administrator for Hazardous Materials Safety.*

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