



# Federal Register

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**Friday,  
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**Part III**

## **Department of Transportation**

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**Research and Special Programs  
Administration**

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**49 CFR Parts 107, 171, 172 et al.  
Hazardous Materials Regulations: Editorial  
Corrections and Clarifications; Final Rule**

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

**49 CFR Parts 107, 171, 172, 173, 174, 176, 177, 178, 179 and 180**

[Docket No. RSPA-00-7755 (HM-189Q)]

RIN 2137-AD47

**Hazardous Materials Regulations: Editorial Corrections and Clarifications**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule corrects editorial errors, makes minor regulatory changes, and improves the clarity of certain provisions in the Hazardous Materials Regulations (HMR). The intended effect of this rule is to enhance the accuracy and reduce misunderstandings of the HMR. The amendments contained in this rule are minor editorial changes and do not impose new requirements.

**EFFECTIVE DATE:** October 1, 2000.

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

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

RSPA (we) annually reviews the Hazardous Materials Regulations (HMR); 49 CFR parts 171-180) and the procedural regulations associated with the HMR (49 CFR part 107) to identify errors causing confusion to readers. In this final rule, we are correcting typographical errors, incorrect references to other rules and regulations in the CFR, inconsistent use of terminology, and misstatements of certain regulatory requirements. In response to inquiries we received concerning the clarity of particular requirements specified in the HMR, we are also making certain other changes to reduce uncertainties and improve understanding.

Because these amendments do not impose new requirements, notice and public comment procedures are unnecessary. In addition, making these amendments effective without the customary 30-day delay following publication will allow the changes to appear in the next revision of the CFR.

The following is a section-by-section summary of the amendments made under this final rule. It does not discuss

all minor editorial corrections (for example, typographical, capitalization and punctuation errors), changes to legal authority citations and certain other minor adjustments intended to enhance the clarity of the HMR.

*Section-by-Section Review**Part 107**Sections 107.3 and 107.117*

Because of Departmental reorganization, we are revising these sections to replace "Federal Highway Administration" with "Federal Motor Carrier Safety Administration."

*Section 107.14*

We are revising paragraph (a)(1) to provide telephone numbers at which callers may leave recorded messages.

*Sections 107.105, 107.219, and 107.329*

We are revising these sections to correct miscellaneous typographical errors.

*Section 107.127*

We are revising paragraph (a) to provide information on certain documents that may be viewed on-line and the Internet address.

*Appendix A to Subpart D*

We are revising paragraph (c) of Section IV of Appendix A to correct the amount of the maximum civil penalty that may be assessed after January 21, 1997.

*Part 171**Section 171.1*

We are revising paragraph (a) to remove an outdated reference to intrastate motor carrier transportation.

*Section 171.6*

We are revising paragraph (b)(2) to revise the table of OMB control numbers to reflect current control numbers, report title and affected sections for collection of information.

*Section 171.7*

We are revising the table of materials incorporated by reference to remove obsolete references.

*Section 171.8*

We are revising the definition of "exemption" to substitute "Federal Motor Carrier Safety Administration" for "Federal Highway Administration." In addition, we are removing the definition for "general public" which was incorporated into the HMR in conjunction with the Radioactive Protection Program (RPP) under Docket HM-169B (60 FR 50292), a final rule

published on September 28, 1995. In a subsequent final rule published under HM-169B (63 FR 48566) published on September 10, 1998, we removed the RPP requirements; however, we overlooked the removal of the definition for "general public" which was exclusive to the RPP. Finally, we are updating the definition of "preferred route or preferred highway" to correct an outdated CFR citation.

*Sections 171.11 and 171.12*

We are correcting two miscellaneous typographical errors in these sections.

*Section 171.15*

In paragraph (a)(2), we are removing outdated CFR references. In paragraph (a)(5) and in the introductory text in paragraph (b), we are correcting the name of the organization that receives the incident notifications.

*Part 172**Section 172.101*

In paragraph (g), we are adding a sentence to clarify that requirements for applying EMPTY labels are in § 173.428. In the paragraph (g) table, we are adding an entry for the INFECTIOUS SUBSTANCE label that had been inadvertently omitted.

*The Hazardous Materials Table (HMT)*

We are amending the HMT by correcting various typographical, capitalization and punctuation errors. We are correcting certain other errors such as removing obsolete reference ("see") entries and obsolete ID numbers appearing in the italicized portion of certain proper shipping names. In addition, we are correcting the order of the qualifying words "flammable" and "toxic" for the following proper shipping names: "Pyrethroid pesticide, liquid, toxic, flammable, *flash point less than 23 degrees C,*" UN3350; "Pyrethroid pesticide, liquid, flammable, toxic, *flash point not less than 23 degrees C,*" UN3351; "Thiocarbamate pesticide, liquid, flammable, toxic, *flash point not less than 23 degrees C,*" UN3005; and "Triazine pesticides, liquid, flammable, toxic, *flash point less than 23 degrees C,*" UN2764. The qualifying words "flammable" and "toxic" were printed in the incorrect order under a final rule, HM-215C (64 FR 10742) published on March 5, 1999. Although the corrected order is the preferred order, as provided in § 172.101(c)(4), when qualifying words are used as part of the proper shipping name, their sequence is optional for markings and shipping paper descriptions. For two reference ("see") entries, we are removing the

word “commercial.” Under HM–215C, we removed the word from certain Class 1 (explosive) material entries, however, failed to remove the word from the reference entries. Some HMT revisions appear as “remove” and “add” and, therefore, readers should review all regulatory text revisions for a complete view of the changes.

#### *Appendices A and B to § 172.101*

In Table 1 to Appendix A, we are correcting several printing errors. We are removing the first of two duplicate entries for “DDE” and “4,4’-DDE.” In addition, we are adding reportable quantity (RQ) entries for four materials for which RQs were omitted. In Appendix B, we are removing three asterisks from the entry for “PCBs” that were originally included in error.

#### *Section 172.102*

We are revising Special Provision A52 to change the phrase “Type I shipping containers” to “Category I shipping containers.” This change makes the language of the special provision consistent with the terminology used in Air Transport Association Specification 300.

In paragraph (c)(2), we are revising Special Provision B13 to correct CFR references changed by revisions to the cargo tank specifications. We are revising Special Provision B14 to remove an expired transition provision.

#### *Section 172.203*

We are revising paragraph (d) of this section to remove an obsolete provision for describing activity levels for packages of radioactive materials.

#### *Section 172.310*

We are correcting a typographical error in paragraph (a).

#### *Section 172.400a*

We are revising paragraph (a)(7) to clarify that the exception from labeling in § 173.427(a)(6)(vi) also applies to surface contaminated objects.

#### *Section 172.403*

We are revising paragraph (a) to remove the reference to § 173.428 which was revised and is no longer relevant to the labeling requirements specified in § 172.403. In addition, we are revising paragraph (g) to remove an obsolete provision for labeling packages of radioactive materials.

#### *Section 172.505*

We are revising paragraph (a) to correct the section reference “§ 172.203(m)(3)” to “§ 172.203(m)(2)”.

#### *Section 172.556*

We are revising paragraph (a) to correct the illustration for the RADIOACTIVE placard to show that the yellow background color on the top half of the placard may extend only to the inner border. This revision makes the placard illustration consistent with placard specification prescribed in § 172.519(d)(4).

#### *Section 172.558*

We are revising paragraph (a) to correct the illustration for the CORROSIVE placard to show that the base of the white triangle in the upper portion of the placard must be 38 mm ± 5 mm (1.5 inches ± 0.2 inches) above the placard horizontal center line, as prescribed in paragraph (b).

#### *Section 172.604*

We are revising paragraph (a) to remove the reference to a “24-hour” emergency response telephone number. Consistent with § 172.604(b), the emergency response telephone number must be monitored at all times the hazardous material is in transportation, which may not be 24 hours in all situations.

#### *Part 173*

#### *Section 173.4*

We are amending this section to add a note following paragraph (a)(6) that was inadvertently removed due to a printing error in an earlier revision.

#### *Section 173.7*

We are revising paragraph (e), added under Docket HM–218, August 18, 2000, (65 FR 50460), effective October 1, 2000, to clarify the marking and labeling requirements for certain Class 1 explosives owned by the Department of Defense (DOD) and packaged prior to January 1, 1990. In the preamble, in Docket HM–218, we stated that the explosives were excepted from the current marking and labeling requirements, provided they are marked and labeled in conformance with the requirements of the HMR that were in effect at the time they were originally marked and labeled.

#### *Section 173.12*

We are revising this section to remove paragraph (d)(2), which references a provision that no longer appears in § 172.203(m).

#### *Section 173.27*

We are revising paragraph (b)(4) to correct the paragraph reference for the CARGO AIRCRAFT ONLY label from “§ 172.402(b)” to “§ 172.402(c)”.

#### *Section 173.31*

We are revising paragraph (b)(6)(ii) to update the address to which required tank car reports must be submitted.

#### *Section 173.32*

We are editorially revising paragraph (a)(1) for clarity. In addition, we are correcting section references related to the portable tank specifications in part 178.

#### *Section 173.34*

We are revising paragraph (h) to correct outdated CFR references.

#### *Section 173.62*

We are relocating text for entry 137 in the table of packing methods from column 3 to column 4 to correct a printing error. In addition, in paragraph (c), in footnote (1)(e)(iv) following the table, we are correcting a CFR reference.

#### *Section 173.128*

In paragraph (d)(1)(ii), we are correcting a CFR reference.

#### *Section 173.132*

We are revising paragraph (a)(1)(iii)(B) for consistency with the table in § 173.133(a)(2)(i). In paragraph (c)(3), we are correcting a typographical error in the formula.

#### *Section 173.159*

We are revising paragraph (a) to specify that electric storage batteries may not be packed with other materials except as provided in paragraphs (g) and (h) of this section and in §§ 173.220 and 173.222. The reference to paragraph (g) was inadvertently omitted due to a printing error.

#### *Section 173.166*

We are revising paragraph (d)(3), added under Docket HM–218 (65 FR 50461) to provide for the transportation of a recycled air bag module or a seat belt pretensioner by rail freight and cargo vessel. In the preamble of Docket HM–218, we stated that the amendment 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. During the HM–218 rulemaking proceedings, RSPA revised the exemption to authorize rail freight and cargo vessel as additional authorized modes of transportation. In this final rule, we are amending paragraph (d)(3) to reflect the revision to the exemption.

*Sections 173.181, 173.224, 173.225, 173.304, and 173.306*

We are making changes to remove or replace outdated CFR references.

*Section 173.315*

Effective December 31, 1990, the MC 331 cargo tank specification in § 178.337 was revised. Among other revisions, requirements for emergency discharge control systems previously located in § 178.337–11(c) were revised and moved to § 178.337–11(a). However, through an oversight, Note 16 to the table in § 173.315(a), which required MC 330 and MC 331 to be equipped with emergency discharge controls conforming to § 178.337–11(c), was not revised. Effective July 1, 1999, the MC 331 cargo tank specification in § 178.337 was again revised. Among other revisions, requirements for emergency discharge control systems previously located in § 178.337–11(a) were rewritten and provisions applicable to opening, inlets, and outlets were relocated to § 178.337–8(a). Note 16 to the table in § 173.315(a) was not revised to account for the 1999 changes in §§ 178.337–8 and 178.337–11. This final rule revises § 173.315(a) to require openings, inlets, and outlets on MC 330 and MC 331 cargo tanks to conform to § 178.337–8(a) and to require MC 330 and MC 331 cargo tanks to be equipped with emergency discharge control systems that conform to § 178.337–11(a).

In addition, we are revising paragraphs (f) and (o) to correct a reference.

We are also revising paragraph (i)(4) to correct a typographical error in the second sentence. The sentence is corrected to indicate that the start-to-discharge *value*, not *valve*, must be visible after the valve is installed.

Paragraph (n)(5)(iii) includes an inadvertent reference to non-specification cargo tanks authorized under paragraph (k) of § 173.315. Paragraph (n)(5)(iii) requires certain cargo tanks in metered delivery service with capacities over 3,500 gallons to be equipped with emergency discharge control equipment by the dates specified. Non-specification cargo tanks authorized for use under § 173.315(k) are limited to capacities of 3,500 gallons or less. This final rule removes the inadvertent reference to non-specification cargo tanks.

*Section 173.319*

We are revising paragraphs (c) and (d)(2) to correct outdated CFR references.

*Section 173.403*

For consistency with the proper shipping name listed in the § 172.101 Hazardous Materials Table, we are revising the wording for the definition “Radioactive instrument and article” to read “Radioactive instrument or article.”

*Section 173.417*

In paragraph (b)(1) Table 4 and in paragraph (b)(2)(ii) Table 5, we are replacing the symbol “<=” with the universally acknowledged symbol “≤.”

*Section 173.425*

We are correcting the entry for “Gases” in Table 7 by replacing the entry “Other form” with “Normal form.” “Other form” is not a defined category in the regulations.

*Section 173.427*

In paragraph (c)(2)(i), we are removing an outdated CFR reference.

*Section 173.435*

We are revising two references in the table to correct printing errors.

*Part 174*

*Section 174.290*

We are correcting an outdated CFR reference in paragraph (b)(1).

*Part 176*

*Section 176.78*

The last sentence, in § 176.78(h)(8), that makes reference to former § 176.79 is removed.

*Section 176.104*

In paragraph (g), we are removing an obsolete section reference.

*Section 176.166*

We are revising paragraph (a)(2) to correct the section reference “§ 176.143 (b)(2)” by replacing it with “§ 176.142 (b)(2).”

*Sections 176.410 and 176.415*

In these sections, we are revising the incorrect UN identification number “UN 2072” by replacing it with “NA 2072.”

*Section 176.905*

We are revising paragraph (j) to correct an outdated CFR reference.

*Part 177*

*Section 177.835*

Based on comments from the Institute of Makers of Explosives, we are removing outdated CFR references in paragraph (h), and revising paragraph (g). The phrase “explosives for blasting” is replaced with the term “Division 1.5”

and a reference to “Class A, B and C explosives” is removed.

*Section 177.843*

In paragraph (c), we are correcting the section reference for Class 7 (radioactive) material incidents by adding §§ 171.15 and 171.16.

*Section 177.854*

The introductory text in paragraph (d) references sections of part 177 that were removed in a previous revision. This final rule removes these references.

*Part 178*

*Section 178.37*

We are revising an outdated CFR reference in paragraph (g)(4).

*Section 178.44*

In paragraph (b), in Table 1—Authorized Materials, for specification 3HT seamless steel cylinders for aircraft use, we are correcting an error for the entry “Molybdenum” by revising the specification “0.15/.025” to read “0.15/0.25.”

*Section 178.65*

In paragraph (i), we are removing an outdated CFR reference.

*Section 178.337–3*

We are revising paragraphs (e) and (g)(2) to include metric measurements for the metal thicknesses specified.

*Sections 178.345–3, 178.345–10, 178.345–13, 178.346, 178.346–1, 178.347–1, and 178.348–1*

We are revising several paragraphs in these sections to correct CFR references changed by revisions to the cargo tank specifications.

*Section 178.356–1*

In paragraph (c), we are correcting an incorrect reference to obsolete § 178.118–8(b) for shell closure requirements. We are redesignating current paragraph (d) as paragraph (e) and adding in new paragraph (d) the closure requirements formerly contained in obsolete § 178.118–8(b).

*Section 178.606*

We are revising paragraph (c)(1) to make minor editorial changes.

*Section 178.703*

We are revising paragraph (a)(1)(i) to correct an outdated CFR reference.

### Part 179

Sections 179.100–1, 179.100–3, 179.100–9, 179.100–13, 179.102–4 and 179.220

We are correcting several outdated CFR references in these sections.

#### Section 179.301

In paragraph (a), in the table we are revising the entry for “Bursting pressure, p.s.i.” to remove an outdated CFR reference and clarify that the entry refers to the minimum required bursting pressure.

Sections 179.400–6 and 179.401–1

We are revising several outdated CFR references in these sections.

### Part 180

#### Section 180.352

We are revising paragraph (b)(3)(ii) to correct a CFR reference.

#### Section 180.405

We are revising several paragraphs in this section to correct CFR references changed by revisions to the cargo tank specifications.

#### Section 180.407

Effective July 1, 2000, paragraph (h) was revised to add a delivery hose assembly and piping test to the leakage test requirements for MC 330, MC 331, and non-specification cargo tank authorized under § 173.315(k). Paragraph (h)(4) includes a requirement for record keeping to document the results of the tests. The inclusion of the term “original hose assembly” in reference to the date of the tests in paragraph (h)(4) was inadvertent. To comply with the record keeping requirements in this paragraph, a Registered Inspector must note the hose identification number of the hose being tested, the date of the test, and the condition of the hose assembly and piping system tested. Paragraph (h)(4) is revised in this final rule to correct this inadvertent error.

#### Section 180.519

In paragraphs (b)(1) and (c), we are revising several outdated CFR references.

### Regulatory Analyses and Notices

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

This final 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 according to the Regulatory Policies and Procedures of

the Department of Transportation (44 FR 11034). Because of the minimal economic impact of this rule, preparation of a regulatory impact analysis or a regulatory evaluation is not warranted.

#### B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (“Federalism”). This final rule does preempt State, local, and Indian tribe requirements but does not adopt any regulation that has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The Federal hazardous materials transportation law, 49 U.S.C. 5101–5127, contains an express preemption provision (49 U.S.C. 5125 (b)) that preempts State, local, and Indian tribe requirements on certain covered subjects. Covered 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 related to hazardous materials and requirements related to the number, contents, and placement of those documents;
- (iv) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or (
- (v) The design, manufacture, fabrication, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This final rule addresses covered subject items (i), (ii), (iii), (iv), and (v) above and preempts State, local, and Indian tribe requirements not meeting the “substantively the same” standard. This final rule is necessary to enhance the accuracy and reduce misunderstandings of the HMR.

Federal hazardous materials transportation law provides at 5125(b)(2) that, if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. The 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 has determined that the effective date of Federal preemption for these requirements will be 90 days from the date of publication in the **Federal Register**.

#### C. Executive Order 13084

This final 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 final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of this Executive Order 13084 do not apply.

#### D. Regulatory Flexibility Act

I certify that the requirements adopted in this final rule are applicable to a substantial number of small businesses, but that the economic impact on these small businesses will not be significant. This rule makes minor editorial changes which will not impose any new requirements on persons subject to the HMR; thus, there are no direct or indirect adverse economic impacts for small units of government, businesses or other organizations.

#### E. Unfunded Mandates Reform Act of 1995

This 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.

#### F. 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 OMB control number. There are no new information collection requirements in this final rule.

#### G. 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.

**List of Subjects**

*49 CFR Part 107*

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

*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 176*

Hazardous materials transportation, Maritime carriers, 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 amended as follows:

**PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES**

1. The authority for part 107 continues to read as follows:

**Authority:** 49 U.S.C. 5101–5127, 44701; Sec. 212–213, Pub. L. 104–121, 110 Stat. 857; 49 CFR 1.45, 1.53.

**§ 107.3 [Amended]**

1. In § 107.3, in the definition for “exemption”, the wording “Federal Highway Administration” is removed and “Federal Motor Carrier Safety Administration” is added in its place.

2. In § 107.14, the third and fourth sentences in paragraph (a)(1) are revised to read as follows:

**§ 107.14 Availability of informal guidance and interpretive assistance.**

(a) *Availability of telephonic and Internet assistance.* (1) \* \* \* When the information line is not staffed, callers may leave a recorded message, which will be answered by the end of the next business day. The telephone numbers for the information line are: 1–800–HMR–4922 (that is; 1–800–467–4922 toll free), or 202–366–4488 (in the Washington, D.C. area). \* \* \*

**§ 107.105 [Amended]**

3. In § 107.105, in paragraph (c)(9), at the end of the paragraph, the semicolon is removed and a period is added in its place.

**§ 107.117 [Amended]**

4. In § 107.117, in paragraph (d)(3), the wording “Federal Highway Administration” is removed and the wording “Federal Motor Carrier Safety Administration” is added in its place.

**§ 107.127 [Amended]**

5. In § 107.127, in paragraph (a), a new sentence is added at the end of the paragraph to read as follows:

**§ 107.217 Availability of documents for public inspection.**

(a) \* \* \* Documents numbered 11832 and above may also be viewed at the internet website address <http://dms.dot.gov>. \* \* \*

**§ 107.219 [Amended]**

6. In § 107.219, in paragraph (c)(1), the wording “political subdivision thereof of Indian tribe requirement” is removed and the wording “political

subdivision thereof or Indian tribe requirement” is added in its place.

**§ 107.329 [Amended]**

7. In § 107.329, in paragraph (b), the wording “and order issued thereunder” is removed and the wording “an order issued thereunder” is added in its place.

8. In Part 107, in Appendix A to Subpart D, in Section IV, in paragraph C, the first sentence is revised as follows:

**Appendix A to Subpart D of Part 107—Guidelines for Civil Penalties**

\* \* \* \* \*

**IV. Miscellaneous Factors Affecting Penalty Amounts**

\* \* \* \* \*

*C. Penalty Increases for Multiple Counts*

Under the Federal hazmat law, 49 U.S.C. 5213(a), each violation of the HMR and each day of a continuing violation (except for violations pertaining to packaging manufacture or qualification) is subject to a civil penalty of up to \$25,000 (\$27,500 for a violation occurring after January 21, 1997).

\* \* \* \* \*

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

9. The authority citation for part 171 continues to read as follows:

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

**§ 171.1 [Amended]**

10. In § 171.1, in paragraph (a)(1), the following changes are made:

a. The comma after the parenthetical wording “(except as delegated at § 1.46(t) of this title)” is removed and a period is added in its place.

b. The parenthetical wording “(except that until October 1, 1998, this subchapter applies to intrastate carriers by motor vehicle only in so far as this subchapter relates to hazardous waste, hazardous substances, flammable cryogenic liquids in portable tanks and cargo tanks, and marine pollutants).” is removed.

11. In § 171.6, paragraph (b)(2) table is revised to read as follows:

**§ 171.6 Control numbers under the Paperwork Reduction Act.**

\* \* \* \* \*

(b) \* \* \*  
(2) Table.

Current OMB control No.	Title	Title 49 CFR part or section where identified and described
2137-0014 .....	Cargo Tank Specification Requirements .....	§§ 107.503, 107.504, 178.320, 178.337, 178.338, 178.345, 180.407, 180.409, 180.413, 180.417.
2137-0018 .....	Inspection and Testing of Portable Tank and IBC's .....	§§ 173.24, 173.32, 173.32a, 173.32b, 178.3, 178.245, 178.255, 178.270, 178.703, 178.801, 180.352.
2137-0022 .....	Testing, Inspection, and Marking Requirements for Cylinders.	§§ 173.34, 173.302, 173.303, 173.309, 178.2, 178.3, 178.35, 178.44, 178.45, 178.46, 178.57, 178.59, 178.60, 178.61, 178.68.
2137-0034 .....	Hazardous Materials Shipping Papers and Emergency Response Information.	§§ 172.200, 172.201, 172.203, 172.204, 172.205, 172.600, 172.602, 172.604, 172.606, 173.6, 173.7, 173.22, 173.56, 174.24, 174.26, 174.114, 175.30, 175.31, 175.33, 175.35, 176.24, 176.27, 176.30, 176.36, 176.89, 177.817.
2137-0039 .....	Hazardous Materials Incident Report .....	§§ 171.15, 171.16.
2137-0051 .....	Rulemaking and Exemptions Petitions .....	§§ 106.31, 106.35, 106.38, 107.5, 107.7, 107.105, 107.107, 107.109, 107.113, 107.117, 107.121, 107.123, 107.125, 107.205, 107.211, 107.215, 107.217, 107.219, 107.221, 107.223.
2137-0510 .....	RAM Transportation Requirements .....	Part 173, Subpart I, §§ 173.22, 173.411, 173.415, 173.416, 173.417, 173.457, 173.471, 173.472, 173.473, 173.476.
2137-0542 .....	Cryogenic Liquids Requirements .....	§§ 173.318, 177.816, 177.840, 180.405.
2137-0557 .....	Approvals for Hazardous Materials .....	§§ 107.402, 107.403, 107.405, 107.503, 107.705, 107.713, 107.715, 107.717, 110.30, 172.101, 172.102, Special provisions: 26, 29, 53, 55, 60, 105, 118, 121, 125, 129, 131, 133, 136; 172.102, Special provisions: B45, B55, B61, B69, B77, B81; N10, N72; Code: T42; 173.2a, 173.4, 173.7, 173.21, 173.22, 173.24, 173.28, 173.31, 173.32a, 173.32b, 173.34, 173.51, 173.56, 173.58, 173.59, 173.124, 173.128, 173.159, 173.166, 173.171, 173.214, 173.222, 173.224, 173.225, 173.245, 173.300a, 173.300b, 173.301, 173.305, 173.306, 173.314, 173.315, 173.316, 173.318, 173.334, 173.340, 173.411, 173.433, 173.457, 173.471, 173.472, 173.473, 173.476, 174.50, 174.63, 175.10, 175.701, 176.168, 176.340, 176.704, 178.3, 178.35, 178.47, 178.53, 178.58, 178.270-3, 178.270-13, 178.503, 178.509, 178.605, 178.606, 178.608, 178.801, 178.813.
2137-0559 .....	Rail Carriers and Tank Car Tank Requirements .....	§§ 172.102, Special provisions: B45, B46, B55, B61, B69, B77, B78, B81; 173.10, 173.31, 174.20, 174.50, 174.63, 174.104, 174.114, 174.204, 179.3, 179.4, 179.5, 179.6, 179.7, 179.11, 179.18, 179.22, 179.100-9, 179.100-12, 179.100-13, 179.100-16, 179.100-17, 179.102-4, 179.102-17, 179.103-1, 179.103-2, 179.103-3, 179.103-5, 179.200-10, 179.200-14, 179.200-15, 179.200-16, 179.200-17, 179.200-19, 179.201-3, 179.201-8, 179.201-9, 179.220-4, 179.220-7, 179.220-8, 179.220-13, 179.220-15, 179.220-17, 179.220-18, 179.220-20, 179.220-22, 179.300-3, 179.300-7, 179.300-9, 179.300-12, 179.300-13, 179.300-15, 179.300-20, 179.400-3, 179.400-4, 179.400-11, 179.400-13, 179.400-16, 179.400-17, 179.400-19, 179.400-20, 179.500-5, 179.500-8, 179.500-12, 179.500-18, 180.505, 180.509, 180.515, 180.517.
2137-0572 .....	Testing Requirements for Non-Bulk Packaging .....	§§ 178.2, 178.601.
2137-0582 .....	Container Certification Statement .....	§§ 176.27, 176.172.
2137-0586 .....	Hazardous Materials Public Sector Training and Planning Grants.	Part 110.
2137-0595 .....	Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service.	§§ 173.315, 178.337-8, 178.337-9, 180.405, 180.416.

#### § 171.7 [Amended]

12. In § 171.7, in the table in paragraph (a)(3), the following changes are made:

a. The entry "ASTM B 90-69" is removed.

b. In the entry "ASTM B 557-84", in column 2, the reference "; 178.251" is removed.

c. In the entry "ASTM E 8-89", in column 2, the reference "; 178.251" is removed.

d. In the entry "CGA Pamphlet C-3", in column 2, the reference "178.54;" is removed.

e. The entry for "Fertilizer Institute" is removed.

f. The first entry for "Health and Human Services" is removed and the entry for "Health and Human Services"

following "ISO 1496-3-1995(E)" is placed in alphabetical order.

g. Under *Transport Canada*, in the entry "Transportation of Dangerous Goods Regulations," in column 2, the reference "; 174.11" is removed.

12a. In § 171.7, in the paragraph (b) table, the entry for the "Department of Transportation (USDOT)" is removed.

**§ 171.8 [Amended]**

13. In § 171.8, the following changes are made:

a. In the definition of “*Exemption*”, the parenthetical wording “(e.g., Federal Highway Administration routing)” is removed and the parenthetical wording “(e.g., Federal Motor Carrier Safety Administration routing)” is added in its place.

b. The definition “*General public*” is removed.

c. In the definition “*Preferred route or Preferred highway*”, the wording “§ 177.825(b) of this subchapter.” is removed and the wording “§ 397.103 of this title.” is added in its place.

**§ 171.11 [Amended]**

14. In § 171.11, in paragraph (d)(1), revise “§ 172.203(c)” to read “§§ 172.203(c)”.

**§ 171.12 [Amended]**

15. In § 171.12, in paragraph (b)(2), the “0” at the end of the paragraph is removed.

**§ 171.15 [Amended]**

16. In § 171.15, the following changes are made:

a. In paragraph (a)(2), the parenthetical wording “(see also §§ 174.45, 176.48, and 177.807 of this subchapter)” is removed.

b. In paragraphs (a)(5) and (b) introductory text, the word “Department” is removed and the wording “National Response Center” is added in its place.

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

17. The authority citation for part 172 continues to read as follows:

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

18. In § 172.101, in paragraph (g), a new sentence is added after the fifth sentence, and in the Label Substitution

Table, a new entry is added in appropriate numerical order to read as follows:

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

\* \* \* \* \*

(g) \* \* \* For “Empty” label requirements, see § 173.248 of this subchapter. \* \* \*

**LABEL SUBSTITUTION TABLE**

Label code		Label name	
*	*	*	*
*	6.2	*	Infectious substance
*	*	*	*

\* \* \* \* \*

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

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

\* \* \* \* \*

§ 172.101—HAZARDOUS MATERIALS TABLE

(1) Symbols	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class or division	(4) Identification Numbers	(5) PG	(6) Label codes	(7) Special provisions	(8) Packaging (§173.***)		(9) Quantity limitations		(10) Vessel stowage	
							(8A) Exceptions	(8E) Non-bulk	(8C) Bulk	(9A) Passenger aircraft/rail	(9B) Cargo aircraft only	(10A) Location
(1)	[REMOVE]	*										
	Anhydrous ammonia, <i>see Ammonia, anhydrous</i> .	*				*						
	Batteries, wet filled with alkali, <i>electric storage</i> .	*	8 UN2795 .....	III	8	*	159 .....	159 .....	25 kg gross	No limit .....	A.	
	Battery, wet, filled with acid or alkali with automobile (or named self-propelled vehicle or mechanical equipment containing internal combustion engine) <i>see</i> vehicles, self-propelled, etc.	*				*						
	Calcium bisulfite solution, <i>see Bisulfites, inorganic, aqueous solutions, n.o.s.</i>	*				*						
	1-Chloro-1,1-difluoroethane, <i>see</i> Chlorodifluoroethanes.	*				*						
	Cyclotrimethylenetrinitramine and cyclotetramethylenetetranitramine mixtures, wetted or desensitized <i>see</i> RDX and HMX mixtures, wetted or desensitized etc.	*				*						
	Dichlorodifluoromethane or refrigerant gas R21.	*				*						
	1,2-Dichloro-1,1,2,2-Tetrafluoroethane or Refrigerant gas R 114.	*				*						
	Dichloropropene and propylene dichloride mixture, <i>see</i> Propylene dichloride.	*				*						
	Dicycloheptadiene, <i>see</i> 2,5-Norbornadiene.	*				*						
	Etiologic agent, <i>see</i> Infectious substances, etc).	*				*						
	Fluoric acid, <i>see</i> Hydrofluoric acid, solution, etc.	*				*						
	Fuzes, combination, percussion and time, <i>see</i> Fuzes, detonating (UN0257, UN0367); Fuzes, igniting (UN0317, UN0368).	*				*						
	Hexaethyl tetraphosphate liquid.	*				*						
	Igniter fuse, metal clad, <i>see</i> Fuse, igniter, tubular, metal clad.	*				*						
	Jet perforators, <i>see</i> Charges, shaped, commercial, etc.	*				*						
	Jet tappers, without detonator, <i>see</i> Charges, shaped, commercial, etc.	*				*						
	Lacquer base or lacquer chips, plastic, wet with alcohol or solvent, <i>see</i> Nitrocellulose (UN2059, UN2060, UN2555, UN2556) or Paint etc. (UN1263).	*				*						
	Liquefied hydrocarbon gas, <i>see</i> Hydrocarbon gases, liquefied, n.o.s., etc.	*				*						
	Mobility aids, <i>see</i> Wheel chair, electric.	*				*						





§ 172.101—HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification Numbers	PG	Label codes	Special provisions	Packaging (§ 173.***)		Quantity limitations		Vessel stowage	
							Exceptions	Non-bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8E)	(9A)	(9B)	(10A)	(10B)
	Lacquer base or lacquer chips, plastic, wet with alcohol or solvent, see Nitrocellulose (UN2059, UN2555, UN2556, UN2557) or Paint etc (UN1263).	*						*				
	Liquefied hydrocarbon gas, see Hydrocarbon gas mixture, liquefied, n.o.s.	*						*				
	Mobility aids, see Battery powered equipment or Battery powered vehicle.	*						*				
	Muriatic acid, see Hydrochloric acid.	*						*				
	Musk xylene, see 5-tert-Butyl-2,4,6-trinitro-m-xylene.	*						*				
	Nitrogen peroxide, see Dinitrogen tetroxide.	*						*				
	Nitrogen tetroxide, see Dinitrogen tetroxide.	*						*				
	Nonflammable gas, n.o.s., see Compressed gas, etc. or Liquefied gas, etc.	*						*				
	Nonliquefied hydrocarbon gas, see Hydrocarbon gas mixture, compressed, n.o.s.	*						*				
	2,5-Norbornadiene, inhibited, see Bicyclo [2.2.1] hepta-2, 5-diene, inhibited.	*						*				
	Octogen, see cyclotetra methylene tetramine, etc.	*						*				
	Organic peroxide type A, liquid or solid.	*						*				
	Organic pigments, self-heating	4.2	UN3313	III			None	212	15 kg	50 kg		
	Organic pigments, self-heating	4.2		III			None	213	25 kg	100 kg		
	Pepper spray, see Aerosols, etc. or Self-defense spray, non-pressurized.	*						*				
	Phenylenediamines (o-, m-, p-)	6.1	UN1673	III			153	213	100kg	200kg		
	Potassium bisulfite solution, see Bisulfites, aqueous solutions, n.o.s.	*						*				
	Potassium dichloro isocyanurate or Potassium dichloro-s-triazetrione, see Dichloroisocyanuric acid, dry or Dichloroisocyanuric acid salts etc.	*						*				
	Potassium metal, liquid alloy, see Alkali metal alloys, liquid, n.o.s.	*						*				
	Pyrethroid pesticide, liquid, flammable, toxic, flash point less than 23 degrees C.	3	UN3350	I		T24,T26	None	201	Forbidden	30L	B	40
	Pyrethroid pesticide, liquid, toxic, flammable, flash point not less than 23 degrees C.	6.1		II		T14	None	202	1 L	60L	B	40
	Pyrethroid pesticide, liquid, toxic, flammable, flash point not less than 23 degrees C.	6.1	UN3351	I		T24, T26	None	201	1 L	30 L	B	40
	RDX, see Cyclotrimethylene trinitramine, etc.			II		T14	None	202	5 L	60 L	B	40
				III		T14	153	203	60 L	220 L	B	40



21. In Appendix A to § 172.101, in Table 1 to Appendix A, the first entries for DDE and 4,4'-DDE are removed and four entries are revised to read as follows:

**Appendix A to § 172.101—List of Hazardous Substances and Reportable Quantities**

\* \* \* \* \*

TABLE 1 TO APPENDIX A.—HAZARDOUS SUBSTANCES OTHER THAN RADIONUCLIDES

Hazardous substance	Reportable quantity (RQ) pounds (kilograms)
[REMOVE]:	
DDE (first time it appears) .....	5000 (2270)
4,4'-DDE (first time it appears) .....	5000 (2270)
[REVISE]:	
* * * * *	*
K001	
Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol .....	1 (0.454)
* * * * *	*
K003	
Wastewater treatment sludge from the production of molybdate orange pigments .....	10 (4.54)
* * * * *	*
K005	
Wastewater treatment sludge from the production of chrome green pigments .....	10 (4.54)
* * * * *	*
K007	
Wastewater treatment sludge from the production of iron blue pigments .....	10 (4.54)
* * * * *	*

\* \* \* \* \*  
 22. In Appendix B to § 172.101, in the List of Marine Pollutants, revise the heading and add an entry in appropriate alphabetical order to read as follows:

**Appendix B To § 172.101—List of Marine Pollutants**

\* \* \* \* \*

LIST OF MARINE POLLUTANTS

S.M.P. (1)	Marine pollutant (2)
* * * * *	* * * * *
PP .....	PCBs.
* * * * *	* * * * *

**§ 172.102 [Amended]**

23. In § 172.102, in paragraph (c)(2), Special Provision A52 is revised; in paragraph (c)(3), in Special Provision B13, paragraph b is revised; and in Special Provision B14, the last sentence is removed to read as follows:

**§ 172.102 Special provisions.**

\* \* \* \* \*

- (c) \* \* \*
- (2) \* \* \*

*Code/Special Provisions*

\* \* \* \* \*

A52 A cylinder containing Oxygen, compressed, may not be loaded into a passenger-carrying aircraft or in an inaccessible cargo location on a cargo-only aircraft unless it is placed in an overpack or

outer packaging that conforms to the performance criteria of Air Transport Association (ATA) Specification 300 for Category I shipping containers.

(3) \* \* \*

*Code/Special Provisions*

\* \* \* \* \*

B13 \* \* \*

b. Packagings equivalent to DOT 406 cargo tanks are excepted from §§ 178.345–7(d)(5), circumferential reinforcements; 178.345–10, pressure relief; 178.345–11, outlets; 178.345–14, marking, and 178.345–15, certification.

\* \* \* \* \*

**§ 172.203 [Amended]**

24. In § 172.203(d)(4), the second sentence is removed.

25. In § 172.310, paragraph (a) is revised to read as follows:

**§ 172.310 Class 7 (radioactive) materials.**

\* \* \* \* \*

(a) Each package with a gross mass greater than 50 kilograms (110 pounds) must have its gross mass marked on the outside of the package.

\* \* \* \* \*

26. In § 172.400a, paragraph (a)(7) is revised to read as follows:

**§ 172.400a Exceptions from labeling.**

(a) \* \* \*

(7) A package of low specific activity radioactive material and surface contaminated objects, when transported

under § 173.427(a)(6)(vi) of this subchapter.

\* \* \* \* \*

27. In § 172.403, paragraph (a) is revised and in paragraph (g)(2) the first sentence is revised and the second sentence is removed to read as follows:

**§ 172.403 Class 7 (radioactive) material.**

(a) Unless excepted from labeling by §§ \*\* 173.421 through 173.427 of this subchapter, each package of radioactive material must be labeled as provided in this section.

\* \* \* \* \*

(g) \* \* \*

(2) *Activity.* Activity units must be expressed in appropriate SI units (e.g., Becquerels (Bq), Terabecquerels (Tbq), etc.) or in both appropriate SI units and appropriate customary units (Curies (Ci), MilliCuries (mCi) microCuries (uCi)), etc.). \* \* \*

\* \* \* \* \*

28. In § 172.505, paragraph (a) is revised to read as follows:

**§ 172.505 Placarding for subsidiary hazards.**

(a) Each transport vehicle, freight container, portable tank, unit load device, or rail car that contains a poisonous material subject to the “Poison Inhalation Hazard” shipping description of § 172.203(m)(2) must be placarded with a POISON INHALATION HAZARD or POISON

GAS placard, as appropriate, on each side and each end, in addition to any other placard required for that material in § 172.504. Duplication of the POISON

INHALATION HAZARD or POISON GAS placard is not required.

\* \* \* \* \*

29. In § 172.556, paragraph (a) is revised to read as follows:

**§ 172.556 RADIOACTIVE placard.**

(a) Except for size and color, the RADIOACTIVE placard must be as follows:



\* \* \* \* \*

30. In § 172.558, paragraph (a) is revised to read as follows:

**§ 172.558 CORROSIVE placard.**

(a) Except for size and color, the CORROSIVE placard must be as follows:



\* \* \* \* \*

31. In § 172.604, paragraph (a) introductory text is revised to read as follows:

**§ 172.604 Emergency response telephone number.**

(a) A person who offers a hazardous material for transportation must provide an emergency response telephone number, including the area code or international access code, for use in the event of an emergency involving the hazardous material. The telephone number must be—

\* \* \* \* \*

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

32. The authority citation for part 173 continues to read as follows:

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

33. In § 173.4, a note is added at the end of paragraph (a)(6) to read as follows:

**§ 173.4 Small quantity exceptions.**

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

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

\* \* \* \* \*

34. In § 173.7, paragraph (e) is revised 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. In addition, materials owned by the Department of Defense that are marked and labeled in conformance with the requirements of the HMR that were in effect at the time they were originally marked and labeled are excepted from the current marking and labeling requirements.

35. In § 73.12, paragraph (d) is revised to read as follows:

**§ 173.12 Exceptions for shipment of waste materials.**

\* \* \* \* \*

(d) *Technical names for n.o.s. descriptions.* The requirements for the inclusion of technical names for n.o.s. descriptions on shipping papers and package markings, §§ 172.203 and 172.301 of this subchapter, respectively, do not apply to packages prepared in accordance with paragraph (b) of this section, except that packages containing materials meeting the definition of a hazardous substance must be described as required in § 172.203 of this subchapter and marked as required in § 172.324 of this subchapter.

**§ 173.27 [Amended]**

36. In § 173.27, in paragraph (b)(4), the wording “§ 172.402(b)” is removed and the wording “§ 172.402(c)” is added in its place.

37. In § 173.31, (b)(6)(ii) is revised to read as follows:

**§ 173.31 Use of tank cars.**

\* \* \* \* \*

(b) \* \* \*

(6) \* \* \*

(ii) By October 1 of each year, each owner of a tank car subject to this paragraph (b)(6) shall submit to the Federal Railroad Administration, Hazardous Materials Division, Office of Safety Assurance and Compliance, 1120 Vermont Avenue, Mail Stop 25, Washington, DC 20590, a progress report that shows the total number of in-service tank cars that need head protection, thermal protection, or bottom-discontinuity protection; the number of new or different tank cars acquired to replace those tank cars required to be upgraded to a higher service pressure; and the total number of tank cars modified, reassigned, acquired, retired, or removed from service the previous year.

\* \* \* \* \*

38. In § 173.32, paragraph (a)(1) is revised to read as follows:

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

(a) \* \* \*

(1) When a portable tank is used as a cargo tank, it must conform to all the requirements prescribed for cargo tanks. (See § 173.33).

\* \* \* \* \*

**§ 173.32 [Amended]**

39. In § 173.32, the following changes are made:

a. In paragraph (a)(3), the wording “§ 178.245-1(c)” is removed and “§ 178.245-1(e)” is added in its place.

b. In paragraph (c), the wording “paragraphs (e)(3) and (4)” is removed and “paragraph (e)(2)” is added in its place.

40. In § 173.34, paragraph (h) is revised to read as follows:

**§ 173.34 Qualification, maintenance and use of cylinders.**

\* \* \* \* \*

(h) *Repair by welding or brazing of specifications DOT-3A, 3AA, 3B, 3C, cylinders.* Repair of specifications DOT-3A, 3AA, 3B or 3C (§§ 178.36(e), 178.37(e), or 178.38(e) of this subchapter) cylinders by welding or brazing authorized, but only for the removal and replacement of neckrings and footrings attached to cylinders originally manufactured to conform to §§ 178.36(a), 178.37(a), and 178.38(a) of this subchapter. Removal and replacement must be done by a regular manufacturer of this type of cylinder. After removal and before replacement of such parts, cylinders must be inspected, and defective ones rejected. Cylinders, neckrings, footrings, and method of replacement must conform to § 178.36(e), § 178.37(e), or § 178.38(e) of this subchapter, whichever applies. Replacement must be followed by reheat treating, testing, inspection, and supervised and reported as prescribed by the specification covering their original manufacture. Inspector's reports must conform with that required by the specification covering original manufacture with the word “repaired” substituted for “manufactured.” Show original markings and the new additional markings added, and statement: “Cylinders were carefully inspected for defects after removal of neckrings and after replacement, which replacement was made by process of (Welding-brazing).”.

\* \* \* \* \*

**§ 173.62 [Amended]**

41. In § 173.62, the following changes are made:

a. In paragraph (c), Table of Packing Methods, for the entry 137, under column 3 “Intermediate packagings”, the text under “Not necessary” is transferred to column 4 “Outer packagings” under “Boxes”.

b. In paragraph (c), in footnote (1)(e)(iii) following the Table of Packing Methods, the wording “§ 176.83 (b)(3)” is removed and the wording “§ 178.83 (b)” is added in its place.

**• 173.128 [Amended]**

42. In § 173.128, in paragraph (d)(1)(ii), the wording “§ 173.225(c)(5)” is removed and the wording “§ 173.225(c)” is added in its place.

43. In § 173.132, paragraph (a)(1)(iii)(B) is revised to read as follows:

**§ 173.132 Class 6, Division 6.1—Definitions.**

(a) \* \* \*

(1) \* \* \*

(iii) \* \* \*

(B) A material with a saturated vapor concentration in air at 20°C (68°F) greater than or equal to one-fifth of the LC<sub>50</sub> for acute toxicity on inhalation of vapors and with an LC<sub>50</sub> for acute toxicity on inhalation of vapors of not more than 5000 ml/mm<sup>3</sup>; or

\* \* \* \* \*

**§ 173.132 [Amended]**

44. In § 173.132, in the formula, in paragraph (c)(3), revise “=” to read “+” the first time it appears.

45. In § 173.159, paragraph (a) is revised to read as follows:

**§ 173.159 Batteries, wet.**

(a) Electric storage batteries, containing electrolyte acid or alkaline corrosive battery fluid, must be completely protected so that short circuits will be prevented; they may not be packed with other materials except as provided in paragraphs (g) and (h) of this section and in §§ 173.220 and 173.222.

\* \* \* \* \*

46. In § 173.166, paragraph (d)(3) is revised, to read as follows:

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

\* \* \* \* \*

(d) \* \* \*

(3) Shipments for recycling. When offered for domestic transportation by highway, rail freight, cargo vessel or cargo aircraft only, a serviceable air bag module or seat-belt pretensioner removed from a motor vehicle that was 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.

\* \* \* \* \*

**§ 173.181 [Amended]**

47. In § 173.181, in paragraph (a)(2), the wording “, 174.430” is removed.

**§ 173.224 [Amended]**

48. In § 173.224, in paragraph (b), in Note 3. Following the Self-Reactive Substances table, the wording “paragraph (c)(4)” is removed and the wording “paragraph (c)(3)” is added in its place.

**§ 173.225 [Amended]**

49. In § 173.225, in paragraph (b), in Note 12. Following the Organic Peroxide Table, the wording “paragraph (c)(4)” is removed and the wording “paragraph (c)(2)” is added in its place.

**§ 173.304 [Amended]**

50. In § 173.304, in paragraph (d)(3)(i), the wording “178.54,” is removed.

**§ 173.306 [Amended]**

51. In § 173.306, in paragraph (b) introductory text, the wording “Limited quantities of compressed gases, (except poisonous gases as defined by § 173.115(a)(3) of this part)” is removed and the wording “Limited quantities of compressed gases, (except Division 2.3 gases)” is added in its place.

**§ 173.315 [Amended]**

52. In § 173.315, the following changes are made:

a. In § 173.315, Note 16 following the table in paragraph (a), the second sentence in paragraph (i)(4), and paragraph (n)(5)(iii) are revised.

The revisions read as follows:

b. In paragraph (f), the wording “paragraph (a)(1)” is removed and the wording “paragraph (a)” is added in its place.

c. In paragraph (o)(3), the wording “in § 178.337–11(a)(4) of this subchapter” is removed and the wording “of paragraph (n) of this section” is added in its place.

The revisions read as follows:

**§ 173.315 Compressed gases in cargo tanks and portable tanks.**

(a) \* \* \*

**Note 16:** Openings, inlets, and outlets on MC 330 and MC 331 cargo tanks must conform to § 178.337–8(a) of this subchapter. MC 330 and MC 331 cargo tanks must be equipped with emergency discharge control equipment as specified in § 178.337–11(a) of this subchapter.

\* \* \* \* \*

(i) \* \* \*

(4) \* \* \* The start-to-discharge value must be visible after the valve is installed. \* \* \*

\* \* \* \* \*

(n) \* \* \*

(5) \* \* \*

(iii) No MC 330 or MC 331 cargo tank motor vehicle with a capacity over 13,247 liters (3,500 gallons) used in

metered delivery service may be operated unless it has an appropriate discharge control capability as specified in this paragraph (n) no later than July 1, 2003, or the date of its first scheduled pressure retest required after July 1, 2001, whichever is earlier.

\* \* \* \* \*

**§ 173.319 [Amended]**

53. In § 173.319, the following changes are made:

a. In paragraph (c), the wording “(see paragraph (a)(4)(iii) of this section and § 173.31 (c)(13))” is removed and the wording “(see paragraph (a)(4)(iii) of this section)” is added in its place.

b. In paragraph (d)(2), in the Pressure Control Valve Setting or Relief Valve Setting Table, in the first column, in the last entry, the wording “(see § 173.31(a)(9))” is removed and the wording “(see § 180.507(a)(3) of this subchapter)” is added in its place.

**§ 173.403 [Amended]**

54. In § 173.403, for the definition “Radioactive instrument and article”, the wording “and” is removed each place it appears and the wording “or” is added in its place.

**§ 173.417 [Amended]**

55. In § 173.417, in paragraph (b)(1), in Table 4 and in paragraph (b)(2)(ii), in Table 5, the symbol “<=” is removed and the symbol “≤” is added each place it appears.

**§ 173.425 [Amended]**

56. In § 173.425, in the third entry under “Gases” in Table 7, the wording “Other form” is removed and the wording “Normal form” is added in its place.

**§ 173.427 [Amended]**

57. In § 173.427, in paragraph (c)(2)(i), the wording “(§§ 179.200, 179.201, 179.202 of this subchapter)” is removed and the wording “(§§ 179.200 and 179.201 of this subchapter)” is added in its place.

**§ 173.435 [Amended]**

58. In § 173.435, in the table, the following changes are made:

a. For the entry “Am-241”, in the column “Specific activity” under “(Tbq/g)”, the expression “ $1.3 \times 10^1$ ” is removed and “ $1.3 \times 10^{-1}$ ” is added in its place.

b. For the entry “Cm-244”, in the column “Specific activity” under “(Ci/g)”, the expression “ $8.1 \times 10^5$ ” is removed and “ $8.1 \times 10^1$ ” is added in its place.

**PART 174—CARRIAGE BY RAIL**

59. The authority citation for part 174 continues to read as follows:

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

**§ 174.290 [Amended]**

60. In § 174.290, in paragraph (b)(1), the wording “See § 174.55 (a)(1) through (4) and § 174.600” is removed and the wording “See §§ 174.55 and 174.600” is added in its place.

**PART 176—CARRIAGE BY VESSEL**

61. The authority citation for part 176 continues to read as follows:

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

**§ 176.78 [Amended]**

62. In § 176.78, in paragraph (h)(8), the last sentence is removed.

63. In § 176.104, paragraph (g) is revised to read as follows:

**§ 176.104 Loading and unloading Class 1 (explosive) materials.**

\* \* \* \* \*

(g) Packages of Division 1.1 and 1.2 materials that are not part of a palletized unit must be loaded and unloaded from a vessel using a chute, conveyor or a mechanical hoist and a pallet, skipboard, tray or pie plate fitted with a cargo net or sideboards.

\* \* \* \* \*

**§ 176.166 [Amended]**

64. In § 176.166, in paragraph (a)(2), the wording “§ 176.143 (b)(2)” is removed and the wording “§ 176.142 (b)(2)” is added in its place.

**§ 176.410 [Amended]**

65. In § 176.410, in paragraph (a)(5), the wording “UN 2072” is removed and the wording “NA 2072” is added in its place.

**§ 176.415 [Amended]**

66. In § 176.415, in paragraph (b)(3), the wording “UN 2072” is removed and the wording “NA 2072” is added in its place.

**§ 176.905 [Amended]**

67. In § 176.905, in paragraph (j), the wording “§ 173.220(f)” is removed and the wording “§ 173.220(d)” is added in its place.

**PART 177—CARRIAGE BY PUBLIC HIGHWAY**

68. The authority citation for part 177 continues to read as follows:

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

§ 177.835 [Amended]

69. In § 177.835, in the first sentence, in paragraph (h), the wording "paragraphs (g), (k), and (m)" is removed and the wording "paragraph (g)" is added in its place and paragraph (g) is revised to read as follows:

§ 177.835 Class 1 (explosive) materials.

(g) No detonator assembly or booster with detonator may be transported on the same motor vehicle with any Division 1.1, 1.2 or 1.3 material (except other detonator assemblies, boosters with detonators or detonators), detonating cord Division 1.4 material or Division 1.5 material. No detonator may be transported on the same motor vehicle with any Division 1.1, 1.2 or 1.3 material (except other detonators, detonator assemblies or boosters with detonators), detonating cord Division 1.4 material or Division 1.5 material unless—

(1) It is packed in a specification MC 201 (§ 178.318 of this subchapter) container; or

(2) The package conforms with requirements prescribed in § 173.63 of this subchapter, and its use is restricted to instances when—

(i) There is no Division 1.1, 1.2, 1.3 or 1.5 material loaded on the motor vehicle; and

(ii) A separation of 61 cm (24 inches) is maintained between each package of detonators and each package of detonating cord; or

(3) It is packed and loaded in accordance with a method approved by the Department requires that—

(i) The detonators are in packagings as prescribed in § 173.63 of this subchapter which in turn are loaded into suitable containers or separate compartments; and

(ii) That both the detonators and the container or compartment meet the requirements of the Institute of Makers of Explosives' Safety Library Publication No. 22 (incorporated by reference, see § 171.7 of this subchapter).

70. In § 177.843, paragraph (c) is revised to read as follows:

§ 177.843 Contamination of vehicles.

(c) In case of fire, accident, breakage, or unusual delay involving shipments of Class 7 (radioactive) material, see §§ 171.15, 171.16 and 177.854 of this subchapter.

71. In § 177.854, the introductory text in paragraph (d) is revised to read as follows:

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

(d) Transportation of repaired packages. Any package repaired in accordance with the requirements of paragraph (c)(1) of this section may be transported to the nearest place at which it may safely be disposed of only in compliance with the following requirements:

PART 178—SPECIFICATIONS FOR PACKAGINGS

72. The authority citation for part 178 continues to read as follows:

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

§ 178.37 [Amended]

73. In § 178.37, in paragraph (g)(4), the wording "paragraph (l)(vi)" is removed and the wording "paragraph (g)(6)" is added in its place.

74. In § 178.44, in paragraph (b), Table 1 is amended by revising the entry for Molybdenum to read as follows:

§ 178.44 Specification 3HT seamless steel cylinders for aircraft use.

(b) \* \* \*

TABLE 1.—AUTHORIZED MATERIALS

Table with 2 columns: Designation, AISI 4130 (percent). Row: Molybdenum ..... 0.15/0.25

§ 178.65 [Amended]

75. In § 178.65, in paragraph (i) (1) introductory text, the wording "§ 173.24 (c)(1)(ii) and (iv) of this subchapter and" is removed.

76. In § 178.337-3, paragraphs (e), (g)(2)(i), and the last three sentences in paragraph (g)(2) introductory text are revised to read as follows:

§ 178.337-3 Structural integrity.

(e) The minimum metal thickness for the shell and heads must be 4.75 mm (0.187 inch) for steel and 6.86 mm (0.270 inch) for aluminum, except for chlorine and sulfur dioxide tanks. For a cargo tank used in chlorine or sulfur dioxide service, the cargo tank must be made of steel. A corrosion allowance of 20 percent or 2.54 mm (0.10 inch), whichever is less, must be added to the thickness otherwise required for sulfur dioxide and chlorine tank material. In chlorine cargo tanks, the wall thickness must be at least 1.59 cm (0.625 inch), including corrosion allowance.

(g) \* \* \*

(2) \* \* \* However, a pad with a minimum thickness of 6.35 mm (0.250 inch) may be used when the shell or head thickness is over 6.35 mm (0.250 inch). If weep holes or tell-tale holes are used, the pad must be drilled or punched at its lowest point before it is welded. Each pad must:

(i) Extend at least 5.08 cm (2 inches) in each direction from any point of attachment of an appurtenance;

§ 178.345-3 [Amended]

77. In § 178.345-3, in paragraph (f)(3) introductory text, in the first sentence, the wording "paragraphs (g)(1) and (g)(2)" is removed and the wording "paragraphs (f)(1) and (f)(2)" is added in its place.

§ 178.345-10 [Amended]

78. In § 178.345-10, in paragraph (e) introductory text, the wording "§ 178.348-10(d)" is removed and the wording "§ 178.348-4" is added in its place.

§ 178.345-13 [Amended]

79. 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" is removed.

§ 178.346-1 [Amended]

80. In § 178.346-1, the following changes are made:

a. In paragraph (d)(2), the wording "178.346-3" is removed and the wording "178.345-3" is added in its place.

b. In paragraph (d)(4), the wording "178.346-14, 178.345-15, and 178.346-15" is removed and the wording "and 178.345-15" is added in its place.

c. In paragraph (d)(6), the wording "§§ 178.345-10 and 178.346-10" is removed and the wording "§ 178.345-10" is added in its place.

d. In paragraph (d)(7), the wording "§§ 178.345-13 and 178.346-13" is removed and the wording "§ 178.345-13" is added in its place.

§ 178.347-1 [Amended]

81. In § 178.347-1, the following changes are made:

a. In paragraph (d)(2), the wording "178.347-3" is removed and the wording "178.345-3" is added in its place.

b. In paragraph (d)(4), the wording "§§ 178.345-14, 178.347-14, 178.345-15, and 178.347-15" is removed and the wording "§§ 178.345-14 and 178.345-15" is added in its place.

c. In paragraph (d)(6), the wording "§§ 178.345-10 and 178.347-10" is

removed and the wording “§ 178.345–10” is added in its place.

d. In paragraph (d)(7), the wording “§§ 178.345–13 and 178.347–13” is removed and the wording “§ 178.345–13” is added in its place.

**§ 178.348–1 [Amended]**

82. In § 178.348–1, the following changes are made:

a. In paragraph (e)(2)(ii) the wording “§ 178.348–3” is removed and the wording “§ 178.345–3” is added in its place.

b. In paragraph (e)(2)(iv), the wording “§§ 178.345–14, 178.348–14, 178.345–15, and 178.348–15” is removed and the wording “§§ 178.345–14 and 178.345–15” is added in its place.

c. In paragraph (e)(2)(vi), the wording “§§ 178.345–10 and 178.348–10” is removed and the wording “§ 178.345–10” is added in its place.

d. In paragraph (e)(2)(vii), the wording “§§ 178.345–13 and 178.348–13” is removed and the wording “§ 178.345–13” is added in its place.

83. In § 178.356–1, the last sentence in paragraph (c) and paragraph (d) are revised, and a new paragraph (e) is added to read as follows:

**§ 178.356–1 General requirements.**

\* \* \* \* \*

(c) \* \* \* Shell closure must conform to paragraph (d) of this section.

(d) Drums over 5 gallons capacity must be closed by means of 12-gauge bolted ring with drop forged lugs, one of which is threaded, and having 3/8 inch bolt and nut for drums not over 30 gallons capacity and 5/8 inch bolt and nut for drums over 30 gallons capacity. Five gallon drums must be of lug type closure with cover having at least 16 lugs.

(e) Drawings in CAPE–1662, which include bills of material, are a part of this specification.

84. In § 178.606, the third sentence in paragraph (c)(1) is revised to read as follows:

**§ 178.606 Stacking test.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \* The duration of the test must be 24 hours, except that plastic drums, jerricans, and composite packagings 6HH intended for liquids shall be subjected to the stacking test for a period of 28 days at a temperature of not less than 40°C (104°F). \* \* \*

\* \* \* \* \*

**§ 178.703 [Amended]**

85. In § 178.703, in paragraph (a)(1)(i), the wording “§ 178.503(d)(1)” is removed and the wording “§ 178.503(e)(1)” is added in its place.

**PART 179—SPECIFICATIONS FOR TANK CARS**

86. The authority citation for part 179 continues to read as follows:

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

**§ 179.100–1 [Amended]**

87. In § 179.100–1, in the section heading, the wording “, 179.103, and 179.104” is removed and the wording “and 179.103” is added in its place.

**§ 179.100–3 [Amended]**

88. In § 179.100–3, the following changes are made:

a. In paragraph (a), in the second sentence, the wording “§ 179.103 or 179.104” is removed and the wording “§ 179.103” is added in its place.

b. In paragraph (a), in the third sentence, the wording “179.101–1(a) table Note 10” is removed and the wording “179.101–1” is added in its place.

**§ 179.100–9 [Amended]**

89. In § 179.100–9, in paragraph (a), the last sentence is removed.

**§ 179.100–13 [Amended]**

90. In § 179.100–13, in paragraph (e), in the last sentence, the wording “§ 179.101–1 (a)” is removed and the wording “§ 179.101–1” is added in its place.

**§ 179.102–4 [Amended]**

91. In § 179.102–4, in paragraph (a) introductory text, the wording “paragraph (b)(1) or (b)(2)” is removed and the wording “paragraph (a)(1) or (a)(2)” is added in its place.

**§ 179.220–1 [Amended]**

92. In § 179.220–1, in the section heading, the wording “, 179.221, and 179.222” is removed and the wording “and 179.221” is added in its place.

**§ 179.301 [Amended]**

93. In § 179.301, in paragraph (a), in the table, under the column heading “DOT Specification”, the entry “Bursting pressure, p.s.i. (see § 179.300–5)” is revised to read “Minimum required bursting pressure, p.s.i.”.

**§ 179.400–6 [Amended]**

94. In § 179.400–6, in paragraph (b), the wording “§ 179.400–7(d)” is removed and the wording “§ 179.400–8(d)” is added in its place.

**§ 179.401–1 [Amended]**

95. In § 179.401–1, in the table, in the first column, in the eighth entry, the wording “(see § 179.400–7 (a), (b), and (c))” is removed and the wording “(see

§ 179.400–8(a), (b), and (c))” is added in its place.

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

96. The authority citation for part 180 continues to read as follows:

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

**§ 180.352 [Amended]**

97. In § 180.352, in paragraph (b)(3)(ii), the wording “§ 178.705(c)(1)(iv)(A)” is removed and the wording “§ 178.705(c)(1)(iv)” is added in its place.

**§ 180.405 [Amended]**

98. In § 180.405, the following changes are made:

a. In paragraph (c)(2)(i), the wording “(see §§ 178.346–10 and 178.346–11” is removed and the wording “(See §§ 178.346–3 and 178.346–4” is added in its place.

b. In paragraph (c)(2)(ii), the wording “(§§ 178.346–10 and 178.346–11” is removed and the wording “(See §§ 178.346–3 and 178.346–4” is added in its place.

c. In paragraph (c)(2)(iii), the wording “(See §§ 178.347–10 and 178.347–11” is removed and the wording “(See §§ 178.347–4 and 178.345–11” is added in its place.

d. In paragraph (c)(2)(iv), the wording “(See §§ 178.347–10 and 178.347–11” is removed and the wording “(See §§ 178.347–4 and 178.345–11” is added in its place.

e. In paragraph (c)(2)(v), the wording “(See §§ 178.348–10 and 178.348–11” is removed and the wording “(See §§ 178.348–4 and 178.345–11” is added in its place.

f. In paragraph (c)(2)(vi), the wording “(See §§ 178.348–10 and 178.348–11” is removed and the wording “(See §§ 178.348–4 and 178.345–11” is added in its place.

99. In § 180.407, the last sentence in paragraph (h)(4) is revised to read as follows:

**§ 180.407 Requirements for test and inspection of specification cargo tanks.**

\* \* \* \* \*

(h) \* \* \*

(4) \* \* \* In addition to a written record of the inspection prepared in accordance with § 180.417(b), the Registered Inspector conducting the test must note the hose identification number, the date of the test, and the condition of the hose assembly and piping system tested.

\* \* \* \* \*

**§ 180.519 [Amended]**

100. In § 180.519, the following changes are made:

a. In paragraph (b)(1), in the first sentence, the wording “, except as provided in paragraph (b)(8) of this section,” is removed.

b. In paragraph (c), in the first sentence, the wording “(§§ 179.300, 179.301, 179.302 of this subchapter)” is removed and the wording “(§§ 179.300 and 179.301 of this subchapter)” is added in its place.

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**John P. Murray,**

*Acting Deputy Administrator, Research and Special Programs Administration.*

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