because they have carried a similar network program in the past. Affiliation agreements should not include provisions that impose monetary or non-monetary penalties on affiliates based on preemptions protected by the right-to-reject rule. Affiliation agreements should not include provisions that subject right-to-reject preemptions to, or count them against, contractual preemption limits (or ''baskets'') (though baskets are perfectly appropriate for preemptions not protected by the right-to-reject rule).

C. Option-Time Rule

9. The Commission's option-time rule proscribes any clause in an affiliation agreement that ''prevents or hinders the station from scheduling programs before the network agrees to utilize the time during which such programs are scheduled, or which requires the station to clear time already scheduled when the network organization seeks to utilize the time.'' In its Petition, NASA argued that certain contract provisions, with respect to both analog and digital broadcasting, violated the option-time rule by allowing networks to reserve an option to use an affiliate's broadcast time without committing to supply programming for the optioned time. To clarify the reciprocal obligations of networks and affiliates under the Commission's option-time rule, we affirm that the following principles set forth in the Joint Request are consistent with the Act and our rules:

• Consistent with the option-time rule, affiliation agreements should not include provisions that result in the optioning of the station's time to the network organization or that have the same restraining effect as time optioning. Network affiliation agreements may not, under the Commission's option-time rule, obligate stations to carry a network's programming or other content during certain time periods without reciprocally obligating the network to provide the content for those time periods. Similarly, network affiliation agreements may not require affiliates to carry, at some unspecified future date, unspecified digital content that the network may (or may not) choose to offer.

IV. Ordering Clauses

10. Accordingly, *it is ordered* that the Network Affiliated Stations Alliance's Motion for Declaratory Ruling filed June 22, 2001 *is granted in part* as discussed above.

11. *It is further ordered* that the Joint Request *is granted* and that this proceeding *is terminated*.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–23152 Filed 9–30–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, 173, 175, 176, 178, 179, and 180

[Docket No. PHMSA–2008–0227 (HM–244A)]

RIN 2137–AE40

Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, 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 regulations. The amendments contained in this rule are non-substantive changes.

DATES: Effective date: October 1, 2008.

FOR FURTHER INFORMATION CONTACT: Eileen Edmonson, Office of Hazardous Materials Standards, 202–366–8553, PHMSA, East Building, PHH–10, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

PHMSA annually reviews the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) to identify typographical and other errors, outdated addresses or other contact information, and similar errors. In this final rule, we are correcting typographical errors; incorrect CFR references and citations; an incorrect address; inaccurate office names; inconsistent use of terminology; misstatements of certain regulatory requirements; and inadvertent omissions of information. In addition, this final rule revises the address for PHMSA to indicate the new location for the headquarters office. Because these amendments do not impose new requirements, notice and public comment procedures are unnecessary. By making these amendments effective without the customary 30-day delay following publication, the changes will appear in the next revision of Title 49.

II. Section by Section Review

The following is a summary by section of the major changes made in this final rule. The summary does not include minor editorial corrections such as punctuation errors, or similar minor revisions.

Part 171

Section 171.3

This section prescribes requirements for transporting hazardous waste under the HMR. Paragraph (b)(1) requires each motor vehicle to be marked in accordance with 49 CFR 390.21 and 1058.2. Because § 1058.2 no longer exists, in this final rule we are removing this reference in paragraph (b)(1).

Section 171.7

Paragraph (a) of § 171.7 lists materials incorporated by reference into the HMR. In paragraph (a)(3), we are correcting the mailing address for the American Pyrotechnic Association.

Paragraph (b) of § 171.7 lists information materials that are not incorporated by reference. In a final rule published on January 28, 2008 (Docket No. 05–21812 (HM–218D); 73 FR 4699, effective October 1, 2008), we added in paragraph (b) an entry for the Compressed Gas Association's (CGA's) publication, CGA C–1.1 in § 171.7(b). A new paragraph (g)(6) in § 180.205 listed CGA C–1.1 as an example of training material that may be used by persons who requalify cylinders using the volumetric expansion test method. Following the publication of the HM–215D final rule, we received an appeal from Hydro-Test (PHMSA–2005–21812–0025) asking us to either remove this reference to CGA C–1.1 or add examples of other training materials that may be used. Hydro-Test noted that referencing only the CGA publication in the HMR could suggest that other training materials are not acceptable. We added CGA C–1.1 as an example of guidance material that may be used to assist requalifiers in setting up their cylinder training procedures and recordkeeping requirements. The publication is not a stand alone tool for training persons on how to perform requalification of cylinders using the volumetric expansion test method. However, to alleviate confusion for cylinder requalifiers, in this final rule, we are removing the new entry for CGA C–1.1 from § 171.7(b) and paragraph (g)(6) from § 180.205.

Section 171.8

This section contains definitions for terms used in the HMR. We inadvertently omitted replacing the name ''Diagnostic specimens'' with the name ''Biological substances, category B'' when we revised the HMR to harmonize its infectious substance requirements with international requirements and removed the name ''Diagnostic specimens'' under Docket No. PHMSA–2004–16895 (HM–226A; 71 FR 32244, 6/2/06). In this final rule, we are correcting this oversight. Also, we are revising the definitions for ''Elevated temperature material'' and ''Liquid phase'' to specify the metric conversion of 100 °F as 38 °C for consistency throughout the HMR and with that specified in the American Society for Testing and Materials (ASTM) Standard ASTM D 4359, ''Standard Test Method for Determining Whether a Material is a Liquid or a Solid,'' which the HMR incorporates by reference under § 171.7.

Section 171.23

This section prescribes requirements for specific materials and packagings transported under the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), International Maritime Dangerous Goods Code (IMDG Code), Transport Canada's Transportation of Dangerous Goods Regulations (Transport Canada TDG Regulations), and the International Atomic Energy Agency Regulations for the Safe Transport of Radioactive Material (IAEA Regulations). In this final rule, we are revising paragraph (a)(3)(iii) to correct the reference ''(a)(3)'' to ''(a)(4).''

Section 171.25

This section prescribes additional requirements for the use of the IMDG Code under the HMR. In this final rule, we are correcting several inadvertent errors in this section. In paragraph (b)(1), we are revising the regulatory text to clarify that the segregation requirements in Part 7 of the IMDG Code may be utilized for both rail and highway transportation. The rail mode was inadvertently removed in the printing of the HM–215F final rule published on May 3, 2007. We are also correcting the word ''subpart'' to read ''subchapter'' in the second sentence of this paragraph, and the reference to ''Part 7, Chapter 2,'' of the IMDG Code to read ''Part 7, Chapter 7.2'' in the last sentence. In paragraph (b)(2), we are clarifying that the paragraph applies to transportation by vessel.

Part 172

In the heading to Part 172, we are adding the words ''Security Plans'' to reflect the security plan requirements in Subpart I of Part 172.

Section 172.201

This section prescribes requirements on the preparation and retention of shipping papers. Paragraph (a)(1)(iii) is corrected to clarify the use of the letter ''X'' to identify hazardous materials on a shipping paper. The clarification allows the letter ''X'' to be placed in a column titled ''HM'' appearing before the *basic* shipping description instead of the *proper* shipping name of a hazardous material to recognize that the identification number may appear first in the basic shipping description as provided in § 172.202(b).

Section 172.202

This section prescribes requirements for shipping descriptions on shipping papers. In paragraphs (a)(5) and (a)(6)(ii), we are inserting the U.S. standard measurement conversions after the metric measurements for clarity.

Section 172.203

This section prescribes additional description requirements for hazardous materials on shipping papers. In this final rule, we are correcting the examples provided in this section as follows:

- We are revising paragraph (c)(2) to reflect in the example the basic shipping description sequence prescribed in § 172.202(b), with the UN identification number appearing first, and to correct the example of the basic description for ''Allyl alcohol'' to state that this material is a Zone B toxic inhalation hazard.
- We are revising paragraph (d)(1) to correct the spelling of the word ''radionuclides'' in the second sentence.
- We are revising paragraph (i)(2), which contains additional shipping paper description requirements for flammable liquids transported by vessel, to reflect a flash point at 60 °C (140 °F) in place of 61 °C for consistency with the provisions contained in 49 CFR 173.120(a) and paragraph 5.4.1.4.3 of the IMDG Code.
- Paragraph (k) requires the use of a technical name with a proper shipping name designated as generic with the letter ''G'' in Column 1 of the § 172.101 Table. We are making a minor editorial revision to the last sentence in paragraph (k) and adding two new sentences to refer readers to the definition of ''Technical name'' in § 171.8 and to other relevant information in § 172.301.

Section 172.320

This section prescribes the marking requirements for explosive hazardous materials. In paragraph (b), we are correcting the reference to the regulation requiring a product code for commercial explosives from ''27 CFR part 55'' to read ''27 CFR part 555.''

In addition, we are removing current paragraph (e)(4), which contains an expired transitional provision, and redesignating current paragraph (e)(5) as paragraph (e)(4).

Section 172.704

This section prescribes training requirements for hazmat employees. In paragraph (a)(2)(ii), we are revising the reference to ''§§ 171.11 and 171.12'' to read ''authorized by subpart C of part 171 of this subchapter'' to be consistent with revisions adopted in the final rule issued under Docket No. PHMSA–2005–24131 (HM–215F, 72 FR 25162, 3/5/07).

Part 173

Section 173.21

This section prescribes the hazardous materials and packages that are forbidden in transportation. In this final rule, we are revising paragraph (f)(3) to clearly state that approvals issued by the Bureau of Explosives are no longer valid.

Section 173.25

This section prescribes requirements for transporting hazardous materials packages in overpacks. In this final rule, we are removing the second sentence in paragraph (a)(4) because it contains an expired compliance date.

Section 173.219

This section prescribes requirements for transporting life-saving appliances and matches. In this final rule, we are amending paragraph (a) by replacing the word ''movement'' with ''shifting'' to clarify the devices must be placed in inner packagings that are packed in outer packagings in a manner to prevent the devices from shifting within the outer packaging.

Section 173.227

This section prescribes requirements for packaging poisonous-by-inhalation materials, in Division 6.1, Packing Group I, Hazard Zone B. We are revising paragraph (b) to include UN 6HH1 composite packagings with an inner protective plastic drum. This revision was inadvertently omitted in a final rule issued under Docket No. RSPA–04–

17036 (HM–215G, 69 FR 76043, 12/20/04).

Section 173.308

This section sets forth requirements for the transportation of lighters. In this final rule, we are revising paragraph (b)(3)(ii) to specify the metric conversion of 100 °F as 38 °C for consistency throughout the HMR.

Part 175

Section 175.30

This section prescribes requirements for inspecting hazardous materials shipments aboard an aircraft. A capitalization error is corrected in paragraph (a)(2). In paragraph (a)(3), we are revising the reference to § 171.11 to read ''as authorized by subpart C of part 171 of this subchapter'' to be consistent with the revisions adopted under HM–215F.

Part 176

Section 176.83

This section prescribes segregation requirements for hazardous materials transported by vessel. In this final rule, we are revising paragraph (b) to clarify that although Column 1 of Table § 176.83(b) is titled ''Class,'' it also lists certain hazard class divisions.

Part 178

Section 178.36

This section contains the design and manufacture requirements for DOT 3A and 3AX seamless steel cylinders. In paragraph (a)(2), we are correcting the wording ''seamless stainless steel cylinder'' to remove the word stainless, and in the first sentence in paragraph (f), the wording ''service pressure less than 900 pounds'' to read ''service pressure less than 900 psig''.

Section 178.275

This section prescribes design and manufacture standards for UN portable tanks intended for the transportation of liquid and solid hazardous materials. In the HM–215G final rule, paragraph (i)(2), the introductory text was revised to clarify the combined delivery capacity of a UN portable tank's relief system. However, the amendatory language incorrectly stated that paragraph (i)(2) was revised. As a result, all the vent capacity formulas and tables referenced in the paragraph were removed. We are reinstating paragraphs (i)(2)(i)–(iv) in this final rule. In addition, in paragraph (d)(3), the reference to ''(c)(2)'' is corrected to read ''(d)(2).''

Section 178.605

This section prescribes the hydrostatic test requirements for non-bulk UN standard packagings. In this final rule, we are relocating the last sentence in paragraph (d)(3) requiring the performance of a pressure test on packagings intended to contain Packing Group I hazardous materials at a minimum test pressure of 250 kPa (36 psig) to paragraph (d) introductory text, preceding the list of methods contained in paragraphs (d)(1)–(d)(3). We are making this revision to clarify that this pressure test requirement applies regardless of the method chosen to determine the pressure.

Part 179

Section 179.400–18

This section prescribes pressure test requirements for the inner tanks of DOT–113 and DOT–107A cryogenic liquid tank car tanks and seamless steel tanks. Paragraph (a) is revised to specify the metric conversion of 100 °F as 38 °C for consistency throughout the HMR.

Part 180

Section 180.209

This section prescribes requirements for the periodic requalification of DOT specification cylinders. We are revising paragraph (l) introductory text to change ''§ 171.12a'' to correctly reference §§ 171.12(a) and 171.23(a), and paragraph (l)(2) to correctly reference certain export requirements contained in § 171.23(a)(4).

III. Regulatory Analyses and Notices

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 under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). This final rule does not impose new or revised requirements for hazardous materials shippers or carriers; therefore, it is not necessary to prepare a regulatory impact analysis.

Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 13132 (''Federalism''). This final rule does not adopt any regulation that: (1) 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; or (2) imposes substantial direct compliance costs on state and local governments. PHMSA is not aware of any state, local, or Indian tribe requirements that would be preempted by correcting editorial errors and making minor regulatory changes. This final rule does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this final rule does not have tribal implications, does not impose substantial direct compliance costs on Indian tribal governments, and does not preempt tribal law, the funding and consultation requirements of Executive Order 13175 do not apply, and a tribal summary impact statement is not required.

Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. 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.

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 $120.7 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 objectives of the rule.

Paperwork Reduction Act

There are no new information collection requirements in this final rule.

Environmental Impact Analysis

There are no environmental impacts associated with this final rule.

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 171

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

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, 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 175

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

49 CFR Part 176

Hazardous materials transportation, Maritime 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, Packaging and containers, 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 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 1. The authority citation for part 171 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45 and 1.53; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–134 section 31001.

■ 2. In § 171.3, paragraph (b)(1) is revised to read as follows:

§ 171.3 Hazardous waste.

* * * * *

(b) * * *

(1) Has marked each motor vehicle used to transport hazardous waste in accordance with § 390.21 of this title even though placards may not be required;

* * * * *

■ 3. In § 171.7, in the table in paragraph (a)(3), in the first column, under ''American Pyrotechnics Association,'' revise the organization's mailing address to read as follows:

§ 171.7 Reference material.

(a) * * *

(3) Table of material incorporated by reference. * * *

Source and name of material	49 CFR reference
* * * * * * *	*
American Pyrotechnics Association (APA), P.O. Box 30438, Bethesda, MD 20824, (301) 907–8181, www.americanpyro.com:	
* * * * * * *	*

* * * * *

■ 4. In § 171.8, the definition for ''Diagnostic specimen'' is removed, a definition for ''Biological substance, category B'' is added in appropriate alphabetical order, and the definitions for ''Elevated temperature material'' and ''Liquid phase'' are revised to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Biological substances, Category B. See § 173.134 of this subchapter.

* * * * *

Elevated temperature material means a material which, when offered for transportation or transported in a bulk packaging:

(1) Is in a liquid phase and at a temperature at or above 100 °C (212 °F);

(2) Is in a liquid phase with a flash point at or above 38 °C (100 °F) that is intentionally heated and offered for transportation or transported at or above its flash point; or

(3) Is in a solid phase and at a temperature at or above 240 °C (464 °F).

* * * * *

Liquid phase means a material that meets the definition of liquid when evaluated at the higher of the temperature at which it is offered for transportation or at which it is transported, not at the 38 °C (100 °F) temperature specified in ASTM D 4359 (IBR, see § 171.7).

* * * * *

■ 5. In § 171.23, paragraph (a)(3)(iii) is revised to read as follows:

§ 171.23 Requirements for specific materials and packagings transported under the ICAO Technical Instructions, IMDG Code, Transport Canada TDG Regulations, or the IAEA Regulations.

* * * * *

(a) * * *

(3) * * *

(iii) The cylinder is not refilled for export unless in compliance with paragraph (a)(4) of this section.

* * * * *

■ 6. In § 171.25, paragraphs (b)(1) and (b)(2) are revised to read as follows:

§ 171.25 Additional requirements for the use of the IMDG Code.

* * * * *

(b) * * *

(1) Unless otherwise excepted, a shipment must conform to the requirements in part 176 of this subchapter. For transportation by rail or highway prior to or subsequent to transportation by vessel, a shipment must conform to the applicable requirements of parts 174 and 177 respectively, of this subchapter, and the motor vehicle or rail car must be placarded in accordance with subpart F of part 172 of this subchapter. When a hazardous material regulated by this subchapter for transportation by highway is transported by motor vehicle

on a public highway or by rail under the provisions of subpart C of part 171, the segregation requirements of Part 7, Chapter 7.2 of the IMDG Code are authorized.

(2) For transportation by vessel, the stowage and segregation requirements in Part 7 of the IMDG Code may be substituted for the stowage and segregation requirements in part 176 of this subchapter.

* * * * *

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

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

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.53.

■ 8. The heading to part 172 is revised to read as follows:

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

■ 9. In § 172.201, paragraph (a)(1)(iii) is revised to read as follows:

§ 172.201 Preparation and retention of shipping papers.

(a) * * *

(1) * * *

(iii) Must be identified by the entry of an ''X'' placed before the basic shipping description required by § 172.202 in a column captioned ''HM.'' (The ''X'' may be replaced by ''RQ,'' if appropriate.)

* * * * *

■ 10. In § 172.202, paragraph (a)(5) introductory text and paragraph (a)(6)(ii) are revised to read as follows:

§ 172.202 Description of hazardous material on shipping papers.

(a) * * *

(5) Except for transportation by aircraft, the total quantity of hazardous materials covered by the description must be indicated (by mass or volume, or by activity for Class 7 materials) and must include an indication of the applicable unit of measurement, for example, ''200 kg'' (440 pounds) or ''50 L'' (13 gallons). The following provisions also apply:

* * * * *

(6) * * *

(ii) For chemical kits and first aid kits, the total net mass of hazardous materials must be shown. Where the kits contain only liquids, or solids and liquids, the net mass of liquids within the kits is to be calculated on a 1 to 1 basis, i.e., 1 L (0.3 gallons) equals 1 kg (2.2 pounds);

* * * * *

■ 11. In § 172.203, the following amendments are made:

■ a. Paragraphs (c)(2), (d)(1), (i)(2), and the last sentence in paragraph (k) introductory text are revised, and

■ b. At the end of paragraph (k) introductory text, two new sentences are added.

The revisions and addition read as follows:

§ 172.203 Additional description requirements.

* * * * *

(c) * * *

(2) The letters ''RQ'' must be entered on the shipping paper either before or after the basic description required by § 172.202 for each hazardous substance (see definition in § 171.8 of this subchapter). For example: ''RQ, UN 1098, Allyl alcohol, 6.1, I, Toxic-inhalation hazard, Zone B''; or ''UN 3077, Environmentally hazardous substances, solid, n.o.s., 9, III, RQ (Adipic acid)''.

(d) * * *

(1) The name of each radionuclide in the Class 7 (radioactive) material that is listed in § 173.435 of this subchapter. For mixtures of radionuclides, the radionuclides required to be shown must be determined in accordance with § 173.433(g) of this subchapter. Abbreviations, *e.g.*, ''^{99}Mo,'' are authorized.

* * * * *

(i) * * *

(2) Minimum flash point if 60 °C (140 °F) or below (in °C closed cup (c.c.)) in association with the basic description.

* * * * *

(k) * * * A material classed as Division 6.2 and assigned identification number UN 2814 or UN 2900 that is suspected to contain an unknown Category A infectious substance must have the words ''suspected Category A infectious substance'' entered in parentheses in place of the technical name as part of the proper shipping description. For additional technical name options, see the definition for ''Technical name'' in § 171.8. A technical name should not be marked on the outer package of a Division 6.2 material (see § 172.301(b)).

* * * * *

■ 12. In § 172.320, paragraph (b) is revised, paragraph (e)(4) is removed, and paragraph (e)(5) is redesignated as (e)(4) to read as follows:

§ 172.320 Explosive hazardous materials.

* * * * *

(b) Except for fireworks approved in accordance with § 173.56(j) of this subchapter, a package of Class 1 materials may be marked, in lieu of the EX-number required by paragraph (a) of this section, with a national stock number issued by the Department of Defense or identifying information, such as a product code required by regulations for commercial explosives specified in 27 CFR part 555, if the national stock number or identifying information can be specifically associated with the EX-number assigned.

* * * * *

■ 13. In § 172.704, paragraph (a)(2)(ii) is revised to read as follows:

§ 172.704 Training requirements.

(a) * * *

(2) * * *

(ii) As an alternative to function-specific training on the requirements of this subchapter, training relating to the requirements of the ICAO Technical Instructions and the IMDG Code may be provided to the extent such training addresses functions authorized by subpart C of part 171 of this subchapter.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

■ 14. The authority citation for part 173 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45, 1.53.

■ 15. In § 173.21, paragraph (f)(3) introductory text is revised to read as follows:

§ 173.21 Forbidden materials and packages.

* * * * *

(f) * * *

(3) Refrigeration may be used as a means of stabilization only when approved by the Associate Administrator. Approvals issued by the Bureau of Explosives are no longer valid (see § 171.19 of this subchapter). Methods of stabilization approved by the Associate Administrator are as follows: * * *

* * * * *

■ 16. In § 173.25, paragraph (a)(4) is revised to read as follows:

§ 173.25 Authorized packagings and overpacks.

(a) * * *

(4) The overpack is marked with the word ''OVERPACK'' when specification packagings are required, unless specification markings on the inside packages are visible.

* * * * *

■ 17. In § 173.27, the headings of paragraphs (b), (c), (d), (e), (f) and (g) are revised to read as follows:

§ 173.27 General requirements for transportation by aircraft.

* * * * *

(b) *Packages authorized onboard aircraft.* * * *

(c) *Pressure requirements.* * * *

(d) *Closures.* * * *

(e) *Absorbent materials.* * * *

(f) *Combination packagings.* * * *

(g) *Cylinders.* * * *

* * * * *

■ 18. In § 173.219, paragraph (a) is revised to read as follows:

§ 173.219 Life-saving appliances.

(a) A life-saving appliance, self-inflating or non-self-inflating, containing small quantities of hazardous materials that are required as part of the life-saving appliance must conform to the requirements of this section. Packagings must conform to the general packaging requirements of subpart B of this part but need not conform to the requirements of part 178 of this subchapter. The appliances must be packed, so that they cannot be accidentally activated and, except for life vests, the hazardous materials must be in inner packagings packed so as to prevent shifting within the outer packaging. The hazardous materials must be an integral part of the appliance and in quantities that do not exceed those appropriate for the actual appliance when in use.

* * * * *

■ 19. In § 173.227, the heading and the first sentence in paragraph (b) introductory text is revised to read as follows:

§ 173.227 Materials poisonous by inhalation, Division 6.1, Packing Group I, Hazard Zone B.

* * * * *

(b) 1A1, 1B1, 1H1, 1N1, 6HA1, or 6HH1 drums further packed in a 1A2 or 1H2 drum. Both the inner and outer drums must conform to the performance test requirements of subpart M of part 178 of this subchapter at the Packing Group I performance level. * * *

* * * * *

■ 20. In § 173.308, paragraph (b)(3)(ii) is revised to read as follows:

§ 173.308 Lighters.

* * * * *

(b) * * *

(3) * * *

(ii) After weighing, place the lighters together in an explosion-proof, controlled-temperature laboratory oven capable of maintaining 38 ± 1°C (100 ± 2°F) for 96 continuous hours (4 days). At the end of 96 hours, remove the lighters from the oven and place them in the same desiccator and allow the lighters to cool to ambient temperature.

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

■ 21. The authority citation for part 175 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45 and 1.53.

■ 22. In § 175.30, paragraphs (a)(2) and (a)(3) are revised to read as follows:

§ 175.30 Inspecting shipments.

(a) * * *

(2) Described and certified on a shipping paper prepared in duplicate in accordance with part 172 of this subchapter or as authorized by subpart C of part 171 of this subchapter. See § 175.33 for shipping paper retention requirements;

(3) Marked and labeled in accordance with subparts D and E of part 172 or as authorized by subpart C of part 171 of this subchapter, and placarded (when required) in accordance with subpart F of part 172 of this subchapter; and

* * * * *

■ 23. In § 175.33, paragraph (a)(6) is revised to read as follows:

§ 175.33 Shipping paper and notification of pilot-in-command.

(a) * * *

(6) For Class 7 (radioactive) materials, the number of packages, overpacks or freight containers, their category, transport index (if applicable), and their location aboard the aircraft;

* * * * *

PART 176—CARRIAGE BY VESSEL

■ 24. The authority citation for part 176 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 25. In § 176.2, the definitions for ''Explosive article'' and ''INF cargo'' are revised to read as follows:

§ 176.2 Definitions.

* * * * *

Explosive article means an article or device that contains one or more explosive substances. Individual explosive substances are identified in column 17 of the Dangerous Goods List in the IMDG Code (IBR, see § 171.7 of this subchapter).

* * * * *

INF cargo means packaged irradiated nuclear fuel, plutonium or high-level radioactive wastes as those terms are defined in the ''International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on Board Ships'' (INF Code) contained in the IMDG Code.

* * * * *

■ 26. In § 176.83, paragraph (b) introductory text is revised to read as follows:

§ 176.83 Segregation.

* * * * *

(b) *General Segregation Table.* The following table sets forth the general requirements for segregation between the various classes (divisions) of hazardous materials. Certain divisions are listed as separate hazard classes for the purpose of this table (*e.g.*, ''2.1'' and ''2.2''). The properties of materials within each class may vary greatly and may require greater segregation than is reflected in this table. If the § 172.101 Table sets forth particular requirements for segregation, they take precedence over these general requirements.

* * * * *

PART 178—SPECIFICATIONS FOR PACKAGINGS

■ 27. The authority citation for part 178 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 28. In § 178.36, paragraph (a)(2) introductory text and the first sentence in paragraph (f) are revised to read as follows:

§ 178.36 Specification 3A and 3AX seamless steel cylinders.

(a) * * *

(2) A DOT–3AX is a seamless steel cylinder with a water capacity not less than 1,000 pounds and a service pressure of at least 500 psig, conforming to the following requirements:

* * *

* * * * *

(f) *Wall thickness.* For cylinders with service pressure less than 900 psig, the wall stress may not exceed 24,000 psig.

* * *

* * * * *

■ 29. In § 178.275, paragraph (d)(3) introductory text and paragraph (i)(2) are revised to read as follows:

§ 178.275 Specification for UN portable tanks intended for the transportation of liquid and solid hazardous materials.

* * * * *

(d) * * *

(3) Except as provided in paragraph (d)(2) of this section, every bottom discharge outlet must be equipped with three serially fitted and mutually independent shut-off devices. The design of the equipment must include:

* * *

* * * * *

(i) * * *

(2) The combined delivery capacity of the pressure relief system (taking into account the reduction of the flow when the portable tank is fitted with frangible-discs preceding spring-loaded pressure-relief devices or when the spring-loaded pressure-relief devices are provided with a device to prevent the passage of the flame), in condition of complete fire engulfment of the portable tank must be sufficient to limit the pressure in the shell to 20% above the start to discharge pressure limiting device (pressure relief device). The total required capacity of the relief devices may be determined using the formula in paragraph (i)(2)(i)(A) of this section or the table in paragraph (i)(2)(iii) of this section.

(i)(A) To determine the total required capacity of the relief devices, which must be regarded as being the sum of the individual capacities of all the contributing devices, the following formula must be used:

$$Q = 12.4 \frac{FA^{0.82}}{LC} \sqrt{\frac{ZT}{M}}$$

Where:

Q = minimum required rate of discharge in cubic meters of air per second ($m^3/_s$) at conditions: 1 bar and 0 °C (273 °K);

F = for uninsulated shells: 1; for insulated shells: U(649 − t)/13.6 but in no case is less than 0.25

Where:

U = thermal conductance of the insulation, in $kW\,m^{-2}K^{-1}$, at 38 °C (100 °F); and t = actual temperature of the hazardous material during filling (in °C) or when this temperature is unknown, let t = 15 °C (59 °F). The value of F given in this paragraph (i)(2)(i)(A) for insulated shells may only be used if the insulation is in conformance with paragraph (i)(2)(iv) of this section;

A = total external surface area of shell in square meters;

Z = the gas compressibility factor in the accumulating condition (when this factor is unknown, let Z equal 1.0);

T = absolute temperature in Kelvin (°C + 273) above the pressure relief devices in the accumulating condition;

L = the latent heat of vaporization of the liquid, in kJ/kg, in the accumulating condition;

M = molecular weight of the hazardous material.

(B) The constant C, as shown in the formula in paragraph (i)(2)(i)(A) of this section, is derived from one of the following formulas as a function of the ratio k of specific heats:

$$k = \frac{c_p}{c_v}$$

Where:

c_p is the specific heat at constant pressure; and

c_v is the specific heat at constant volume.

(C) When k >1:

$$C = \sqrt{k\left(\frac{2}{k+1}\right)^{\frac{k+1}{k-1}}}$$

(D) When k = 1 or k is unknown, a value of 0.607 may be used for the constant C. C may also be taken from the following table:

C CONSTANT VALUE TABLE

k	C
1.00	0.607
1.02	0.611
1.04	0.615
1.06	0.620
1.08	0.624
1.10	0.628
1.12	0.633
1.14	0.637
1.16	0.641
1.18	0.645
1.20	0.649
1.22	0.652
1.24	0.656
1.26	0.660
1.28	0.664
1.30	0.667
1.32	0.671
1.34	0.674
1.36	0.678
1.38	0.681
1.40	0.685
1.42	0.688
1.44	0.691
1.46	0.695
1.48	0.698
1.50	0.701
1.52	0.704
1.54	0.707
1.56	0.710
1.58	0.713
1.60	0.716
1.62	0.719
1.64	0.722
1.66	0.725
1.68	0.728
1.70	0.731
2.00	0.770
2.20	0.793

(ii) As an alternative to the formula in paragraph (i)(2)(i)(A) of this section, relief devices for shells used for transporting liquids may be sized in accordance with the table in paragraph (i)(2)(iii) of this section. The table in paragraph (i)(2)(iii) of this section assumes an insulation value of F = 1 and must be adjusted accordingly when the shell is insulated. Other values used in determining the table in paragraph (i)(2)(iii) of this section are: L = 334.94 kJ/kg; M = 86.7; T = 394 °K; Z = 1; and C = 0.607.

(iii) Minimum emergency vent capacity, Q, in cubic meters of air per second at 1 bar and 0 °C (273 °K) shown in the following table:

MINIMUM EMERGENCY VENT CAPACITY

[Q Values]

A Exposed area (square meters)	Q (Cubic meters of air per second)	A Exposed area (square meters)	Q (Cubic meters of air per second)
2	0.230	37.5	2.539
3	0.320	40	2.677
4	0.405	42.5	2.814
5	0.487	45	2.949
6	0.565	47.5	3.082
7	0.641	50	3.215
8	0.715	52.5	3.346
9	0.788	55	3.476
10	0.859	57.5	3.605
12	0.998	60	3.733
14	1.132	62.5	3.860
16	1.263	65	3.987
18	1.391	67.5	4.112
20	1.517	70	4.236
22.5	1.670	75	4.483
25	1.821	80	4.726
27.5	1.969	85	4.967
30	2.115	90	5.206
32.5	2.258	95	5.442
35	2.400	100	5.676

(iv) Insulation systems, used for the purpose of reducing venting capacity, must be specifically approved by the approval agency. In all cases, insulation systems approved for this purpose must—

(A) Remain effective at all temperatures up to 649 °C (1200 °F); and

(B) Be jacketed with a material having a melting point of 700 °C (1292 °F) or greater.

* * * * *

■ 30. In § 178.605, paragraph (d) introductory text, and paragraph (d)(3) are revised to read as follows:

§ 178.605 Hydrostatic pressure test.

* * * * *

(d) *Test method and pressure to be applied.* Metal packagings and composite packagings other than plastic (*e.g.*, glass, porcelain or stoneware), including their closures, must be subjected to the test pressure for 5 minutes. Plastic packagings and

composite packagings (plastic material), including their closures, must be subjected to the test pressure for 30 minutes. This pressure is the one to be marked as required in § 178.503(a)(5). The receptacles must be supported in a manner that does not invalidate the test. The test pressure must be applied continuously and evenly, and it must be kept constant throughout the test period. In addition, packagings intended to contain hazardous materials of Packing Group I must be tested to a minimum test pressure of 250 kPa (36 psig). The hydraulic pressure (gauge) applied, taken at the top of the receptacle, and determined by any one of the following methods must be:

* * * * *

(3) Not less than 1.5 times the vapor pressure at 55 °C (131 °F) of the material to be transported minus 100 kPa (15 psi), but with a minimum test pressure of 100 kPa (15 psig).

* * * * *

■ 31. In § 178.700, paragraph (c)(1) is revised to read as follows:

§ 178.700 Purpose, scope and definitions.

(c) * * *

(1) *Body* means the receptacle proper (including openings and their closures, but not including service equipment), that has a volumetric capacity of not more than three cubic meters (3,000 L, 793 gallons, or 106 cubic feet) and not less than 0.45 cubic meters (450 L, 119 gallons, or 15.9 cubic feet) or a maximum net mass of not less than 400 kg (882 pounds).

* * * * *

■ 32. In § 178.801, paragraph (c)(1) is revised to read as follows:

§ 178.801 General requirements.

* * * * *

(c) * * *

(1) *IBC design type* refers to an IBC that does not differ in structural design, size, material of construction, wall thickness, manner of construction and representative service equipment.

* * * * *

PART 179—SPECIFICATIONS FOR TANK CARS

■ 33. The authority citation for part 179 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR part 1.53.

■ 34. In § 179.400–18, paragraph (a) is revised to read as follows:

§ 179.400–18 Test of inner tank.

(a) After all items to be welded to the inner tank have been welded in place, the inner tank must be pressure tested at the test pressure prescribed in § 179.401–1. The temperature of the pressurizing medium may not exceed 38 °C (100 °F) during the test. The inner tank must hold the prescribed pressure for a period of not less than ten minutes without leakage or distortion. In a pneumatic test, due regard for the protection of all personnel should be taken because of the potential hazard involved. After a hydrostatic test the container and piping must be emptied of all water and purged of all water vapor.

* * * * *

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

■ 35. The authority citation for part 180 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 36. In § 180.209, paragraphs (l) introductory text and (l)(2) are revised to read as follows:

§ 180.209 Requirements for requalification of specification cylinders.

* * * * *

(l) *Requalification of foreign cylinders filled for export.* A cylinder manufactured outside the United States, other than as provided in §§ 171.12(a) and 171.23(a) of this subchapter, that has not been manufactured, inspected, tested and marked in accordance with part 178 of this subchapter may be filled with compressed gas in the United States, and shipped solely for export if it meets the following requirements, in addition to other requirements of this subchapter:

(1) * * *

(2) It is offered for transportation in conformance with the requirements of § 171.12(a)(4) or § 171.23(a)(4) of this subchapter.

* * * * *

Issued in Washington, DC, on September 23, 2008, under authority delegated in 49 CFR part 1.

Carl T. Johnson,

Administrator.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 172

Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements

CFR Correction

In title 49 of the Code of Federal Regulations, part 172, revised as of October 1, 2007, beginning on page 132, in § 172.101 the following corrections are made to the Hazardous Materials Table:

1. The first entry for Amines, flammable, corrosive, n.o.s. *or* Polyamines, flammable corrosive, n.o.s. UN2733 is removed.

2. The entry for Amines, liquid, corrosive, flammable n.o.s. *or* Polyamines, liquid corrosive, flammable n.o.s. UN2734 PG I is reinstated above the second PG II entry in UN2733.

3. The entry for Calcium UN1401 is reinstated.

4. In Caustic alkali liquids, n.o.s. UN1719, ‘‘, 52’’ is added to both entries after the number ‘‘29’’.

5. The entry for Chromosulfuric acid UN2240 is reinstated.

6. The second entry for Lighters containing flammable gas UN1057 is removed.

7. In the entry for Methylhydrazine UN1244, ‘‘49, 52 and 100’’ are added in the last column.

8. The entry for Organometallic substance solid, water reactive UN3395 is reinstated.

The reinstated text reads as follows:

§ 172.101 Special provisions.

* * * * *