Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		
		Effective	Modified	Communities affected
Soap Creek	At the confluence with Joe Pool Lake	None	+540	City of Grand Prairie, City of Midlothian, Unincorporated Areas of Ellis County.
	Approximately 0.26 mile downstream of U.S. Route 67.	None	+598	
West Soap Creek	At the confluence with Soap Creek	None	+581	Unincorporated Areas of Ellis County.
	Approximately 0.5 mile upstream of Ray White Road	None	+601	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate.
Map located at the community map repository (see below) for exact locations of all BFEs to be changed.
Send comments to Roy E. Wright, Deputy Director, Risk Analysis Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Cedar Hill
Maps are available for inspection at City Hall, 502 Cedar Street, Cedar Hill, TX 75104.

City of Grand Prairie
Maps are available for inspection at City Hall, 317 College Street, Grand Prairie, TX 75053.

City of Midlothian
Maps are available for inspection at City Hall, 104 West Avenue East, Midlothian, TX 76065.

Unincorporated Areas of Ellis County
Maps are available for inspection at the Ellis County Courthouse, 101 West Main Street, Waxahachie, TX 75165.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: September 17, 2010.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2010–24370 Filed 9–28–10; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

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

[Docket No. PHMSA–2009–0151 (HM–218F)]

RIN 2137–AE46

Hazardous Materials; Miscellaneous Amendments

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: PHMSA proposes to make miscellaneous amendments to the Hazardous Materials Regulations to update and clarify certain regulatory requirements. Among other provisions, PHMSA is proposing to add a labeling exception for "consolidation bins" to facilitate use of bins as a method of consolidating packages for ease of handling when transported by motor vehicle and to clarify that the definition of "person," as that term is used in the regulations, also includes persons who manufacture, test, repair, and recondition packaging. PHMSA also proposes to provide an exception from regulation for permeation devices containing small amounts of hazardous materials.

DATES: Comments must be received by November 29, 2010.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking* Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Dockets Management System; U.S. Department of Transportation, Dockets Operations, M–30, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.
- *Hand Delivery:* To U.S. Department of Transportation, Dockets Operations, M–30, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: Include the agency name and docket number PHMSA–2009–0151 (HM–218F) or RIN 2137–AE46 for this rulemaking at the beginning of your comment. Note that all comments received will be posted without change to *http://www.regulations.gov* including any personal information provided. If sent by mail, comments must be submitted in duplicate. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard.

Privacy Act: Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act

Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://www.regulations.gov*.

Docket: You may view the public docket through the Internet at *http://www.regulations.gov* or in person at the Docket Operations office at the above address (See **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Deborah L. Boothe, Office of Hazardous Materials Standards, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

This NPRM is designed to update and clarify existing requirements by incorporating changes into the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) based on PHMSA's own initiatives and petitions for rulemaking submitted in accordance with 49 CFR 106.95. To this end, PHMSA is proposing to eliminate, revise, clarify and relax certain regulatory requirements.

In this NPRM, PHMSA is proposing to:

- Update incorporations by reference of industry consensus standards issued by the Aluminum Association; the American Society for Testing and Materials; and the Institute of Makers of Explosives (*see* §§ 173.63 and 177.835).
- Add a requirement for each applicant to a special permit under §§ 107.105, 107.107, and 107.109 to identify their role as a shipper (offeror), carrier, or both.
- Revise the definition of "person" to include those who manufacture, test, repair, and recondition packages (*see* § 171.8).
- Revise the Hazardous Materials Table (HMT) to harmonize certain entries with international standards (*see* § 172.101) by adding and revising certain proper shipping names. Most significantly, we are adding a new entry "Formaldehyde solutions (with not less than 10% and less than 25% formaldehyde)" to clarify requirements applicable to formaldehyde and formalin with less than 10% formaldehyde; revising the entry for "Environmentally hazardous substances, liquid, n.o.s." to provide packaging exceptions for certain materials that are assigned to UN3082; and adding a new special provision 176 to § 172.102 to clarify the differences between Class 3 and Class 9 formaldehyde solutions.
- Add a new italicized entry to the HMT for "Permeation devices" referencing a new § 173.175 applicable to permeation devices to provide an exception for permeation devices containing hazardous materials. Permeation devices are used for calibrating air quality monitoring devices for consistency. This change harmonizes the HMR with the current exception in the international regulations for these devices.
- Update and clarify hazard communication requirements applicable to Class 9 label specifications; placard size; IBCs; and Division 6.2 labels.
- Authorize the use of an alternative bend test for DOT 3AA and 3AAX steel cylinders.
- Revise § 178.71 to authorize the use of either a proof pressure or volumetric expansion test as described in the ISO 7866 and 9809 standards.
- Revise § 171.14 transitional provisions to remove expired transitional provisions and incorporate certain transitional provisions into the specific sections of the HMR.
- Revise provisions in § 173.56(j) to further clarify the use of the American Pyrotechnics Association (APA) standard for classifying and approving fireworks.
- Revise § 172.404 to provide a labeling exception for consolidation bins used to transport hazardous materials by motor carrier.
- Revise § 178.345.1 to allow vapors to escape through a vent or drain.
- Revise § 178.320 cargo tank wall definition.
- Revise § 178.347–1 to clarify that a cargo tank motor vehicle with a Maximum Allowable Working Pressure (MAWP) greater than 35 psig or designed to be loaded by vacuum must be constructed and certified in accordance with the ASME Code.
- Revise § 178.347–4 to make a clear distinction between "designed to be loaded by vacuum" and "built to withstand full vacuum."

II. Proposals in This NPRM

A. Updated Incorporations by Reference

Section 171.7 lists the materials incorporated by reference into the HMR. In response to a petition for rulemaking (P–1495), PHMSA reviewed the updated American Society for Testing and Materials Standard pertaining to the use of an alternate bend test for DOT 3AA and 3AAX cylinders in accordance with (ASTM E290–97a (2004), "Standard Test Methods for Bend Testing for Material for Ductility"). PHMSA also reviewed the updated Association of American Railroads' (AAR) pamphlet pertaining to the Intermodal Loading of Products in Closed Trailers and Containers (AAR Pamphlet 6C); and the updated Institute of Makers of Explosives' Standard pertaining to the Safe Transportation of Detonators (IME SLP–22, Recommendations for the Safe Transportation of Detonators in a Vehicle with Certain Other Explosive Materials, dated February 2007). PHMSA found no provisions that would impose additional requirements or would have an adverse impact on safety. Therefore, in this NPRM, PHMSA is proposing to update the materials incorporated by reference to include the most recent editions of these standards.

B. Definition of "Person"

Section 171.8 lists definitions for commonly used terms in the HMR. The current definition of "person" is inconsistent with the definition in the Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 *et seq.*) in that it does not include persons who manufacture, repair, or test packaging authorized for the transportation of hazardous materials. For consistency with the statutory definition, we are proposing to revise the definition of "person" in § 171.8 to include packaging manufacturers as well as repairers and testers of packaging used for the transportation of hazardous materials.

C. Consolidation Bins

Consolidation bins are commonly used by motor carriers to consolidate and transport hazardous materials packages. Consolidation bins are not offered by a shipper, rather, they are used by a motor carrier to consolidate, secure against movement, and provide additional protection for small packages. Currently, under the provisions of § 172.404(b), a consolidation bin is an outside container and must be labeled as required for each of the hazardous

materials it contains. The American Trucking Associations (ATA) petitioned PHMSA (petition number P–1545; Docket Number PHMSA–2009–0236) to allow motor carriers to use consolidation bins to transport packages of hazardous materials without having to affix labels to the consolidation bin for each class of hazardous material contained within the bin.

In its petition, ATA suggests that using consolidation bins promotes safety by reducing damage to packages of hazardous materials, improves regulatory compliance by ensuring that packages are effectively blocked and braced on a vehicle, improves transportation efficiency by minimizing handling of numerous small packages, and allows packages moving to a specific terminal to be grouped together and to be transferred more efficiently from one motor vehicle to another. However, according to ATA, motor carriers are foregoing the use of consolidation bins because the dynamic nature of motor carrier operations makes the labeling and un-labeling of the bins impracticable. ATA gives the following reasons:

- Drivers would have to be trained on when to affix and remove labels as freight is picked up and dropped off.
- Each motor vehicle would have to be equipped with multiple sets of all labels, as drivers do not know the hazard classes of freight they will pick up prior to arriving at the consignor's facility.
- It is physically difficult to properly affix labels on a reusable consolidation bin in a manner that ensures they do not come off while in transportation and then remove those labels as packages within the bins are delivered.

ATA states: "The use of unlabeled consolidation bins will not compromise the safe transportation of hazardous materials. Hazardous materials packaging loaded into the consolidation bin will be marked, labeled, and manifested on a hazardous material shipping paper. While some of these package labels may not be visible within the consolidation bin, this situation is identical to the current transportation of packagings where labels may be obscured by the position of the package or its placement in the vehicle * * *." In its petition, ATA proposes a new paragraph (c) to § 172.404 to allow a motor carrier to use an unlabeled consolidation bin for its own convenience, to include trailer-on-flatcar service, and proposes a specific definition in § 171.8 for the term "consolidation bin".

In addition to the petition for rulemaking by ATA, PHMSA issued special permit, DOT–SP 14881, authorizing the use of consolidation bins without hazard warning labels on the outside of the bins. This special permit was issued on December 3, 2009 and has been routinely used with no reported incidents. The special permit requires that the consolidation bin be marked with an indication of each hazard class or division within it; that the packages be secured within the bin by other packages or other suitable means to prevent shifting or significant relative motion between the packages; that the consolidation bins be otherwise properly blocked and braced within the transport vehicle; and that the packages be loaded only by employees of the motor carrier.

PHMSA agrees there are safety benefits to using consolidation bins and that it may be impractical for a motor carrier to label and remove labels for packages transported in consolidation bins. Therefore, we are proposing to allow an exception from labeling for consolidation bins used for the convenience of a motor carrier. However, PHMSA is concerned that, in the absence of any marking or label on the consolidation bin, a person other than the person who had placed packages in the bin may have no indication the bin contains a hazardous material. To address this concern, and consistent with the terms of the special permit, we propose to require the bin to be marked in a manner that indicates it contains a hazardous material. We also propose to incorporate several provisions of the special permit, including limiting the size of a consolidation bin to less than 64 cubic feet capacity, so as not to conflict with hazard communication requirements for freight containers. We also propose that the consolidation bin must be reusable, made of materials such as plastic, wood, or metal. PHMSA is concerned that consolidation bins made of cardboard are not of sufficient strength to meet the requirements in this proposal. Accordingly, PHMSA is requesting comments on the use of cardboard and what standards should be established if cardboard would be authorized for use, *i.e.,* thickness, wall type, burst strength, etc.

We also propose that packages may only be placed within the consolidation bin and the bin be loaded on a motor vehicle by an employee of a single motor carrier. Additionally, we propose that consolidation bins may only be transported by a single motor carrier, or on railcars transporting such vehicles. We believe the proposed language in § 172.404(c) obviates the need for a separate definition for "consolidation bin" in § 171.8.

In addition to the proposal to address the ATA petition, we propose to revise paragraph (b) of § 172.404, to clarify that an outside container or overpack need not be labeled, if labels on the packages contained therein are visible, for consistency with the overpack provisions of § 173.25(a)(2).

D. Transitional Provisions

Section 171.14 provides transitional provisions for recently adopted regulatory changes. Most of the provisions in this section are outdated. Therefore, for better understanding of the transitional provisions, we are proposing to remove this section and outdated provisions from the HMR and add the remaining provisions to the appropriate sections in the HMR to which they apply, as follows:

- *Shipping description sequence.* Section 171.14(e) permits the shipping description sequences in effect on December 31, 2006, to be used until January 1, 2013. In this NPRM, PHMSA proposes to relocate this transitional provision to § 172.202(b).
- *Division 5.2 labels and placards.* Section 171.14(f) authorizes the use of a Division 5.2 label and a Division 5.2 placard that conform to the label and placard specifications in effect on December 31, 2006, until January 1, 2011, except for transportation by highway. For transportation by highway, a Division 5.2 placard conforming to the specifications in § 172.552 of this subchapter in effect on December 31, 2006 may be used until January 1, 2014. In this NPRM, PHMSA is proposing to relocate these transitional provisions to §§ 172.427 and 172.552, respectively.
- *Class 3 and Division 6.1 definitions.* Section 171.14(g) authorizes the use of the Class 3 and Division 6.1 classification criteria and packing group assignments in effect on December 31, 2006, until January 1, 2012. In this NPRM, PHMSA proposes to relocate these transitional provisions to §§ 173.120 and 173.121 for Class 3 materials and to §§ 173.132 and 173.133 for Division 6.1 materials.
- *Gasohol.* The transitional provision for gasohol in § 171.14(h) would be relocated to a new Special Provision 178 to specify that effective October 1, 2010, the proper shipping name "Ethanol and gasoline mixture *or* ethanol and motor spirit mixture *or* ethanol and petrol mixture," and the revised proper shipping name "Gasohol *gasoline mixed with ethyl alcohol, with not more than 10% alcohol*" must be used, as

appropriate when describing gasoline and ethanol mixtures.

E. Reporting Infectious Substances Incidents

Section 171.15 establishes requirements for immediate notice of incidents involving certain hazardous materials incidents. The Centers for Disease Control and Prevention is no longer accepting calls providing notice of incidents involving an infectious substance (etiologic agent). Therefore, we are proposing to remove the alternative to provide notice to the Centers for Disease Control and Prevention of incidents involving an infectious substance (etiologic agent). Specifically, we are proposing to remove the following text from paragraph (a) referencing the Centers for Disease Control and Prevention which states: "Notice involving an infectious substance (etiologic agent) may be given to the Director, Centers for Disease Control and Prevention, U.S. Public Health Service, Atlanta, GA, 800–232–0124 (toll free), in place of notice to the NRC."

F. Hazard Communication for IBCs

Section 172.336 requires identification numbers to be displayed on either orange panels or a plain white square-on-point display configuration having the same outside dimensions as a placard. Section 172.514 provides an exception to placarding for IBCs which authorizes IBCs to be labeled rather than placarded. However, there is no provision in the HMR that allows the proper shipping name and UN number to be displayed in lieu of displaying the UN number on a placard, orange panel, or white square-on-point configuration [49 CFR 172.332(a)]. For international transport in accordance with the IMDG Code, IBCs are not required to display a UN number on a placard or orange panel. They are, however, required to be marked and labeled as a package. To comply with both the HMR requirements and IMDG Code provisions, some shippers are having difficulty fitting all of the various markings, labels, placards in a steel cage IBC. These IBCs are constructed with a metal plate and all of the required markings, labels, placards do not fit in the allowed space on the metal plate; some must be affixed to the metal boards with clips or other holding devices which, although secured, run the risk of becoming dislodged during transportation. To meet all of the necessary requirements, a shipper may place all of the following items on the IBC: A placard with the UN number; a hazard label; the proper shipping name and UN number; and the GHS product labeling requirements. Shippers generally do not use the UN number on the orange panel because this configuration is too large for the metal plate.

For international harmonization, we are proposing to revise § 172.336 by adding a new paragraph (d) to indicate that when a bulk packaging is labeled instead of placarded in accordance with § 172.514(c), identification numbers may be displayed in accordance with § 172.301(a)(1). Additionally, we are proposing to revise § 172.514(c)(4) to indicate that IBCs that are labeled on two opposite sides rather than placarded, are authorized to display the proper shipping name and UN number in lieu of displaying the UN number on a placard, orange panel, or white square-on-point configuration.

G. HMT Revisions

In this NPRM, PHMSA is proposing a number of revisions to the Hazardous Materials Table (HMT; § 172.101). Proposed changes to the HMT will appear under two sections of the Table, "add," and "revise." Proposed amendments to the HMT for the purpose of harmonizing with international standards include, but are not limited to, the following:

- Section 172.101(c) provides instruction on the use of the Column (2) list of hazardous materials descriptions and proper shipping names in the HMT. Included in paragraph (c)(2) is instruction on use of the word "or." The word "or" in italics indicates that there is a choice of terms in the sequence that may be used as the proper shipping name or as part of the proper shipping name. We are clarifying this provision by proposing further instruction on the use of the word "or." For clarification, we are proposing to include examples to indicate that the term "or" authorizes the use of either the first or the second term in the description of the hazardous materials in the proper shipping name. For example, the entry "Carbon dioxide, solid *or* Dry ice" means that either "Carbon dioxide, solid" or "Dry ice" may be used as the proper shipping name; and, the entry "Articles, pressurized pneumatic *or* hydraulic" means that either "Articles, pressurized pneumatic" or "Articles, pressurized hydraulic" may be used as the proper shipping name.
- The entries for "Formaldehyde, solutions" and "Formalin" are sometimes used incorrectly. Formalin is specifically defined as a 37% aqueous solution of formaldehyde. A 10% formalin solution and 10% formaldehyde solution are not the same materials for transport purposes. Many diagnostic and biological samples are transported by commercial aircraft in formaldehyde solutions of various concentrations. Some samples transported in 10% or greater formaldehyde solutions are incorrectly shipped as unregulated materials. Other samples transported in 3.7% formaldehyde (10% formalin) solutions are incorrectly shipped as fully regulated hazardous materials. A formaldehyde solution, with less than 25% but not less than 10% formaldehyde is a Class 9 material. In this NPRM, PHMSA is proposing to include a new italicized entry in Column (2) of the HMT for 10%–25% formaldehyde solutions to enhance understanding of the entries in the HMT. This new entry will reference the proper shipping names "Aviation regulated liquid, n.o.s" and "Other regulated substances, liquid, n.o.s."

  Formalin is an aqueous solution of formaldehyde and methanol and is a Class 3 flammable liquid material. The entry "Formaldehyde solutions, flammable, UN1198" is intended for use as a hazardous materials description for formalin. Note that the less common "methanol-free" formalin is not a Class 3 material. Therefore, for further clarification, we are also proposing to revise the "Formaldehyde, solutions, flammable entry by adding a new special provision 176 to specify that the entry is intended for use as proper shipping name for formaldehyde solutions containing methanol.
- In a final rule, under Docket HM–215I, PHMSA revised the proper shipping name for "Regulated medical waste, n.o.s, UN3291" to include "Clinical waste unspecified, n.o.s." and "(BIO) Medical waste, n.o.s." under a combined proper shipping name entry. It has come to our attention that combining all the proper shipping names under the one entry makes it difficult to know the other proper shipping names exist. We are proposing to give each proper shipping name its own entry in the HMT with a cross reference to the others.
- For the entry "Battery-powered vehicle *or* Battery-powered equipment, UN3171," the stowage category "A" entry in Column (10A) was inadvertently omitted. We are proposing to reinstate in Column (10A) of the HMT stowage category "A".
- A new italicized entry "Permeation devices, containing dangerous goods, for calibrating air quality monitoring equipment" will be added referencing § 173.175 to indicate that permeation devices that contain dangerous goods and are used for calibrating air quality monitoring devices are not subject to

these requirements provided the conditions are met. This proposed revision was submitted to PHMSA as a petition for rulemaking (P–1493) from the URS Corp. requesting harmonization with the international regulations on the exception for permeation devices in Special Provision A41 of the ICAO Technical Instructions.

Section 172.102 lists a number of special provisions applicable to the transportation of specific hazardous materials. Special provisions contain packaging requirements, prohibitions, and exceptions applicable to particular quantities or forms of hazardous materials. For consistency with international regulations, we propose to amend § 172.102, special provisions, as follows:

• PHMSA is proposing to add a new Special Provision 173 to provide a specification package exception for certain adhesives, printing inks, printing ink-related materials, paints, paint- related materials, and resin solution which are assigned to "Environmentally hazardous substances, liquid, n.o.s., UN3082." This is consistent with an exception recently adopted within the UN Model Regulations on the Transport of Dangerous Goods. The exception adopted by the UN was an expansion of the current packing provision PP1 of Packing Instruction P001 of the UN Model Regulations and provides that metal or plastic packaging for substances of Packing Groups II and III in quantities of 5 liters or less per packaging are not required to be packed in specification packaging when transported under specific conditions. In the HM–215J final rule published January 4, 2010 (75 FR 63), PHMSA indicated that it was evaluating the adoption of these provisions. PHMSA has completed this review and is proposing to adopt the provision on the basis that environmentally hazardous paints, adhesives, printing inks, etc. pose a lesser degree of risk than flammable and corrosive paints which are already provided this exception in the HMR.

H. Hazard Communication

Section 172.203(c) provides additional shipping paper description requirements. PHMSA received a petition for rulemaking (P–1456) from the AAR to suggest that a shipping paper be required to include a notation for shipments of non-odorized liquefied petroleum gas (LPG). Most LPG shipments contain an odorant. Thus, in the event of an accident involving LPG, emergency responders may assume that no LPG is leaking if they cannot detect an odor. To ensure that emergency responders are made aware that a shipment of LPG is not odorized, PHMSA proposes to revise § 172.203(c) to require a notation that the LPG shipment does not contain an odorant.

Section 172.324 provides additional marking requirements for hazardous materials in non-bulk packaging. For clarification purposes, in this NPRM, PHMSA proposes to amend this section to require a package containing a limited quantity that also meets the definition for a hazardous substance to be marked with the name of the hazardous substance on the package, in parentheses, in association with the proper shipping name or the identification number, as applicable.

Section 172.336 requires identification numbers to be displayed on either orange panels or a plain white square-on-point display configuration on transport vehicles and freight containers carrying hazardous materials. In a petition for rulemaking (P–1392), Vinings Industries, Inc., has noted that given the size of bulk packaging covered by the placard-to-label exception and the fact that these packagings are generally transported in closed vehicles, the same logic used to justify a small display of the hazard identity (e.g., labels instead of placards) would support a small, more flexible, display of the identification number. PHMSA agrees that the petition has merit. Therefore, in this NPRM, PHMSA proposes to revise § 172.336 by adding new paragraph (d) to allow the use of smaller identification markings when a bulk packaging is labeled instead of placarded.

Section 172.432 describes the Infectious Substance label size and color and provides an illustration of how it must appear. References to the Centers for Disease Control (CDC) are no longer required on this label. Therefore, we are proposing to remove the text that refers to the CDC on the label. (In U.S.A. Notify Director—CDC, Atlanta, GA 1–800–232–0124.) We are allowing three years from the effective date of the final rule to use up existing stocks.

Section 172.446 describes the Class 9 label specifications, including size, color, and an illustration of how it must appear. The Class 9 label specifications illustrated in the HMR is different from that in the United Nations (UN) and all of the modal regulations in that it features a thin, horizontal line running across the label at its midpoint (just at the bottom of the vertical black bars). There is no similar line in the UN or other international standards. Some shipments are being delayed and required to be relabeled by European carriers due to this difference in the Class 9 label specifications. In an effort to avoid continued frustrated or delayed shipments, in this NPRM, PHMSA proposes to revise the Class 9 label specifications by removing the horizontal line running across the label at its midpoint. We are allowing three years from the effective date of the final rule to use up existing stocks.

Section 172.519 establishes general specifications for placards. Paragraph (c)(1) states that each placard must measure at least 273 mm (10.8 inches) on each side and must have a solid line inner border approximately 12.7 mm (0.5 inches) from each edge. For international harmonization, we are proposing to authorize the use of placards measuring from 250 mm (9.84 inches) on each side and having a solid line inner border approximately 12.7 mm (0.5 inches) from each edge.

I. Exclusive Use Vehicles for Regulated Medical Waste (RMW)

Section 173.134 establishes definitions and exceptions for infectious substances. Paragraph (c)(2) requires RMW that contains Category B cultures and stocks to be transported on a vehicle "used exclusively" to transport RMW. In a letter of interpretation issued on March 19, 2007 (Ref. No. 07–0057), PHMSA clarified that the exception in § 173.134(c)(2) applies to their shipping scenario when transporting the various types of medical waste as described below. PHMSA is proposing to revise § 173.134(c)(2) to incorporate the clarifications from the March 19, 2007 letter of interpretation. Specifically, PHMSA is clarifying that the following materials may be transported on a vehicle used exclusively to transport RMW: (1) Plant and animal waste regulated by the Animal and Plant Health Inspection Service (APHIS); (2) waste pharmaceutical materials; (3) laboratory and recyclable wastes; (4) infectious substances that have been treated to eliminate or neutralize pathogens; (5) forensic materials being transported for final destruction; (6) rejected or recalled health care products; and (7) documents intended for destruction in accordance with Health Insurance Portability and Accountability Act of 1996 (HIPAA) requirements.

J. Fireworks

Section 173.56 specifies the requirements for classification and approval of new explosives, including fireworks in § 173.56(j). The section incorporates by reference the APA Standard 87–1 for classifying and approving fireworks. The text of

§ 173.56(j) permits the use of APA Standard 87–1 for determining fireworks classification as Division 1.3 or 1.4 explosive materials. The APA standard is also used to classify a pyrotechnic device as 1.1G. Therefore, we are proposing to delete the words "Division 1.3 and 1.4" in the introductory paragraph so that the sentence reads, "Fireworks may be classed and approved by the Associate Administrator without prior examination and offered for transportation if the following conditions are met:"

K. Explosives

Section 173.60 provides general packaging requirements for shipping Class 1 (explosive) materials. In a petition for rulemaking (P–1527), Mr. Alexander Fucito, the petitioner, asks PHMSA to revise the HMR to allow flexibility in testing and preparation of unpackaged shipments consisting of large and robust explosive articles. The petitioner contends that the current thermal stability and drop test requirements provided by Test Series 4 of the UN Manual of Tests and Criteria are unsafe and pose an unrealistic burden for persons who transport these articles. The petitioner asks PHMSA to revise § 173.60(b) to allow large and robust foreign munitions to be transported in the original, manufacturer provided, shipping configuration.

Section 173.60(b)(14) contains the same language as the footnote in Packaging Instruction 130 for named UN numbers in the UN Recommendations, Paragraph 4.1.5.15. However, there is a second paragraph to Paragraph 4.1.5.15 that has not yet been incorporated into the HMR. That paragraph reads: "Where such large explosive articles are as part of their operational safety and suitability tests are subjected to test regimes that meet the intentions of these Regulations and such tests have been successfully undertaken, the competent authority may approve such articles to be transported under these Regulations." PHMSA is proposing to add modified text of this paragraph from the 15th Edition of the UN Recommendations to §§ 173.60(b)(14) and 173.62(c) Packing Instruction 130 in the Table of Packing Methods to provide greater harmonization and account for the concerns expressed by Mr. Fucito in Petition P–1527.

L. Rail Transportation of Hazardous Materials

Sections 174.55(a); 174.101(o)(2)(3); 174.112(c)(3), and 174.115(b)(3) establish general handling and loading requirements for the transportation of hazardous materials by rail. The Bureau of Explosives (BOE), part of the AAR, was founded in 1907 by the railroad industry to serve as a self-policing agency to promote the safe transportation of explosives and other hazardous materials. The BOE wrote some of the first hazardous materials regulations which were subsequently adopted and expanded upon by the Interstate Commerce Commission (ICC) and later the U.S. Department of Transportation. A number of BOE publications are referenced in the HMR for bulk and non-bulk shipments of hazardous materials.

Several of the BOE publications focus on the safe transportation of non-bulk packages of hazardous materials in trailer-on-flatcar service, including BOE Pamphlet No. 6, *Approved Methods for Loading and Bracing Carload and Less Than Carload Shipments of Explosives and Other Hazardous Materials;* Pamphlet No. 6A, *Approved Methods for Loading and Bracing Carload Shipments of Military Ammunition and Explosives;* and BOE Pamphlet 6C, *Approved Methods for Loading and Bracing Trailers and Less-Than-Trailer Shipments of Explosives and Other Dangerous Articles Via Trailer-on-Flat-car and Container-on-Flat-car.* Pamphlets 6 and 6A were last updated in 1976.

With the increasing use of intermodal methods as the preferred means of shipping non-bulk packages of hazardous materials, the AAR subsequently issued the *Intermodal Loading Guide for Products in Closed Trailers and Containers* (Guide), replacing BOE Pamphlet 6C, Pamphlet No. 45, and Circular No. 43–C. This Guide was issued in 1995. Despite the industry change, BOE Pamphlets 6 and 6A remain in effect and are referenced in the HMR.

The *Intermodal Loading Guide for Products in Closed Trailers and Containers* is intended to be a comprehensive manual for loading commodities in trailers and containers for shipment by rail. Incorporated into this Guide are AAR Circular 43–D, *Rules for Governing the Loading, Blocking and Bracing of Freight in Closed Trailers and Containers for TOFC/COFC Service,* the approved loading and bracing information contained in AAR Bureau of Explosives Pamphlet 6C, and AAR Pamphlet No. 45 on general loading in closed trailers and containers.

The "General Rules" as contained in Circular 43–D are issued by the Association of American Railroads, and have been formulated for the purpose of providing safe methods of loading in closed trailers or containers. During normal transportation, trailers and containers may move in a backwards or reverse direction for all or part of their journey. Dynamic forces may shift an unsecured load or cause lading to exert excessive pressure against the front, rear doors, or sides of the trailer or container. Lading that is improperly blocked and braced can shift and cause the vehicle to lean on the flatcar. A leaning vehicle can cause a sideswipe or contribute to a derailment. The loading methods, as described in the Guide, are approved by the Damage Prevention and Freight Claim Committee and are minimum industry acceptance standards that have been evaluated and approved by the member railroad carriers serving on the committee.

PHMSA is proposing to revise Part 174 to properly reflect the current Guide by replacing references to Pamphlet 6C in §§ 174.55(a); 174.101(o)(2)(3); 174.112(c)(3); and 174.115(b)(3). At each of these section references, places where Pamphlets 6 and 6C are referenced, Pamphlet 6 will remain and Pamphlet 6C will be replaced by the *Intermodal Loading Guide for Products in Closed Trailers and Containers.*

M. Rail Transloading Operations

Section 174.67 provides general requirements for rail tank car transloading operations for hazardous materials. In a petition for rulemaking (P–1481), Musket Corporation requests several revisions to this section. Specifically, the petitioner asks for clarification of manhole opening requirements, suggesting that the requirement for manhole covers to be opened during transloading operations conflicts with procedures to contain or control vapors during transloading or unloading operations where venting is accomplished through vapor valves rather than manhole openings. Additionally, certain companies pneumatically unload tank cars, and this process cannot be accomplished with the manhole cover open. In addition, the petitioner notes that the language requiring manhole covers to be opened during this process conflicts with regulations from other regulatory bodies, such as the EPA National Emission Standards for Hazardous Air Pollutants for Source Categories, Subpart PP. Finally, the petitioner suggests that this requirement conflicts with a number of air quality control permits that restrict the amount of emissions companies can vent into the atmosphere.

PHMSA agrees that the petition has merit. Therefore, in this NPRM, PHMSA

proposes to revise § 174.67 to clarify and further address closed systems in transloading operations. PHMSA proposes that for closed systems, before a manhole cover or outlet valve cap is removed from a tank car, the car must be relieved of all interior pressure by cooling the tank with water or by venting the tank by raising the safety valve or opening the dome vent at short intervals. However, if venting to relieve pressure will cause a dangerous amount of vapor to collect outside the car, venting and unloading must be deferred until the pressure is reduced by allowing the car to stand overnight, otherwise cooling the contents, or allow venting to a closed collection system. These precautions are not necessary when the car is equipped with a manhole cover that hinges inward or with an inner manhole cover that does not have to be removed to unload the car, and when pressure is relieved by piping vapor into a condenser or storage tank.

N. Cylinders

Section 173.302 provides the requirements for filling cylinders with non-liquefied (permanent) compressed gases. Section 173.304 provides the requirements for filling cylinders with liquefied compressed gases. In a final rule under Docket HM–224B, PHMSA added DOT 39 cylinders to the types of cylinders authorized for the transportation of compressed oxygen and other oxidizing gases aboard aircraft in §§ 173.302 and 173.304. It has come to our attention that when we included DOT 39 cylinders with the other types of cylinders, we did not recognize that DOT 39 cylinders have a different pressure relief device (PRD) setting tolerance than the other authorized cylinders. Therefore, in this NPRM, we are proposing to revise paragraph (f)(2) of § 173.302 and paragraph (f)(2) of § 173.304 to prescribe the PRD setting tolerance for DOT 39 cylinders.

Section 178.35 contains general requirements for specification cylinders. Paragraphs (c)(4) and (g) require the inspector to complete certain reports containing the applicable information listed in the Compressed Gas Association publication, CGA C–11 "Recommended Practices for Inspection of Compressed Gas Cylinders at Time of Manufacture" and any additional information or markings required by the applicable specification. These documents must be provided to the cylinder manufacturer and, upon request, to the purchaser. PHMSA compliance inspections reveal sometimes these reports are completed several months after the cylinders are sold. PHMSA is proposing to consolidate the inspector's reports requirements into paragraph (c)(4). A new paragraph (g) would be added to clarify the cylinder manufacturer must have all completed test and certification reports available at or before the time of delivering the cylinders to the purchaser. In addition, the manufacturer's report retention requirement in paragraph (h) would be relocated to paragraph (g) and paragraph (h) would be removed.

Section 178.37 sets forth manufacturing specifications for DOT 3AA and 3AAX seamless steel cylinders, in addition to requirements set forth in § 173.35. Paragraphs (j) and (l) specify the flatting test procedures and rejection criteria respectively. PHMSA received a petition (P–1513) from Worthington Cylinders Corp. requesting a revision to § 178.37 to authorize the use of an alternate bend test conducted in accordance with the procedures in ASTM E 290–97a (2004) for DOT 3AA and 3AAX cylinders. The petitioner states that the proposed bend test demonstrates ductility of the cylinder with the same accuracy as the flattening test at a lower cost to cylinder manufacturers. We agree with the petitioner that the use of the bend test is acceptable for cylinders. Therefore, we are proposing to revise paragraphs (j) and (l) in § 178.37 to authorize the use of the bend test.

Section 178.71 contains design and manufacturing specifications for UN pressure receptacles, including the specification marking requirements. PHMSA is proposing to relax the requirements in paragraph (o)(6) of the HMR to allow the use of a proof pressure test. The ISO 7866 and 9809 standards permit either the proof pressure test or volumetric expansion test to be used. The volumetric expansion test measures the cylinder's elastic expansion and assures the cylinder received a proper heat treatment. However, the ISO standards also require each cylinder be subjected to a hardness test and a comprehensive shear wave ultrasonic examination (UE). PHMSA believes the combination of the proof pressure test, hardness test, and UE should provide adequate assurance that each cylinder received a proper heat treatment. In addition, PHMSA is revising paragraph (c)(1) to include the proof pressure test.

O. Cargo Tanks

Section 178.345–1(i)(2) establishes general design and construction requirements for DOT 406 (§ 178.346), DOT 407 (§ 178.347), and DOT 412 (§ 178.348) cargo tank motor vehicles. Previous interpretations of this section indicate that a vent must be located as close to the top centerline of the tank as practicable and the drain as close to the bottom centerline of the tank as practicable. Through discussions with industry and enforcement personnel, we have determined that requiring an opening on top of a cargo tank to vent vapors that accumulate in the void space may not be the best practice. In many instances, such as with gasoline, the vapors are heavier than air and it is not necessary to require cargo tanks to be vented to the atmosphere through a vent located near the top centerline. Vapors heavier than air escape through the drain opening. In addition, venting voids through the top of a cargo tank may cause premature corrosion of the void space as a result of water penetration. Allowing the vent to be plugged will also make it easier to identify when there is actually a leak in the bulkhead. Hazardous materials leaking from the drain will cause an obvious stain/dirt buildup that, with the top vent plugged, cannot be a result of water draining from the top vent and must be a leaking bulkhead.

To address this problem, in this NPRM, PHMSA proposes to revise § 178.345–1 to clearly indicate that any void area within the connecting structure of a cargo tank between double bulk heads must be vented to the atmosphere through the required drain or through a separate vent. The proposed revision will ensure that void spaces in the connecting structure of DOT 406, 407, and 412 cargo tank motor vehicles are properly vented to allow for the escape of product vapors. This change also promotes the longevity of the tanks by clarifying that it is not necessary to place a vent in the top of a void space where rain water can easily infiltrate the void space and cause corrosion if the product vapors are heavier than air and will vent through the drain. This clarification ensures that the vent is located in the most appropriate location for the material being transported. However, we urge manufacturers to continue allowing for access to the void space through the top of the tank. In addition, we suggest the continued placement of inspection openings of sufficient size and number to permit proper visual internal inspection of the connecting structure.

Section 178.320 includes a definition for "cargo tank wall"—the cargo tank wall includes those parts of the cargo tank that make up the primary lading retention structure, including shell, bulkheads, and fittings and, when closed, yield the minimum volume of the cargo tank assembly. Confusion has

resulted from the use of "cargo tank assembly" in the definition. The term "cargo tank assembly" as used in that definition, is simply referring to the completed cargo tank motor vehicle. Since "cargo tank assembly" is synonymous with "cargo tank motor vehicle," a term that is defined in § 178.320, we are proposing to replace the term "cargo tank assembly" with "completed cargo tank motor vehicle."

Section 178.347–1(c) requires a cargo tank with a MAWP greater than 35 psig and each tank designed to be loaded by vacuum to be constructed and certified in accordance with the ASME Code. The wording used for this requirement has resulted in some confusion. Generally, the "and" would mean that a tank would need to be both designed to be loaded by vacuum and have a MAWP greater than 35 psig to be subject to the construction and certification requirements of the ASME Code. This is not the intent of the current requirement. Therefore, we are proposing to clarify the requirement to clearly state that a cargo tank motor vehicle with a MAWP greater than 35 psig or designed to be loaded by vacuum must be constructed and certified in accordance with the ASME Code, in line with our original intent.

The introductory text to § 178.347–1(d) requires tanks with a MAWP of 35 psig or less to be constructed in accordance with the ASME Code. We are clarifying this requirement to indicate, in line with § 178.347–1(b), cargo tanks that are designed to withstand full vacuum but have a MAWP of 35 psig or less and are not designed to be loaded by vacuum are only required to be constructed in accordance with the ASME Code. They do not require certification under the ASME Code.

Section 178.347–4(b) states that vacuum relief devices are not required for cargo tanks designed to be loaded by vacuum or built to withstand full vacuum. We are revising this section to make a clear distinction between the phrase "designed to be loaded by vacuum" and "built to withstand full vacuum." If a cargo tank manufacturer designs a cargo tank "to withstand full vacuum" it is only required to be constructed in accordance with the ASME Code, not certified. However, a cargo tank that is loaded by vacuum is required to be constructed and certified in accordance with the ASME Code. The intent of the final user of the equipment will determine whether a tank will be vacuum loaded and required to be a certified ("U" stamped) vessel. A manufacturer may design a tank to withstand full vacuum to ensure that it is sufficiently robust to endure the stresses associated with transportation of hazardous materials, including changes in product temperatures and the vacuum created during unloading. Designing a tank to withstand full vacuum does not mean that the tank is actually equipped to or used in vacuum service.

Section 180.417(b)(1)(v) requires the minimum thickness of the cargo tank shell and heads to be noted on inspection and test reports when the cargo tank is thickness tested in accordance with § 180.407(d)(4), § 180.407(e)(3), § 180.407(f)(3), or § 180.407(i). It has come to our attention that the reference to § 180.407(d)(4), which addresses thickness testing of ring stiffeners or other appurtenances, is incorrect. After reviewing the final rule to Docket HM–213 (68 FR 19257; April 18, 2003) and the response to appeals (68 FR 52363; September 3, 2003), the rules that established current paragraph (b)(1), it is apparent that the correct reference for this section should be § 180.407(d)(5), which refers to thickness testing of corroded or abraded areas of the cargo tank wall. Therefore, we are proposing to remove the reference to § 180.407(d)(4) in § 180.417(b)(1)(v) and replace it with the reference to § 180.407(d)(5).

P. Permeation Devices

Permeation devices are used to calibrate air quality monitoring equipment. These devices may contain extremely small quantities of hazardous materials and are subject to Special Provision A41 when transported by air under the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO TI). Special Provision A41 authorizes the transportation of permeation devices on aircraft provided stringent safety requirements are met. International shippers of these devices are able to take advantage of this special provision. However, no similar provision exists in the HMR. Therefore, in response to a petition (P–1493) from the URS Corporation, and to facilitate domestic and international transportation, we are proposing to add a new § 173.175 on Permeation devices in Part 173 that will authorize the transportation of permeation devices by aircraft in the same manner as is provided in Special Provision A41 of the ICAO TI.

Q. Alcoholic Beverage Exception

Section 173.150 provides for exceptions from regulation for Class 3 flammable liquid material. Specifically, § 173.150(d) provides exceptions for alcoholic beverages. An alcoholic beverage (as defined in 27 CFR 4.10 and 5.11) meeting one of three conditions outlined in § 173.150(d) is not subject to the requirements of the HMR for a Class 3 flammable liquid material. One of the conditions provides that the alcoholic beverage must be in an inner packaging of 5 L (1.3 gallons) or less, and for transportation on passenger aircraft, must conform to § 175.10(a)(4) of the HMR as checked or carry-on baggage (see § 173.150(d)(2)). This provision for transportation by passenger aircraft was added in a final rule published on June 21, 2001 (HM–215D; 66 FR 33316) to clarify that alcoholic beverages carried by passengers or crewmembers must conform to the air passenger and crewmember exception provided in § 175.10(a)(4). In the final rule, we stated:

> We are revising [§ 173.150(d)] by clarifying that alcoholic beverages containing over 24% alcohol by volume are not excepted from regulation when transported by a passenger or crewmember on passenger-carrying aircraft except as provided in [§ 175.10(a)(4)].

This provision for transportation by passenger aircraft was not intended to restrict cargo transport of an alcoholic beverage in the same manner as when carried by passengers or crewmembers. Therefore, in this NPRM, PHMSA is proposing to clarify § 173.150(d)(2) by specifying that the condition for transportation on passenger aircraft applies to an alcoholic beverage carried by passengers or crewmembers and that an alcoholic beverage (of any concentration of alcohol by volume) in an inner packaging of 5 L (1.3 gallons) or less transported as cargo on a cargo aircraft or a passenger aircraft is not subject to the requirements of the HMR.

R. Special Permits

Special Permit Application

Procedures for applying for special permits are established in 49 CFR part 107.

In a notice of proposed rulemaking under HM–233B (75 FR 43230; July 23, 2010), PHMSA proposed to incorporate new requirements for application of a new special permit, party status to a special permit and renewal of a special permit issued by PHMSA under 49 CFR part 107, subpart B (§§ 107.101 to 107.127). A special permit sets forth alternative requirements—or a variance—to the requirements in the HMR in a way that achieves a level of safety at least equal to the level of safety required under the regulations or that is consistent with the public interest. Congress expressly authorized DOT to issue these variances in the Hazardous

Materials Transportation Act of 1975. In this notice, we are proposing to incorporate an additional requirement for each applicant to identify whether they are acting as a shipper or a carrier under §§ 107.105, 107.107 and 107.109.

PHMSA conducts a fitness review of each company requesting action on a special permit including applications for a new special permit. Current criteria from the Federal Motor Carrier Safety Administration (FMCSA) require a Satisfactory rating based on a Compliance Review (with a few exceptions). FMCSA conducts a review of any motor carrier that does not meet their criteria. Their criteria does not, however, apply to a company that ships (offers) hazardous materials under the terms of a special permit and does not perform any carrier function. The ability of PHMSA to identify a company as a shipper (offeror), a carrier, or both will facilitate the fitness review process. Therefore, we are proposing to add a requirement for each applicant to identify their transport function under §§ 107.105, 107.107, and 107.109.

Lab Packs

In a final rule under docket HM–233A (75 FR 20275; May 14, 2010), PHMSA adopted amendments to eliminate the need for DOT–SP 13192. This special permit authorized certain hazardous materials packaged in lab packs conforming to § 173.12(b) to be excepted from segregation requirements in parts 174, 176, and 177 of the HMR provided the materials conform to the segregation requirements in § 173.12(e). We first issued DOT–SP 13192 in 2001 to consolidate earlier special permits that allowed different combinations of incompatible materials, including waste materials, to be transported together on the same transport vehicle and it has proven to be a safe method of transportation. In the final rule, we inadvertently left out a proposal to except lab packs from the requirement in § 172.203(i)(2) of the HMR which requires the minimum flashpoint if it is 60 °C (140 °F) or below (in °C closed cup (c.c.)) in association with the basic description when transported by water. This requirement may be overly restrictive for a lab pack which may contain a number of hazardous materials with different flashpoints. Instead, for those materials with a flashpoint of 61 °C or less, DOT–SP 13192 authorized the identification of the lowest flashpoint for all hazardous materials in the lab pack as a range of less than 23 °C or 23 °C to 61 °C. In this NPRM, we propose to incorporate this exception for lab packs transported by cargo vessel thus eliminating the need for DOT–SP 13192.

In this same final rule, PHMSA adopted exceptions from segregation for certain waste hazardous materials in lab packs and non-bulk packagings consistent with the provisions of DOT–SP 13192. These exceptions are referenced in the segregation requirements for public highway transport in § 177.848(c). In making the conforming amendment to § 177.848(c), we inadvertently prohibited all cyanides, cyanide mixtures and solutions from being stored, loaded and transported with acids. The prohibition applies only to those cyanides, cyanide mixtures and solutions that would generate hydrogen cyanide when mixed with acids. Therefore, we are proposing to correct this section by clarifying the segregation conditions.

S. Batteries Containing Sodium or Cells Containing Sodium

The HMR currently authorize the transport of sodium cells and batteries under the descriptions "Batteries containing sodium" or "Cells containing sodium" (UN3292). Section 173.189 limits the types of hazardous materials which may be contained in such batteries to sodium, sulfur and polysulfides. Over time, other sodium battery chemistries have emerged and become more widely used and commonly transported. For example, some batteries with sodium metal chloride chemistries use sodium tetrachloroaluminate as a secondary electrolyte. In this NPRM, PHMSA is proposing to expand the list of authorized chemistries to include all sodium compounds provided they meet the criteria specified in § 173.189. This amendment, if adopted, will align the HMR with the 17th Edition of the UN Model Regulations effective January 1, 2013.

III. Regulatory Analyses and Notices

A. Statutory/Legal Authority for This Rulemaking

This NPRM is published under authority of Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 *et seq.*). Section 5103(b) of Federal hazmat law authorizes the Secretary of Transportation to prescribe regulations for the safe transportation, including security, of hazardous materials in intrastate, interstate, and foreign commerce.

B. Executive Order 12866 and DOT Regulatory Policies and Procedures

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

In this notice, we propose to amend miscellaneous provisions in the HMR to clarify the provisions and to relax overly burdensome requirements. We are also responding to requests from industry associations to update and add references to standards that are incorporated in the HMR. PHMSA anticipates the proposals contained in this rule will have economic benefits to the regulated community. This NPRM is designed to increase the clarity of the HMR, thereby increasing voluntary compliance while reducing compliance costs. This NPRM also proposes to update a number of incorporations by reference to permit the industry to utilize the most recent versions of industry consensus standards. Incorporation of material by reference reduces the regulatory burden on persons who offer hazardous material for transportation and persons who transport hazardous materials in commerce. Industry standards developed and adopted by consensus are accepted and followed by the industry; thus, their inclusion in the HMR assures that the industry is not forced to comply with a different set of standards to accomplish the same safety goal.

Further, the addition of an exception for permeation devices containing hazardous materials used for calibrating air quality monitoring devices for consistency with the current exception in the international regulations for these devices, as well as adding a new italicized entry to the HMT for "Permeation devices" referencing § 173.175, will result in reduced compliance costs by reducing regulatory compliance. This exception will also promote international harmonization. The proposal to provide an exception to labeling for consolidation bins used to transport hazardous materials by motor carrier will reduce compliance costs.

Additionally, this NPRM proposes to add a new Special Provision 173 to provide a specification package exception for certain adhesives, printing inks, printing ink-related materials, paints, paint-related materials and resin solution assigned to "Environmentally hazardous substances, liquid, n.o.s., UN 3082." Overall, the proposals in this NPRM should reduce regulatory burdens on the regulated community

while increasing flexibility and transportation options.

C. Executive Order 13132

This proposed rule was analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This proposed rule would preempt state, local and Indian tribe requirements but does not propose 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 material transportation law, 49 U.S.C. 5125(b)(1), contains an express preemption provision (49 U.S.C. 5125(b)) preempting 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, content, and placement of those documents;

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

(v) The design, manufacture, fabrication, marking, maintenance, reconditioning, repair, or testing of a packaging or container which is represented, marked, certified, or sold as qualified for use in the transport of hazardous materials.

This proposed rule concerns the classification, packaging, marking, labeling, and handling of hazardous materials, among other covered subjects. If adopted, this rule would preempt any state, local, or Indian tribe requirements concerning these subjects unless the non-Federal requirements are "substantively the same" (see 49 CFR 107.202(d) as the Federal requirements.)

Federal hazardous materials transportation law provides at 49 U.S.C. 5125(b)(2) that if PHMSA issues a regulation concerning any of the covered subjects, PHMSA must determine and publish in the **Federal Register** the effective date of Federal preemption. That effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. PHMSA proposes the effective date of Federal preemption be 90 days from publication of a final rule in this matter in the **Federal Register**.

D. Executive Order 13175

This proposed 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 proposed rule does not have tribal implications and does not impose substantial direct compliance costs on Indian tribal governments, the funding and consultation requirements of Executive Order 13175 do not apply, and a tribal summary impact statement is not required.

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

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines the rule is not expected to have a significant impact on a substantial number of small entities. This proposed rule would amend miscellaneous provisions in the HMR to clarify provisions based on our own initiatives and also on petitions for rulemaking. While maintaining safety, it would relax certain requirements that are overly burdensome and would update references to consensus standards that are incorporated in the HMR. The proposed changes are generally intended to provide relief to shippers, carriers, and packaging manufacturers, including small entities.

Consideration of alternative proposals for small businesses. The Regulatory Flexibility Act directs agencies to establish exceptions and differing compliance standards for small businesses, where it is possible to do so and still meet the objectives of applicable regulatory statutes. In the case of hazardous materials transportation, it is not possible to establish exceptions or differing standards and still accomplish our safety objectives.

The impact of this proposed rule is not expected to be significant. The proposed changes are generally intended to provide relief to shippers, carriers, and packaging manufactures and testers, including small entities. Therefore, this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule has been developed in accordance with Executive Order 13272 ("Proper Consideration of Small Entities in Agency Rulemaking") and DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of draft rules on small entities are properly considered.

F. Paperwork Reduction Act

By proposing to require additional information be included on certain shipping papers, this proposed rule will result in a minimal increase in annual paperwork burden and costs under OMB Control No. 2137–0034. PHMSA currently has an approved information collection under OMB Control No. 2137–0034, "Hazardous Materials Shipping Papers & Emergency Response Information" expiring on May 31, 2011 with 260,000,000 responses and 6,500,834 burden hours. This rule is proposing to impose new requirements pertaining to § 172.203(c), additional shipping paper information requirements. We are proposing to require non-odorized LPG shipments to indicate "non-odorized" on the shipping papers to aid emergency responders in the event of an accident involving non-odorized shipments of LPG. Since only 5% of LPG shipments are non-odorized, we anticipate only a minimal increase in burden to include this additional notation on the shipping paper.

Under the Paperwork Reduction Act of 1995, no person is required to respond to an information collection unless it has been approved by OMB and displays a valid OMB control number. Section 1320.8(d), Title 5, Code of Federal Regulations requires that PHMSA provide interested members of the public and affected agencies an opportunity to comment on information and recordkeeping requests.

This notice identifies an information collection request that PHMSA is submitting to OMB for approval based on the proposal in this rule. PHMSA has developed burden estimates based on the proposed amendment in this rule. PHMSA estimates that the net information collection and recordkeeping burden for this proposed requirement would be as follows:

OMB Control No. 2137–0034

Annual Respondents: 29,850.
Annual Responses: 29,850.
Annual Burden Hours: 12.5.
Annual Costs: $312.50.

Requests for a copy of this information collection should be directed to Deborah Boothe or T. Glenn Foster, Office of Hazardous Materials Standards (PHH–11), Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., East Building, 2nd Floor, PHH–10, Washington, DC 20590–0001, Telephone (202) 366–8553.

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.

H. Unfunded Mandates Reform Act

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $141,300,000 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.

I. Environmental Assessment

The National Environmental Policy Act, 42 U.S.C. 4321–4375, requires Federal agencies to analyze proposed actions to determine whether the action will have a significant impact on the human environment. The Council on Environmental Quality (CEQ) regulations order Federal agencies to conduct an environmental review considering: (1) The need for the proposed action; (2) alternatives to the proposed action; (3) probable environmental impacts of the proposed action and alternatives; and (4) the agencies and persons consulted during the consideration process. PHMSA proposes to make miscellaneous amendments to the HMR based on petitions for rulemaking and PHMSA's own initiatives. The proposed amendments are intended to update, clarify, or provide relief from certain existing regulatory requirements to promote safer transportation practices; eliminate unnecessary regulatory requirements; finalize outstanding petitions for rulemaking; facilitate international commerce; and make these requirements easier to understand.

Description of Action:

Docket No. PHMSA–2009–0151 (HM–218F), NPRM

Transportation of hazardous materials in commerce is subject to requirements in the HMR, issued under authority of Federal hazardous materials transportation law, codified at 49 U.S.C. 5001 *et seq.* To facilitate the safe and efficient transportation of hazardous materials in international commerce, the HMR provide that both domestic and international shipments of hazardous materials may be offered for transportation and transported under provisions of the international regulations.

Proposed Amendments to the HMR:

In this NPRM, PHMSA is proposing to:

Update § 171.7 incorporations by reference of industry consensus standards issued by the Aluminum association; the American Society for Testing ad Materials; and the Institute of Makers of Explosives.

Add a requirement for each applicant to a special permit under §§ 107.105, 107.107, and 107.109 to identify their role as a shipper (offeror), carrier, or both.

Revise the definition of "person" in § 171.8 to include those who manufacture, test, repair and recondition packages.

Revise the HMT to harmonize certain entries with international standards by adding and revising certain proper shipping names. Most significantly, we are adding a new entry "Formaldehyde solutions (with not less than 10% and less than 25% formaldehyde" to clarify requirements applicable to formaldehyde and formalin with less than 10% formaldehyde; revising the entry for "Environmentally hazardous substances, liquid, n.o.s." to provide packaging exceptions for certain materials that are assigned to UN 3082; and adding a new special provision to clarify the differences between Class 3 and Class 9 formaldehyde solutions.

Add a new § 173.175 applicable to permeation devices to provide an exception for permeations devices containing hazardous materials that are used for calibrating air quality monitoring devices for consistency with the current exception in the international regulations for these devices; and add a new italicized entry to the HMT for "Permeation devices" referencing § 173.175.

Update and clarify hazard communication requirements applicable to Class 9 label specifications; placard size; IBCs; and Division 6.2 labels.

In § 178.37, authorize the use of an alternative bend test for DOT 3AA and 3AAX steel cylinders.

In § 178–347–1, clarify that cargo tank motor vehicles that have a MAWP greater than 35 psig or are designed to be loaded by vacuum must be constructed and certified in accordance with the ASME Code.

Revise § 171.14 transitional provisions to remove expired dates and incorporate certain dates in to the specific sections of the HMR.

Revise provisions in § 173.56(j) to further clarify the use of the American Pyrotechnics Association (APA) standard for classifying and approving fireworks.

Revise § 172.404 to provide a labeling exception for consolidation bins used to transport hazardous materials by motor carrier, and clarify labeling requirements for consolidated packages.

Alternatives Considered:

Alternative (1): Do nothing.

Our goal is to update, clarify and provide relief from certain existing regulatory requirements to promote safer transportation practices, eliminate unnecessary regulatory requirements, finalize outstanding petitions for rulemaking, and facilitate international commerce. We rejected the do-nothing alternative.

Alternative (2): Go forward with the proposed amendments to the HMR in this NPRM.

This is the selected alternative.

Environmental Consequences

Hazardous materials are substances that may pose a threat to public safety or the environment during transportation because of their physical, chemical, or nuclear properties. The hazardous material regulatory system is a risk management system that is prevention-oriented and focused on identifying a safety hazard and reducing the probability and quantity of a hazardous material release. Hazardous materials are categorized by hazard analysis and experience into hazard classes and packing groups. The regulations require each shipper to classify a material in accordance with these hazard classes and packing groups; the process of classifying a hazardous material is itself a form of hazard analysis. Further, the regulations require the shipper to communicate the material's hazards through use of the hazard class, packing group, and proper shipping name on the shipping paper and the use of labels on packages and placards on transport vehicles. Thus, the shipping paper, labels, and placards communicate the most significant findings of the shipper's hazard analysis. A hazardous material is assigned to one of three packing groups based upon its degree of hazard, from a high hazard, Packing Group I to a low hazard, Packing Group III material. The quality, damage resistance, and performance standards of the packaging in each packing group are appropriate for the hazards of the material transported.

Under the HMR, hazardous materials are transported by aircraft, vessel, rail, and highway. The potential for environmental damage or contamination exists when packages of hazardous materials are involved in accidents or en

route incidents resulting from cargo shifts, valve failures, package failures, loading, unloading, collisions, handling problems, or deliberate sabotage. The release of hazardous materials can cause the loss of ecological resources (*e.g.,* wildlife habitats) and the contamination of air, aquatic environments, and soil. Contamination of soil can lead to the contamination of ground water. For the most part, the adverse environmental impacts associated with releases of most hazardous materials are short term impacts that can be reduced or eliminated through prompt clean up/decontamination of the accident scene.

Conclusion

PHMSA proposes to make miscellaneous amendments to the HMR based on petitions for rulemaking and PHMSA's own initiatives. The proposed amendments are intended to update, clarify, or provide relief from certain existing regulatory requirements to promote safer transportation practices; eliminate unnecessary regulatory requirements; finalize outstanding petitions for rulemaking; facilitate international commerce; and make these requirements easier to understand. The net environmental impact of this proposal will be positive.

J. Privacy Act

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://www.regulations.gov/search/footer/privacyanduse.jsp.*

K. International Trade Analysis

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards are not considered unnecessary obstacles to the foreign commerce of the United States, so long as the standards have a legitimate domestic objective, such as the protection of safety, and do not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. PHMSA notes the purpose is to ensure the safety of the American public, and has assessed the effects of this rule to ensure that it does not exclude imports that meet this objective. As a result, this proposed rule is not considered as creating an unnecessary obstacle to foreign commerce.

List of Subjects

49 CFR Part 107

Hazardous materials transportation, Packaging and containers, Radioactive.

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, Incorporation by reference, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

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

49 CFR Part 174

Hazardous materials transportation, Rail carriers, Reporting and recordkeeping.

49 CFR Part 177

Hazardous materials transportation, Loading and unloading, Segregation and separation.

49 CFR Part 178

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

49 CFR Part 180

Hazardous materials transportation, Continuing qualification and maintenance of packaging.

In consideration of the foregoing, we propose to be amend 49 CFR Chapter I as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

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

Authority: 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–121 sections 212–213; Pub. L. 104–134 section 31001; 49 CFR 1.45, 1.53.

2. In § 107.105, add new paragraph (c)(11) to read as follows:

§ 107.105 Application for special permit

* * * * *

(c) * * *

(11) A statement indicating whether the applicant will be acting as a shipper (offeror), carrier or both under the terms of the special permit.

* * * * *

3. In § 107.107, add new paragraph (b)(6) to read as follows:

§ 107.107 Application for party status.

* * * * *

(b) * * *

(6) A statement indicating whether the applicant will be acting as a shipper (offeror), carrier or both under the terms of the special permit.

* * * * *

4. In § 107.109, add new paragraph (a)(7) to read as follows:

§ 107.109 Application for renewal.

(a) * * *

(7) A statement indicating whether the applicant will be acting as a shipper (offeror), carrier or both under the terms of the special permit.

* * * * *

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

5. The authority citation for part 171 continues 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.

6. In § 171.7, in the paragraph (a)(3) table, is amended as follows:

a. Under the entry "The Aluminum Association," the organization's mailing address is revised;

b. Under the entry "The American Society for Testing and Materials," the entry ASTM E 290–97a, "Standard Test Methods for Bend Testing of Material for Ductility" is added in appropriate numerical order;

c. Under the entry "Association of American Railroads," the entry "Intermodal Loading Guide for Products in Closed Trailers and Containers" is added in appropriate alphabetical order; and

d. Under the entry "Institute of Makers of Explosives," the entry "IME Safety Library Publication No. 22,'' IME Standard 22, "Recommendation for the Safe Transportation of Detonators in a

Vehicle with Certain Other Explosive Materials" is revised.

The revisions and additions read as follows:

§ 171.7 Reference material.

(a) * * *

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

Source and name of material	49 CFR reference
* * * * * * *	
The Aluminum Association, 1525 Wilson Blvd., Suite 6000, Arlington, VA 22209, telephone 703–358–2960, *http://www.aluminum.org:*	
* * * * * * *	
American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohoken, PA 19428, telephone 610–832–9585,*http://www.astm.org:*	
* * * * * * *	
ASTM E 290–97a Standard Test Methods for Bend Testing of Material for Ductility	178.37.
* * * * * * *	
Association of American Railroads, 425 Third Street, SW., Suite 1000, Washington, DC 20001, telephone 202–639–2100, *http://www.aar.org:*	
* * * * * * *	
Intermodal Loading Guide for Products in Closed Trailers and Containers	174.55; 174.101; 174.112; 174.115.
* * * * * * *	
Institute of Makers of Explosives, 1120 19th Street, NW., Suite 310, Washington, DC 20036–3605, telephone 202–429–9280, *http://www.ime.org:*	
IME Safety Library Publication No. 22 (IME Standard 22), Recommendation for the Safe Transportation of Detonators in a Vehicle with Certain Other Explosive Materials, February 2007.	173.63; 177.835
* * * * * * *	

* * * * *

7. In § 171.8, the definition of "Person" is revised to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Person means an individual, corporation, company, association, firm, partnership, society, joint stock company; or a government, Indian tribe, or authority of a government or tribe; that offers a hazardous material for transportation in commerce, transports a hazardous material to support a commercial enterprise, or designs, manufacturers, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce. This term does not include the United States Postal Service or, for purposes of 49 U.S.C. 5123 and 5124, a Department, agency, or instrumentality of the government.

* * * * *

§ 171.14 [Removed and Reserved]

8. Section 171.14 is removed and reserved.

9. In § 171.15, paragraph (a) introductory text is revised to read as follows:

§ 171.15 Immediate notice of certain hazardous materials incidents.

(a) *General.* As soon as practical but no later than 12 hours after the occurrence of any incident described in paragraph (b) of this section, each person in physical possession of the hazardous material must provide notice by telephone to the National Response Center (NRC) on 800–424–8802 (toll free) or 202–267–2675 (toll call) or online at *http://www.nrc.uscg.mil.* Each notice must include the following information:

* * * * *

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

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

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

11. In § 172.101, paragraph (c)(2) is revised and the Hazardous Materials Table is amended by adding the entries under "[ADD]" and revising entries under "[REVISE]" in the appropriate alphabetical sequence to read as follows:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

(c) * * *

(2) Punctuation marks and words in italics are not part of the proper shipping name, but may be used in addition to the proper shipping name. The word "or" in italics indicates that there is a choice of terms in the sequence that may alternately be used as the proper shipping name or as part of the proper shipping name, as appropriate. For example, for the hazardous materials description "Carbon dioxide, solid *or* Dry ice" either "Carbon dioxide, solid" or "Dry ice" may be used as the proper shipping name; and for the hazardous materials description "Articles, pressurized pneumatic *or* hydraulic" either "Articles, pressurized pneumatic" or "Articles, pressurized hydraulic" may be used as the proper shipping name.

* * * * *

§ 172.101 HAZARDOUS MATERIALS TABLE

Symbols (1)	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	*			*		*	*		*	*			
	[ADD]												
	*			*		*	*		*	*			
	Formaldehyde solutions (with not less than 10% and less than 25% formaldehyde), see Aviation regulated liquid, n.o.s. *or* Other regulated substances, liquid, n.o.s.												
	*			*		*	*		*	*			
	Permeation devices *for calibrating air quality monitoring equipment See § 173.175.*												
	*			*		*	*		*	*			
	[REVISE]												
	*			*		*	*		*	*			
	Battery-powered vehicle *or* Battery-powered equipment.	9	UN3171		9	134	220	220	None	No limit	No limit	A	
G	Environmentally hazardous substance, liquid, n.o.s..	9	UN3082	III	9	8, 146, 173, 335, IB3, T4, TP1, TP29.	155	203	241	No limit	No limit	A	
	*			*		*	*		*	*			
	Ethanol and gasoline mixture *or* Ethanol and motor spirit mixture *or* Ethanol and petrol mixture, *with more than 10% ethanol.*	3	UN3475	II	3	144, 177, 178, IB2, T4, TP1.	150	202	242	5 L	60 L	E	
	*			*		*	*		*	*			
	Formaldehyde, solutions, flammable.	3	UN1198	III	3, 8	176, B1, IB3, T4, TP1	150	203	242	5 L	60 L	A	40
	*			*		*	*		*	*			
D	Gasohol *gasoline mixed with ethyl alcohol, with not more than 10% alcohol.*	3	NA1203	II	3	144, 177, 178	150	202	242	5 L	60 L	E	
	Gasoline *includes gasoline mixed with ethyl alcohol, with not more than 10% alcohol.*	3	UN1203	II	3	144, 177, 178, B1, B33, IB2, T8.	150	202	242	5 L	60 L	E	
	*			*		*	*		*	*			

* * * * *

12. In § 172.102(c)(1), new Special Provisions 173, 176, 178 are added in appropriate numerical order to read as follows:

§ 172.102 Special provisions.

* * * * *

(c) * * *

(1) * * *

Code/Special Provisions

* * * * *

173 For adhesives, printing inks, printing ink-related materials, paints, paint-related materials, and resin solutions which are assigned to UN3082, and do not meet the definition of another hazard class, metal or plastic packaging for substances of packing groups II and III in quantities of 5 L (1.3 gallons) or less per packaging are not required to meet the UN performance package testing when transported:

a. Except for transportation by aircraft, in palletized loads, a pallet box or unit load device, (*e.g.* individual packaging placed or stacked and secured by strapping, shrink or stretch-wrapping or other suitable means to a pallet). For vessel transport, the palletized loads, pallet boxes or unit load devices must be firmly packed and secured in closed cargo transport units; or

b. Except for transportation by aircraft, as an inner packaging of a combination packaging with a maximum net mass of 40 kg (88 pounds). For transportation by aircraft, as an inner packaging of a combination packaging with a maximum gross mass of 30 kg when packaged as a limited quantity in accordance with § 173.27(f) and (j).

* * * * *

176 This entry must be used for formaldehyde solutions containing methanol as a stabilizer. Formaldehyde solutions not containing methanol and not meeting the Class 3 flammable liquid criteria must be described using a different proper shipping name.

* * * * *

178 The proper shipping name "Gasohol *gasoline mixed with ethyl alcohol, with not more than 20 percent alcohol*" in effect on January 28, 2008, may continue to be used until October 1, 2010. Effective October 1, 2010, the new proper shipping name "Ethanol and gasoline mixture *or* ethanol and motor spirit mixture *or* ethanol and petrol mixture," and the revised proper shipping name "Gasohol *gasoline mixed with ethyl alcohol, with not more than 10% alcohol*" must be used, as appropriate.

* * * * *

13. In § 172.202, paragraph (b) is revised to read as follows:

§ 172.202 Description of hazardous material on shipping papers.

* * * * *

(b) Except as provided in this subpart, the basic description specified in paragraphs (a)(1), (2), (3) and (4) of this section must be shown in sequence with no additional information interspersed. For example, "UN2744, Cyclobutyl chloroformate, 6.1, (8, 3), PG II." The shipping description sequences in effect on December 31, 2006, may be used until January 1, 2013.

* * * * *

14–15. In § 172.203, paragraph (i)(2) is revised and paragraph (p) is added to read as follows:

§ 172.203 Additional description requirements.

* * * * *

(i) * * *

(2) Minimum flashpoint if 60 °C (140 °F) or below (in °C closed cup (c.c.)) in association with the basic description. For lab packs packaged in conformance with § 173.12(b) of this subchapter, an indication that the lowest flashpoint of all hazardous materials contained in the lab pack is below 23 °C or is less than 23 °C but not more than 60 °C must be identified on the shipping paper in lieu of the minimum flashpoint.

* * * * *

(p) *Liquefied petroleum gas (LPG).* The word "non-odorized" must immediately precede the proper shipping name on a shipping paper when non-odorized liquefied petroleum gas is offered for transportation.

16. In § 172.324, paragraph (a) is revised to read as follows:

§ 172.324 Hazardous substances in non-bulk packaging.

* * * * *

(a) If the proper shipping name of a material that is a hazardous substance does not identify the hazardous substance by name, or if the package contains a limited quantity marked in accordance with § 172.315, the name of the hazardous substance must be marked on the package, in parentheses, in association with the proper shipping name or the identification number as applicable. If the material contains two or more hazardous substances, at least two hazardous substances, including the two with the lowest reportable quantities (RQ's), must be identified. For a hazardous waste, the waste code (*e.g.,* D001), if appropriate may be used to identify the hazardous substance.

* * * * *

17. In § 172.336, a new paragraph (d) is added to read as follows:

§ 172.336 Identification numbers; special provisions.

* * * * *

(d) When a bulk packaging is labeled instead of placarded in accordance with § 172.514(c) of this subchapter, identification numbers may be marked on the package in accordance with the marking requirements of § 172.301(a)(1) of this subchapter.

18. Section 172.404 is revised to read as follows:

§ 172.404 Labels for mixed and consolidated packaging.

(a) *Mixed packaging.* When hazardous materials having different hazard classes are packed within the same packaging, or within the same outside container or overpack as described in § 173.25 and authorized by § 173.21 of this subchapter, the packaging, outside container or overpack must be labeled as required for each class of hazardous material contained therein.

(b) *Consolidated packaging.* When two or more packages containing compatible hazardous material (see § 173.21 of this subchapter) are placed within the same outside container or overpack, the outside container or overpack must be labeled as required for each class of hazardous material contained therein, unless labels representative of each hazardous material in the outside container or overpack are visible.

(c) *Consolidation bins used by a single motor carrier.* Notwithstanding the provisions of paragraph (b) of this section, labeling of a consolidation bin is not required under the following conditions:

(1) The consolidation bin must be reusable, made of materials such as plastic, wood, or metal and must have a capacity of 64 cubic feet or less.

(2) Hazardous material packages placed in the consolidation bin must be properly labeled in accordance with this subpart;

(3) Packages must be compatible as specified in § 177.848 of this subchapter;

(4) Packages may only be placed within the consolidation bin and the bin be loaded on a motor vehicle by an employee of a single motor carrier;

(5) Packages must be secured within the consolidation bin by other packages or by other suitable means in such a manner as to prevent shifting of, or significant relative motion between, the packages that would likely compromise the integrity of any package;

(6) The consolidation bin must be clearly and legibly marked on a tag or

fixed display device with an indication of each hazard class or division contained within the bin;

(7) The consolidation bin must be properly blocked and braced within the transport vehicle; and

(8) Consolidation bins may only be transported by a single motor carrier, or on railcars transporting such vehicles.

18. In § 172.427, paragraph (c) is added to read as follows:

§ 172.427 ORGANIC PEROXIDE label.

* * * * *

(c) A Division 5.2 label conforming to the specifications of this section in effect on December 31, 2006 may continue to be used until January 1, 2011.

19. In § 172.432, paragraph (a) is revised and paragraph (c) is added to read as follows:

§ 172.432 INFECTIOUS SUBSTANCE label.

(a) Except for size and color, the INFECTIOUS SUBSTANCE label must be as follows:

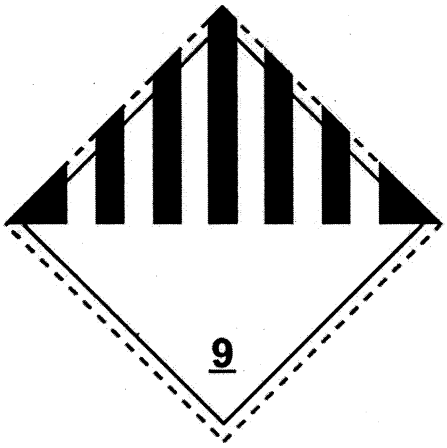
* * * * *

(c) Labels conforming to requirements in place on September 30, 2011 may continue to be used until October 1, 2014.

20. In § 172.446, paragraph (a) is revised and new paragraph (c) is added to read as follows:

§ 172.446 CLASS 9 label.

(a) Except for size and color, the "CLASS 9" (miscellaneous hazardous materials) label must be as follows:



* * * * *

(c) Labels conforming to requirements in place on September 30, 2011 may continue to be used until October 1, 2014.

21. In § 172.514, paragraph (c)(4), as amended February 2, 2010, at 75 FR 5392, and effective October 1, 2010, is revised to read as follows:

§ 172.514 Bulk packagings.

* * * * *

(c) * * *

(4) *An IBC.* For an IBC labeled in accordance with subpart E of this part instead of placarded, the IBC may display the proper shipping name and UN identification number in accordance with the size requirements of § 172.302(b)(2) in place of the UN number on an orange panel or placard.

22. In § 172.519, paragraph (c)(1) is revised to read as follows:

§ 172.519 General specifications for placards.

* * * * *

(c) * * *

(1) Each placard prescribed in this subpart must measure at least 250 mm (9.84 inches) on each side and must have a solid line inner border approximately 12.7 mm (0.5 inches) from each edge.

* * * * *

23. In § 172.552, paragraph (c) is added to read as follows:

§ 172.552 ORGANIC PEROXIDE placard.

* * * * *

(c) Except for transportation by highway, a Division 5.2 placard conforming to the specifications in this section in effect on December 31, 2006 may continue to be used until January 1, 2011. For transportation by highway, a Division 5.2 placard conforming to the specifications in this section in effect on December 31, 2006 may continue to be used until January 1, 2014.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

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

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

25. In § 173.56, paragraph (j) introductory text is revised to read as follows:

§ 173.56 New explosives—definition and procedures for classification and approval.

* * * * *

(j) *Fireworks.* Notwithstanding the requirements of paragraph (b) of this section, fireworks may be classed and approved by the Associate Administrator without prior examination and offered for transportation if the following conditions are met:

* * * * *

26. In § 173.60, paragraph (b)(14) is revised to read as follows:

§ 173.60 General packaging requirements for explosives.

* * * * *

(b) * * *

(14) Large and robust explosives articles, normally intended for military use, without their means of initiation or with their means of initiation containing at least two effective protective features, may be carried unpackaged provided that a negative result was obtained in Test Series 4 of the UN Manual of Tests and Criteria on an unpackaged article. When such articles have propelling charges or are self-propelled, their ignition systems must be protected against conditions encountered during normal transportation. Such unpackaged articles may be fixed to cradles or contained in crates or other suitable handling, storage or launching devices in such a way that they will not become loose during normal conditions of transport and are in accordance with DOD-approved procedures. When such large explosive articles, as part of their operational safety and suitability tests, are subjected to testing that meets the intentions of Test Series 4 of the UN Manual of Tests and Criteria with successful test results, they may be offered for transportation in accordance with the requirements prescribed in (b)(14) above subject to approval by the Associate Administrator.

27. In § 173.62, in paragraph (c), in the Table of Packing Methods, Packing Instruction 130, as amended February 2, 2010, at 75 FR 5394, and effective October 1, 2010, is revised to read as follows:

§ 173.62 Specific packaging requirements for explosives.

(c) * * *

* * * * *

TABLE OF PACKING METHODS

Packing instruction	Inner packaging	Intermediate packaging	Outer packaging
* * * * * * *			
130	Not necessary	Not necessary	Boxes.
PARTICULAR PACKING REQUIREMENTS OR EXCEPTIONS:			
1. The following applies to UN 0006, 0009, 0010, 0015, 0016, 0018, 0019, 0034, 0035, 0038, 0039, 0048, 0056, 0137, 0138, 0168, 0169, 0171, 0181, 0182, 0183, 0186, 0221, 0238, 0243, 0244, 0245, 0246, 0254, 0280, 0281, 0286, 0287, 0297, 0299, 0300, 0301, 0303, 0321, 0328, 0329, 0344, 0345, 0346, 0347, 0362, 0363, 0370, 0412, 0424, 0425, 0434, 0435, 0436, 0437, 0438, 0451, 0459 and 0488. Large and robust explosives articles, normally intended for military use, without their means of initiation or with their means of initiation containing at least two effective protective features, may be carried unpackaged. When such articles have propelling charges or are self-propelled, their ignition systems must be protected against stimuli encountered during normal conditions of transport. A negative result in Test Series 4 on an unpackaged article indicates that the article can be considered for transport unpackaged. Such unpackaged articles may be fixed to cradles or contained in crates or other suitable handling devices.			Steel (4A). Wood natural, ordinary (4C1). Plywood (4D). Reconstituted wood (4F). Fiberboard (4G). Plastics, expanded (4H1). Plastics, solid (4H2). Drums. Steel, removable head (1A2). Aluminum, removable head (1B2). Plywood (1D). Fiber (1G). Plastics, removable head (1H2). Large Packagings. Steel (50A). Aluminum (50B). Metal other than steel or aluminum (50N). Rigid plastics (50H). Natural wood (50C) Plywood (50D). Reconstituted wood (50F). Rigid fiberboard (50G).
2. Subject to approval by the Associate Administrator, large explosive articles, as part of their operational safety and suitability tests, subjected to testing that meets the intentions of Test Series 4 of the UN Manual of Tests and Criteria with successful test results, may be offered for transportation in accordance with the requirements of this subchapter.			
* * * * * * *			

* * * * *

28. In § 173.120, paragraph (e) is added to read as follows:

§ 173.120 Class 3—Definitions.

* * * * *

(e) *Transitional provisions.* The Class 3 classification criteria in effect on December 31, 2006, may continue to be used until January 1, 2012.

29. In § 173.121, paragraph (c) is added to read as follows:

§ 173.121 Class 3—Assignment of packing group.

* * * * *

(c) *Transitional provisions.* The criteria for packing group assignments in effect on December 31, 2006, may continue to be used until January 1, 2012.

30. In § 173.132, paragraph (e) is added to read as follows:

§ 173.132 Class 6, Division 6.1—Definitions.

* * * * *

(e) *Transitional provisions.* The Division 6.1 classification criteria in effect on December 31, 2006, may continue to be used until January 1, 2012.

31. In § 173.133, paragraph (c) is added to read as follows:

§ 173.133 Assignment of packing group and hazard zones for Division 6.1 materials.

* * * * *

(c) *Transitional provisions.* The Division 6.1 criteria for packing group assignments in effect on December 31, 2006, may continue to be used until January 1, 2012.

32. In § 173.134, paragraph (c)(2) is revised to read as follows:

§ 173.134 Class 6, Division 6.2—Definitions and exceptions.

* * * * *

(c) * * *

(2) The following materials may be offered for transportation and transported as a regulated medical waste when packaged in a rigid non-bulk packaging conforming to the general packaging requirements of §§ 173.24 and 173.24a and packaging requirements specified in 29 CFR

1910.1030 and transported by a private or contract carrier in a vehicle used exclusively to transport regulated medical waste:

(i) Waste stock or culture of a Category B infectious substance;

(ii) Plant and animal waste regulated by the Animal and Plant Health Inspection Service (APHIS);

(iii) Waste pharmaceutical materials;

(iv) Laboratory and recyclable wastes;

(v) Infectious substances that have been treated to eliminate or neutralize pathogens;

(vi) Forensic materials being transported for final destruction;

(vii) Rejected or recalled health care products;

(viii) Documents intended for destruction in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) requirements; and

(ix) Medical or clinical equipment and laboratory products provided they are properly packaged and secured against exposure or contamination. Sharps containers must be securely closed to prevent leaks or punctures.

* * * * *

33. In § 173.150, revise paragraph (d)(2) to read as follows:

§ 173.150 Exceptions for Class 3 (flammable and combustible liquids).

* * * * *

(d) * * *

(2) Is in an inner packaging of 5 L (1.3 gallons) or less, unless carried by a passenger or crewmember aboard a passenger aircraft, then it must conform to § 175.10(a)(4) of this subchapter as checked or carry-on baggage; or

* * * * *

34. Add § 173.175 to read as follows:

§ 173.175 Permeation devices.

Permeation devices that contain hazardous materials and that are used for calibrating air quality monitoring devices are not subject to the requirements of this subchapter provided the following requirements are met:

(a) Each device must be constructed of a material compatible with the hazardous materials it contains;

(b) The total contents of hazardous materials in each device is limited to 2 ml (0.07 ounces) and the device must not be liquid full at 55 °C (131 °F);

(c) Each permeation device must be placed in a sealed, high impact resistant, tubular inner packaging of plastic or equivalent material. Sufficient absorbent material must be contained in the inner packaging to completely absorb the contents of the device. The closure of the inner packaging must be securely held in place with wire, tape or other positive means;

(d) Each inner packaging must be contained in a secondary packaging constructed of metal, or plastic having a minimum thickness of 1.5 mm (0.06 inches). The secondary packaging must be hermetically sealed;

(e) The secondary packaging must be securely packed in strong outer packaging. The completed package must be capable of withstanding, without breakage or leakage of any inner packaging and without significant reduction in effectiveness:

(i) The following free drops onto a rigid, non resilient, flat and horizontal surface from a height of 1.8 m (5.9 feet):

(A) One drop flat on the bottom;

(B) One drop flat on the top;

(C) One drop flat on the long side;

(D) One drop flat on the short side;

(E) One drop on a corner at the junction of three intersecting edges; and

(ii) A force applied to the top surface for a duration of 24 hours, equivalent to the total weight of identical packages if stacked to a height of 3 m (10 feet) (including the test sample).

(iii) Each of the above tests may be performed on different but identical packages.

(f) The gross mass of the completed package must not exceed 30 kg.

35. In § 173.189, the first sentence of paragraph (a) is revised to read as follows:

§ 173.189 Batteries containing sodium or cells containing sodium.

(a) Batteries and cells may not contain any hazardous material other than sodium, sulfur or sodium compounds (*e.g.,* sodium polysulfides, sodium tetrachloroaluminate, etc.). * * *

* * * * *

36. In § 173.302, revise paragraph (f)(2)(i) and (ii) and add paragraph (f)(2)(iii) to read as follows:

§ 173.302 Filling of cylinders with nonliquefied (permanent) compressed gases.

* * * * *

(f) * * *

(2) * * *

(i) The rated burst pressure of a rupture disc for DOT 3A, 3AA, 3AL, and 3E cylinders, and UN pressure receptacles conforming to ISO 9809–1, ISO 9809–2, ISO 9809–3 and ISO 7866 cylinders must be 100% of the cylinder minimum test pressure with a tolerance of plus zero to minus 10%;

(ii) The rated burst pressure of a rupture disc for a DOT 3HT cylinder must be 90% of the cylinder minimum test pressure with a tolerance of plus zero to minus 10%; and

(iii) The rated burst pressure of a rupture disc for a DOT 39 cylinder must be 100% of the cylinder minimum test pressure with a tolerance of plus 5 to minus 10%.

* * * * *

37. In § 173.304, revise paragraph (f)(2)(i) and (ii) and add paragraph (f)(2)(iii) to read as follows:

§ 173.304 Filling of cylinders with liquefied compressed gases.

* * * * *

(f) * * *

(2) * * *

(i) The rated burst pressure of a rupture disc for DOT 3A, 3AA, 3AL, and 3E cylinders, and UN pressure receptacles conforming to ISO 9809–1, ISO 9809–2, ISO 9809–3 and ISO 7866 cylinders must be 100% of the cylinder minimum test pressure with a tolerance of plus zero to minus 10%;

(ii) The rated burst pressure of a rupture disc for a DOT 3HT cylinder must be 90% of the cylinder minimum test pressure with a tolerance of plus zero to minus 10%; and

(iii) The rated burst pressure of a rupture disc for a DOT 39 cylinder must be 100% of the cylinder minimum test pressure with a tolerance of plus 5 to minus 10%.

* * * * *

PART 174—CARRIAGE BY RAIL

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

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

39. In § 174.55, paragraph (a) is revised to read as follows:

§ 174.55 General requirements.

(a) Each package containing a hazardous material being transported by rail in a freight container or transport vehicle must be loaded so that it cannot fall or slide and must be safeguarded in such a manner that other freight cannot fall onto or slide into it under conditions normally incident to transportation. When this protection cannot be provided by using other freight, it must be provided by blocking and bracing. For examples of blocking and bracing in freight containers and transport vehicles, see Bureau of Explosives Pamphlet No. 6 and the Intermodal Loading Guide for Products in Closed Trailers and Containers (IBR, see § 171.7 of this subchapter).

* * * * *

40. In § 174.67, paragraphs (a)(6), (b) introductory text, (b)(1), and (c) introductory text are revised to read as follows:

§ 174.67 Tank car unloading.

* * * * *

(a) * * *

(6) Before a manhole cover or outlet valve cap is removed from a tank car, the car must be relieved of all interior pressure by cooling the tank with water or by venting the tank by raising the safety valve or opening the dome vent at short intervals. However, if venting to relieve pressure will cause a dangerous amount of vapor to collect outside the car, venting and unloading must be deferred until the pressure is reduced by allowing the car to stand overnight, otherwise cooling the contents, or venting to a closed collection system. These precautions are not necessary when the car is equipped with a manhole cover which hinges inward or with an inner manhole cover which does not have to be removed to unload the car, and when pressure is relieved by piping vapor into a condenser or storage tank.

(b) After the pressure is released, for unloading processes that require the removal of the manhole cover, the seal must be broken and the manhole cover removed as follows:

(1) *Screw type.* The cover must be loosened by placing a bar between the manhole cover lug and knob. After two complete turns, so that the vent openings are exposed, the operation must be stopped, and if there is any sound of escaping vapor, the cover must be screwed down tightly and the interior pressure relieved as prescribed in paragraph (a)(6) of this section, before again attempting to remove the cover.

* * * * *

(c) When the car is unloaded through a bottom outlet valve, for unloading processes that require the removal of the manhole cover, the manhole cover must be adjusted as follows:

* * * * *

41. In § 174.101, paragraphs (o)(2) and (o)(3) are revised to read as follows:

§ 174.101 Loading Class 1 (explosive) materials.

* * * * *

(o) * * *

(2) Each truck body or trailer must be secured on the rail car so that it will not permanently change position or show evidence of failure or impending failure of the method of securing the truck body or trailer under impact from each end of at least 13 km (8.1 miles) per hour. Its efficiency must be determined by actual test, using dummy loads equal in weight and general character to the material to be shipped. For recommended methods of blocking and bracing, see the Intermodal Loading Guide for Products in Closed Trailers and Containers (IBR, *see* § 171.7 of this subchapter).

(3) Lading must be loaded, blocked, and braced within or on the truck body or trailer so that the lading will not change position under impact from each end of at least 13 km (8.1 miles) per hour. For recommended methods of blocking and bracing, see the Intermodal Loading Guide for Products in Closed Trailers and Containers (IBR, *see* § 171.7 of this subchapter).

* * * * *

42. In § 174.112, paragraph (c)(3) is revised to read as follows:

§ 174.112 Loading Division 1.3 materials and Division 1.2 (explosive) materials (Also see § 174.101).

* * * * *

(c) * * *

(3) Packages of Division 1.2 materials and Division 1.3 (explosive) materials are blocked and braced within the truck body, trailer, or container to prevent their shifting and possible damage due to shifting of other freight during transportation (ends, sidewalls, or doors of the truck body, trailer, or container may not be relied on to prevent the shifting of heavy loads). For recommended methods of blocking and bracing see the Intermodal Loading Guide for Products in Closed Trailers and Containers (IBR, see § 171.7 of this subchapter).

43. In § 174.115, paragraph (b)(3) is revised to read as follows:

§ 174.115 Loading Division 1.4 (explosive) materials.

* * * * *

(b) * * *

(3) Packages of Division 1.4 (explosive) materials are blocked and braced within the truck body, trailer, or container to prevent their shifting and possible damage due to shifting of other freight during transportation. Ends, side walls, or doors of the truck body, trailer, or container may not be relied on to prevent shifting of heavy loads. For recommended methods of blocking and bracing see the Intermodal Loading Guide for Products in Closed Trailers and Containers.

PART 177—CARRIAGE BY PUBLIC HIGHWAY

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

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

45. In § 177.848, paragraph (c), as amended May 14, 2010, at 75 FR 27216, and effective October 1, 2010, is revised to read as follows:

§ 177.848 Segregation of hazardous materials.

* * * * *

(c) In addition to the provisions of paragraph (d) of this section and except as provided in § 173.12(e) of this subchapter, cyanides, cyanide mixtures or solutions may not be stored, loaded and transported with acids if a mixture of the materials would generate hydrogen cyanide; Division 4.2 materials may not be stored, loaded and transported with Class 8 liquids; and Division 6.1 Packing Group I, Hazard Zone A material may not be stored, loaded and transported with Class 3 material, Class 8 liquids, and Division 4.1, 4.2, 4.3, 5.1 or 5.2 material.

* * * * *

PART 178—SPECIFICATIONS FOR PACKAGINGS

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

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

47. In § 178.35, paragraphs (c)(4) and (g) are revised and paragraph (h) is removed.

The revsions read as follows:

§ 178.35 General requirements for specification cylinders.

* * * * *

(c) * * *

(4) *Inspector's report.* Prepare a report containing, at a minimum, the applicable information listed in CGA C–11 (IBR, *see* § 171.7 of this subchapter). Any additional information or markings that are required by the applicable specification must be shown on the test report. The signature of the inspector on the reports certifies that the processes of manufacture and heat treatment of cylinders were observed and found satisfactory. The inspector must furnish the completed test reports required by this subpart to the maker of the cylinder and, upon request, to the purchaser. The test report must be retained by the inspector for fifteen years from the original test date of the cylinder.

* * * * *

(g) *Manufacturer's reports.* At or before the time of delivery to the purchaser, the cylinder manufacturer must have all completed certification documents listed in CGA C–11. The manufacturer of the cylinders must retain the reports required by this subpart for 15 years from the original test date of the cylinder.

48. In § 178.37, paragraphs (j) and (l) are revised to read as follows:

§ 178.37 Specification 3AA and 3AAX seamless steel cylinders.

* * * * *

(j) *Flattening test.* A flattening test must be performed on one cylinder taken at random out of each lot of 200 or less, by placing the cylinder between wedge shaped knife edges having a 60 ° included angle, rounded to ½-inch radius. The longitudinal axis of the cylinder must be at a 90-degree angle to knife edges during the test. For lots of 30 or less, flattening tests are authorized to be made on a ring at least 8 inches long cut from each cylinder and subjected to the same heat treatment as the finished cylinder. Cylinders may be subjected to a bend test in lieu of the flattening test. Two bend test specimens must be taken in accordance with ISO 9809–1 or ASTM E 290–97a (IBR, *see* § 171.7 of this subchapter), and must be subjected to the bend test specified therein.

* * * * *

(l) *Acceptable results for physical, flattening and bend tests.* An acceptable result for physical and flattening tests is elongation of at least 20 percent for 2 inches of gauge length or at least 10 percent in other cases. Flattening is required, without cracking, to 6 times the wall thickness of the cylinder. An acceptable result for the alternative bend test is no crack when the cylinder is bent inward around the mandrel until the interior edges are not further apart than the diameter of the mandrel.

* * * * *

49. In § 178.71, paragraphs (c) and (o)(6) are revised to read as follows:

§ 178.71 Specifications for UN pressure receptacles.

* * * * *

(c) Following the final heat treatment, all cylinders, except those selected for batch testing must be subjected to a proof pressure or a hydraulic volumetric expansion test.

* * * * *

(o) * * *

(6) The test pressure in bar, preceded by the letters "PH" and followed by the letters "BAR".

* * * * *

50. In § 178.320, in paragraph (a), the definition of "Cargo tank wall" is revised to read as follows:

§ 178.320 General requirements applicable to all DOT specification cargo tank motor vehicles.

(a) * * *

Cargo tank wall means those parts of the cargo tank that make up the primary lading retention structure, including shell, bulkheads, and fittings and, when closed, yield the minimum volume of the completed cargo tank motor vehicle.

* * * * *

51. In § 178.345–1, paragraph (i)(2) is revised to read as follows:

§ 178.345–1 General requirements.

* * * * *

(i) * * *

(2) The strength of the connecting structure joining multiple cargo tanks in a cargo tank motor vehicle must meet the structural design requirements in § 178.345–3. Any void within the connecting structure must be equipped with a drain located on the bottom centerline that is accessible and kept open at all times. For carbon steel, self-supporting cargo tanks, the drain configuration may consist of a single drain of at least 1.0 inch diameter, or two or more drains of at least 0.5 inch diameter, 6.0 inches apart, one of which is located as close to the bottom centerline as practicable. Vapors trapped in a void within the connecting structure must be allowed to escape to the atmosphere either through the drain or a separate vent.

* * * * *

52. In § 178.347–1, paragraphs (c) and (d) introductory text are revised to read as follows:

§ 178.347–1 General requirements.

* * * * *

(c) Any cargo tank motor vehicle built to this specification with a MAWP greater than 35 psig or any cargo tank motor vehicle built to this specification designed to be loaded by vacuum must be constructed and certified in accordance with Section VIII of the ASME Code (IBR, *see* § 171.7 of this subchapter). The external design pressure for a cargo tank loaded by vacuum must be at least 15 psi.

(d) Any cargo tank motor vehicle built to this specification with a MAWP of 35 psig or less or any cargo tank motor vehicle built to this specification designed to withstand full vacuum but not equipped to be loaded by vacuum must be constructed in accordance with Section VIII of the ASME Code.

* * * * *

53. In § 178.347–4, paragraph (b) is revised to read as follows:

§ 178.347–4 Pressure relief.

* * * * *

(b) *Type and construction.* Vacuum relief devices are not required for cargo tank motor vehicles that are designed to be loaded by vacuum in accordance with § 178.347–1(c) or built to withstand full vacuum in accordance with § 178.347–1(d).

* * * * *

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

54a. The authority citation for part 180 continues to read as follows:

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

54b. In § 180.417, paragraph (b)(1)(v) is revised to read as follows:

§ 180.417 Reporting and record retention requirements.

* * * * *

(b) * * *

(1) * * *

(v) Minimum thickness of the cargo tank shell and heads when the cargo tank is thickness tested in accordance with § 180.407(d)(5), § 180.407(e)(3), § 180.407(f)(3), or § 180.407(i);

* * * * *

Issued in Washington, DC, on September 22, 2010, under authority delegated in 49 CFR part 106.

Magdy El-Sibaie,

Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2010–0132]

RIN 2127–AK17

Federal Motor Vehicle Safety Standards; New Pneumatic Tires for Motor Vehicles With a GVWR of More Than 4,536 Kilograms (10,000 Pounds) and Motorcycles

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This NPRM proposes to upgrade Federal Motor Vehicle Safety Standard (FMVSS) No. 119, which specifies requirements for new truck tires. We propose to amend FMVSS No. 119 to adopt more stringent endurance test requirements and a new high speed test for several heavy load range tires for vehicles with gross vehicle weight rating (GVWR) of more than 4,536 kilograms (10,000 pounds). We are also proposing that FMVSS No. 119 require that the tire sidewall be labeled with the tire's maximum speed rating.