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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 107, 130, 171, 172, 173, 174, 177, 178, 179, and 180

RIN 2137-AF03

[Docket No. PHMSA-2013-0158 (HM-244F)]

Hazardous Materials: Minor Editorial Corrections and Clarifications (RRR)

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

ACTION: Final rule.

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

DATES: *Effective date*: October 1, 2013. The incorporation by reference of certain publications listed in the rule was approved by the Director of the Federal Register as of January 7, 2013.

FOR FURTHER INFORMATION CONTACT: Neal Suchak, Standards and Rulemaking Division, 202-366-8553, PHMSA, East Building, PHH-10, 1200 New Jersey Avenue, SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

The Pipeline and Hazardous Materials Safety Administration (PHMSA) annually reviews the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) to identify typographical errors, outdated addresses or other contact information, and similar errors. In this final rule, we are correcting typographical errors, incorrect references to the Code of Federal Regulations (CFR) and international standards citations, inconsistent use of terminology, misstatements of certain regulatory requirements, and inadvertent omissions of information. Because these amendments do not impose new requirements, notice and public comment are unnecessary. By making these amendments effective without the customary 30-day delay following publication, the changes will appear in the next published revision of title 49 of the CFR.

II. Section-by-Section Review

The following is a section-by-section summary of the minor editorial corrections and clarifications made in this final rule.

Part 107

Section 107.402

This section prescribes the requirements for application for designation as a certification agency. Paragraph (d) of this section specifically describes the requirements to become a Fireworks

Certification Agency (FCA). These requirements were adopted in a final rule entitled "Hazardous Materials: Revision to Fireworks Regulations (RRR)" published on July 16, 2013 (Docket No. PHMSA-2010-0320 (HM-257); 78 FR 42473, effective August 16, 2013). Paragraph (d)(1)(ii) adopted in this rulemaking details the work experience an employee of a FCA would need to possess, specifically "experience in manufacturing or testing of Division 1.4G consumer fireworks." It was not PHMSA's intent to unnecessarily limit FCA employees to only those dealing with low hazard fireworks as those employees with experience in manufacturing or testing of higher hazard explosives and fireworks would be qualified to conduct the work of an FCA. Therefore, in this rulemaking PHMSA is amending 107.402(d)(1)(ii) by replacing the specific language "Division 1.4G consumer fireworks" with the more generic term "fireworks or explosives."

Section 107.801

This section describes the purpose and scope of subpart I of Part 107 regarding the approval of Independent Inspection Agencies, Cylinder Requalifiers, and Non-domestic Chemical Analyses and Tests of DOT Specification Cylinders. Paragraph (b) of this section contains the typographical error "Administratior." PHMSA is correcting this spelling error to read "Administrator."

Section 107.803

This section provides instructions for the approval of an Independent Inspection Agency (IIA). Paragraph (c) describes the application information that each applicant must submit to become an IIA. The reference in § 107.803(c)(6) to subparagraph (c)(3) is incorrect. Currently, § 107.803(c)(6) references subparagraph (c)(3) when referring to a certifying inspection agency. This reference is incorrect as subparagraph (c)(3) refers to the applicant. PHMSA is revising

§ 107.803(c)(6) to correctly reference subparagraph (c)(5), which clarifies that an identification number or qualification number should be assigned to each inspector employed by the applicant.

Part 171

Section 171.23

This section describes requirements for specific materials and packagings transported under the International Civil Aviation Organization (ICAO) Technical Instructions, International Maritime Dangerous Goods (IMDG) Code, Transport Canada Transportation of Dangerous Goods (TDG) Regulations, or the International Atomic Energy Agency (IAEA) Regulations. Subparagraph (a)(4) describes the filling of cylinders for export or use on board a vessel. PHMSA amended this subparagraph in a final rule published on September 13, 2011 (Docket No. PHMSA-2011-0134 (HM-244D); 76 FR 177, effective October 13, 2011), at which time § 171.23(a)(4)(iii) was inadvertently omitted. The change made to § 171.23 in the publication of the final rule (HM-244D) was solely to correct paragraph (a)(4)(ii), where the word ‘‘density’’ was misspelled as ‘‘ensity.’’ No other changes to this section were intended. PHMSA is revising this section to reinsert the requirement for the bill of lading or other shipping paper to include the certification statement: "This cylinder has (These cylinders have) been qualified, as required, and filled in accordance with DOT requirements for export."

Part 172

Section 172.101

This section contains the Hazardous Materials Table (HMT) and explanatory text for each of the columns in the table. Paragraph (c) of this section describes column 2: hazardous materials descriptions and proper shipping names. Subparagraph (c)(6) describes what may be used when a proper shipping name includes a concentration or concentration range. While the

HMR permits the use of the percent sign (%) in other sections of the regulations (for example, the organic peroxide table; § 173.225), it does not specifically state that it may be substituted for the word "percent" in a proper shipping name listed in the HMT. International standards permit the use of the percent sign (%) in place of the word "percent." Therefore, PHMSA is clarifying § 172.101(c)(6) to note that the percent sign (%) is permitted and may be used in place of the word "percent."

The proper shipping name for the entry ‘‘*Helium, compressed,* UN 1046’’ is italicized in the § 172.101 HMT. This is incorrect, as italicized text indicates that the words are not part of a proper shipping name but may be used in addition to the proper shipping name. It was not PHMSA’s intent to make words in this proper shipping name optional. In this final rule, PHMSA is revising the entry ‘‘*Helium, compressed,* UN1046’’ to read ‘‘Helium, compressed, UN1046.’’

The entry for "*Hydrogen iodide solution*, see Hydriodic acid" is incorrect in the § 172.101 HMT. The row showing information for this material as a packing group III should not be shown in the § 172.101 HMT. The intention of this entry is to make reference to the entry "Hydriodic acid, UN1787," and the inclusion of a row showing information for packing group III could cause confusion that the reference to Hydriodic Acid applies only for materials of that packing group. Therefore, PHMSA is revising this entry to remove information from additional rows under "*Hydrogen iodide solution*, see Hydriodic acid."

The entry for “Neon, compressed, UN1065” is being revised to realign the columns of the § 172.101 HMT in the correct order. Information currently in column 5 of the § 172.101 HMT should be moved one column to the right. Subsequently, information currently in columns 6-10 should be moved two columns to the right.

The entry for "Nitrocellulose, *with not more than 12.6 percent, by dry mass* mixture with *or* without plasticizer, with *or* without pigment, UN2557*"* is incorrect in the § 172.101 HMT. The entry should include the word "nitrogen," and read "Nitrocellulose, *with not more than 12.6 percent nitrogen, by dry mass* mixture with *or* without plasticizer, with *or* without pigment." The word "nitrogen" was omitted inadvertently when PHMSA published a final rule on October 1, 2007 (Docket No. PHMSA–2007–29245 (HM–244); 72 FR 55678, effective October 1, 2007), when the entry was intended to be changed for consistency with the United Nations (UN) Model Regulations. The entry in the UN Model Regulations for UN2557 includes the word "nitrogen." PHMSA is revising this entry for consistency with the UN Model Regulations.

Section 172.102

This section prescribes the special provisions assigned to § 172.101 HMT entries. On January 19, 2011 PHMSA published, and made effective a final rule, (Docket No. PHMSA-2009-0126 (HM-215K); 76 FR 12), which amended special provision 149. This special provision authorizes an increased amount of certain Class 3 (flammable liquid) materials in PG II that are transported as limited quantities or consumer commodities. It was revised to indicate that the exception provided may not be used for transportation by aircraft. However, the previous regulatory text for special provision 149 was not removed from the HMR resulting in two entries under special provision 149. Therefore, PHMSA is amending

§ 172.102(c)(1) to remove the second entry for special provision 149.

In the same rulemaking (HM-215K), § 172.102(c)(1) special provision T9 was amended. Special provisions found in § 172.102(c)(7) with a "T" code apply to Portable Tanks. This final rule changed column 5 of special provision T9 to indicate use of the portable tank as prohibited

for liquids. The previous bottom opening requirements remain in the table inadvertently. Therefore, PHMSA is revising special provision T9 to remove the incorrect duplicative entry, and consequently, the reference to § 178.275 in column 5. Additionally, PHMSA is revising the Table of Portable Tank T Codes to reformat special provision T21 because as it appears currently, all information in the table was inadvertently shifted one column to the right.

Section 172.203

This section provides shippers with additional requirements for hazardous materials descriptions on shipping papers. Paragraph (k) of this section prescribes the requirements applicable to technical names. On December 29, 2006, PHMSA published a final rule (Docket No. PHMSA-06-25476 (HM-215I); 7 FR 78596, effective January 1, 2007), which harmonized many regulations within the HMR in accordance with international standards. Among these changes, was the order in which a hazardous materials shipping description should be entered on a shipping paper. Originally, the proper order was proper shipping name followed by hazard class, UN identification number, and packing group. Based on the changes made under Docket HM-215I, the new order of hazardous materials shipping descriptions is: UN identification number, followed by the proper shipping name, hazard class, and packing group. This new sequence had a mandatory compliance date of January 1, 2013. PHMSA is revising § 172.203(k) introductory text and subparagraph (k)(1) to reflect the proper sequence for a hazardous materials description on a shipping paper in the examples given in this paragraph.

Section 172.400

This section provides the general labeling requirements. Paragraph (b) of this section contains a table for the appropriate label in accordance with column 6 of the HMT. The entry for Class 3 is incorrect in the first column and reads "3 (flammable liquid) Combustible Liquid" and

PHMSA is revising it to "3 Flammable Liquid (Combustible liquid)" to accurately describe the general labeling requirements.

Section 172.512

The placarding requirements for freight containers and aircraft unit load devices are described in § 172.512. The reference in § 172.512(b)(1)(iii) to part 7; chapter 2, section 2.7 of the ICAO Technical Instructions in this sub-subparagraph is inaccurate. This reference became inaccurate when the 2013-2014 publication of the ICAO Technical Instructions re-designated part 7; chapter 2; section 2.6 as a new requirement for visibility of labels, moving all subsequent sections up. Part 7; chapter 2, section 2.7 of the ICAO Technical Instructions now refers to replacement of labels, whereas section 2.8 refers to identification of unit load devices containing dangerous goods. PHMSA is revising this sub-subparagraph for the correct reference to cite part 7; chapter 2, section 2.8.

Section 172.604

This section describes the requirements for providing an emergency response telephone number. Paragraph (d) of this section gives exceptions to this requirement and lists what materials are not required to be accompanied by an emergency response telephone number. The exception in subparagraph § 172.604(d)(1) includes the word "and" at the end, suggesting that a material must be offered for transportation as a limited quantity as well as have a proper shipping name that is listed in subparagraph § 172.604(d)(2). This is not the intent of this regulation and PHMSA is revising subparagraph § 172.604(d)(1) in an effort to eliminate any confusion by removing the word "and" at the end, to indicate that these are two separate exceptions to the requirement to provide an emergency response telephone number. This correction would create consistency with similarly structured sections of the HMR.

Part 173

Section 173.22

This section prescribes the shipper's responsibilities required for the offering for transportation of a hazardous material in commerce. In sub-subparagraph § 173.22(a)(4)(ii), the requirements to retain closure notifications for a bulk package or cylinder are described. In the last sentence of this sub-subparagraph, the HMR reads that subsequent offerors of a "filed" and otherwise properly prepared unaltered package are not required to maintain manufacturer notification (including closure instruction). PHMSA is revising this sub-subparagraph to replace the word "filed" with "filled."

Section 173.62

This section provides packaging instructions for Class 1 explosive materials. Paragraph (b) of this section contains the explosives table which specifies the packaging instructions assigned to each explosive UN number. PHMSA inadvertently omitted an entry for UN0501 in this table. "Propellant, solid, UN0501" was added to the HMT when PHMSA's predecessor agency, the Research and Special Programs Administration (RSPA),published a final rule on June 21, 2001, (Docket No. RSPA–2000–7702 (HM–215D); 66 FR 33316, effective October 1, 2001), in an effort to harmonize the HMR with international standards. When "Propellant, solid, UN0501" was added to the HMT, the corresponding entry in the explosives table in § 173.62(b) was not made. PHMSA is revising the explosives table in § 172.62(b) by adding the entry for UN0501 and the reference to its corresponding packing instruction, 114(b). This change captures our original intent to align the requirements with those provided in the UN Model Regulations.

Section 173.124

This section defines classification criteria for Class 4 hazardous materials. Paragraph (a) defines a Division 4.1 (flammable solid) material. The reference in § 173.124(a)(2)(iv) identifies tests to classify self-reactive materials. It currently references Figure 14.2 in the UN Manual of Tests and Criteria, however there is no such figure. The appropriate table reference should be Figure 20.1 (a-b) in the UN Manual of Tests and Criteria, which is a flow chart scheme for self-reactive substances and organic peroxides. PHMSA is revising this section to reflect the correct reference to the UN Manual of Tests and Criteria.

Section 173.199

This section provides packaging requirements for Category B infectious substances. Paragraph (d) provides requirements for refrigerated or frozen specimens (ice, dry ice, and liquid nitrogen). Subparagraph (d)(2) says "The package is marked “Carbon dioxide, solid” or “Dry ice” and an indication that the material being refrigerated is used for diagnostic treatment purposes (e.g., frozen medical specimens)." The language in this paragraph was adopted when PHMSA published a final rule on June 2, 2006 (Docket No. PHMSA–2004–16895 (HM–226A); 71 FR 32243, effective October 1, 2006), revising the requirements applicable to infectious substances. However to alleviate confusion and provide consistency within the HMR, this requirement should read "diagnostic or treatment purposes" as it does in § 173.217(d), which provides the packaging requirements for carbon dioxide, solid (dry ice). PHMSA is revising § 173.199(d)(2) to correct the inconsistency.

Section 173.220

This section prescribes requirements for the transportation of internal combustion engines, self-propelled vehicles, mechanical equipment containing internal combustion engines,

battery-powered equipment or machinery, and fuel cell-powered equipment or machinery. Subparagraph § 173.220(a)(1) provides details on determining whether the engine contains a liquid or gaseous fuel. Under the second sentence of this subparagraph, an engine may be considered as not containing fuel when the engine components and fuel lines have been "completed drained, sufficiently cleaned of residue…" The word "completed" is intended to read "completely." This same typographical error appears in § 173.220(a)(2). PHMSA is revising these subparagraphs to replace the word "completed" with "completely."

Section 173.301

This section prescribes the general requirements for shipment of compressed gases and other hazardous materials in cylinders, UN pressure receptacles, and spherical pressure vessels. Paragraph (f) of this section gives the requirements applicable to pressure relief device systems. The reference in § 173.301(f)(1) to subparagraph (l)(2) is outdated. Formerly, § 173.301(l)(2) described the filling requirements of cylinders for export when not equipped with a pressure relief device. On May 3, 2007, PHMSA published a final rule (Docket No. PHMSA-2005-23141 (HM-215F); 72 FR 25162, effective October 1, 2007), which moved these requirements to § 171.23(a)(5). A correction of the reference to § 173.301(l)(2) was inadvertently omitted. Therefore, PHMSA is revising § 173.301(f)(1) to correctly reference § 171.23(a)(5) to provide the filling requirements of cylinders for export when not equipped with a pressure relief device.

Paragraph (j) of this section provides requirements for non-specification cylinders in domestic use. The first sentence of this paragraph references § 173.23(g). This reference is incorrect as 173.23(g) refers to previously authorized non-bulk packagings manufactured and tested in accordance with subparts L and M of part 178. The reference should be to § 171.23(a),

which identifies the requirements for the transportation of foreign cylinders within the United States. Requirements applicable to the import and export of foreign cylinders into the United States were consolidated into § 171.23(a) when PHMSA published a final rule on May 3, 2007 (Docket No. PHMSA–2005–23141 (HM–215F). PHMSA is revising § 173.301(j) for the proper reference.

Section 173.304

This section describes the requirements for filling of cylinders with liquefied compressed gases. Paragraph (d) provides criteria for the filling of refrigerant and dispersant gases. PHMSA is correcting the title of paragraph (d) by italicizing "Refrigerant and dispersant gases" to better identify the heading.

Section 173.476

This section specifies the requirements for approval of special form Class 7 (radioactive) materials. Paragraph (d) of this section notes that paragraphs (a) and (b) do not apply in those cases where A_1 equals A_2 (i.e., when the maximum activity of special form Class 7 (radioactive) material permitted in a Type A package equals the maximum activity of a non-special form Class 7 (radioactive) material permitted in a Type A package) and the material is not required to be described on the shipping papers as “Radioactive Material, Special Form, n.o.s.” On January 26, 2004, RSPA published a final rule (Docket No. RSPA-99-6283 (HM-230); 69 FR 3632, effective October 13, 2011), in an effort to make the HMR compatible with the International Atomic Energy Agency's (IAEA) Safety Standards Series. In doing so, many entries in the HMT were revised or removed. The entry for "Radioactive Material, Special Form, n.o.s., UN2974" was removed. In this same final rule, the entries for "Radioactive Material, Type A Package, Special Form, UN3332" and "Radioactive Material, Type A Package, Special Form, Fissile, UN3333"

were revised to remove the "I" from column 1 of the HMT to indicate they were no longer designated for international transportation. At the time of this change, the proper shipping name "Radioactive Material, Special Form, n.o.s." was not removed from § 173.476(d). PHMSA is revising this section to replace the proper shipping name "Radioactive Material, Special Form, n.o.s." with “Radioactive Material, Type A Package, Special Form” or as “Radioactive Material, Type A Package, Special Form, Fissile.”

Part 178

Section 178.61

This section provides criteria for specification 4BW welded steel cylinders with electric-arc welded longitudinal seam. Subparagraph (b)(2) states that material for heads must meet the requirements of paragraph (a) of this section or be open hearth, electric or basic oxygen carbon steel of uniform quality. The reference to paragraph (a) is incorrect, as paragraph (a) describes the type, size and service pressure of specification 4BW cylinders and not the type of material for the heads. The correct reference is to § 178.61(b)(1), which references the specifications for steel found in Table 1 to Appendix A of part 178. PHMSA is revising § 178.61(b)(2) to correctly reference that the material for heads must meet the requirements of (b)(1) of this section.

Section 178.345-3

This section prescribes requirements for the structural integrity of specification cargo tanks. Paragraph (c)(1) addresses stress in the cargo tank shell resulting from normal operating loadings. PHMSA is correcting the formula in paragraph (c)(1) for the figure “S_S2” to read “SS^2.”

Section 178.503

This section describes the requirements for the marking requirements for non-bulk performance-oriented packagings. Paragraph (a) of this section provides criteria for the marking of packagings to represent that they are manufactured to a UN standard. There is an inadvertent error in § 178.503(a)(1) that states, "Except as provided in paragraph (e)(1)(ii) of this section, the United Nations symbol as illustrated in paragraph (e)(1)(i) of this section (for embossed metal receptacles, the letters "UN") may be applied in place of the symbol;" The parentheses should be extended in this subparagraph. PHMSA is revising § 178.503(a)(1) to read: "(1) Except as provided in paragraph (e)(1)(ii) of this section, the United Nations symbol as illustrated in paragraph (e)(1)(i) of this section (for embossed metal receptacles, the letters "UN" may be applied in place of the symbol)."

Section 178.605

This section prescribes the requirements for hydrostatic pressure test of non-bulk UN specification packagings. Paragraph (d) provides the test method and pressure to be applied. Non-bulk packagings intended to contain hazardous materials in Packing Group I must be tested to a minimum test pressure of 250 kPa (36 psig) during the hydrostatic pressure test. This statement appears in paragraph (d), before the numbered subparagraphs listing the test methods, as well as after. PHMSA is amending § 178.605(d) to remove the duplicative statement following the numbered subparagraphs of test methods.

III. Regulatory Analyses and Notices

A. Statutory Authority

This final rule is published under authority of 49 U.S.C. 5103(b), which authorizes the Secretary of Transportation to prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. The purpose of

this final rule is to remove inadvertent errors in the hazardous materials table, grammatical and typographical errors, and, in response to requests for clarification, improve the clarity of certain provisions in the Hazardous Materials Regulations. The changes made in this final rule are considered non-substantive and this is published as a direct final rule.

B. Executive Orders 12866 and 13563 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). Additionally, E.O. 13563 supplements and reaffirms E.O. 12866, stressing that, to the extent permitted by law, an agency rulemaking action must be based on benefits that justify its costs, impose the least burden, consider cumulative burdens, maximize benefits, use performance objectives, and assess available alternatives. This final rule does not impose new or revised requirements for hazardous materials shippers or carriers; therefore, it is not necessary to prepare a regulatory impact analysis.

C. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 13132 ("Federalism"). This final rule does not adopt any regulation that: (1) has substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government; or (2) imposes substantial direct compliance costs on state and local governments. PHMSA is not aware of any state, local, or Indian tribe requirements that would be preempted by

correcting editorial errors and making minor regulatory changes. This final rule does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

D. Executive Order 13175

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

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

This final rule will not have a significant economic impact on a substantial number of small entities. This rule makes minor editorial changes that will not impose any new requirements on persons subject to the HMR; thus, there are no direct or indirect adverse economic impacts for small units of government, businesses, or other organizations.

F. Executive Order 13563 Improving Regulation and Regulatory Review

Executive Order 13563 supplements and reaffirms the principles, structures, and definitions governing regulatory review that were established in Executive Order 12866 Regulatory Planning and Review of September 30, 1993. In addition, Executive Order 13563 specifically requires agencies to: (1) involve the public in the regulatory process; (2) promote simplification and harmonization through interagency coordination; (3) identify and consider regulatory approaches that reduce burden and maintain flexibility; and (4) ensure the objectivity of any scientific or technological information used to support regulatory action; consider how to

best promote retrospective analysis to modify, streamline, expand, or repeal existing rules that are outmoded, ineffective, insufficient, or excessively burdensome.

A complete review of the existing HMR led to the identification of various minor errors in the HMR.

The correction of these errors will clarify current text while maintaining the intent of the regulations affected. This final rule is designed to address those errors by making non-substantive changes to the HMR such as editorial changes, spelling corrections, removal of transitional requirements that are no longer applicable and formatting modifications. This final rule corrects these errors but does not require the application of Executive Order 13563. The final rule does however clarify the regulatory text thus improving the regulations.

G. Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $141.3 million or more to either state, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule.

H. Paperwork Reduction Act

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

I. Environmental Impact Analysis

The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321–4347), and implementing regulations by the Council on Environmental Quality (40 CFR part 1500) require Federal agencies to consider the consequences of Federal actions and prepare a detailed statement on actions that significantly affect the quality of the human environment.

The purpose of this rulemaking is to correct editorial errors, make minor regulatory changes and, in response to requests for clarification, improve the clarity of certain provisions in the HMR. The intended effect of this rule is to enhance the accuracy and reduce misunderstandings of the regulations. The amendments contained in this rule are non-substantive changes and do not impose new requirements. Therefore, PHMSA has determined that the implementation of this final rule will not have any significant impact on the quality of the human environment.

J. 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.

K. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, 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), which may be viewed at http://www.dot.gov/privacy.

List of Subjects

49 CFR Part 107

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

49 CFR Part 171

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

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Incorporation by reference, Labeling, 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 178

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

In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority 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; Pub. L. 112-141 section 33006; 49 CFR 1.81 and 1.97.

2. In § 107.402, paragraph (d)(1)(ii) is revised to read as follows:

§ 107.402 Application for designation as a certification agency.

* * * * *

(d) * * *

(1) * * *

(ii) Employ personnel with work experience in manufacturing or testing of fireworks or explosives; or a combination of work experience in manufacturing or testing of fireworks or explosives and a degree in the physical sciences or engineering from an accredited university;

* * * * *

§ 107.801 [Amended]

3. In § 107.801, in the first sentence of paragraph (b), remove the word "Administratior" and add the word "Administrator" in its place.

4. In § 107.803, paragraph (c)(6) is revised to read as follows:

§ 107.803 Approval of an independent inspection agency (IIA).

* * * * *

(c) * * *

(6) An identification or qualification number assigned to each inspector who is supervised by a certifying inspector identified in paragraph (c)(5) of this section.

* * * * *

PART 130—OIL TRANSPORTATION

5. The authority citation for part 130 is revised to read as follows:

Authority: 33 U.S.C 1321; 49 CFR 1.81 and 1.97.

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

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

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81 and 1.97; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–134 section 31001.

7. In § 171.23, paragraph (a)(4)(iii) is added to read as follows:

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

* * * * *

(a) * * *

(4) * * *

(iii) The bill of lading or other shipping paper identifies the cylinder and includes the following certification: ‘‘This cylinder has (These cylinders have) been qualified, as required, and filled in accordance with the DOT requirements for export.’’

* * * * *

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

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

Authority: 49 U.S.C. 5101–5128; 44701; 49 CFR 1.81 and 1.97.

9. In § 172.101, revise paragraph (c)(6) to read as follows:

§ 172.101 Purpose and use of the hazardous materials table.

* * * * *

(c) * * *

(6) When a proper shipping name includes a concentration range as part of the shipping description, the actual concentration, if it is within the range stated, may be used in place of the concentration range. For example, an aqueous solution of hydrogen peroxide containing 30 percent peroxide may be described as “Hydrogen peroxide, aqueous solution with not less than

20 percent but not more than 40 percent hydrogen peroxide" or "Hydrogen peroxide, aqueous solution with 30 percent hydrogen peroxide". Also, the percent sign (%) may be used in place of the word "percent" when words in italics containing the word "percent" are used in addition to the proper shipping name.

* * * * *

10. In § 172.101, in the Hazardous Materials Table, the following entries are revised to read as follows:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

§172.101 Hazardous Materials Table

Symbols	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 (see §§ 173.27 and175.75)		(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)
	*		*		*		*		*		*		*
	Helium, compressed	2.2	UN1046		2.2		306	302	302, 314	75 kg	150 kg	A	85
	*		*		*		*		*		*		*
	Hydrogen iodide solution, see Hydriodic acid	…….			……..		……	……	……				
	*		*		*		*		*		*		*
	Neon, compressed	2.2	UN1065		2.2		306, 307	302	None	75 kg	150 kg	A	
	*		*		*		*		*		*		*
	Nitrocellulose, *with not more than 12.6 percent nitrogen, by dry mass* mixture with or without plasticizer, with *or* without pigment	4.1	UN2557	II	4.1	44	151	212	240	1 kg	15 kg	D	28, 36
	*		*		*		*		*		*		*

* * * * *

11. Amend § 172.102 as follows:

a. In paragraph (c)(1), remove the first entry for special provision 149.

b. In paragraph (c)(7)(ii), in the Table of Portable Tank T Codes T1-T22, revise the entries for T9 and T22.

The revisions read as follows:

§ 172.102 Special provisions.

* * * * *

(c) * * *

(7) * * *

(ii) * * *

Table of Portable Tank T Codes T1-T22

[Portable tank codes T1-T22 apply to liquid and solid hazardous materials of Classes 3 through 9 which are transported in portable tanks.]

Portable tank instruction (1)	Minimum test pressure (bar) (2)	Minimum shell thickness (in mm-reference steel) (See § 178.274(d)) (3)	Pressure-relief requirements (See § 178.275(g)) (4)	Bottom opening requirements (See § 178.275(d)) (5)
*	*	*	*	*
T9	4	6 mm	Normal	Prohibited for liquids.
*	*	*	*	*
T21	10	10 mm	Normal	Prohibited for liquids. § 178.275(d)(2)
*	*	*	*	*

* * * * *

12. In § 172.203, paragraphs (k) introductory text and (k)(1) are revised to read as follows:

§ 172.203 Additional description requirements.

* * * * *

(k) Technical names for "n.o.s." and other generic descriptions. Unless otherwise excepted, if a material is described on a shipping paper by one of the proper shipping names identified by the letter "G" in column (1) of the § 172.101 Table, the technical name of the hazardous material must be entered in parentheses in association with the basic description. For example "UN 1760, Corrosive liquid, n.o.s., (Octanoyl chloride), 8, II", or "UN 1760, Corrosive liquid, n.o.s., 8, II (contains Octanoyl chloride)". The word "contains" may be used in association with the technical name, if appropriate. For organic peroxides which may qualify for more than one generic listing depending on concentration, the technical name must include the actual concentration being shipped or the concentration range for the appropriate generic listing. For example, "UN 3102, Organic peroxide type B, solid, 5.2, (dibenzoyl peroxide, 52-100%)" or "UN 3108, Organic peroxide type E, solid, 5.2, (dibenzoyl peroxide, paste, <52%)". Shipping descriptions for toxic materials that meet the criteria of Division 6.1, PG I or II (as specified in § 173.132(a) of this subchapter) or Division 2.3 (as specified in § 173.115(c) of this subchapter) and are identified by the letter "G" in column (1) of the § 172.101 Table, must have the technical name of the toxic constituent entered in parentheses in association with the basic description. A material classed as Division 6.2 and assigned identification number UN 2814 or UN 2900 that is suspected to contain an unknown Category A infectious substance must have the words "suspected Category A infectious substance" entered in parentheses in place of the technical name as part of the proper shipping description. For additional technical name options, see the definition for "Technical name" in § 171.8. A technical name should not be marked on the outer package of a Division 6.2 material (see § 172.301(b)).

(1) If a hazardous material is a mixture or solution of two or more hazardous materials, the technical names of at least two components most predominately contributing to the hazards of the mixture or solution must be entered on the shipping paper as required by paragraph (k) of this section. For example, "UN 2924, Flammable liquid, corrosive, n.o.s., 3, II (contains Methanol, Potassium hydroxide)".

* * * * *

13. In § 172.400, in the table in paragraph (b), the entry for Hazard class or division "3" is revised to read as follows:

§ 172.400 General labeling requirements.

* * * * *

(b) * * *

Hazard class or division	Label name	Label design or section reference
*	*	*
3 Flammable Liquid (Combustible liquid)	FLAMMABLE LIQUID (none)	172.419
*	*	*

* * * * *

14. In § 172.512, paragraph (b)(1)(iii) is revised to read as follows:

§ 172.512 Freight containers and aircraft unit load devices.

* * * * *

(b) * * *

(iii) Is identified as containing a hazardous material in the manner provided in part 7; chapter 2, section 2.8, of the ICAO Technical Instructions (IBR, see § 171.7 of this subchapter).

* * * * *

15. In § 172.604, paragraph (d)(1) is revised to read as follows:

§ 172.604 Emergency response telephone number.

* * * * *

(d) * * *

(1) Hazardous materials that are offered for transportation under the provisions applicable to limited quantities; or

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

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

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81 and 1.97.

17. In § 173.22, in paragraph (a)(4)(ii) the last sentence is revised to read as follows:

§ 173.22 Shipper's responsibility.

* * * * *

(a) * * *

(4) * * *

(ii) * * * Subsequent offerors of a filled and otherwise properly prepared unaltered package are not required to maintain manufacturer notification (including closure instructions).

* * * * *

18. In § 173.62, the table in paragraph (b), the entry for UN0501 is added to read as follows:

§ 173.62 Specific packaging requirements for explosives.

* * * * *

(b) * * *

EXPLOSIVES TABLE

ID#	PI
* * * *	* * *
UN0501	114(b)
* * * *	* * *

* * * * *

19. In § 173.124, paragraph (a)(2)(iv) is revised to read as follows:

§ 173.124 Class 4, Divisions 4.1, 4.2 and 4.3—Definitions.

(a) * * *

(2) * * *

(iv) Tests. The generic type for a self-reactive material must be determined using the testing protocol from Figure 20.1 (a)-(b) (Flow Chart Scheme for Self-Reactive Substances and Organic Peroxides) from the UN Manual of Tests and Criteria (IBR, see § 171.7 of this subchapter).

* * * * *

20. In § 173.199, paragraph (d)(2) is revised to read as follows:

§ 173.199 Category B infectious substances.

* * * * *

(d) * * *

(2) The package is marked "Carbon dioxide, solid" or "Dry ice" and an indication that the material being refrigerated is used for diagnostic or treatment purposes (e.g., frozen medical specimens).

* * * * *

21. In § 173.220, paragraphs (a)(1) and (2) are revised to read as follows:

§ 173.220 Internal combustion engines, self-propelled vehicles, mechanical equipment containing internal combustion engines, battery-powered equipment or machinery, fuel cell-powered equipment or machinery.

(a) * * *

(1) The engine contains a liquid or gaseous fuel. An engine may be considered as not containing fuel when the engine components and any fuel lines have been completely drained, sufficiently cleaned of residue, and purged of vapors to remove any potential hazard and the engine when held in any orientation will not release any liquid fuel;

(2) The fuel tank contains a liquid or gaseous fuel. A fuel tank may be considered as not containing fuel when the fuel tank and the fuel lines have been completely drained, sufficiently cleaned of residue, and purged of vapors to remove any potential hazard;

* * * * *

22. In § 173.301, paragraphs (f)(1) and (j) are revised to read as follows:

§ 173.301 General requirements for shipment of compressed gases and other hazardous materials in cylinders, UN pressure receptacles and spherical pressure vessels.

* * * * *

(f) Pressure relief device systems. (1) Except as provided in paragraphs (f)(5) and (6) of this section, and § 171.23(a)(5) of this subchapter, a cylinder filled with a gas and offered for transportation must be equipped with one or more pressure relief devices sized and selected as to type, location, and quantity, and tested in accordance with CGA S-1.1 (compliance with paragraph 9.1.1.1 is not required) and CGA S-7. The pressure relief device must be capable of preventing rupture of the normally filled cylinder when subjected to a fire test conducted in accordance with CGA C-14 (IBR, see § 171.7 of this subchapter), or, in the case of an acetylene cylinder, CGA C-12 (IBR, see § 171.7 of this subchapter).

* * * * *

(j) Non-specification cylinders in domestic use. Except as provided in §§ 171.12(a) and 171.23(a) of this subchapter, a filled cylinder manufactured to other than a DOT specification or a UN standard in accordance with part 178 of this subchapter, or a DOT exemption or special permit cylinder or a cylinder used as a fire extinguisher in conformance with § 173.309(a), may not be transported to, from, or within the United States.

* * * * *

§ 173.304 [Amended]

23. In § 173.304, the paragraph (d) subject heading is italicized.

24. In § 173.476, paragraph (d) is revised to read as follows:

§ 173.476 Approval of special form Class 7 (radioactive) materials.

* * * * *

(d) Paragraphs (a) and (b) of this section do not apply in those cases where A_1 equals A_2 and the material is not required to be described on the shipping papers as "Radioactive Material, Type A Package, Special Form" or as "Radioactive Material, Type A Package, Special Form, Fissile."

PART 174—CARRIAGE BY RAIL

25. The authority citation for part 174 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

PART 177—CARRIAGE BY HIGHWAY

26. The authority citation for part 177 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

PART 178—SPECIFICATIONS FOR PACKAGINGS

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

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

28. In § 178.61, paragraph (b)(2) is revised to read as follows:

§ 178.61 Specification 4BW welded steel cylinders with electric-arc welded longitudinal seam.

* * * * *

(b) * * *

(2) Material for heads must meet the requirements of paragraph (b)(1) of this section or be open hearth, electric or basic oxygen carbon steel of uniform quality. Content percent may not exceed the following: Carbon 0.25, Manganese 0.60, Phosphorus 0.045, Sulfur 0.050. Heads must be hemispherical or ellipsoidal in shape with a maximum ratio of 2.1. If low carbon steel is

used, the thickness of such heads must be determined by using a maximum wall stress of 24,000 p.s.i. in the formula described in paragraph (f)(4) of this section.

* * * * *

29. In § 178.345-3, paragraph (c)(1) introductory text is revised to read as follows:

§ 178.345-3 Structural integrity.

* * * * *

(c) * * *

(1) Normal operating loadings. The following procedure addresses stress in the cargo tank shell resulting from normal operating loadings. The effective stress (the maximum principal stress at any point) must be determined by the following formula:

$S = 0.5(S_y + S_x) \pm [0.25(S_y - S_x)^2 + SS^2]^{0.5}$

Where:

* * * * *

30. In § 178.503, paragraph (a)(1) is revised to read as follows:

§ 178.503 Marking of packagings.

(a) * * *

(1) Except as provided in paragraph (e)(1)(ii) of this section, the United Nations symbol as illustrated in paragraph (e)(1)(i) of this section (for embossed metal receptacles, the letters "UN" may be applied in place of the symbol);

* * * * *

31. In § 178.605, paragraph (d) is revised to read as follows:

§ 178.605 Hydrostatic pressure test.

* * * * *

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

(1) Not less than the total gauge pressure measured in the packaging (i.e., the vapor pressure of the filling material and the partial pressure of the air or other inert gas minus 100 kPa (15 psi)) at 55 °C (131 °F), multiplied by a safety factor of 1.5. This total gauge pressure must be determined on the basis of a maximum degree of filling in accordance with § 173.24a(d) of this subchapter and a filling temperature of 15 °C (59 °F);

(2) Not less than 1.75 times the vapor pressure at 50 °C (122 °F) of the material to be transported minus 100 kPa (15 psi), but with a minimum test pressure of 100 kPa (15 psig); or

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

* * * * *

PART 179—SPECIFICATIONS FOR TANK CARS

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

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

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

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

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