



DEPARTMENT OF TRANSPORTATION
MATERIALS TRANSPORTATION BUREAU
WASHINGTON, D.C. 20590

25886

HM-166A; NOTICE NO. 79-6

[49 CFR Parts 171, 172, 173, 176, 178]

Proposed Miscellaneous Amendments

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Materials Transportation Bureau (MTB) is proposing to make several miscellaneous amendments to the regulations pertaining to the shipment of hazardous materials. This action is necessary to update the regulations and to reduce MTB's backlog of rulemaking petitions.

DATE: Comments must be received on or before June 15, 1979.

ADDRESS: Address comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Five copies are requested.

FOR FURTHER INFORMATION: Darrell L. Raines, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, Washington, D.C. 20590, (202-755-4962).

SUPPLEMENTARY INFORMATION: This document is the second of a series of notices and amendments to incorporate changes in the hazardous materials regulations based on either petitions for rulemaking submitted in accordance with 49 CFR 106.31 or on MTB's own initiative. On November 30, 1978, MTB published the first notice of proposed rulemaking under Docket HM-166; Notice 78-11 (43 FR 56070). In view of the number of notices and amendments anticipated under Docket HM-166, starting with this issue, and all subsequent issues, a suffix letter will

follow HM-166 (i.e., A, B, C, etc.) for specific identification purposes. The proposals to be considered in this notice of proposed rulemaking are thought to be non-controversial and are based upon either: (1) a petition for rulemaking with data and analysis supplied by the petitioner, or (2) on MTB's own initiative to clarify, simplify, update, or eliminate selected regulations.

In summary, these proposed amendments would (1) add a reference to the United States Department of Energy (USDOE) in § 171.7(c), (2) update § 171.7(d)(16)(i) to include Revision 1 and supplement for USDC, USDOE Material and Equipment Specification No. SP-9, and to include this reference in §§ 178.120-2(a), 178.120-2(f), 178.121-2(a) and 178.121-2(g), (3) revise the definition of "Hazardous material" in § 171.8 to read the same as the definition in the "Hazardous Materials Transportation Act," (4) correct the telephone number in § 171.15(b) for reporting hazardous materials incidents, (5) remove diisopropylethanolamine from § 172.101, (6) delete the entry "Empty cartridge case, primed" in § 172.101 and § 173.107(h), revise the description "empty cartridge cases primed," and "empty grenades primed" in § 173.107(h) to read "cartridge cases, empty, primed," and "grenade, empty, primed," respectively, delete the label requirement in column (4) of § 172.101 for all of the commodities named in § 173.107(h), (7) add paragraph (2) to § 173.7(a) to authorize any shipper to reship packagings which were originally shipped by the Department of Defense, (8) add paragraph (c) to § 173.7 to authorize the Bureau of Alcohol, Tobacco and Firearms to ship small samples of explosive materials in a

specialty designed container, (9) authorize in § 173.135(a)(9) the use of higher integrity cargo tanks for the shipment of diethyl dichlorosilane, dimethyl dichlorosilane, ethyl dichlorosilane, ethyl trichlorosilane, methyl trichlorosilane, trimethyl chlorosilane, and vinyl trichlorosilane, (10) correct the authorized net weight in § 173.245b(a)(6) to read 95 pounds, (11) add DOT Specifications MC 330 and MC 331 to § 173.247(a)(12), (12) revise § 173.1080(a) to authorize shipment of sulfur in sift-proof or lined freight containers, (13) revise §§ 176.30(a), 176.39(a), 176.39(a)(2), and 176.39(c) by clarifying that the preparation and accuracy of the dangerous cargo manifest is binding upon the ship's agents, vessel owners, operators, or any other person designated for this purpose by the carrier, (14) delete the authorization in § 178.59-21 in its entirety for the use of 4130X steel which waives the prescribed limitations of carbon content, yield point, and elongation, and (15) reinstate the requirement in § 178.83-11 that DOT Specification 5C barrels or drums used for nitric acid service must be embossed or stamped with the tare weight in pounds.

Primary drafters of this document are Darrell L. Raines, Office of Hazardous Materials Regulation, Exemptions and Regulations Termination Branch, and Evan C. Braude of the Office of the Chief Counsel, Research and Special Programs Administration.

Since this is a miscellaneous notice, it is not practical to group these proposed changes by subject area as stated in the preamble of the first HM-166 notice. Instead, a format similar to the one used for Docket No. HM-139 is being used.

Proposed Amendments of Hazardous Materials Regulations

Regulation Affected	Reason(s) for proposed change	Proposed amendment
§ 171.7(c)(16), § 171.7(d)(16)(i)	To change the reference USAEC: U.S. Atomic Energy Commission in § 171.7(c)(16) and § 171.7(d)(16)(i) to read USDOE: United States Department of Energy.	To revise § 171.7(c)(16) and § 171.7(d)(16)(i) to read: (c) * * * (16) USDOE: United States Department of Energy, Washington, D.C. 20545. Regulations of the USDOE are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Other publications by the USDOE may be obtained from the National Technical Information Center, U.S. Department of Commerce, Springfield, Virginia, 22151. (d) * * * (16) * * * (i) USDC, USDOE Material and Equipment Specification No. SP-9, Rev. 1, and Supplement, entitled "Fire Resistant Phenolic Foam."
§ 171.8	To revise the definition of "Hazardous Materials" to read as defined in the Hazardous Materials Transportation Act.	To revise the definition of "Hazardous material" in § 171.8 to read: "Hazardous material" means a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce.
§ 171.15(b)	To change the telephone number used by carriers for reporting hazardous materials incidents in order that toll free calls may be made.	To revise the first sentence in paragraph 171.15(b) to read: (b) Each notice required by paragraph (a) of this section shall be given the Department by telephone (toll-free) on 800-424-8902. * * *
§ 172.101	Recent information submitted by the Pennwalt Corp., indicates that diisopropylethanolamine is non-corrosive to tissue under the DOT definition.	To delete Diisopropylethanolamine from the Hazardous Materials Table in § 172.101.
§ 172.101 (Column 4), § 173.107(h)	Column (4) of § 172.101 requires Explosives C label for the following commodities: Cannon primers. Cartridge cases, empty, primed. Combination primer. Empty cartridge case, primed. Grenade, empty, primed. Percussion cap. Small arms primer. Paragraph (h) of § 173.107 states that no restrictions other than proper shipping name, packing and marking are prescribed in this part for the above commodities. Also, the entry Empty cartridge case, primed would be deleted in favor of Cartridge case, empty, primed.	To revise the Table in § 172.101 by deleting the entry for Empty cartridge case, primed and by deleting the requirement for the Explosive C label in Column (4) for the following entries: Cannon primers. Cartridge cases, empty, primed. Combination primer. Grenade, empty, primed. Percussion cap. Small arms primer.
§ 173.7(a)	To authorize non-DOD shippers to reship those packagings which were originally shipped by DOD under the provisions of paragraph (a) above.	To add paragraph (2) to § 173.7(a) to read: (2) Hazardous materials shipped by DOD under the provision paragraph (a) above may be reshipped by any shipper to any consignee provided the original packaging has not been damaged, opened, or altered in any manner.
§ 173.7	To authorize the Bureau of Alcohol, Tobacco and Firearms to ship not more than one gram samples of explosive materials to laboratories for analysis in support of criminal cases.	To add paragraph (c) to § 173.7 to read: (c) Shipments of explosive samples, not exceeding one gram net weight, offered by and consigned to the Bureau of Alcohol, Tobacco and Firearms (ATF) of the Department of the Treasury are not otherwise subject to the regulations in Parts 100-189 of this subchapter when placed in a specifically designed multi-unit assembly packed in a strong outside packaging. The packaging must be of a type accepted by ATF as capable of precluding a propagation of any explosion outside the packaging. The second component from the outside of the packaging must be marked or tagged to indicate the presence of an explosive.
§ 173.135(a)(9), § 173.247(a)(12)	To provide for the use of certain packagings that are equal to or greater in strength and efficiency than those already authorized.	To revise § 173.135(a)(9) and § 173.247(a)(12) to read: (9) Specification MC 300, MC 303, MC 304, MC 306, MC 307, MC 330 or MC 331 (§§ 178.340, 178.341, 178.342, and 178.337 of this subchapter). Tank motor vehicles having cargo tanks of steel or stainless steel construction. Tank bottom outlets must be equipped with valves conforming with § 178.342-5(a). (12) Specification MC 310, MC 311, MC 312, MC 330 or MC 331 (§§ 178.343, 178.337 of this subchapter). Tank motor vehicles.
§ 173.245(a)(6)	To correct the authorized net weight from 80 pounds to 95 pounds. The higher weight was added by HM-119 on July 14, 1977, and erroneously changed back to 80 pounds by HM-139 on August 22, 1977.	To revise § 173.245(a)(6) to read: (6) Plastic drum or pail not exceeding 95 pounds net weight and not over 7-gallon capacity.
§ 173.1080(a)	To authorize the shipment of crude dry sulfur in sift-proof or lined freight containers. These containers should provide a level of safety equivalent to a tight rail car which is presently authorized in § 173.1080(a)(6).	To revise paragraph (5) and (6) of § 173.1080(a) and add paragraph (7) to read: (5) Sift-proof paper-lined burlap bag; (6) Tight rail car; or (7) Sift-proof or lined freight container.
§ 176.30(a), § 176.30(c), § 176.39(a), § 176.39(a)(2), § 176.39(c)	To clarify that the preparation and accuracy of the dangerous cargo manifest is binding upon the ships agents, vessel owners, operators, or any other person delegated for this purpose by the carrier.	To revise the first sentence of paragraph (a) of §§ 176.30, 176.30(c), 176.39(a), 176.39(a)(2), and 176.39(c) to read: § 176.30 Dangerous cargo manifest. (a) The carrier and its agents and any person designated for this purpose by the carrier or agents shall prepare a dangerous cargo manifest, list, or stowage plan. * * * (c) The carrier and its agents shall ensure that the master, or a licensed deck officer designated by the master and attached to the vessel, or in the case of a barge, the person in charge of the barge, acknowledges the correctness of the dangerous cargo manifest, list or stowage plan by his signature. * * * § 176.39 Inspection of cargo. (a) <i>Manned vessels.</i> (1) The carrier, its agents, and any person designated for this purpose by the carrier or agents shall cause inspection of each hold or compartment containing hazardous materials to be made after stowage is complete, and at least once every 24 hours thereafter, weather permitting, in order to ensure that the cargo is in a safe condition and that no damage caused by shifting, spontaneous heating, leaking, sifting, wetting, or other cause has been sustained by the vessel or its cargo since loading and stowage. * * *

Proposed Amendments of Hazardous Materials Regulations—Continued

Regulation Affected	Reason(s) for proposed change	Proposed amendment
§ 178.83-11	To reinstate a requirement that Specification 5C barrels or drums used for nitric acid service must be embossed or stamped with the tare weight in pounds. This requirement was inadvertently deleted by ICC Order 66, effective July 7, 1965.	<p>(2) The carrier, its agents, and any person designated for this purpose by the carrier or agents shall cause an entry to be made in the vessel's deck log book for each inspection of the stowage of hazardous materials performed.</p> <p>(c) The carrier, its agents, and any person designated for this purpose by the carrier or agents of each ocean-going vessel carrying hazardous materials shall, immediately prior to entering a port in the United States, cause an inspection of that cargo to be made.</p> <p>To add paragraph (4) to § 178.83-11(a) to read:</p> <p>(4) By embossing or stamping, tare weight in pounds (for example, TW121).</p>
§ 178.120-2(a), § 178.120-2(f), § 178.121-2(a), § 178.121-2(g)	The references to Material and Equipment Specification No. SP-9 would be amended to add Rev. 1, and Supplement. In addition, § 178.120.2 (a) and (f) and § 178.121-2 (a) and (g) would be amended. The USDOE advises that many of the ingredients specified for use by SP-9, Rev. 1, are no longer available, or are difficult to obtain due to specified vendor grade or mesh size.	<p>In § 178.120-2, paragraphs (a) and (f) would be revised to read:</p> <p>(a) Phenolic foam insulation must be fire-resistant and fabricated in accordance with USDOE Material and Equipment Specification SP-9, Rev. 1, and Supplement, which is a part of this specification. (Note: Packagings manufactured under USAEC Specification SP-9 and Rev. 1 thereto are authorized for continued manufacture and use.) A 13.7 centimeter (5.4 inch) minimum thickness of foam must be provided over the entire liner except:</p> <p>(f) <i>Waterproofing.</i>—Each screw hole in the outer shell must be sealed with appropriate resin-type sealing material, or equivalent, during installation of the screw. All exposed foam surfaces, including any vent hole, must be sealed with waterproofing material as prescribed in USDOE Material and Equipment Specification SP-9, Rev. 1 and Supplement, or equivalent.</p> <p>In § 178.121-2, paragraphs (a) and (g) would be amended to read:</p> <p>(a) Phenolic foam insulation must be fire resistant and fabricated in accordance with USDOE Material and Equipment Specification SP-9, Rev. 1 and Supplement, which is a part of this specification. (Note: Packagings manufactured under USAEC Specification SP-9, and Rev. 1 thereto are authorized for continued manufacture and use.)</p> <p>A 14 centimeter (5.5 inch) minimum thickness of foam must be provided over the entire liner except where:</p> <p>(g) <i>Waterproofing.</i>—Each screw hole in the outer shell must be sealed with appropriate resin-type sealing material, or equivalent, during installation of the screw. All exposed foam surfaces, including any vent hole, must be sealed with waterproofing material as prescribed in USDOE Material and Equipment Specification SP-9, Rev. 1 and Supplement, or equivalent.</p>

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and paragraph (a) of App. A to Part 106.)

NOTE.—The Materials Transportation Bureau has determined that this document will not have a major impact under Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C., on April 26, 1979.

Alan I. Roberts,
Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[Docket No. HM-186A; Notice No. 79-6]
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