

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 106, 107, 171, 172, 173,
174, 175, 176, 177, and 178

[Docket No. HM-166T; Notice No. 84-14]

Transportation of Hazardous Materials; Proposed Miscellaneous Amendments

AGENCY: Materials Transportation
Bureau (MTB), 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 transportation 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 by March 7, 1985.

ADDRESS: Address comments to the Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and notice number and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped post card. The Dockets Branch is located in room 8426 of the Nassif Building, 400 7th Street S.W., Washington, D.C. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590, (202) 426-2075.

SUPPLEMENTARY INFORMATION: This document is primarily designed to reduce regulatory burdens by incorporating 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. These proposed amendments are in keeping with Executive Order 12291 and are designed to simplify existing regulations.

In Parts 106 and 107, these proposed amendments would remove the references to obsolete authority citations.

In Part 171, these proposed amendments would (1) revise § 171.7(d)(4)(iii) by updating the

reference to the 1982 edition; (2) in § 171.7(d)(23) the words "Large Quantity" would be changed to read "Highway Route Controlled Quantity" and (3) in § 171.8 the definition of "Hazardous waste", and "Transport vehicle" would be revised and under "State-designated route" the words "Large Quantity" would be changed to read "Highway Route Controlled Quantity".

In Part 172, the Hazardous Materials Table in § 172.101 would be amended by (1) adding "Nitroethane" and "Nitropropane" as proper shipping names; and (2) adding "173.421-1" in column (5)(a) of the Table for the entry "Radioactive material, empty packages". In addition, it is proposed to: (1) Revise paragraph (e) of § 172.202; (2) revise paragraph (h) of § 172.203; (3) revise the introductory text of paragraph (c) in § 172.328 regarding the marking and placarding of certain nurse tanks; (4) change the words "motor vehicle" and "motor vehicles" to read "transport vehicle" and "transport vehicles", as appropriate, in §§ 172.502 (a), (b) and (c), 172.504 (a), (b), (c)(1), (c)(2), Tables 1 and 2 and footnotes; 172.506 (a) and (a)(1); 172.507, 172.508(a), 172.510(d), 172.516(a) and (b). Also, in § 172.507 a new paragraph would be added pertaining to the placarding of nurse tanks.

In Part 173, these proposed amendments include a new § 173.5a to exclude certain oilfield service vehicles from specification cargo tank requirements and would (1) add a new paragraph (c) to § 173.25 which would allow the use of specific types of drums as overpacks for packages of Class B poisons on the same transport vehicle with foodstuff, feed or any edible material intended for consumption by humans or animals; (2) remove paragraph (b)(4) of § 173.31 which requires safety relief devices of the frangible disc or fusible plug type on DOT-106 and DOT-110 tanks to be inspected before each loaded trip; (3) remove paragraph (b)(3) of § 173.32 pertaining to the approval of fusible plugs on DOT Specification 51S portable tanks by the Associate Director for HMR; (4) reinstate a sentence in § 173.34(c)(3) which was inadvertently deleted in Docket No. HM-172 (47 Fr 16183) on April 15, 1982; (5) remove an approval authorization for exceeding 115 percent of the minimum prescribed test pressure for testing cylinders after reheat treatment in § 173.34(g)(4)(ii); (6) authorize the use of DOT Specification 12H, 23F, and 23H fiberboard boxes for oil well cartridges in § 173.112(a)(2); (7) clarify § 173.114a (h)(3) regarding the

transportation of blasting agents in bulk packagings: (8) revise § 173.115(d)(2) to specify a test situation with a specific surface to volume ratio to determine the flash point; (9) add a new paragraph (b)(7) to § 173.118a to specify that combustible liquids in packagings of 110 gallons or more must be in compliance with §§ 173.1, 173.24, and 177.804; (10) remove an approval requirement in § 173.120(c); (11) clarify the introductory text of § 173.131(a); (12) amend § 173.245(a)(38) to include boiler compound and water treatment compounds; (13) remove a duplicate marking and labeling requirement for electric storage batteries in § 173.260(f) when transported in less-than-carload and less-than-truckload lots; (14) remove an approval authorization in § 173.272(i)(18) for the use of experimental type vented closures on DOT Specification 17F metal drums for export shipments of sulfuric acid; (15) remove "bromochlorodifluoromethane" as an authorized commodity in DOT Specification 3AL cylinders under the provisions of § 173.304(a)(3); (16) remove the requirement in § 173.306(d) for automatic heating or refrigerating equipment of the gas burning type to be approved by the Associate Director for HMR; (17) amend Note 2 of § 173.315(a) to authorize DOT Specification MC 330 cargo tanks to be painted white, aluminum or a similar reflecting color on the upper two-thirds of the tank. Also, paragraph (m)(8) would be added regarding marking and placarding of certain nurse tanks; (18) amend § 173.346(a)(10) to permit use of DOT Specification 105A200ALW tank cars for ethion; (19) prohibit the use of collapsible rubber containers in § 173.366(a)(3) for arsenic (arsenic trioxide) or arsenic acid (solid); (20) remove footnote 8 in Table 5 of § 173.417(b)(2); (21) update the 1971 edition of the ANSI Standard N-14.1 in § 173.417(b)(5) to read 1982; (22) make an editorial change in § 173.421-1(a); (23) exempt empty radioactive materials packaging from the shipping paper requirements in the introductory text of § 173.427. Also, in § 173.427, paragraph (c) would be revised and paragraph (e) would be added.

In Part 174, these proposed amendments would (1) revise § 174.61(b) by removing the need for automatic heating or refrigerating equipment to be of a type examined by the Bureau of Explosives and approved by the Associate Director for HMR and (2) revise of § 174.101 (n) and (o) by removing the need for approval by the Department.

In Part 175, these proposed amendments would remove paragraph (a)(7) of § 175.45.

In Part 176, these proposed amendments would (1) remove the references to the obsolete "Authority" citation at the end of the index of Subpart O; (2) remove paragraph (c) in § 176.5; (3) remove paragraph (b) in § 176.15; (4) remove the reference to 46 U.S.C. 170 in paragraphs (a)(4) and (b) of § 176.18; (5) remove a duplicate notification requirement in § 176.48(c); (6) revise § 176.96; (7) authorize the use of materials other than asbestos in § 176.135(c); (8) remove an out-dated approval requirement in § 176.163(c); and (9) prohibit the use of asbestos as a cushioning material in § 176.410(e)(2).

In Part 177, these proposed amendments would revise paragraph (e) of § 176.841 to authorize the transportation of class B poisons on the same vehicle with foodstuff when overpacked in certain metal drums.

In Part 178, these proposed amendments would (1) authorize markings to be on a neckring or footing on DOT Specification 4B, 4BA, and 4BW cylinders having a water capacity of not more than 25 pounds; (2) revise § 178.150-3(a)(2) by adding a Note 1 and (3) revise § 178.209-8(a)(2) to authorize an additional slotting configuration for DOT Specification 12H fiberboard boxes.

In addition to the above, the MTB is proposing to remove the words "tank motor vehicle" and inserting, in their place, the words "cargo tank" each time they appear in Parts 173-178 of 49 CFR.

The MTB certifies that this proposed regulation will not, if promulgated, have a significant economic impact on a substantial number of small entities. Also, the MTB has further determined that this Notice (1) is not "major" under

Executive Order 12291; (2) is not "significant" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact would be so minimal; (4) will not affect not-for-profit enterprises, or small governmental jurisdictions and (5) does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.).

The following list of Federal Register Thesaurus of Indexing Terms apply to this notice of proposed rulemaking:

List of Subjects:

- 49 CFR Part 106
 - Hazardous materials transportation.
 - Administrative practice and procedures.
- 49 CFR Part 107
 - Hazardous materials transportation.
 - Programs procedures, penalties.
- 49 CFR Part 171
 - Hazardous materials transportation.
 - Definitions.
- 49 CFR Part 172
 - Hazardous materials transportation.
 - Labeling, packaging and containers.
- 49 CFR Part 173
 - Hazardous materials transportation.
 - Packaging and containers.
- 49 CFR Part 174
 - Hazardous materials transportation.
 - Railroad safety.
- 49 CFR Part 175
 - Hazardous materials transportation.
 - Air carriers.
- 49 CFR Part 176
 - Hazardous materials transportation.
 - Maritime carriers.
- 49 CFR Part 177
 - Hazardous materials transportation.
 - Motor carriers.
- 49 CFR Part 178
 - Hazardous materials transportation.
 - Packaging and containers.

Regulation affected	Reason(s) for proposed change	Proposed amendment
Subchapter B, Part 106.....	On Aug. 26, 1983, Pub. L. 98-89 recodified the Maritime Shipping Laws of the United States into Subtitle II of Title 46 of the United States Code. The Dangerous Cargo Act of 1940 (RS 4472-46 U.S.C. 170) was partially repealed on the basis that it duplicated the Secretary's regulatory authority in the Hazardous Materials Transportation Act. Ships' Stores were retained in 46 U.S.C. 3306(a)(5).	In Part 106, the "Authority" citation would be amended by removing "R.S. 4472(7) (46 U.S.C. 170(7))".
Subchapter B, Part 106, Appendix A.....	Same as above.....	In part 106, Appendix A would be amended by removing and reserving paragraph (a)(1).
Subchapter B, Part 107.....	Same as shown for Subchapter B, Part 106.....	In Part 107, the "Authority" citation would be amended by removing "46 U.S.C. 170(11)".

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 171.7(d)(4)(iv)	To update the ANSI N14.1 reference to the 1982 edition.	In § 171.7, paragraph (d)(4)(iv) would be amended by changing "1971" edition to read "1982" edition.
§ 171.8	To remove that portion of the "Hazardous waste" definition that reads "or would be subject to these requirements absent an interim authorization to a state under 40 CFR Part 123, Subpart F." These words are no longer necessary due to the change in the applicability of the HMR for hazardous waste adopted in the final rule under HM-145D (49 FR 10507, Mar. 20, 1984).	In § 171.8, the definition of "Hazardous waste" would be revised to read as follows: "Hazardous waste", for the purposes of this subchapter, means a material that is subject to the hazardous waste manifest requirements of EPA specified in 40 CFR Part 262.
§ 171.8	Editorial correction. The Guidelines are being revised and the title will change to reflect the new terminology. Also, § 171.7(d)(23) and § 177.825(b)(1)(ii) would be changed accordingly.	In § 171.8, under "State-designated route" the words "Large Quantity" would be changed to read "Highway Route Controlled Quantity".
§ 171.8; § 172.502 (a), (b), and (c); § 172.504 (a), (b), (c)(1), (c)(2), the heading of both columns in Tables 1 and 2, footnote 2 of Table 1, and footnotes 8 and 9 of Table 2, § 172.506 (a), and (a)(1); § 172.507; § 172.508(a); § 172.510(d); § 172.516 (a) and (b).	To change the words "motor vehicle" and "motor vehicles" to read "transport vehicle" or "transport vehicles", as appropriate. The definition of a motor vehicle does not provide a clear regulatory base for establishing the placarding requirements for a motor vehicle consisting of a truck with one or more trailers and a tractor with more than one trailer or a semitrailer and trailer. The definition of a motor vehicle, in part, includes a vehicle, tractor, trailer or semi-trailer or any combination thereof. The definition of a transport vehicle, in part, includes a truck trailer and semitrailer but each cargo-carrying body is a separate transport vehicle.	In 171.8, the definition of "Transport vehicle" would be revised to read as follows: "Transport vehicle" means a cargo-carrying motor vehicle such as a tractor, truck, semitrailer, trailer, tank car or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, rail car, etc.) is a separate transport vehicle. In §§ 172.502 (a), (b) and (c); 172.504 (a), (b), (c)(1), (c)(2), the heading of both columns in Table 1 and 2, footnote 2 of Table 1, and footnotes 8 and 9 of Table 2; 172.506 (a) and (a)(1); 172.507; 172.508(a); 172.510(d); 172.512(a)(1); 172.512.516 (a) and (b) the words "motor vehicle" or "motor vehicles" would be changed to read "transport vehicle", or "transport vehicles", as appropriate.
§ 172.101	To add nitroethane and nitropropane as proper shipping names. Nitroethane has a closed cup flash point of 97° F. Nitropropane which would cover two isomers (i.e., 1-nitropropane and 2-nitropropane which have a closed cup flash point of 96° F. and 82° F. respectively). Both proposed shipping names are listed in the United Nations Recommendations for the Transport of Dangerous Goods.	See Table for proposed entries.

§ 172.101 Hazardous Materials Table.

+ / E / A / W	Hazardous materials descriptions and proper shipping names	Hazard clause	Identification number	Label(s) required (if not excepted)	Packaging		Maximum net quantity in one package		Water shipments		
					Exceptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo aircraft only	Cargo vessel	Passenger vessel	Other requirements
(1)	(2)	(3)	3(a)	(4)	5(a)	5(b)	6(a)	6(b)	7(a)	7(b)	7(c)
	ADD. Nitroethane	Flammable liquid	UN 2842	Flammable liquid	173.118	173.119	1 quart	10 gallons	1.2	1	
	Nitropropanes	Flammable liquid	UN 2608	Flammable liquid	173.118	173.119	1 quart	10 gallons	1.2	1	

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 172.101, Table	Editorial correction.	In column (5)(a) of the § 172.101 Table, the reference "173 421-1" would be added for the entry "Radioactive material empty packages".
§ 172.202(e)	To further clarify that a material (other than a material designated as a hazardous material in the UN Recommendations, the ICAO Technical Instructions, or the IMDG Code) that is not designated as a hazardous material in 49 CFR may not be offered or transported as a hazardous material.	To revise paragraph (e) of § 172.202 to read as follows: (e) Except for those hazardous materials in the UN Recommendations, the ICAO Technical Instructions, or the IMDG Code, a material that is not a hazardous material according to this subchapter may not be offered for transportation or transported when its description on a shipping paper includes a hazard class or an identification number specified in § 172.101.
§ 172.203(h)	To eliminate inconsistent requirements.	In § 172.203, paragraph (h) would be revised to read as follows: § 172.203. Additional description requirements. (h) Transportation by highway. Following the basic description for a hazardous material in a Specification MC 300 or MC 331 cargo tank, there must be entered for— (1) Anhydrous ammonia. (i) The words "0.2 PERCENT WATER" to indicate the suitability for shipping anhydrous ammonia in a cargo tank made of quenched and tempered steel as authorized by § 173.315(a)(1) Note 14 of this subchapter or (ii) The words "NOT FOR O AND T TANKS" when the anhydrous ammonia does not contain 0.2 percent or more water by weight. (2) Liquefied petroleum gas. (i) The word "NONCORROSIVE" or "NOT FOR O AND T TANKS" to indicate the suitability for shipping "Noncorrosive" liquefied petroleum gases in a cargo tank made of quenched and tempered steel as authorized by § 173.315(a)(1) Note 15 of this subchapter or (ii) The words "NOT FOR O AND T TANKS" for liquefied petroleum gases other than "Noncorrosive".
§ 172.326(b)	Certain nurse tanks are constructed such that valve fittings, gauges and protective collar on the end of the tank make it impossible to affix the required markings and placard in their proper location and size. For this reason, the NHTB is proposing to eliminate the marking and placarding requirement on O and T tanks of this particular type of nurse tank.	In § 172.326, the introductory text of paragraph (b) would be revised to read as follows: (b) Placarded petroleum gases. Except for those petroleum gases that are marked in accordance with § 173.315(a)(1) Note 14 of this subchapter, liquefied petroleum gases in this subchapter shall not be transported in O and T tanks as specified in this subchapter with—

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 172.507(b)	See § 172.328(c) for reason for change.	In § 172.507, the present paragraph would be designated paragraph (a) and a paragraph (b) would be added to read as follows: (a) * * * (b) A nurse tank, meeting the provisions of § 173.315(m) of this subchapter, is not required to be marked or placarded on the end containing valves, fittings, regulators or gauges if those appurtenances prevent the markings and placard from being properly placed and visible. Other markings and placards, required by this subchapter, must be used.
§ 173.5a	This new section would preclude certain offhigh service vehicles from the cargo tank specification requirements applicable to transportation of flammable liquids. So called "hot oil" injection trucks are loaded only at the well area being serviced, but they contain flammable residues when moving on the highways thereby making them subject to § 173.29. MTB does not believe the detailed specification requirements for cargo tanks should apply to these vehicles subject to the conditions it proposes.	A new § 173.5a would be added to read as follows: § 173.5a <i>Offhigh Service Vehicles.</i> (a) Notwithstanding § 173.29 of this subchapter, a cargo tank mounted on a motor vehicle used in offhigh servicing operations is not subject to the tank specification requirements of this subchapter if— (1) The cargo tank and associated equipment contains only residual amounts (i.e., it is emptied so far as practicable of a flammable liquid alone or in combination with water. (2) No flame producing device is operated during transportation, and (3) The proper shipping name is preceded by "Residual" on the shipping paper for each transportation movement on a public highway.
§ 173.25(c)	To authorize the use of specific types of drums as an overpack for packages of Class B poisons on the same vehicle with material that is marked or known to be foodstuff, feed or any edible material intended for consumption by humans or animals. Also, § 177.841(e) would be revised to reference § 173.25(c).	In § 173.25, paragraph (c) would be added to read as follows: (c) Hazardous materials classed Poison B may be transported in the same transport vehicle with material that is marked or known to be foodstuffs, feed or any edible material intended for consumption by humans or animals provided the Poison B material is marked, labeled, and packaged in accordance with this subchapter, conforms to the requirements of paragraph (a) of this section, is overpacked as specified in § 177.841(e), or in a container meeting the following requirements: (1) The overpack conforms to Specification 5C (§ 178.83 of this subchapter), or (2) The overpack is a salvage drum as prescribed in § 173.3(c) of this subchapter, with the following additional requirements: (i) Maximum rated capacity is 65 gallons; (ii) Be constructed of steel with a minimum of 16 gauge thickness; and (iii) Meets the performance standards of Specification 17C (§ 178.115 of this subchapter).
§ 173.31(b)(4)	The Compressed Gas Association, Inc. has petitioned for the removal of § 173.31(b)(4) which requires safety relief devices of the frangible disc or fusible plug type used on DOT-106A or 110A tanks to be inspected before each loaded trip by removing at least one vent for visual inspection. If it shows signs of deterioration, all devices must be removed and inspected and those which do not meet the requirements must be renewed. The MTB agrees that because of the other safety checks specified in §§ 173.24 (a) and (c)(5), § 173.31 (b)(1), (d)(1), and (d)(5), public safety will not be reduced.	In § 173.31, paragraph (b)(4) would be removed and reserved.
§ 173.32(b)(3)	Referenced paragraph authorizes the use of fusible plugs on DOT Specification 51S portable tanks when the container is filled by weight. Size, number, and location, as well as character and physical properties of fusible plugs shall be examined by the Bureau of Explosives and approved by the Associate Director for HMR. Since these tanks are over 33 years old and no approvals have been issued by the Associate Director for HMR, the MTB believes that paragraph (b)(3) should be removed.	In § 173.32, paragraph (b)(3) would be removed and paragraph (b)(4) would be redesignated (b)(3).
§ 173.34(c)(3)	Docket No. HM-172 (47 FR 16183) published April 15, 1982 inadvertently deleted the second sentence of paragraph (c)(3)(i). This restatement is necessary in order to eliminate requests for a marked service pressure change for those cylinders which failed the hydrostatic test and were not requalified.	In § 173.34, paragraph (c)(3) would be amended by adding a sentence at the end to read as follows: (c) * * * (3) * * *. A service pressure change is not authorized for a cylinder which fails to pass the prescribed periodic hydrostatic retest, unless it is reheat treated and requalified in accordance with this section.
§ 173.34(g)(4)(i)	To eliminate an approval authorization for exceeding 115 percent of the minimum prescribed test pressure for testing cylinders after reheat treatment. The MTB believes that the criteria specified in paragraph (g)(4) (i) and (ii) is adequate and specific approval of the Associate Director for HMR should not be required.	To revise paragraph (g)(4)(i) of § 173.34 to read as follows: (i) The permanent expansion shall not be less than 3 percent nor more than 10 percent of the total expansion in the hydrostatic retest, in which case the flattening and physical tests are not required. For this alternative method the hydrostatic retest pressure may not exceed 115 percent of the minimum prescribed test pressure.
§ 173.112(a)(2)	To authorize the use of DOT Specification 12H, 23F, or 23H fiberboard boxes for oil well cartridges as authorized for certain high explosives.	To revise paragraph (a)(2) of § 173.112 to read as follows: (2) Specification 12B, 12H, 23F or 23H (§§ 178.205, 178.209, 178.214, 178.219 of this subchapter) Fiberboard boxes. Gross weight not to exceed 65 pounds. Hand holes are not authorized.
§ 173.114a	To clarify that Blasting agents may not be transported in any bulk packagings except under the terms of an exemption issued by the Office of Hazardous Materials Regulation.	In § 173.114a, paragraph (h)(3) would be removed, paragraph (i) would be redesignated (j) and 176.400 through 176.415 would be added. A new paragraph (i) would be added to read as follows: (i) Blasting agents may not be transported in bulk packagings except in accordance with the terms of specific exemptions issued by the Office of Hazardous Materials Regulation.
§ 173.115(d)(2)	The Dresser Industries, Inc. has petitioned to amend paragraph (d)(2) of § 173.115 to specify a test situation with a specific surface to volume ratio for the 4-hour evaporation period. The MTB agrees that the percentage of liquid that evaporates would seem to depend on the ratio of surface area exposed to the air versus the liquid volume. The MTB is suggesting a ratio of one unit of surface area to six units of volume.	In § 173.115, the second and third sentences of paragraph (d)(2) would be amended to read: (d) * * * (2) * * *. If it is determined by this test that the flash point is higher than 20 °F (-6.67 °C), a second test shall be made as follows: a portion of the mixture shall be placed in an open beaker (or similar container) of such dimensions that the height of the liquid can be adjusted so that the ratio of the volume of the liquid to the height of the liquid surface area is 6. The liquid shall be allowed to evaporate under ambient pressure and temperature (20 to 25 °C) for a period of 4 hours or until 10% by volume has evaporated whichever comes first. A flash point is then run on a portion of the liquid remaining in the evaporation container and the lower of the two flash points shall be the flash point of the material.
§ 173.118a	At present, shipments of combustible liquids in packagings having a rated capacity greater than 110 gallons do not have to be in conformance with 173.24, and 177.804. It was never the intent to exempt combustible liquids from the above referenced sections. A change is needed in order for leaking cargo tanks to be placarded out-of-service and to pursue enforcement actions, if necessary.	To add paragraph (b)(7) to § 173.118a to read as follows: (b) * * * (7) The requirements of §§ 173.1, 173.24, 174.1 and 177.804 of this subchapter

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 173.120(c)	To eliminate the need for automatic heating or refrigerating equipment of the flammable liquid type to be examined by the Bureau of Explosives and approved by the Associate Director for HMR. The present wording states that the heating or refrigerating equipment is considered as carrier's equipment and is not subject to any other requirements of this subchapter. When the truck body or trailer is loaded on the flat car the words "carrier's equipment" becomes questionable. The MTB is proposing to revise the last sentence to read "The heating or refrigerating equipment is considered to be a part of the truck body or trailer and is not subject to any other requirements of this subchapter."	In § 173.120, paragraph (c) would be revised to read as follows: (c) <i>Truck bodies or trailers on flat cars.</i> Tank bodies or trailers with automatic heating or refrigerating equipment of the flammable liquid type may be shipped with fuel tanks filled and equipment operating or inoperative, when used for the transportation of other freight and loaded on flat cars as part of a joint rail-highway movement. The heating or refrigerating equipment is considered to be a part of the truck body or trailer and is not subject to any other requirements of this subchapter.
§ 173.131(a)	The introductory text of paragraph (a) states that certain specification containers must be used; however, paragraph (a)(2) authorizes certain nonspecification cargo tanks. The present wording is confusing to some people.	In § 173.131, the introductory text of paragraph (a) would be revised to read as follows: (a) Road asphalt, or tar, liquid must be packaged as follows:
§ 173.245(a)(38)	Prior to Docket HM-166-0, Boiler compound, liquid and Water treatment compounds, liquid were authorized to be packaged in DOT Specification 57 portable tanks under the provisions of § 173.249(a)(7). Effective Sept. 30, 1984, these two commodities must be described as Corrosive liquid, n.o.s. and are not authorized in § 173.245(a)(38), as presently written. The MTB is proposing to allow the shipment of corrosive liquids, n.o.s. in steel portable tanks.	In § 173.245, paragraph (a)(38) would be revised to read as follows: (38) Specification 57 (§ 178.253 of this subchapter). Steel portable tank. Authorized for transportation by water when having a minimum design pressure of 9 psig and equipped in accordance with § 178.253-4, except that frangible devices are not authorized. Also, for water transportation, no pressure relief device may open at less than 5 psig
§ 173.260(f)	Paragraph (f) requires less-than-carload and less-than-truckload lots of electric storage batteries containing electrolyte or corrosive battery fluid to be marked and labeled. This paragraph is redundant of the marking and labeling requirements in Part 172.	In § 173.260, paragraph (f) would be removed and reserved.
§ 173.272(i)(18)	To eliminate an approval authorization for the use of experimental type vented closures on DOT Specification 17F metal drums for export shipments of sulfuric acid. No approvals have been issued by the Associate Director for HMR nor do we anticipate any in the foreseeable future.	To revise paragraph (i)(18) of § 173.272 to read as follows: (18) Specification 17F (§ 178.117 of this subchapter) Metal barrels or drums (single-trip only). Authorized for sulfuric acid of 77.5 percent to 98 percent concentrations with or without an inhibitor, provided such acid has a corrosive effect on steel no greater than 93.2 percent sulfuric acid, measured at 100 °F.
§ 173.304(a)(3)	Docket HM-176 (46 FR 62452) added paragraph (a)(3) and included a liquefied gas identified as "bromochlorodifluoromethane". The MTB proposes to delete "bromochlorodifluoromethane" because it is not regulated under 49 CFR.	To revise paragraph (a)(3) of § 173.304 to read as follows: (3) Specification 3AL (§ 178.46 of this subchapter) cylinders are authorized for the following liquefied gases: cyclobutane, hydrogen selenide, propylene, silane, carbonyl sulfide, vinyl bromide, and dimethyl ether. Shipments of flammable gases are authorized only when transported by highway, rail and cargo aircraft only.
§ 173.306(d)	To eliminate the need for automatic heating or refrigerating equipment of the gas burning type to be examined by the Bureau of Explosives and approved by the Associate Director for HMR. See § 173.120(c) for further explanation.	In § 173.306, paragraph (d) would be revised to read as follows: (d) <i>Truck bodies or trailers on flat cars; automobiles, motorcycles, tractors, or other self-propelled vehicles.</i> (1) Truck bodies or trailers with automatic heating or refrigerating equipment of the gas burning type may be shipped with fuel tanks filled and equipment operating or inoperative, when used for the transportation of other freight and loaded on flat cars as part of a joint rail-highway movement. The heating or refrigerating equipment is considered to be a part of the truck body or trailer and is not subject to any other requirements of this subchapter.
§ 173.315(a), Note 2.	To authorize DOT Specification MC 330 cargo tanks to be painted a white, aluminum or similar reflecting color on the upper two-thirds of the tank. The proposed change is based on a request from the National Tank Truck Carriers, Inc.	To amend Note 2 of § 173.315(a) by adding the following sentence: Note 2. — Specification MC 330 cargo tanks may be painted as specified for MC 331 cargo tanks.
§ 173.315(m)(8)	See § 172.328(c) for reason.	In § 173.315, paragraph (m)(8) would be added to read as follows: (m) (8) is marked as specified in § 172.328 of this subchapter and placarded as specified in § 172.514 of this subchapter, except that a nurse tank otherwise conforming with the provisions of this section need not be marked or placarded on one end if that end contains valves, fittings, regulators or gauges.
§ 173.346(a)(10)	Prior to the 1980 edition of Title 49, "ethion" was properly described as organic phosphate compound and transported in DOT Specification 105A200ALW or 105A300W tank cars under the provisions of § 173.358(a)(11). At present, ethion is listed by name in the § 172.101 Table, but the packaging section reference is § 173.346 which does not authorize the use of the 105A200ALW tank car.	To amend paragraph (a)(10) of § 173.346 by adding DOT Specification 105A200ALW tank car
§ 173.366(a)(3)	Shipments of Arsenic (arsenic trioxide) or arsenic acid (solid) is authorized to be shipped in a collapsible, rubber container, not over 70 cubic feet capacity when examined by the Bureau of Explosives and approved by the Associate Director for HMR. To our knowledge, only one container has been approved in the past thirty-three years. For this reason, the MTB is proposing removal of paragraph (a)(3).	In § 173.366, paragraph (a)(3) would be removed.
§ 173.417(b)(2), Table 5.	Editorial change. Footnote "8" in Table 5 was inadvertently added by HM-169 on Mar. 10, 1983.	To amend Table 5 in § 173.417(b)(2) by removing footnote 8 and the "8" in column 1 immediately preceding "H/X = 0"
§ 173.417(b)(5)	To update the ANSI N14.1 reference to the 1982 edition.	In § 173.417, paragraph (b)(5) would be amended by changing "N-14.1-1971" to read "N14.1-1982".
§ 173.421-1(a)	For clarification.	In § 173.421-1, paragraph (a) would be amended as follows: After "UN 2911" remove the semicolon and add a comma, remove the next word "or"; after "UN 2909" remove the words "as appropriate" and add "or 49 CFR 173.427 for exempted radioactive material, empty packages, UN 2908".
§ 173.427	The present introductory text does not except empty packagings from shipping papers as provided for other excepted category packages. In view of the low allowable internal contamination limits, detailed shipping papers are not warranted.	To revise the introductory text of § 173.427 to read as follows: A packaging which previously contained radioactive materials and has been emptied of contents as far as practical, is excepted from markings, shipping paper, certification and labeling requirements of this subchapter and from requirements of this subpart, provided that:
§ 173.427(c)	To remove the reference to "Table 10" in paragraph (c) because Table 10 specifies the limits for wiping determination of contamination and § 173.443 allows use of other methods as well.	To revise paragraph (c) of § 173.427 to read as follows: (c) Internal contamination does not exceed 100 times the limits in § 173.443.
§ 173.427(e)	For clarification.	To add paragraph (e) to § 173.427 to read as follows: (e) The packaging is prepared for shipment as specified in § 173.421-1.
§ 174.61(b)	To eliminate the need for automatic heating or refrigerating equipment to be a type examined by the Bureau of Explosives and approved by the Associate Director for HMR. See § 173.120(c) for further explanation.	In § 174.61, paragraph (b) would be revised to read as follows: (b) A truck body, trailer or freight container equipped with automatic heating or refrigerating equipment which has a fuel or article classed as a hazardous material may be loaded and transported on a flat car as part of a joint rail-highway movement. The heating or refrigerating equipment is considered to be a part of the truck body or trailer and is not subject to any other requirements of this subchapter. The truck body, trailer or freight container must be secured on the flat car so that it cannot change position during transit.

Regulation affected	Reason(s) for proposed change	Proposed amendment																								
§ 174.101 (n) and (o).	To eliminate the need for a freight container to be a type approved by the Department. Also, the need for the fire retardant paint to be of a type approved by the Department would be eliminated in paragraphs (n) and (o).	<p>In § 174.101, the introductory text of paragraph (n) and (o) would be revised to read as follows: (n) A container car or freight container on a flatcar or a gondola car other than a drop-bottom car, when properly loaded, blocked, and braced to prevent change of position under conditions normally incident to transportation, may be used to transport any Class A explosive except black powder packed in metal containers.</p> <p>A freight container must be designed, constructed, and maintained so as to be weather tight and capable of preventing the entrance of sparks. In addition:</p> <p>(o) Class A or Class B explosives may be loaded and transported in a tight closed truck body or trailer on a flatcar car. Wooden boxed bombs, rocket ammunition, and rocket motors, Class A or Class B explosives, which due to their size cannot be loaded in tight, closed truck bodies or trailers, may be loaded in or on open-top truck bodies or trailers. However, they must be protected against accidental ignition. In addition:</p>																								
§ 175.45(a)(7)	<p>To eliminate the confusion of reporting hazardous materials incidents under § 175.45. In § 175.45 the operator who transports hazardous materials must report each incident to the nearest FAA Civil Aviation Security office by telephone. Paragraph (7) of § 175.45 states that "If the operator conforms to the provisions of this section, the carrier requirements of § 171.15 except § 171.15(c) of this subchapter shall be deemed to have been satisfied".</p> <p>Since the Civil Aviation Security Offices are not manned on a 24-hour basis, an incident may not be reported in a timely manner. Therefore, the removal of paragraph (a)(7) is being proposed.</p>	In § 175.45 paragraph (a)(7) would be removed.																								
Part 176	Same as shown for Subchapter B, Part 106	In Part 176, the "Authority" citation would be amended by removing "46 U.S.C. 170(7) (a-c);"																								
§ 176.5(c)	The provisions of this paragraph are covered by § 173.51	In § 176.5, paragraph (c) would be removed and reserved.																								
§ 176.15(b)	In 33 CFR 160.126, Withholding of Clearance, delegates to the District Commander or Captain of the Port authority to request the Secretary of Treasury, or his authorized agent, to withhold the clearance required under 46 U.S.C. 91 of any vessel, the owner or operator of which is subject to any of the penalties under 33 U.S.C. 1232.	In § 176.15, paragraph (b) would be removed.																								
§ 176.18 (a)(4) and (b)	Same as shown Subchapter B, Part 106	In § 176.18, paragraph (a)(4) and paragraph (b) would be amended by removing the reference to "46 U.S.C. 170 and".																								
§ 176.48(c)	To remove a duplicate notification. There is no need for the master of the vessel to notify the nearest Captain of the Port (COTP) and the Commandant (GMHM) when a hazardous materials shipment is jettisoned or lost. If such an incident occurs, the COTP would advise the Commandant (G-MTH).	In § 176.48, paragraph (c) would be amended by deleting the words "and the Commandant (GMHM)".																								
§ 176.96	To specify that only barges constructed of steel may be used to carry hazardous materials. A carrier who wishes to use a non-steel barge would have to request a DOT exemption.	<p>§ 176.96 would be revised to read as follows:</p> <p>§ 176.96 <i>Materials of construction.</i> Only barges constructed of steel may be used to carry hazardous materials.</p>																								
§ 176.135	To authorize the use of materials other than asbestos to be used in the construction of magazines.	<p>In § 176.135, the third and fourth sentences of paragraph (c) would be amended to read as follows: (c) * * * "Tween deck hatch covers of wood forming the base of a magazine must be completely covered with bulkhead panels approved by the Coast Guard under 46 CFR 164.088 or an equivalent thermal insulative material acceptable to the Captain of the Port. The joints of the panels must be staggered midway between the joints formed by the wooden hatch covers and the magazine must be constructed in accordance with the applicable provisions of § 176.138, except that the panels must be completely covered with wood dunnage. * * *</p> <p>In § 176.163, paragraph (c) would be removed and reserved.</p>																								
§ 176.163(c)	To remove paragraph (c) because no request for approval of powered conveyors have ever been received.																									
§ 176.410(e)(2)	To authorize the use of materials other than asbestos. Reference to asbestos as a cushioning material was removed from Part 173 under Docket HM-166D (FR 45 62079), September 18, 1980. Removal of all of paragraph (e) has been suggested and will be evaluated during the final rulemaking process.	To revise the last sentence of paragraph (e)(2) in § 176.410 to read as follows: (2) * * * The deck or bulkhead must be sheathed on the oxidizing materials stowage side with an appropriate fire-resistant insulation.																								
§ 177.841(e)	To authorize class B poisons to be transported on the same vehicle with material that is marked or known to be foodstuff, feed or any edible material intended for consumption by humans or animals. See proposed change to § 173.25(c) for additional information.	In § 177.841, paragraph (e) would be revised by adding the following: * * * or when overpacked in a metal drum as specified in § 173.25(c) of this subchapter.																								
§ 178.50-19(a), § 178.51-19(c), § 178.61-20(c), § 178.150-3(a)(2)	To authorize the markings to be on a neckring or footing on DOT Specification 4B, 4BA, and 4BW cylinders having a water capacity of not more than 25 pounds. Reference to Note 1 and Note 1 were omitted from the specification when the table in paragraph (a)(2) was added.	<p>In §§ 178.50-19(a), 178.51-19(c), and 178.61-20(c) a new paragraph would be added to read as follows: On neckring or footing permanently attached to the cylinder, provided the cylinder water capacity does not exceed 25 pounds.</p> <p>In § 178.150-3 paragraph (a)(2) would be revised to read as follow:</p> <p>(2) Single bottle cases:</p>																								
		<table border="1"> <thead> <tr> <th rowspan="2"></th> <th colspan="4">Nominal capacity of inside containers</th> </tr> <tr> <th>Pint</th> <th>Quart</th> <th>5 pts.</th> <th>Gallon</th> </tr> </thead> <tbody> <tr> <td>Side wall, inches.....</td> <td>3/8</td> <td>3/8</td> <td>3/8</td> <td>1 1/2</td> </tr> <tr> <td>Top wall, inches (See Note 1).....</td> <td>3/4</td> <td>3/4</td> <td>3/4</td> <td>1</td> </tr> <tr> <td>Bottom wall, inches.....</td> <td>1</td> <td>1</td> <td>3/4</td> <td>1 1/2</td> </tr> </tbody> </table>		Nominal capacity of inside containers				Pint	Quart	5 pts.	Gallon	Side wall, inches.....	3/8	3/8	3/8	1 1/2	Top wall, inches (See Note 1).....	3/4	3/4	3/4	1	Bottom wall, inches.....	1	1	3/4	1 1/2
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Bottom wall, inches.....	1	1	3/4	1 1/2																						
		<p>Note.—In recess for closure cap for inside container, 1/4-inch thickness is permissible: closure cap shall not be in contact with inside top section.</p>																								

§ 178.209-8(a)(2)	To authorize an additional slotting configuration for DOT Specification 12H fiberboard boxes. The proposed variation is authorized but is not clearly stated in the specification.	To revise § 178.209-8(a)(2) to read as follows: (2) Box to consist of full depth top and bottom sections completely telescoping. No inner lining tube required. Four variations are authorized: one with bottom slotted on ends and cover slotted on sides; second, with both cover and bottom slotted on sides; third, with bottom slotted on sides and cover slotted on ends; and fourth, with sides and ends (both covers and bottom) not slotted, manufacturer's joint a side lap glued or stapled to end, closing flaps to form top and bottom of box with side closing flaps out and overlapping. Note 1. —Hand-holes oval in shape, not more than 1 inch in width by 3 inches in length, and horizontal with top score line, are authorized in ends of top section of boxes.
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(49 U.S.C. 1803, 1804, 1808, 49 CFR 1.53, App. A to Part 1 and paragraph (a)(3) of App. A to Part 106)

Issued in Washington, D.C., on December 27, 1984.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

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