

DEPARTMENT OF TRANSPORTATION

Research and Special Programs
Administration

49 CFR Parts 171, 172 and 173

[Docket No. HM-126D; Amdt. Nos. 171-94,
172-110, 173-203]Bulk Packagings and Miscellaneous
AmendmentsAGENCY: Research and Special Programs
Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This action is being taken to incorporate into the Department's Hazardous Materials Regulations definitions for bulk packaging and nonbulk packaging, and to make other miscellaneous changes including required identification of materials in bulk packagings. This action is necessary to improve identification of hazardous materials during transportation for emergency response purposes.

EFFECTIVE DATE: These amendments are effective on February 1, 1988. However, compliance with the regulations as amended herein, is authorized as of August 10, 1987.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, DHM-12, Standards Division, Office of Hazardous Materials Transportation, Research and Special Programs Administration, Department of

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SUPPLEMENTARY INFORMATION: On September 27, 1984, RSPA published a Notice of Proposed Rulemaking, Docket No. HM-126D; Notice No. 84-11 [49 FR 38164] which proposed several changes in Parts 171, 172, and 173 regarding odorization of liquefied petroleum gas (LPG). Also, the notice proposed five minor revisions, plus a definition and marking requirements for "bulk packaging".

In Part 171, the notice proposed that § 171.8 be amended to add definitions for "Bulk packaging", "Liquefied petroleum gas" and "Non-bulk packaging".

In Parts 172 and 173, several changes were proposed regarding LPG. Also, the Notice proposed changes regarding marking of bulk packagings. Because of the wide range of comments received, from complete support to direct opposition, RSPA has withdrawn that portion of the rulemaking concerning the definition and odorization requirements for LPG from this docket, and it will be handled under a separate docket.

Excluding the comments received pertaining to LPG, only ten commenters responded to the remaining proposed amendments. Seven commenters supported the proposal to define "bulk packaging".

Three commenters suggested the proposed "bulk packaging" definition be revised so as to make a clear distinction between packagings of 110 gallons or less and bulk packagings. RSPA agrees that this has merit, and the definition of "bulk packaging" is revised accordingly. However, RSPA has chosen 450 liters (118.9 gallons) and 400 kilograms (881 pounds) as the threshold figure for defining bulk packaging, in order to be consistent with the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations). The definition of "portable tank" has been revised accordingly. The definitions for "bulk packaging" and "non-bulk packaging" are consistent with those proposed under Docket HM-181 (52 FR 16482) published on May 5, 1987.

In § 172.326, paragraph (d)(1) is adopted essentially as proposed, except that the words "orange panels" are added after the word "placards", to permit display of identification numbers on orange panels.

No exception was taken to the proposed revision of paragraph (e) in § 172.328 to make it consistent with the special provisions in § 172.336 (c)(4) and (c)(5) for transporting several different materials under one identification number marking.

Four commenters recommended minor changes to the proposed bulk packaging marking § 172.331. These commenters took exception to the proposed marking of the identification number on each side and each end of small bulk packages such as flexible intermediate bulk containers or 500 liter cryogenic liquid dewar flasks. RSPA agrees that this proposed requirement is excessive, and the final rule is revised to require these types of packagings to be marked on two opposing sides only.

In § 172.332, paragraph (c)(1) is revised without notice to eliminate an inconsistency in the regulations by authorizing the white background of the 4-inch by 8½ inch identification number markings on placards to be outlined with a solid or dotted line border.

One commenter recommended that the proposed change in paragraph (g) of § 172.334 be included in paragraph (b) since they are very similar. RSPA agrees with this commenter and has revised paragraph (b) of § 172.334 accordingly.

The proposed amendment to paragraph (b) of § 172.336 is rewritten to clarify that the plain white square-on-point configuration is an alternative identification number display to the orange panel for those materials for which placards are not required.

One commenter requested that § 172.338 not be amended as proposed, because nothing has occurred since the present wording was adopted to justify another amendment. RSPA is revising the proposed wording to require the replacement of white square-on-point display configurations when two or more identification number displays are missing or destroyed.

No comments were received regarding the placarding of rail cars transporting an Explosive A containing a Poison A. Therefore, paragraph (e) in § 172.510 is amended as proposed.

Section 172.332 is amended for editorial purposes. In § 173.29, the section title is revised by deleting the reference to particular type packagings. Paragraph (e) is added, as proposed, except that the word "bulk" is removed.

Based on limited information available concerning size and nature of entities likely to be affected, I certify that this regulation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Also, in view of the type of changes, the RSPA has further determined that this rulemaking (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) will not

affect not for profit enterprises, or small governmental jurisdictions, and (4) does not require an environmental impact statement under the National Environmental Policy Act (91 U.S.C. 4321 et seq.). A regulatory evaluation is not considered necessary because the anticipated impact is minimal.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Definitions.

49 CFR Part 172

Hazardous materials transportation, Labeling, marking, and placarding.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

In consideration of the foregoing, 49 CFR Parts 171, 172 and 173 are amended as follows:

PART 171—GENERAL INFORMATION REGULATIONS, AND DEFINITIONS

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

Authority: 49 U.S.C. 1603, 1804, 1805, and 1802; 49 CFR Part 1.

2. In § 171.1 the definition for "Bulk packaging" and "Non-bulk packaging" are added in the appropriate alphabetic sequence, and the definition of "Portable tank" is revised to read as follows:

§ 171.1 Definitions and abbreviations.

"Bulk packaging" means a packaging, other than a vessel or a barge, including a transport vehicle or freight container, in which hazardous materials are loaded with no intermediate form of containment and which has: (1) An internal volume greater than 450 liters (118.9 gallons) as a receptacle for a liquid; (2) a capacity greater than 400 kilograms (881.8 pounds) as a receptacle for a solid, or (3) a water capacity greater than 1000 pounds (453.6 kilograms) as a receptacle for a gas as defined in § 173.300.

"Non-bulk packaging" means a packaging which has (1) an internal volume of 450 liters (118.9 gallons) or less as a receptacle for a liquid; (2) a capacity of 400 kilograms (881.8 pounds) or less as a receptacle for a solid, or (3) a water capacity of 1000 pounds (453.6 kilograms) or less as a receptacle for a gas as defined in § 173.300.

"Portable tank" means a bulk packaging (except a cylinder having a water capacity of 1000 pounds or less)

designed primarily to be loaded onto, or on, or temporarily attached to a transport vehicle or ship and equipped with skids, mountings, or accessories to facilitate handling of the tank by mechanical means. It does not include a cargo tank, tank car, multi-unit tank car tank, or trailer carrying 3AX, 3AAX, or 3F cylinders.

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

3. The authority citation for Part 172 continues to read as follows:

Authority: 49 U.S.C. 1603, 1804, 1805, and 1802; 49 CFR Part 1.

4. In § 172.326, paragraph (d)(1) is added to read as follows:

§ 172.325 Portable tanks.

(d)
 (1) Each person who offers a motor carrier a portable tank for transportation in a transport vehicle or freight container shall provide the motor carrier with the required identification numbers on placards, orange panels, or the white square-on-point configuration, as appropriate, for each side and each end of the transport vehicle or freight container from which identification numbers on the portable tank are not visible.

5. In § 172.328, paragraph (e) is revised to read as follows:

§ 172.328 Cargo tanks.

(e) A cargo tank marked with the name or identification number of a hazardous material may not be used to transport any other material unless that marking:
 (1) Is removed,
 (2) Is changed to identify the hazardous material in the cargo tank; or
 (3) Conforms with § 172.336 (c)(4) or (c)(5) of this part.

6. Section 172.331 is added to read as follows:

§ 172.331 Bulk packagings other than portable tanks, cargo tanks, tank cars and multi-unit tank car tanks.

(a) This section prescribes marking requirements for bulk packagings other than portable tanks (see § 172.326), cargo tanks (see § 172.328), tank cars and multi-unit tank car tanks (see § 172.330).

(b) No person may offer for transportation or transport a bulk packaging unless the packaging is

marked as prescribed in § 172.332 or § 172.336(b), as appropriate, with the identification number specified for the material in § 172.101 or § 172.162, when authorized—

(1) On two opposing sides, for a packaging of 1,000 gallons (3,785.4 liters or 133.7 cubic feet) or less capacity;

(2) On each side and each end, for a packaging of greater than 1,000 gallons (3,785.4 liters or 133.7 cubic feet) capacity.

(c) The provisions of paragraph (b) do not apply to cylinders permanently installed on a tube trailer motor vehicle if the identification numbers are displayed as prescribed on each side and each end of the motor vehicle.

(d) Each person who offers a motor carrier a hazardous material in a bulk packaging for transportation shall provide the motor carrier with the required identification numbers on placards of plain white square-on-point display configurations, as authorized, or shall affix orange panels containing the required identification numbers to the packaging prior to or at the time the material is offered for transportation, unless the packaging is already marked with the identification number as required by this subpart.

(e) Each person who offers a bulk packaging containing a hazardous material for transportation shall affix to the packaging the required identification numbers on orange panels, square-on-point configurations or placards, as appropriate, prior to, or at the time the packaging is offered for transportation unless it is already marked with identification numbers as required by this subchapter.

(f) No person may mark a bulk packaging with the name or identification number of a hazardous material that is not in the bulk packaging.

(g) A bulk packaging that is required to be marked with the name or identification number of a hazardous material must remain marked unless it is—

(1) Reloaded with a material that requires another marking or no marking; or

(2) Cleaned and purged of all residue.

7. Section 172.332 is amended by revising paragraphs (a) and (c)(1) to read as follows:

§ 172.332 Identification number marking.

(a) *General.* When required by §§ 172.326, 172.328, 172.330, or 172.331 of this subpart, identification numbers shall be displayed on orange panels or placards as specified in this section or, when appropriate, on white square-on-

point configurations as prescribed in § 172.336(b).

(c) . . .

(1) The identification number shall be displayed across the center area of the placard in 3/4 inch (89 mm.) black Alpine Gothic or Alternate Gothic No. 3 numerals on a white background 4 inches (10 cm.) high and approximately 8 1/2 inches (21.5 cm.) wide and may be outlined with a solid or dotted line border.

8. Section 172.334 is amended by revising paragraphs (a) and (b) and adding paragraph (g) to read as follows:

§ 172.334 Identification numbers; prohibited display.

(a) No person may display an identification number on a POISON GAS, RADIOACTIVE, EXPLOSIVES A, EXPLOSIVES B, BLASTING AGENTS OR DANGEROUS placard.

(b) No person may display an identification number on a placard, orange panel or white square-on-point display configuration unless—

(1) The identification number is specified for the material in § 172.101 or § 172.102 (when authorized);

(2) The identification number is displayed on the placard, orange panel or white square-on-point configuration authorized by § 172.332 or § 172.336(b), as appropriate, and any placard used for display of the identification number corresponds to the hazard class of the material specified in § 172.504;

(3) Except as provided under § 172.336 (c)(4) or (c)(5) the package, freight container, or transport vehicle on which the number is displayed contains the hazardous material associated with that identification number in § 172.101 or § 172.102.

(g) No person shall add any color, number, letter, symbol, or word other than as specified in this subchapter, to any identification number marking display which is required or authorized by this subchapter.

9. In § 172.336, paragraph (b) introductory text is revised to read as follows:

§ 172.336 Identification numbers; special provisions and exceptions.

(b) For hazardous materials in hazard classes for which hazard warning placards are not specified (e.g., ORM-A, B, C, D, or E), identification numbers, when required, must be displayed on either orange panels (see § 172.332(b)) or on a plain white square-on-point display configuration having the same outside

dimensions as a placard. In addition, for materials in hazard classes for which placards are specified and identification number displays are required, but for which identification numbers may not be displayed on the placards authorized for the material (see § 172.334(a)), identification numbers must be displayed on orange panels or on the plain white square-on-point display configuration in association with the required placards. An identification number displayed on a white square-on-point display configuration is not considered to be a placard.

10. Section 172.338 is revised to read as follows:

§ 172.338 Replacement of identification numbers.

If more than one of the identification number markings on placards, orange panels, or white square-on-point display configurations that are required to be displayed are lost, damaged or destroyed during transportation, the carrier shall replace all the missing or damaged identification numbers as soon as practicable. However, in such a case, the numbers may be entered by hand on the appropriate placard, orange panel or white square-on-point display configuration providing the correct identification numbers are entered legibly using an indelible marking material. When entered by hand, the identification numbers must be located in the white display area specified in § 172.332. This section does not preclude required compliance with the placarding requirements of Subpart F of this subchapter.

11. Section 172.510 is amended by adding paragraph (e) to read as follows:

§ 172.510 Special placarding provisions; Rail.

(e) *Chemical ammunition.* Each rail car containing Class A explosive ammunition which has the additional hazard of Poison A must be placarded EXPLOSIVES A and POISON GAS.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

12. The authority citation for Part 173 continues to read as follows:

Authority: 49 U.S.C 1803, 1804, 1805, 1806, 1807, and 1808; 49 CFR Part 1.

13. In § 173.29, the section title is revised and paragraph (e) is added to read as follows:

§ 173.29 Empty packagings.

(e) No person may offer for transportation, and no carrier may accept or transport an empty packaging containing the residue of a hazardous material unless each opening is securely closed and free from leaks.

Issued in Washington, DC, on August 3, 1987 under authority delegated in 49 CFR Part 1.

M. Cynthia Douglass, Administrator, Research and Special Programs Administration.

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