DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 174 and 176

[Docket No. HM-211; Notice No. 92-2]

RIN 2137-AC16

Marine Pollutants

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: RSPA proposes to amend the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) to list and regulate, in all modes of transportation, those materials identified as marine pollutants by the International Maritime Organization. The proposed changes are necessary, in part, to implement the provisions of Annex III, an annex of the 1973 International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978 (MARPOL 73/78), and in order that the HMR more thoroughly address environmentally hazardous materials. The intended effect is to increase the level of safety associated with the transportation of environmentally hazardous materials.

DATES: Comments must be received on or before March 2, 1992.

ADDRESSES: Address comments to the Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard showing the docket number (i.e., Docket HM–211). The Dockets Unit is located in room 8419 of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–5046. The public dockets may be reviewed between the hours of 8:30 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John A. Gale (202–366–4488) Office of Hazardous Materials Standards, RSPA, 400 Seventh Street SW., Washington, DC 20590 or Lt. Cmdr. Phillip Olenik (202–267–1577), Office of Marine Safety, Security, and Environmental Protection, (G–MTH–1) U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

SUPPLEMENTARY INFORMATION: MARPOL 73/78 is the international agreement to prevent and control accidental and operational discharges of pollution from ships. It includes the 1973 International Convention for the Prevention of Pollution from Ships and the 1978 Protocol which modified and incorporated the 1973 Convention. It includes a framework agreement setting forth general obligations, and five annexes that relate to particular sources of marine pollution. Annexes I and II, which relate to the transport of oil and harmful substances, respectively, carried in bulk, are mandatory for all MARPOL 73/78 Parties. The other three annexes are optional: Annex III, which relates to the transport of harmful substances in packaged form; and Annexes IV and V, which regulate ship-generated sewage and garbage, respectively.

The United States ratified the 1978 Protocol (which incorporates with modifications the 1973 Convention) and Annexes I and II on August 12, 1980. The Protocol entered into force for the United States on October 2, 1983. On December 30, 1987, the United States ratified optional Annex V. Annex IV is still the subject of ongoing review.

On June 10, 1991, the United States ratified optional Annex III. This ratification was transmitted to the International Maritime Organization (IMO) on July 1, 1991, and on July 1, 1992, Annex III will become mandatory. In order to assist the public in understanding this NPRM, RSPA has reprinted the text of Annex III as an attachment to this preamble.

Annex III, which is entitled "Regulations for the Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form or in Freight Containers, Portable Tanks or Road and Rail Tank Wagons," sets forth general regulations for the transport of harmful packaged substances. Many of these substances, such as pesticides and herbicides, are known to kill or retard the growth of marine life and to bioaccumulate in marine organisms, causing potential danger to the food chain, including health risks to humans as well as to birds and other wildlife that eat fish or shellfish. Regulation 1.3 of Annex III states, in part, that the Government of each Party to the Convention shall issue detailed requirements on the packaging, marking, labeling, documentation, stowage, quantity limitations and exceptions for preventing or minimizing pollution of the marine environment. Annex III provides that the packaging of harmful substances must be adequate to minimize the hazard to the marine environment posed by their specific contents. Packages must be marked to indicate that the contents are harmful to the environment, and must be stowed so as to minimize the risk to the marine environment. In addition, a shipping paper or manifest setting forth the harmful substances on board must be carried. Finally, parties are permitted to prohibit or impose quantity limitations on the carriage of certain very hazardous substances. As with all other MARPOL 73/78 annexes, parties to Annex III are required to apply their regulations to ships of non-party countries using their ports or off-shore terminals.

Regulation 1.1 of Annex III states, in part, that the regulations of the Annex apply to "harmful substances" in packaged form. Regulation 1.1.1 of Annex III identifies "harmful substances" as those substances identified as marine pollutants under the 1990 consolidated edition of the International Maritime Dangerous Goods (IMDG) Code. Marine pollutants are identified in the individual schedules and the General Index of the IMDG Code by the letters "P" or "PP". The letters "PP" identify those materials that are considered severe marine pollutants and are regulated when in concentrations of 1% or more. The letter "P" identifies those commodities that are marine pollutants when in concentrations of 10% or more. Under the IMDG Code, a material that meets the definition of a marine pollutant must: (1) Have the words "marine pollutant" appear in association with the basic description on the shipping papers; (2) have the technical name of the marine pollutant appear on shipping papers and package markings for generic shipping descriptions; (3) have its package marked with the marine pollutant mark which is a triangular symbol with a fish with an "X" through it and with the words "marine pollutant" at the bottom; (4) be classified as a Class 9 hazardous material (Dangerous good) unless the material meets another hazard class or division; and (5) if shipped under Class 9, be transported in packages that meet the testing criteria for Packing Group III. In order to comply with the provisions of Annex III, RSPA is proposing to amend the HMR by adopting requirements for the transportation of those materials identified as marine pollutants under the IMDG Code. Because these materials are transported over or near bodies of water, even in the air, rail and highway modes of transport, with the possibility of being released in a fashion that could cause substantial damage to the aquatic environment, RSPA is proposing to

regulate these commodities in all modes of transportation.

RSPA also believes that by adopting the provisions of Annex III in all modes of transportation, materials that are known to present an environmental hazard when released into the environment would be more thoroughly regulated. Upon review of those materials currently subject to the HMR, RSPA has found that commodities which only present an environmental hazard, and not necessarily an acute health hazard, may not be adequately regulated.

The need to regulate marine pollutants in all modes of transportation was demonstrated when on July 14, 1991, a tank car containing 19,000 gallons of metam sodium, a pesticide included on the list of marine pollutants, fell into the Sacramento River in California. The resulting damage to the environment and economic costs were substantial.

In a news release issued on August 21, 1991, the Chemical Manufacturers Association (CMA) stated that "CMA believes that the MARPOL list could be useful in identifying potentially water-polluting chemicals even when those products are shipped by highway or rail. Either using MARPOL or some other manner of identifying and regulating materials harmful to the environment is an idea whose time has come."

RSPA currently regulates those environmentally hazardous materials that are designated as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA; Pub. L. 96–510) and those hazardous wastes listed by the U.S. Environmental Protection Agency (EPA) under the Resource Conservation and Recovery Act (RCRA; Pub. L. 94–580) which require a Uniform Hazardous Waste Manifest (see 40 CFR part 262). Under both CERCLA and RCRA, EPA is the sole Federal agency authorized to designate materials as hazardous substances or hazardous wastes. Even though many of the materials on the list of marine pollutants are not currently designated as hazardous materials under CERCLA or RCRA, RSPA sees the need to ensure the safe transportation of marine pollutants. While this rulemaking is dependent on Annex III to identify materials that present environmental hazards, in the future, RSPA may also propose adoption of criteria to define environmentally hazardous materials that are not listed by EPA under CERCLA or RCRA and that are not listed by name in the list of marine pollutants.

In this NPRM, RSPA is proposing to regulate marine pollutants in a manner similar to the way those pollutants are treated under the IMDG Code and the way RSPA currently regulates CERCLA hazardous substances as hazardous materials in the HMR. In the following paragraphs of the Review by Section portion of this preamble, RSPA sets out this proposal.

Review by Section

Section 171.1

This section would be amended to expand the scope of the HMR to regulate the transportation of marine pollutants by intrastate, as well as by interstate, transportation.

Section 171.8

The definition of "Hazardous substance" would be editorially revised and a definition of "Marine pollutant" would be added. To meet the definition of marine pollutant, a material would have to be listed in appendix B to § 172.101, and would have to meet or exceed a concentration of 1% of the total amount in a package for severe marine pollutants and 10% of the total amount in a package for materials identified as marine pollutants. In addition, a mixture or solution containing more than one material listed in appendix B to § 172.101, would be a marine pollutant if the total concentration of the materials listed in appendix B to § 172.101 in one package equals or exceeds (1) ten percent of the total amount in the package or (2) one percent of the total amount in the package for materials that are identified as severe marine pollutants. An exception from the definition of marine pollutant would be provided for packages which contain less than one pound of a marine pollutant. In order for the U.S. to be in conformance with the provisions of Annex III, this exception would not apply to the transportation of marine pollutants by vessel. The definition of "hazardous material" would also be revised to include the phrase "marine pollutant."

Section 171.11

This section would be revised to note that shipments made in accordance with the ICAO Technical Instructions must conform to the requirements in the HMR related to marine pollutants.

Section 171.12a

This section would be revised to note that shipments from Canada must conform to the requirements in the HMR related to marine pollutants.

Section 171.15

This section would be revised to require that incidents involving marine pollutants be reported immediately to the National Response Center. RSPA believes that this requirement is necessary in order that appropriate authorities will be notified of incidents involving marine pollutants.

Section 172.101

The proper shipping name and hazard class for a material that meets the definition of marine pollutant, and does not meet the definition of another hazard class, would be "Environmentally hazardous substance, liquid or solid, n.o.s., class 9," respectively. This description is the same as that for CERCLA hazardous substances that meet no other hazard class in the HMR. Non-bulk packagings would be selected from §§ 173.203 or 173.213, and would have to withstand the testing criteria for Packing Group III. Bulk packagings would be selected from either §§ 173.240 or 173.241, as appropriate. A special provision. "N50", would be added to these two shipping descriptions that would except marine pollutants, that meet no other hazardous material definition, from the labeling requirements of Part 172. In addition, in order to easily identify the proper shipping name for a marine pollutant that is properly classified as a Class 9 material, the entry "Marine pollutants, liquid or solid, n.o.s., see Environmentally hazardous substances, liquid or solid, n.o.s." would be added to the § 172.101 Hazardous Materials Table.

Appendix to § 172.101

The appendix to § 172.101, which identifies CERCLA hazards substances, would be renamed "Appendix A to § 172.101." An appendix B to § 172.101, entitled "List of Marine Pollutants," would be added that would list those substances identified as marine pollutants by the IMO in the IMDG Code. The first column of the list, entitled "S.M.P.," would identify those materials which are severe marine pollutants by the letters "PP". One difference between the list of marine pollutants as proposed in appendix B to § 172.101 and those substances identified as marine pollutants in the IMDG Code, is that RSPA is not proposing to list generic shipping names as marine pollutants as is done in the IMDG Code. These commodities would still be subject to the requirements for marine pollutants, however, if the material described under the generic

entry meets the definition of marine pollutant in § 171.8.

Section 172.203

Paragraph (1) would be added to this section to require the technical name of the material to be added in parentheses when the name of the marine pollutant is not identified in the proper shipping name. In addition, this section would require the words "Marine pollutant" to appear in association with the basic description. For domestic transportation, RSPA is not proposing to adopt the IMDG Code requirement that generic pesticide shipping descriptions include the percentage of the specific pesticide in the mixture.

Section 172.322

This section would be added to require that non-bulk packages containing marine pollutants be marked with the technical name of the marine pollutant. In addition, the marine pollutant mark would have to appear on bulk and non-bulk packages containing marine pollutants. Transport vehicles and freight containers that contain packages of marine pollutants would also have to be marked. However, except for transportation by vessel, transport vehicles and freight containers that contain less than 1,000 pounds aggregate gross weight of packages of marine pollutants would be excepted from this marking requirement. In addition, an exception from the marine pollutant mark is provided for small quantities of marine pollutants in combination packagings.

RSPA recognizes that this marking will be in addition to the hazard warning labels and placards that are required for those commodities that are currently subject to the HMR. RSPA believes these proposed marking requirements are in conformance with the provisions of Annex III and the IMDG Code and that the burden that they will impose will be minimal. However, RSPA is requesting comments relative to the impact and benefits of requiring the marine pollutant mark, in addition to any hazard warning labels and placards, for shipments by highway, air, and rail.

Section 173.12

This section would be amended to require lab packs containing marine pollutants to comply with the requirements of §§ 172.203(l) and 172.322.

Section 173.140

This section would be amended to add marine pollutants to the definition of Class 9. If a marine pollutant meets the definition of another hazard class, however, the class of the material would be determined in accordance with § 173.2a. Marine pollutants that meet no other hazard class would be classified as a Class 9 material and would be shipped under the proper shipping name of "Environmentally hazardous substance, liquid or solid, n.o.s."

Section 173.150

This section would be amended to provide that combustible liquids in non-bulk packagings that meet the definition of marine pollutant are subject to the requirements of the HMR.

Section 174.25

This section would be amended to require that the words "Marine Pollutant" appear on switching orders, receipts and tickets in association with shipping descriptions for marine pollutants.

Section 176.70

This section would be added to prescribe minimum stowage requirements for marine pollutants in vessel transportation.

RSPA would also revise several other sections so that a consumer commodity that meets the definition of a marine pollutant would have to comply with the shipping paper requirements of the HMR.

Administrative Notices

A. Executive Order 12291

The effect of this rule, as proposed, does not meet the criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule, but it is considered a significant rule under the regulatory procedures of the Department of Transportation (44 FR 11034) because of the significant public and congressional interest. This proposed rule does not require a Regulatory Impact Analysis, or an environmental assessment or impact statement under the National Environmental Policy Act (42 FR 4321 et seq.). A preliminary regulatory evaluation is available for review in the Docket.

B. Executive Order 12612

This proposed action has been analyzed in accordance with the principles and criteria in Executive Order 12612 and, based on the information available at this time, RSPA does not believe that the proposed rule would have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

The Hazardous Materials Transportation Act contains an express preemption provision (49 app. U.S.C. 1804(a)(4)) that preempts State and local requirements on certain covered subjects (including the designation, description, and classification of hazardous materials) unless the State or local requirement is substantively the same as the Federal requirement on that subject. Thus, RSPA lacks discretion in this area.

C. Impact on Small Entities

This proposal would have minimal impact on shippers and carriers of marine pollutants, some of whom may be small business entities. Based on limited information concerning the size and nature of entities likely affected by this proposed rule, I certify this proposal will not, if promulgated, have a significant economic impact on a substantial number of small entities under criteria of the Regulatory Flexibility Act. This certification is subject to modification as a result of a review of comments received in response to this proposal.

D. Paperwork Reduction Act

The information collection requirements contained in proposed § 172.203(1) are covered under Office of Management and Budget (OMB) control number 2137–0034 (expiration date June 30, 1992) which was issued by OMB under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Modifications to these existing criteria are being submitted to OMB for review and approval.

List of Subjects

49 CFR Part 171

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

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labels, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Explosives, Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 174

Hazardous materials transportation, Radioactive materials, Railroad safety.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Radioactive

materials, Reporting and recordkeeping requirements.

Attachment—Annex III

Regulations for the Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form

Regulation 1—Application

1 Unless expressly provided otherwise, the regulations of this Annex apply to all ships carrying harmful substances in packaged form.

1.1 For the purpose of this Annex, harmful substances are those substances which are identified as marine pollutants in the International Maritime Dangerous Goods Code (IMDG Code).*

1.2 Guidelines for the identification of harmful substances in packaged form are given in the appendix to this Annex.

1.3 For the purposes of this Annex, packaged form is defined as the forms of containment specified for harmful substances in the IMDG Code.

2 Such carriage of harmful substances is prohibited except in accordance with the provisions of this Annex.

3 To supplement the provisions of this Annex, the Government of each Party to the Convention shall issue, or cause to be issued, detailed requirements on packing, marking, labelling, documentation, stowage, quantity limitations and exceptions for preventing or minimizing pollution of the marine environment by harmful substances.*

4 For the purposes of this Annex, empty packagings which have been used previously for the carriage of harmful substances shall themselves be treated as harmful substances unless adequate precautions have been taken to ensure that they contain no residue that is harmful to the marine environment.

5 The requirements of this Annex do not apply to ships' stores and equipment.

Regulation 2—Packing

Packages shall be adequate to minimize the hazard to the marine environment having regard to their specific contents.

Regulation 3—Marking and labelling

1 Packages containing a harmful substance shall be durably marked with the correct technical name (trade names alone shall not be used) and, further, shall be durably marked or labelled to indicate that the substance is a marine pollutant. Such identification shall be supplemented where possible by any other means, for example by the use of the relevant United Nations number.

2 The method of marking the correct technical name and of affixing labels on packages containing a harmful substance shall be such that this information will still be identifiable on packages surviving at least three months' immersion in the sea. In considering suitable marking and labelling, account shall be taken of the durability of the materials used and of the surface of the package.

3 Packages containing small quantities of harmful substances may be exempted from the marking requirements.*

Regulation 4—Documentation

1 In all documents relating to the carriage of harmful substances by sea where such substances are named, the correct technical name of each such substance shall be used (trade names alone shall not be used) and the substance further identified by the addition of the words "MARINE POLLUTANT".

2 The shipping documents supplied by the shipper shall include, or be accompanied by, a signed certificate or declaration that the shipment offered for carriage is properly packaged and marked or labelled and in proper condition for carriage to minimize the hazard to the marine environment.

3 Each ship carrying harmful substances shall have a special list or manifest setting forth the harmful substances on board and the location thereof. A detailed stowage plan which sets out the location of the harmful substances on board may be used in place of such special list or manifest. Copies of such documents shall also be retained on shore by the owner of the ship or his representative until the harmful substances are unloaded.

4 When the ship carries a special list or manifest or a detailed stowage plan, required for the carriage of dangerous goods by the International Convention for the Safety of Life at Sea, 1974, as amended, the documents required by this regulation may be combined with those for dangerous goods. Where documents are combined, a clear distinction shall be made between dangerous goods and harmful substances covered by this Annex.

Regulation 5—Stowage

Harmful substances shall be properly stowed and secured so as to minimize the hazards to the marine environment without impairing the safety of the ship and persons on board.

Regulation 6—Quantity Limitations

Certain harmful substances may, for sound scientific and technical reasons, need to be prohibited for carriage or be limited as to the quantity which may be carried aboard any one ship. In limiting the quantity, due consideration shall be given to size, construction and equipment of the ship as well as the packaging and the inherent nature of the substances.

Regulation 7—Exceptions

1 Jettisoning of harmful substances carried in packaged form shall be prohibited except where necessary for the purpose of securing the safety of the ship or saving life at sea.

2 Subject to the provisions of the present Convention, appropriate measures based on the physical, chemical and biological properties of harmful substances shall be taken to regulate the washing of leakages overboard provided that compliance with such measures would not impair the safety of the ship and persons on board.

Appendix—Guidelines for the Identification of Harmful Substances in Packaged Form

For the purposes of this Annex, substances identified by any one of the following criteria are harmful substances:

—Bioaccumulated to a significant extent and known to produce a hazard to aquatic life or to human health (Hazard Rating "+" in column A*); or

—Bioaccumulated with attendant risk to aquatic organisms or to human health with a short retention of the order of one week or less (Hazard Rating "Z" in column A*); or

—Liable to produce tainting of seafood (Hazard Rating "T" in column A*); or

—Highly toxic to aquatic life, defined by an $LC_{50}/96$ ** hour less than 1 ppm (Hazard Rating "4" in column B*).

ANNEX III—MARPOL 73/78

GESAMP Hazard Profiles				
A	B	C	D	E
+				
Z				
T				
	4			

In consideration of the foregoing, parts 171, 172, 173, 174 and 176 of title 49, Code of Federal Regulations, would be amended to read as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 would continue to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1805, 1808 and 1818; 49 CFR Part 1.

2. In § 171.1, paragraph (a)(3)(iv) would be added to read as follows:

§ 171.1 Purpose and scope.

* * * * *

(a) * * *

(3) * * *

(iv) Marine pollutants.

* * * * *

§ 171.8 [Amended]

3. In § 171.8, the definition of "hazardous substance" would be amended by removing the word "Appendix" and replacing it with the phrase "Appendix A" in paragraphs (1), (2), and (3)(i).

4. In § 171.8, the definition of "hazardous material" would be revised and the definition of "marine pollutant" would be added in appropriate alphabetical order to read as follows:

* Reference is made to the International Maritime Dangerous Goods Code (IMDG Code) adopted by the Organization by resolution A.81(IV) as it has been or may be amended by the Maritime Safety Committee.

* Reference is made to the Composite List of Hazard Profiles, prepared by the IMO/FAO/UNESCO/WMO/WHO/IAEA/UN/UNEP Joint Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP) which is circulated annually by the Organization by means of BCH circulars to all IMO Member States.

** The concentration of a substance which will, within the specified time (generally 96 hours) kill 50% of the exposed group of test organisms. LC_{50} is often specified in mg/1 (parts per million (ppm)).

§ 171.8 Definitions and abbreviations.

* * * * *

Hazardous material means a substance or material, including a hazardous substance and a marine pollutant, which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated.

* * * * *

Marine Pollutant, for the purposes of this subchapter, means a material in a package where the total concentration of material(s) listed in Appendix B to § 172.101 in the package equals or exceeds (1) ten percent or (2) one percent for material(s) that are identified as severe marine pollutants. However, except for transportation by vessel, a material which, in an individual package, is composed of a total of no more than 500 grams (1 pound) or 500 milliliters (1 pint) of materials listed in Appendix B to § 172.101, is not considered to be a marine pollutant for the purposes of this subchapter.

* * * * *

5. In § 171.11, paragraph (d)(13) would be added to read as follows:

§ 171.11 Use of ICAO Technical Instructions.

* * * * *

(d) * * *

(13) Package containing marine pollutants, as defined in § 171.8 of this subchapter, must conform to the requirements of §§ 172.203(l) and 172.322 of this subchapter.

6. In § 171.12a, paragraph (b)(15) would be added to read as follows:

§ 171.12a Canadian shipments and packagings.

* * * * *

(b) * * *

(15) Packages containing marine pollutants, as defined in § 171.8 of this subchapter, must conform to the requirements of §§ 172.203(l) and 172.322 of this subchapter.

7. In § 171.15, paragraph (a)(4) would be redesignated as paragraph (a)(5) and a new paragraph (a)(4) would be added to read as follows:

§ 171.15 Immediate notice of certain hazardous materials incidents.

(a) * * *

(4) There has been a release of a marine pollutant from a package.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REQUIREMENTS AND EMERGENCY RESPONSE INFORMATION REQUIREMENTS

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

Authority: 49 App. U.S.C. 1803, 1804, and 1808; 49 CFR part 1, unless otherwise noted.

§ 172.101 [Amended]

9. In the § 172.101 Table, the following changes would be made:

a. The entry "*Marine pollutants, liquid or solid, n.o.s., see* Environmentally hazardous substances, liquid *or* solid n.o.s." would be added to Column 2 in appropriate alphabetical order; and

b. The entries "Environmentally hazardous substances, liquid, n.o.s." and "Environmentally hazardous substances, solid, n.o.s." would have special provision "N50" added to column 7.

Appendix to § 172.101 [Amended]

10. The title to the appendix to § 172.101 would be revised to read "Appendix A to § 172.101 List of Hazardous Substances and Reportable Quantities".

11. A new appendix B to § 172.101 would be added to read as follows:

Appendix B to § 172.101

List of Marine Pollutants

1. This appendix lists potential marine pollutants as defined in § 171.8 of this subchapter.

2. If a marine pollutant meets the definition of any hazard class or division as defined in this subchapter, other than Class 9, the class of the material must be determined in accordance with § 173.2a of this subchapter.

3. This appendix contains two columns. The first column, entitled "S.M.P." (for severe marine pollutants), identifies whether a material is a severe marine pollutant. If the letters "PP" appear in this column for a material, the material is a severe marine pollutant, otherwise it is not. The second column, entitled "Marine Pollutant", lists the marine pollutants.

APPENDIX B TO §172.101 LIST OF MARINE POLLUTANTS

S.M.P.	Marine Pollutant
(1)	(2)
	Acetone cyanohydrin, stabilized
	Acetylene dibromide
	Acetylene tetrabromide
	Acetylene tetrachloride
	Acraldehyde, inhibited
	Acrolein, inhibited
	Acrylic aldehyde, inhibited
	Alcohol C-12 - C-15 poly(1-3) ethoxylate
	Alcohol C-13 - C-15 poly(1-6) ethoxylate
	Alcohol C-6 - C-17 (secondary)poly(3-6) ethoxylate
	Aldicarb
PP	Aldrin
	Alkylphenols, liquid, n.o.s. (*including C2-C8 homologues*)
	Alkylphenols, solid, n.o.s. (*including C2-C8 homologues*)
	Allyl bromide
	Allyl chloride
	ortho-Aminoanisole
	Aminocarb
	Ammonium arsenate
	Ammonium dinitro-o-cresolate
	Amyl mercaptans
	ortho-Anisidines
	Arsenates, liquid, n.o.s.
	Arsenates, solid, n.o.s.
	Arsenic
	Arsenic acid, liquid
	Arsenic acid, solid
	Arsenic bromide
	Arsenic chloride

S.M.P.	Marine Pollutant
(1)	(2)
	Arsenic compounds, liquid, n.o.s. *including arsenates n.o.s.; arsenites, n.o.s.; arsenic sulfides, n.o.s.; and organic compounds of arsenic, n.o.s.*
	Arsenic compounds (pesticides)
	Arsenic compounds, solid, n.o.s. *including arsenates, n.o.s.; arsenites, n.o.s.; arsenic sulfides, n.o.s.; and organic compounds of arsenic, n.o.s.*
	Arsenic pentoxide
	Arsenic sulfides, n.o.s.
	Arsenic tribromide
	Arsenic trichloride
	Arsenic trioxide
	Arsenic trisulfide
	Arsenical dust
	Arsenical flue dust
	Arsenical pesticides, liquid, flammable, toxic, n.o.s.
	Arsenical pesticides liquid, toxic, flammable, n.o.s.
	Arsenical pesticides, liquid, toxic, flammable, n.o.s. *flashpoint not less than 23 degrees C*
	Arsenical pesticides, liquid, toxic, n.o.s.
	Arsenical pesticides, solid, toxic, n.o.s.
	Arsenious chloride
	Arsenite, solid, n.o.s.
	Arsenites, liquid, n.o.s.
	Arsenous bromide
	Arsenous chloride
PP	Azenphos-methyl
PP	Azinphos-ethyl
	Barium compounds, n.o.s
	Barium cyanide
	Bendiocarb
	Benquinox
	Benzyl chlorocarbonate
	Benzyl chloroformate
PP	Binapacryl
	Biphenyl phenyl ether and diphenyl oxide, mixtures
PP	Brodifacoum
	Bromine cyanide
	Bromoallylene
	ortho-Bromobenzyl cyanide
	Bromocyane
	Bromoform
PP	Bromophos-ethyl
	3-Bromopropene
	Bromoxynil
	2-Butenal, inhibited
	Butyl benzenes
	Butyl benzyl phthalate
	normal-Butyl chloride
	Butylphenols, liquid
	Butylphenols, solid
	para-tertiary-butyltoluene
	Cacodylic acid
PP	Cadmium compounds
	Cadmium sulphide
	Calcium arsenate
	Calcium arsenate and calcium arsenite, mixtures, solid
	Calcium cyanide
	Calcium naphthenate
PP	Camphechlor
	Camphor oil
	Carbaryl
	Carbofuran
	Carbon bisulphide
	Carbon disulfide
	Carbon tetrabromide
	Carbon tetrachloride
PP	Carbophenothion
	Cartap hydrochloride
PP	Chlordane
	Chlorfenvinphos
	Chlorinated paraffins (C-10 - C-13)
	Chlorine
	Chlorine cyanide, inhibited
	Chlormephos
	4-Chloro-2-nitrotoluene
	Chloro-ortho-nitrotoluene
	2-Chloro-5-trifluoromethylnitrobenzene
	para-Chlorobenzyl chloride, liquid or solid
	Chlorobenzylchlorides
	2-Chlorobutadiene-1,3, inhibited
	1-Chlorobutane
	Chlorodinitrobenzenes
	Chloroform

S.M.P.	Marine Pollutant
(1)	(2)
	1-Chloroheptane
	1-Chlorohexane
	Chloronitroanilines
	Chloronitrotoluenes *liquid*
	Chloronitrotoluenes, *solid*
	1-Chlorooctane
PP	Chlorophenates, liquid
PP	Chlorophenates, solid
	Chlorophenols, liquid
	Chlorophenols, solid
	Chlorophenyltrichlorosilane
	Chloroprene, inhibited
	1-Chloropropane
	2-Chloropropane
	2-Chloropropene
	1-Chloropropene
	3-Chloropropene
	alpha-Chloropropylene
	1-Chloropropylene
	2-Chloropropylene
	Chlorotoluenes
PP	Chlorpyriphos
PP	Chlorthiophos
	Chromium oxychloride
	Chromyl chloride
	Coal tar
	Coal tar naphtha
	Cocculus
	Copper acetoarsenite
	Copper arsenite
	Copper chloride
PP	Copper cyanide
	Coumachlor
PP	Coumaphos
	Creosote (coal tar)
	Creosote (wood tar)
	Cresols (*o-; m-; p-*)
PP	Cresyl diphenyl phosphate
	Cresylic acid
	Cresylic acid sodium salt
	Crotonaldehyde, inhibited
	Crotonic aldehyde
	Crotoxyphos
	Cumene
	Cupric arsenite
	Cupric chloride
PP	Cupric cyanide
	Cuprietylenediamine solution
	Cuprous chloride
	Cyanide mixtures
	Cyanide solutions
	Cyanides, inorganic, n.o.s.
	Cyanogen bromide
	Cyanogen chloride, inhibited
	Cyanophos
PP	Cyhexatin
PP	Cypermethrin
	2,4-D
PP	DDT
	Decyl acrylate
	DEF
	Di-allate
	Di-n-Butyl phthalate
PP	Dialifos
PP	Diazinon
	1,2-Dibromethene
	1,1-Dibromoethane
	1,2-Dibromoethane
	1,2-Dibromoethylene
	Dibromomethane
PP	Dichlofenthion
	Dichloroanilines
	o-Dichlorobenzene
	p-Dichlorobenzene
	1,3-Dichlorobenzene
	1,2-Dichlorobenzene
	1,4-Dichlorobenzene
	Dichlorobenzene (meta; ortho; para)
	2,2-Dichlorodiethyl ether
	1,1-Dichloroethane
	1,2-Dichloroethane

S.M.P.	Marine Pollutant
(1)	(2)
	Dichloroether
	Dichloroethyl ether
	Dichloroethyl oxide
	1,1-Dichloroethylene, inhibited
	1,6-Dichlorohexane
	Dichlorophenols, liquid
	Dichlorophenols, solid
	2,4-Dichlorophenoxyacetic acid (see also 2,4D)
	2,4-Dichlorophenoxyacetic acid diethanolamine salt
	2,4-Dichlorophenoxyacetic acid dimethylamine salt
	2,4-Dichlorophenoxyacetic acid triisopropylamine salt
	Dichlorophenyltrichlorosilane
	1,1-Dichloropropane
	1,2-Dichloropropane
	1,3-Dichloropropane
	Dichloropropene
PP	Dichlorvos
	Dicrotophos
PP	Dieldrin
	Diisopropylbenzenes
PP	Dimethoate
	Dimethylarsinic acid
	Dimethylphenols, liquid or solid
	Dinitro-o-cresol, *solid*
	Dinitro-o-cresol, *solution*
	Dinitrochlorobenzenes, liquid or solid
	Dinitrophenol, *dry or wetted with less than 15 per cent water, by mass*
	Dinitrophenol solutions
	Dinitrophenol, wetted *with not less than 15 per cent water, by mass*
	Dinitrophenolates *alkali metals, dry or wetted with less than 15 per cent water, by mass*
	Dinitrophenolates, wetted *with not less than 15 per cent water, by mass*
	Dinobuton
	Dinoseb
	Dioxacarb
	Dioxathion
	Diphacinone
	Diphenyl
	Diphenyl ether
	Diphenyl oxide
	Diphenyl oxide and biphenyl phenyl ether mixtures
PP	Diphenylamine chloroarsine
PP	Diphenylchloroarsine, solid or liquid
	Disulfoton
	DNOC
	DNOC (pesticide)
PP	Dodecylphenol
	Drazoxolon
	Edifenphos
PP	Endosulfan
PP	Endrin
PP	EPN
PP	Ethion
	Ethoprophos
	Ethyl acrylate, inhibited
	Ethyl chlorothioformate
	Ethyl fluid
	5-Ethyl-2-picoline
	Ethyl propenoate, inhibited
	2-Ethyl-3-propylacrolein
	Ethyl tetraphosphate
PP	Ethyldichloroarsine
	Ethylene chloride
	Ethylene dibromide
	Ethylene dibromide and methyl bromide mixtures, liquid
	Ethylene dichloride
	2-Ethylhexenal
	Ethylidene dichloride
	Fenaminphos
PP	Fenitrothion
PP	Fenpropathrin
	Fensulfothion
PP	Fenthion
PP	Fentin acetate
PP	Fentin hydroxide
	Ferric arsenate
	Ferric arsenite
	Ferrous arsenate
PP	Fonofos
	Formetanate
PP	gamma-BHC
	Gasoline, leaded

S.M.P.	Marine Pollutant
(1)	(2)
PP	Heptachlor
	Heptenophos
	normal-Heptyl chloride
PP	Hexachlorobutadiene
	1,3-Hexachlorobutadiene
	Hexaethyl tetraphosphate *liquid*
	Hexaethyl tetraphosphate, *solid*
	normal-Hexyl chloride
	Hydrocyanic acid, anhydrous, stabilized
	Hydrocyanic acid, anhydrous, stabilized, absorbed in a porous inert material
	Hydrocyanic acid, aqueous solutions *not more than 20% hydrocyanic acid*
	Hydrogen cyanide, anhydrous, stabilized
	Hydrogen cyanide, anhydrous, stabilized, *absorbed in a porous inert material*
	Hydroxydimethylbenzenes, liquid or solid
	Ioxynil
	Isoamyl mercaptan
	Isodecyl acrylate
	Isodecyl diphenyl phosphate
	Isofenphos
	Isooctyl nitrate
	Isoprocarb
	Isopropenyl chloride
	Isopropenylbenzene
	Isopropyl chloride
	Isopropylbenzene
PP	Isoxathion
	Lead acetate
	Lead arsenates
	Lead arsenites
	Lead compounds, soluble, n.o.s.
	Lead cyanide
	Lead nitrate
	Lead perchlorate, solid or solution
	Lead tetraethyl
	Lead tetramethyl
PP	Lindane
	London Purple
	Magnesium arsenate
	Malathion
	Maneb or Maneb preparations with not less than 60% maneb
	Maneb *or* Maneb preparations *with not less than 60 per cent maneb*
	Maneb stabilized *or* Maneb preparations, stabilized *against self-heating*
	Manganese ethylene-1,2-bis dithiocarbamate
	Manganese ethylene-1,2-bis-dithiocarbamate, stabilized against self-heating
	Mephosfolan
	Mercaptodimethur
	Mercarbam
PP	Mercuric acetate
PP	Mercuric ammonium chloride
PP	Mercuric arsenate
PP	Mercuric benzoate
PP	Mercuric bisulphate
PP	Mercuric bromide
PP	Mercuric chloride
PP	Mercuric cyanide
PP	Mercuric gluconate
	Mercuric iodide
PP	Mercuric nitrate
PP	Mercuric oleate
PP	Mercuric oxide
PP	Mercuric oxycyanide, desensitized
PP	Mercuric potassium cyanide
PP	Mercuric Sulphate
	Mercuric sulphide
PP	Mercuric thiocyanate
PP	Mercurol
PP	Mercurous acetate
PP	Mercurous bisuphate
PP	Mercurous bromide
PP	Mercurous chloride
PP	Mercurous nitrate
PP	Mercurous salicylate
PP	Mercurous sulphate
PP	Mercury acetates
PP	Mercury ammonium chloride
PP	Mercury based pesticides, liquid, flammable, toxic, n.o.s.
PP	Mercury based pesticides, liquid, toxic, flammable, n.o.s.
PP	Mercury based pesticides, liquid, toxic, n.o.s.
PP	Mercury based pesticides, solid, toxic, n.o.s.
PP	Mercury benzoate
PP	Mercury bichloride

S.M.P.	Marine Pollutant
(1)	(2)
PP	Mercury bisulphates
PP	Mercury bromides
PP	Mercury compounds, liquid, n.o.s.
PP	Mercury compounds, solid, n.o.s.
PP	Mercury compounds, solid, n.o.s.
PP	Mercury cyanide
PP	Mercury gluconate
PP	Mercury (I) (mercurous) compounds (pesticides)
PP	Mercury (II) (mercuric) compounds (pesticides)
	Mercury iodide
	Mercury iodide, *solution*
PP	Mercury nucleate
PP	Mercury oleate
PP	Mercury oxide
PP	Mercury oxycyanide, desensitized
PP	Mercury potassium cyanide
PP	Mercury potassium iodide
PP	Mercury salicylate
PP	Mercury sulfates
PP	Mercury thiocyanate
	Metaarsenic acid
	Metam-sodium
	Methacrylonitrile, inhibited
	Methamidophos
	Methanethiol
	Methidathion
	Methomyl
	ortho-Methoxyaniline
	Methyl bromide and ethylene dibromide mixtures, liquid
	1-Methyl-4-ethylbenzene
	2-Methyl-5-ethylpyridine
	Methyl mercaptan
	2-Methyl-2-phenylpropane
	Methyl salicylate
	3-Methylacroleine, inhibited
	Methylchlorobenzenes
	Methylchloroform
	Methylene bromide
	Methylene dibromide
	Methylnaphthalenes, liquid
	Methylnaphthalenes, solid
	Methylnitrophenols
	2-Methylpyridine
	4-Methylpyridine
	alpha-Methylstyrene
	Methylstyrenes, inhibited
	Methyltrithion
	Methylvinylbenzenes, inhibited
PP	Mevinphos
	Mexacarbate
	Mirex
	Monocrotophos
	Motor fuel anti-knock mixtures
	Motor fuel anti-knock mixtures or compounds
	Nabam
	Naled
	Naphtha, coal tar
	Naphthalene, crude *or* refined
	Naphthalene, molten
	Naphthenic acids, liquid
	Naphthenic acids, solid
PP	Nickel carbonyl
PP	Nickel cyanide
PP	Nickel tetracarbonyl
	Nitrates, inorganic, n.o.s.
	Nitrites, inorganic, n.o.s.
	3-Nitro-4-chlorobenzotrifluoride
	Nitrobenzotrifluorides
	Nitrocresols
	Nitroxylenes, (o-; m-; p-)
	Nonylphenol
PP	Organotin compounds, liquid, n.o.s.
PP	Organotin compounds (pesticides)
PP	Organotin compounds, solid, n.o.s.
PP	Organotin pesticides, liquid, flammable, toxic, n.o.s., *flash point less than 23deg C*
PP	Organotin pesticides, liquid, toxic, flammable, n.o.s.
PP	Organotin pesticides, liquid, toxic, n.o.s.
PP	Organotin pesticides, solid, toxic, n.o.s.
	Orthoarsenic acid
	Osmium tetroxide
	Oxamyl

S.M.P.	Marine Pollutant
(1)	(2)
	Oxydisulfoton
	Paraoxon
PP	Parathion
PP	Parathion-methyl
PP	PCBs***
	Pentachloroethane
PP	Pentachlorophenol
PP	Pentachlorophenol
	Pentalin
	Pentanethiols
	Perchloroethylene
	Perchloromethylmercaptan
	Petrol, leaded
PP	Phenarsazine chloride
PP	Phenthoate
	1-Phenylbutane
	2-Phenylbutane
	Phenylethylene, inhibited
PP	Phenylmercuric acetate
PP	Phenylmercuric compounds, n.o.s.
PP	Phenylmercuric hydroxide
PP	Phenylmercuric nitrate
	2-Phenylpropene
PP	Phorate
PP	Phosalone
	Phosmet
PP	Phosphamidon
PP	Phosphorus, white *or* yellow dry *or* under water *or* in solution
PP	Phosphorus white, or yellow, molten
	Picolines
	Pindone (and salts of)
	alpha-Pinene
	Pirimicarb
PP	Pirimiphos-ethyl
PP	Polychlorinated biphenyls
PP	Polyhalogenated biphenyls, liquid *or* Terphenyls liquid
PP	Polyhalogenated biphenyls, solid *or* Terphenyls, solid
	Potassium arsenate
	Potassium arsenite
PP	Potassium cuprocyanide
	Potassium cyanide
PP	Potassium cyanocuprate I
PP	Potassium cyanomercurate
	Potassium dihydrogen arsenate
PP	Potassium mercuric iodide
	Promecarb
	Propaphos
	Propenal, inhibited
	Propenyl chloride (cis-; trans-)
	Propoxur
	Propyl chloride
	Propylene dichloride
	Propylidene dichloride
	Prothoate
	Prussic acid, anhydrous, stabilized
	Prussic acid, anhydrous, stabilized, absorbed in a porous inert material
PP	Pyrazophos
	Quinalphos
	Rotenone
	Salithion
	Selenic acid
PP	Silver arsenite
	Silver cyanide
PP	Silver orthoarsenite
	Sodium arsanilate
	Sodium arsenate
	Sodium arsenite, aqueous solutions
	Sodium arsenite (pesticide)
	Sodium arsenite, solid
	Sodium cacodylate
PP	Sodium copper cyanide, solid
PP	Sodium copper cyanide solution
PP	Sodium cuprocyanide, solid
PP	Sodium cuprocyanide, solution
	Sodium cyanide
	Sodium dinitro-o-cresolate, *dry or wetted with less than 15 per cent water, by mass*
	Sodium dinitro-ortho-cresolate, wetted *with not less than 15 per cent water, by mass*
	Sodium metaarsenite
	Sodium orthoarsenate
PP	Sodium pentachlorophenate
	Strontium arsenite

S.M.P.	Marine Pollutant
(1)	(2)
	Strontium orthoarsenite
	Strychnine *or* Strychnine salts
	Styrene monomer, inhibited
	Sulfotep
PP	Sulprophos
	Sym-Dichloroethyl ether
	Temephos
	TEPP
PP	Terbufos
	1,1,2,2-Tetrabromoethane
	Tetrabromomethane
	Tetrachloroethane
	1,1,2,2-Tetrachloroethylene
	Tetrachloromethane
	Tetrachlorophenol
	Tetraethyl dithiopyrophosphate
	Tetraethyl lead, liquid
	Tetramethyllead
	Thallium chlorate
	Thallium compounds, n.o.s.
	Thallium compounds (pesticides)
	Thallium compounds (pesticides)
	Thallium nitrate
	Thallium sulfate
	Thallous chlorate
	Thiocarbonyl tetrachloride
	Triaryl phosphates, isopropylated
PP	Triaryl phosphates, n.o.s.
	Triazophos
	Tribromomethane
PP	Tributyltin compounds
	Trichlorfon
	Trichlorobenzenes, liquid
	Trichlorobutene
	Trichlorobutylene
	1,1,1-Trichloroethane
	1,1,2-Trichloroethane
	Trichloroethylene
	Trichloromethane
	Trichloromethane sulphuryl chloride
	Trichloromethyl sulphochloride
	Trichloronat
	1,2,3-Trichloropropane
	Tricresyl phosphate (less than 1% ortho-isomer)
PP	Tricresyl phosphate (not less than 1% ortho-isomer)
	Tricresyl phosphate *with more than 3 per cent ortho isomer*
	Triethylbenzene
	Trimethylene dichloride
PP	Triphenyltin compounds
	Tritolyl phosphate (less than 1% ortho-isomer)
PP	Tritolyl phosphate (not less than 1% ortho-isomer)
	Trixylenyl phosphate
	Turpentine
	Turpentine substitute
	Vinylbenzene, inhibited
	Vinylidene chloride, inhibited
	Vinyltoluenes, inhibited *mixed isomers*
	Warfarin (and salts of)
	White arsenic
PP	White phosphorus, dry
PP	White phosphorus, molten
PP	White phosphorus, wet
	White spirit, low (15-20%) aromatic
	Xylenols
PP	Yellow phosphorus, dry
PP	Yellow phosphorus, molten
PP	Yellow phosphorus, wet
	Zinc alkaryl dithiophosphate (C-7 - C-16)
	Zinc alkyl dithiophosphate (C-3 - C-14)
	Zinc arsenate *or* Zinc arsenite *or* Zinc arsenate and Zinc arsenite mixtures.
	Zinc bromide
	Zinc chloride, anhydrous
	Zinc chloride, solution
PP	Zinc cyanide
	Zinc phosphide

12. In § 172.102, paragraph (c)(5) would be amended by adding special provision "N50" in appropriate alpha-numerical order:

§ 172.102 Special provisions.

* * * * *

(c) * * *

* * * * *

N50 For Class 9 materials that meet only the definition of marine pollutant, and do not meet the definition of a hazardous substance, or a hazardous waste or the definition in § 173.140(a) of this subchapter, the labeling requirements of this part do not apply.

* * * * *

§ 172.200 [Amended]

13. In § 172.200, in the introductory text of paragraph (b) the phrase "hazardous waste or a hazardous substance," would be removed and replaced with the phrase "hazardous substance, hazardous waste or a marine pollutant,".

§ 172.203 [Amended]

14. In § 172.203, paragraph (c)(1)(i) would be amended by removing the word "appendix" and replacing it with the phrase "Appendix A".

15. In § 172.203, paragraph (l) would be added to read as follows:

§ 172.203 Additional description requirements.

* * * * *

(l) *Marine pollutants.* (1) If the proper shipping name for a material which is a marine pollutant does not identify by name the component which makes the material a marine pollutant, the name of that component must appear in parentheses in association with the basic description. Where two or more components which make a material a marine pollutant are present, the names of at least two of the components most predominantly contributing to the marine pollutant designation must appear in parentheses in association with the basic description.

(2) The words "Marine Pollutant" shall be entered in association with the basic description for each marine pollutant.

* * * * *

§ 172.324 [Amended]

16. In § 172.324, paragraph (a)(1) would be amended by removing the word "appendix" and replacing it with the phrase "Appendix A".

17. Section 172.322 would be added to read as follows:

§ 172.322 Marking of packages of marine pollutants.

(a) For each non-bulk packaging that contains a marine pollutant—

(1) If the proper shipping name for a material which is a marine pollutant does not identify by name the component which makes the material a marine pollutant, the name of that component must be marked on the package in parentheses in association with the basic description. Where two or more components which make a material a marine pollutant are present, the names of at least two of the components most predominantly contributing to the marine pollutant designation must appear in parentheses in association with the basic description; and

(2) The marking specified in paragraph (e) of this section shall be placed in association with the hazard warning labels or, in the absence of any labels, in association with the proper shipping name.

(b) A bulk packaging that contains a marine pollutant must be marked with the marking specified in paragraph (e) of this section. The marking must appear on two opposite sides of the package and must be visible from the direction it faces.

(c) A transport vehicle or freight container that contains a package subject to the marking requirements of paragraphs (a) or (b) of this section, must be marked with the marking specified in paragraph (e) of this section. The marking must appear on two opposite sides of the transport vehicle or freight container, and must be visible from the direction it faces.

(d) The marking specified in paragraph (e) of this section is not required—

(1) For a severe marine pollutant (see Appendix B to § 172.101), on a combination package containing inner packagings each of which has contents less than:

(i) 0.5 liters (17 ounces) or less for liquids; or

(ii) 500 grams (17.6 ounces) or less for solids.

(2) For a marine pollutant, other than a severe marine pollutant, on a combination package containing inner packagings each of which has contents less than:

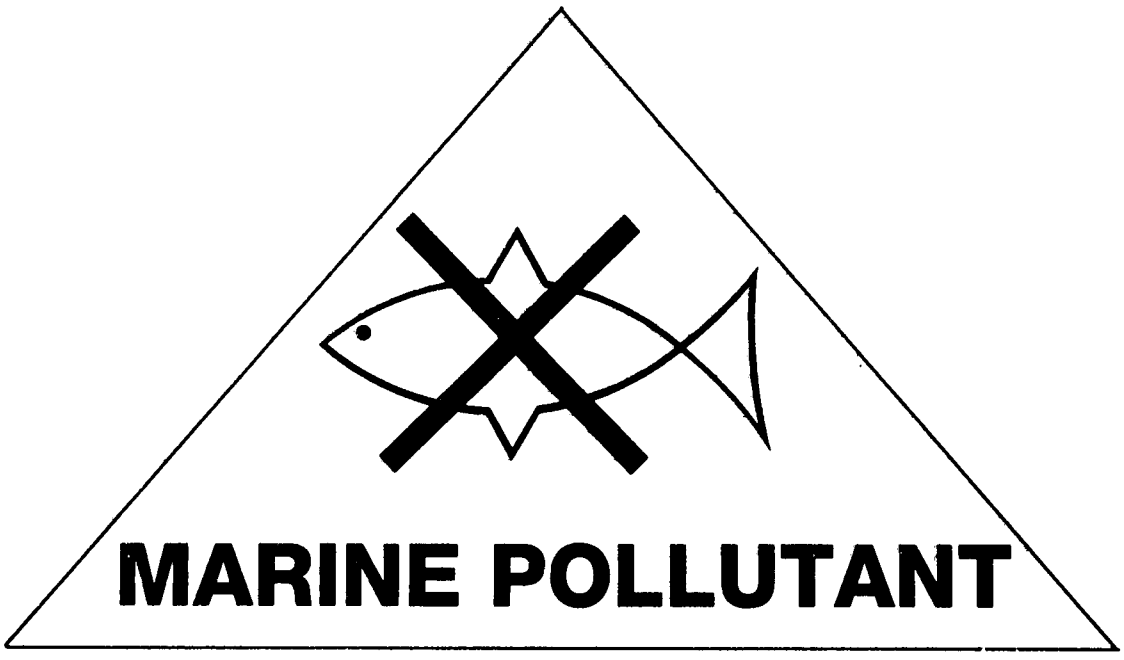
(i) 5 liters (1 gallon) or less for liquids.

(ii) 5 kilograms (11 pounds) or less for solids.

(3) Except for transportation by vessel, on a transport vehicle or freight container that contains less than 454 kg (1,000 pounds) aggregate gross weight of non-bulk packages containing marine pollutants.

(e) *Marine pollutant mark.* The marine pollutant mark must conform to the following:

(1) Except for size, the marine pollutant mark must appear as follows:



(2) The symbol, letters and border must be black and the background color white. For non-bulk packagings, each side of the marking must be at least 100 mm (3.9 inches), except in the case of packagings which, because of their size, can only bear smaller marks. For bulk packagings, each side of the marking must be at least 250 mm (9.8 inches).

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

18. The authority citation for part 173 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, and 1808; 49 CFR part 1, unless otherwise noted.

19. In § 173.12, the word "and" would be removed from the end of paragraph (d)(1), in paragraph (d)(2) the "." would be removed and replaced with a ";", and paragraph (d)(3) would be added to read as follows:

§ 173.12 Exceptions for shipments of waste materials.

* * * * *

(d) * * *

(3) Packagings containing marine pollutants must be described as required in § 172.203(l) of this subchapter and marked as required in § 172.322 of this subchapter.

§ 173.29 [Amended]

20. In § 173.29, paragraph (b)(3) would be amended by removing the phrase "hazardous substance or a hazardous waste." and replacing it with the phrase "hazardous substance, hazardous waste or marine pollutant."

21. In § 173.140, paragraph (b) would be revised to read as follows:

§ 173.140 Class 9—Definitions.

* * * * *

(b) Meets the definition in § 171.8 of this subchapter for a hazardous substance, hazardous waste or marine pollutant.

§ 173.150 [Amended]

22. In § 173.150, paragraph (c) would be amended by removing the phrase "hazardous substance or hazardous waste" and replacing it with the phrase "hazardous substance, hazardous waste, or marine pollutant", and paragraphs (f)(2), (f)(3) and (f)(4) would be amended by removing the phrase "hazardous substance or hazardous waste" and replacing it with the phrase "hazardous substance, hazardous waste, or marine pollutant".

§ 173.151 [Amended]

23. In § 173.151, paragraph (c) would be amended by removing the phrase "hazardous substance or hazardous waste" and replacing it with the phrase "hazardous substance, hazardous waste, or marine pollutant".

§ 173.152 [Amended]

24. In § 173.152, paragraph (c) would be amended bwith the phrase "hazardous substance, hazardous waste, or marine pollutant".

§ 173.153 [Amended]

25. In § 173.153, paragraph (c)(3) would be amended by removing the phrase "hazardous substance or hazardous waste" and replacing it with the phrase "hazardous substance, hazardous waste, or marine pollutant".

§ 173.154 [Amended]

26. In § 173.154, paragraph (c) would be amended by removing the phrase "hazardous substance or hazardous waste" and replacing it with the phrase "hazardous substance, hazardous waste, or marine pollutant" and paragraph (d) would be amended by removing the phrase "hazardous substance or a hazardous waste," and replacing it with the phrase "hazardous substance, hazardous waste, or marine pollutant,".

§ 173.155 [Amended]

27. In § 173.155, paragraph (c) would be amended by removing the phrase "hazardous substance or hazardous waste" and replacing it with the phrase "hazardous substance, hazardous waste, or marine pollutant".

§ 173.421-2 [Amended]

28. In § 173.421-2, paragraphs (b)(1)(i) and (b)(2)(i) would be amended by removing the phrase "hazardous waste or hazardous substance" and replacing it with the phrase "hazardous substance, hazardous waste, or marine pollutant".

29. In § 173.425, paragraph (b)(8) would be amended by adding the following paragraph to the end of the existing regulatory text:

§ 173.425 Transport requirements for low specific activity (LSA) radioactive materials.

* * * * *

(b) * * *

(8) * * * Packages that contain a marine pollutant must be marked in accordance with § 172.322 of this subchapter.

* * * * *

PART 174—CARRIAGE BY RAIL

30. The authority citation for part 174 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1808, 49 CFR 1.53(e), 1.53, app. A to part 1.

31. In § 174.25, paragraph (b)(5) would be added to read as follows;

§ 174.25 Additional information on way bills, switching orders and other billings.

* * * * *

(b) * * *

(5) For any entry for a material that is a marine pollutant, the words "Marine Pollutant" must be entered in association with the basic description.

* * * * *

PART 176—CARRIAGE BY VESSEL

32. The authority citation for part 176 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1808; 49 CFR 1.53, app. A to part 1.

33. Section 176.70 would be added to read as follows:

§ 176.70 Stowage requirements for marine pollutants.

(a) Marine pollutants must be properly stowed and secured to minimize the hazards to the marine environment without impairing the safety of the ship and the persons on board.

(b) Where stowage is permitted "on deck or under deck", under deck stowage is preferred except when a weather deck provides equivalent protection.

(c) Where stowage "on deck only" is required, preference should be given to stowage on well-protected decks or to stowage inboard in sheltered areas of exposed decks.

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Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

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