

with foreign-based enterprises in domestic or import markets.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act of 1980, Pub. L. 96-354, requires that an agency prepare a regulatory flexibility analysis for a proposed or final rule if the rule would have a significant economic impact on a substantial number of "small entities," i.e. small businesses, small non-profit organizations, or small governmental jurisdictions.

Although actual delivery of services may be provided in some circumstances by proprietary, public and not-for-profit agencies or organizations under contract to the State agency, the responsibility for meeting the requirements of these regulations is on the State agencies, which are not "small entities" within the meaning of the Act. This rule will impose no significant burdens on States or other affected parties and will provide flexibility to States in implementing the provisions of the Act. For these reasons, the Secretary hereby certifies that these regulations will not have a significant impact on a substantial number of small entities.

Recordkeeping and Reporting Requirements

As required by section 3504(h) of the Paperwork Reduction Act of 1980, §§ 1321.7-1321.13 and 1328.19 which contain information collection requirements were submitted to the Office of Management and Budget (OMB). We have received OMB approval for these sections. The approval number is 0980-0170 and is effective through March 31, 1987.

List of Subjects

45 CFR Part 1321

Administrative practice and procedure, Aged, Grant programs—social programs, Nutrition, Reporting requirements.

45 CFR Part 1328

Administrative practice and procedure, Aged, Grant programs—Indians, Grant programs—social programs, Indians, Reporting requirements.

(Catalog of Federal Domestic Assistance Program Numbers: 13.633 Special Programs for Aging, Title III Parts A and B—Grants on Aging; 13.635 Special Programs for Aging, Title III Part C—Nutrition Services); (13.655 Special Programs for Aging—Title VI—Grants for Indian Tribes.)

Dated: August 8, 1985.

Carol Fraser Fisk,
Acting Commissioner on Aging.

Approved: August 10, 1985.

Dorcas R. Hardy,
Assistant Secretary for Human Development Services.

Approved: September 23, 1985.

Margaret M. Heckler,
Secretary of Health and Human Services.

Accordingly, for the reasons set forth in the preamble, the interim rule published at 50 FR 12942, April 1, 1985 is adopted as final with the following changes:

PART 1321—[AMENDED]

1. The authority citation for Part 1321 reads as follows:

Authority: Title III of the Older Americans Act (42 U.S.C. 3021 through 3030g).

§§ 1321.7, 1321.8, 1321.9., 1321.11, and 1321.13 [Amended]

2. The Office of Management and Budget control number is added at the end of §§ 1321.7, 1321.8, 1321.9, 1321.11, and 1321.13 as follows:

(Approved by the Office of Management and Budget under control number 0980-0170)

PART 1328—[AMENDED]

3. The authority citation for Part 1328 reads as follows:

Authority: Title VI of the Older Americans Act (42 U.S.C. 3057).

4. The Office of Management and Budget control number is added at the end of § 1328.19 as follows:

§ 1328.19 **Application requirements.**

* * * * *

(Approved by the Office of Management and Budget under control number 0980-0170)

[FR Doc. 85-24395 Filed 10-10-85; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 174, 176, 177 and 179

[Docket No. HM-186B, Amdt. Nos. 171-83, 172-100, 173-191, 174-48, 176-22, 177-66, 179-39]

Transportation of Hazardous Materials Between Canada and the United States

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

ACTION: Final rule.

SUMMARY: The MTB is amending the Department of Transportation's Hazardous Materials Regulations (HMR) in order to permit transportation of hazardous materials, with certain conditions and limitations, in accordance with the recently published Canadian Transport of Dangerous Goods Regulations. This action is necessary in order to facilitate the movement of hazardous materials between Canada and the United States.

EFFECTIVE DATE: November 1, 1985. However, compliance with the regulations as amended is authorized as of October 1, 1985.

FOR FURTHER INFORMATION CONTACT:

Edward A. Altemos, International Standards Coordinator, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 426-0658.

SUPPLEMENTARY INFORMATION:

On February 6, 1985, the Canadian Government (specifically Transport Canada) published new multi-modal regulations for the transport of dangerous goods (hazardous materials) in Part II of the Canada Gazette. The regulations are officially titled "Regulations Respecting the Handling, Offering for Transport and Transporting of Dangerous Goods" or simply the "Transportation of Dangerous Goods Regulations", and have been issued pursuant to the provisions of the Canadian Transportation of Dangerous Goods Act of July 17, 1980. For the purpose of this final rule, these regulations are referred to as the "TDG Regulations". The TDG Regulations apply to the transport of dangerous goods within Canada, including shipments destined for the United States and those entering Canada from the United States. Certain parts of these regulations were effective at the time of publication, other parts became effective on April 8, 1985, but the majority of the regulations, and particularly those dealing with specific transport requirements as opposed to administrative matters, became effective on July 1, 1985. Owing to the problems concerning transportation of hazardous materials between the United States and Canada addressed in this final rule, the TDG Regulations were amended prior to becoming effective to permit, in general, shipments of hazardous materials moving between the United States and Canada to continue to be transported in accordance with the requirements of the HMR until October 31, 1985.

On May 30, 1985, the MTB published a notice of proposed rulemaking in the

Federal Register under Docket No. HM-188B (50 FR 23036) which proposed to amend the HMR to permit transportation of hazardous materials from Canada to the United States in accordance with the TDG Regulations subject to certain conditions and limitations. This proposal was published in response to a note delivered to the Department of State by the Embassy of Canada which formally requested that the United States take steps to amend the HMR to grant recognition to the TDG Regulations in order to facilitate the transport of hazardous materials between Canada and the United States. A public hearing was held on these proposals on June 27, 1985, and three persons offered oral comments at that time. A complete transcript of that hearing is in the public docket.

In addition to inviting comments on the proposed amendments to the HMR, and on certain specific questions posed in the notice of proposed rulemaking, the MTB raised the following questions for comment in the public hearing:

1. What are the safety implications of recognizing the corrosive gas (Division 2.4) classification in the TDG Regulations with respect to the labeling and placarding of shipments entering the United States? Would the ID number on the corrosive gas placard be adequate to ensure appropriate emergency response? Could such a placard be specifically authorized for transportation within the United States on shipments destined for Canada since TDG Regulations do not recognize the DOT placarding required for gases classed as corrosive gases by the TDG Regulations?

2. What would be the safety implications of recognizing the Canadian shipping paper requirements for explosives shipments entering the United States if the papers also contained the DOT proper shipping name and hazard class of the explosives?

3. Should the explosives labels and placards required by the TDG Regulations for shipments to the United States, which the MTB has proposed to recognize, also be allowed for transportation within the United States on shipments destined for Canada, since the TDG Regulations do not recognize the DOT explosives labels and placards?

4. Information currently available indicates that the Canadian Transport Commission will amend its regulations effective July 1, 1985, to fully incorporate the TDC Regulations. The existing § 173.8 of the DOT regulations fully recognizes shipments entering the United States in conformance with the CTC regulations. This means that

effective July 1, shipments could legally enter the United States in full conformance with the CTC regulations, as modified through incorporation of the TDG Regulations (i.e., with TDG required shipping papers, labels and placards (including the "Corrosive Gas" label and placard)). Does this situation present an unacceptable risk from the safety standpoint? Should DOT take immediate action to amend § 173.8 to prevent this situation?

A total of sixteen comments, in addition to those offered at the hearing, were received in response to this notice of proposed rulemaking and the additional questions raised at the hearing. The following is an analysis, by section, of the comments and any changes made in the final rule as compared to the proposed rule. Aside from recognition of the CORROSIVE GAS placard specified in the TDG Regulations, which was discussed as an option for consideration in the notice, certain minor nonsubstantive changes have been included in this final rule consistent with changes to the TDG Regulations which became effective on July 1, 1985.

Section 171.7. This section is being amended to include the TDG Regulations, as amended as of July 1, 1985, in the matter incorporated by reference. While this was not proposed in the notice, the MTB feels that is necessary in order to more precisely specify those TDG Regulations that are being recognized under the HMR.

Section 171.12a. There was general support by commenters for this section as proposed, although one commenter, the International Association of Fire Chiefs (IAFC), expressed concern about the proposed rule because hazardous materials entering the United States from Canada "... would be permitted to be identified through the Canadian system." This is, of course, the principal reason for publication of the proposed rule. The MTB believes it would impose tremendous and unreasonable burdens to require that shipments entering the United States from Canada fully conform to the HMR. This would certainly be a drastic departure from past philosophy concerning recognition of Canadian regulations. The MTB believes that a total rejection of the TDG Regulations cannot be supported on safety grounds and has, therefore, adopted this section. However, the section appearing in this final rule differs in certain respects from that proposed as a result of the introduction of changes taking account of comments, to improve its presentation, and to correct certain omissions in the proposal

that came to light through the continuing discussions with Transport Canada.

Paragraph (a) of § 171.12a has been expanded to include packaging authorized under the TDG Regulations. While the TDG Regulations do not currently address packaging in general, they do prescribe packaging for specific types of hazardous materials such as limited quantities and consumer commodities. Because of the similarity of the packagings prescribed to that required under the HMR for the same types of materials, the MTB believes that these TDG authorized packagings should be recognized. In addition, the reference to hazardous materials "certified" on a shipping paper in accordance with the TDG Regulations that appeared in the proposal has been removed since the TDG Regulations do not require the use of a shipper's certification. Several commenters objected to the fact that the proposal would recognize the use of class numbers rather than class names in shipping papers. In view of the fact that § 173.8 has permitted this practice for rail shipments entering the United States from Canada for several years, and because the DOT Emergency Response Guidebook, and the pocket version of the guidebook recently made available for distribution to drivers by a major trade association, contain a table explaining the meaning of these class numbers, the MTB has made no change to the proposed rule as a result of this comment.

The paragraph (a)(2)(i) that appeared in the proposal is now considered by the MTB to be superfluous and it has, therefore, been removed, with the proposed paragraphs (a)(2)(ii) and (a)(3) being combined to improve clarity. As a result, the proposed paragraphs (a)(4), (a)(5) and (a)(6) are now designated (a)(3), (a)(4) and (a)(5), respectively. One commenter suggested that the proposed paragraph (a)(5) be modified to require that only one hazardous waste manifest be required by providing that waste shipments destined for Canada be made using the Canadian hazardous waste manifest, while shipments destined for the United States be made under the United States manifest. The uniform hazardous waste manifest currently required in the United States by DOT and EPA regulations was developed through years of intensive effort and after thorough coordination with the states. Because of the impact that the change suggested by this commenter would have regarding the use of this uniform hazardous waste manifest within the United States, the MTB has not adopted this suggestion. However,

discussions are now underway between the United States Environmental Protection Agency and their Canadian counterparts, and the concerned states in an attempt to reach an agreement whereby such a reciprocal recognition of hazardous waste manifests may be possible in the future.

Finally, a provision has been added to paragraph (a)(5) to require that only "UN" or "NA" numbers may be used and that "PIN" numbers provided for in the TDG Regulations are not acceptable. This action was taken in response to a recent amendment to the TDG Regulations which no longer requires the "PIN" prefix for consignments transported to the United States. One commenter suggested that this paragraph be modified to require English text on labels and placards when text is required or present. It should be noted that when text is required on labels and placards by the TDG Regulations, both the English and the French texts are required. Also, for a number of years, the HMR have recognized either foreign text or no text on labels conforming to IMO or UN standards (see § 172.407), as well as "wordless" placards under CTC Regulations. For these reasons, the suggested change to require English text on labels and placards has not been adopted in the final rules.

Paragraph (b)(2) of § 171.12a has been changed considerably from that appearing in the proposal. In view of the general support for this section, and of the lack of any specific opposition to the proposed use of the explosives labels and placards prescribed in the TDG Regulations for shipments to the United States, the MTB has expanded the permissive use of these labels and placards to include shipments originating in the United States destined for Canada. Since the TDG Regulations do not recognize the DOT explosives labels and placards for shipments entering Canada, the MTB believes this action will reduce the burdens on shippers and carriers or explosives by eliminating the necessity to change labels and placards at the border or for dual labeling and placarding. The MTB has also decided to add a provision to paragraph (b)(2) which recognizes shipping papers for explosives prepared in accordance with the TDG Regulations provided the shipping paper also includes the letters "DOT:" followed by the DOT proper shipping name and hazard class of the explosives. This is similar to the recognition accorded shipping papers for explosives prepared in conformance with the HMR granted to United States, shipments entering

Canada by the TDG Regulations. The MTB has included this provision to minimize the need for preparation of dual sets of shipping papers. Comment was specifically solicited on both of the preceding additions to this paragraph at the public hearing, and there was no negative comment regarding these suggested provisions.

The provision excluding any recognition of the TDG Regulations regarding the transport of Class 2, Division 4 materials (i.e., "Corrosive gases") that appeared in paragraph (b)(3) of the proposal has been removed. The notice specifically raised the issue of the recognition of the corrosive gas class and indicated that, on the basis of comments received, the MTB would be prepared to recognize the Corrosive gas classification, label and placard if it appeared that this would not adversely affect the ability of emergency response organizations to respond to transport emergencies.

The majority of commenters supported the recognition of the corrosive gas class. Reasons indicated by commenters for this support included:

- The presence of the UN number on placards and shipping papers which permits appropriate emergency response to be initiated through use of the DOE Emergency Response Guidebook.
- The requirement in paragraph 5.38(1) of the TDG Regulations to mark the name of the gas on each road and rail vehicle used to transport corrosive gases in bulk.
- The danger of delay and disruption of shipments resulting from the need to relabel and replacard, and to prepare new shipping papers for, consignments of corrosive gases and the increased risks and exposures associated with such delays and disruptions.
- The risk of commission of serious and dangerous errors in the course of replacarding, relabeling and redocumenting shipments and in transcribing UN numbers and other descriptive information.
- The opinion that the corrosive gas classification more accurately describes and communicates the actual hazards of these gases than does the DOT "Nonflammable gas" hazard class.
- The belief that the commonality of the gas cylinder pictogram to both the Corrosive gas and Nonflammable gas labels and placards overrides the color differences, and still enables emergency responders to recognize

that a shipment contains a Corrosive gas.

- The presence of the name of the gas on shipping papers providing for easy identification of the gas.
- The speed and effectiveness of organizations and systems such as CHEMTREC (Chemical Manufacturer's Association), CANUTEC (Transport Canada) and CHLOREP (Chlorine Emergency Plan of the Chlorine Institute) in providing advice and assistance to emergency response personnel in the event of transport incidents.
- The serious facilitation and economic burdens that would be imposed on shippers and carriers by the need to change labels, placards and shipping papers at border crossings if the Corrosive gas classification is not recognized.

Those opposed to recognition of the corrosive gas class generally cited lack of familiarity on the part of emergency response personnel with this class, label and placard, and the belief that such recognition would undermine the regulatory uniformity of the HMR and of emergency response aids such as the DOT Emergency Response Guidebook, as the reasons for their opposition. Several commenters specifically noted the need to include reference to the corrosive gas class in the DOT Emergency Response Guidebook before this class is recognized for transportation of these gases within the United States.

The existing § 173.8 has permitted, for several years, the gases now classed as corrosive gases by the TDG Regulations to enter the United States by rail when classed, labeled and placarded "Poison gas" in accordance with the CTC Regulations. This was permitted, after soliciting public comment (Docket No. HM-188), on the basis that the UN number on the placard and in shipping papers provided sufficient information to initiate appropriate emergency response in the event of an accident. The MTB is unaware of any adverse experience as a result of these Canadian shipments. The MTB believes there is little difference between this situation and the use of a "Corrosive gas" placard with the appropriate UN number. Certainly, at any considerable distance, it would be difficult to distinguish between the "Corrosive gas" and "Poison gas" placards, and response actions would be based on the UN number indicated on the placard. In addition, as noted by several commenters, it must be borne in mind that paragraph 5.38(1) of the TDG Regulations requires each road or rail

vehicle used for the bulk transportation of a corrosive gas be marked on each side with the name of that gas in letters not less than 102 mm (4 inches) high. The value of this marking in aiding the identification of the contents in the case of an accident cannot be underestimated.

After consideration of the comments regarding recognition of the corrosive gas classification, and on the basis of the recent past experience with shipments made under the CTC classification of "Poison gas", the MTB believes that recognition of the corrosive gas class will not have a serious adverse effect on emergency response to accidents and this final rule permits shipments to enter the United States from Canada in conformance with the TDG Regulations concerning corrosive gases. In order to address the concerns expressed by several of the commenters, the MTB will undertake to distribute to each of the emergency response organizations to which the DOT Emergency Response Guidebook was sent, appropriate information concerning the gases classed as corrosive gases under the TDG Regulations including examples of the placard employed for such gases. The MTB believes that recognition of the corrosive gas class will not jeopardize emergency response actions, but will eliminate the costly burdens that would have been imposed if it were necessary to change labels and placards at the border. For the same reasons, and in response to a comment, the MTB has included a new paragraph (c) in § 171.12a that did not appear in the proposal, permitting the corrosive gas labels and placards (which are required for transport within Canada even for shipments originating in the United States) to be used in the United States for shipments destined for Canada provided an indication is included in the shipping papers that the placards/labels applied have been used for the purpose of transportation to Canada. As a result of the inclusion of this additional paragraph, proposed paragraphs (c), (d) and (e) are redesignated (d), (e) and (f), respectively.

The proposed paragraph (e) has been revised by adding a provision allowing the return of empty cargo tanks to Canada in conformance with the TDG Regulations. While the notice of proposed rulemaking proposed that, based on the existing provisions of § 173.8, this practice be permitted for empty rail tank cars, a similar provision for empty cargo tanks was inadvertently omitted.

Sections 172.401 and 172.502. Although not originally proposed, these sections have been amended to specifically provide that the display of any label or placard required by the TDG Regulations is not considered a prohibited display. The MTB believes this is necessary to permit the display of labels and placards required by the TDG Regulations, such as the label and placard specified for Class 9 materials, that may otherwise be considered to be a prohibited display within the United States. In this context it is noted that it is not required that a carrier maintain any display of labels or placards not required by the HMR. Therefore, the amendment of these sections will not impose any additional responsibility or burden on any person, but will permit labels and placards such as those required by the TDG Regulations for Class 9 materials to be applied in the United States when a shipment is destined for Canada.

Section 173.8. This section is being removed as proposed. There were no comments submitted regarding this proposed action.

Section 174.11. One commenter noted that as a result of the removal of § 173.8, it would be necessary to amend § 174.11 to reflect the addition of the new § 171.12a and the incorporation of the new TDG Regulations. The MTB concurs, and has amended the section accordingly.

Sections 174.59 and 177.823. One commenter requested that § 174.59 be amended to allow railroads to replace lost Corrosive gas placards with the appropriate placard required by the HMR on the basis that both railroad and emergency response personnel would be familiar with the placards required by the HMR and that it would be both unreasonable and unnecessary to expect United States' railroads to maintain supplies of the Canadian placards. The MTB agrees with the suggestion and has amended § 174.59 accordingly. A similar provision in § 177.823 has been similarly amended.

Sections 171.12, 173.314, 176.11, 177.805, 179.105-1 and 179.106-1. References to § 173.8, which has now been removed, have been revised to refer to the new § 171.12a.

Administrative Notices

A. Executive Order 12291

The MTB has determined that the effect of this final rule will not meet the criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule. This is not a significant rule under DOT regulatory procedures (44 FR 11034) and requires neither a

Regulatory Impact Analysis, nor an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.) A regulatory evaluation is available for review in the Docket.

B. Impact on Small Entities

Based on limited information concerning the size and nature of entities likely affected, I certify that this final rule will not, as promulgated, have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Imports, Incorporation by reference.

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 176

Hazardous materials transportation, Maritime carriers.

49 CFR Part 177

Hazardous materials transportation, Motor carriers.

49 CFR Part 179

Hazardous materials transportation, Railroad safety.

In consideration of the foregoing, 49 CFR Parts 171, 172, 173, 174, 176, 177 and 179 are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

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

Authority: 49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, unless otherwise noted.

2. Section 171.7 is amended by adding new paragraphs (c)(32) and (d)(28) to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(c) * * *

(32) TDG Regulations: Canadian Government Publishing Center, Supply and Services Canada, Ottawa, Ontario, Canada K1 A 0S9.

(d) * * *

(28) "Transportation of Dangerous Goods Regulations" of Transport Canada (TDG Regulations), amended as of July 1, 1985, (Incorporating Registration Numbers SOR/85-77, SOR/85-585 and SOR/85-609).

§ 171.12 [Amended]

2. Paragraph (a) of § 171.12 is amended by replacing the section reference "§ 173.8" with the section reference "§ 173.12a".

3. Section 171.12a is added to read as follows:

§ 171.12a Canadian shipments and packagings.

(a) Notwithstanding the requirements of Part 172 and 173 of this subchapter, and except as provided in paragraph (b) of this section, a hazardous material that is classed, packaged, marked, labeled, placarded and described on a shipping paper in accordance with the Regulations Respecting the Handling, Offering for Transport and Transporting of Dangerous Goods (the Transportation of Dangerous Goods Regulations or TDG Regulations), issued by the Government of Canada, may be transported by rail or highway from the point of entry in the United States to its destination in the United States, or through the United States en route to a point in Canada, provided that it fulfills the following additional requirements as applicable:

(1) When a hazardous material is not subject to the requirements of the TDG Regulations, it must be transported as required by this subchapter.

(2) When a hazardous material, that is subject to this subchapter for transportation by rail or highway is transported under the provisions of this section, the shipping paper must include the following:

(i) The words "Dangerous When Wet" in association with the basic description when the Class 4, Division 4.3 label is required to be applied by the TDG Regulations.

(ii) The words "Poison" in association with the basic description if a liquid or solid material in a packaging meets the definition of a poison according to this subchapter, and the fact that it is a poison is not disclosed in the shipping name or by a class entry.

(3) When a hazardous material, which is subject to the requirements of the TDG Regulations, is also a hazardous substance as defined in this subchapter, the shipping paper must include the following:

(i) The name of the hazardous substance shall be entered on shipping papers in association with the proper

shipping name required to be marked on the package, unless the proper shipping name required by the TDG Regulations already includes the name of the hazardous substance; and

(ii) The letters "RQ" shall be entered on the shipping paper either before or after the basic description required by the TDG Regulations and in association with the proper shipping name required to be marked on the package.

(4) When a hazardous material, which is subject to the requirements of the TDG Regulations, is also a hazardous waste as defined in this subchapter:

(i) The word "Waste" must precede the proper shipping name on shipping papers and package markings; and

(ii) It must be accompanied by a hazardous waste manifest executed as required by § 172.205 of this subchapter.

(5) Required shipping paper entries and package markings must be in English. Abbreviations may not be used in shipping paper entries or package markings unless they are specifically authorized by this subchapter. TDG Regulations class or division numbers are not considered to be abbreviations. Hazardous materials identification numbers must be preceded by "UN" or "NA". The use of an identification number preceded by "PIN" is not authorized.

(6) Shipments of radioactive materials must conform to the requirements of § 171.12(e).

(b) This section does not apply to—

(1) A material which is a forbidden material according to § 173.21 of this subchapter, or as indicated in Column (3) of the Table § 172.101 of this subchapter;

(2) A material or article meeting the definition of a Class A, B or C explosive according to this subchapter, except that, notwithstanding the requirements of Part 172 of this subchapter—

(i) For transportation between the United States and Canada, a package may be labeled and a freight container, motor vehicle or rail car placarded, with the label and placard required by the TDG Regulations provided that label or placard also indicates the appropriate DOT hazard class in accordance with Schedule V of the TDG Regulations;

(ii) Explosives may be transported from the point of entry in the United States to their destination in the United States, or through the United States en route to a point in Canada, when described on a shipping paper in accordance with the TDG Regulations provided the shipping paper also includes the letters "DOT:" followed by

the proper shipping name and hazard class prescribed for explosives in this subchapter.

(c) Notwithstanding the requirements of Part 172 of this subchapter, a hazardous material included in Division 3 or 4 of Class 2 of the TDG Regulations may be transported from its point of origin in the United States to Canada, or through the United States en route to a point in Canada, when the package is labeled, and the freight container, motor vehicle or rail car is placarded, as required by the TDG Regulations provided the shipping paper contains an indication that these labels and placards have been applied in conformance with this paragraph for the purpose of transport to Canada.

(d) Except as specified in 173.301(i) of this subchapter, specification packagings made and maintained in full compliance with the corresponding specifications prescribed by the Railway Transport Committee of the Canadian Transport Commission (formerly the Board of Transport Commissioner for Canada), in its Regulations for the Transportation of Dangerous Commodities by Rail, and marked in accordance therewith (e.g., BTC, CTC, etc.) may be used for the shipment of hazardous materials within the United States.

(e) For transportation by rail, hazardous materials transported in accordance with paragraph (a) of this section may, in addition, be packaged and otherwise transported in conformance with the regulations of the Canadian Transport Commission from the point of entry in the United States to their destination in the United States, or through the United States en route to a point in Canada. Subject to the conditions and limitations of paragraphs (a) and (b) of this section, empty rail tank cars may be transported in conformity with Canadian Transport Commission regulations from point of origin in the United States to point of entry into Canada.

(f) Except as provided in paragraphs (a) and (d) of this section, hazardous materials transported by highway in accordance with this section must be packaged and otherwise transported as required by this subchapter. Subject to the conditions and limitations of paragraphs (a) and (b) of this section, empty cargo tanks may be returned to Canada in conformance with TDG Regulations provided they are otherwise transported as required by this subchapter.

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

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

Authority: 49 U.S.C. 1803, 1804; 49 CFR 1.53; unless otherwise noted.

5. Section 172.401 is amended by removing the word "or" at the end of paragraph (c)(2) and by revising paragraph (c)(3) and adding a new paragraph (c)(4) to read as follows:

§ 172.401 Prohibited labeling.

- * * * * *
- (c) * * *
- (3) The ICAO Technical Instructions; or
- (4) The TDG Regulations.
- * * * * *

6. Section 172.502 is amended by revising paragraph (c) to read as follows:

§ 172.502 Prohibited placarding.

- * * * * *
- (c) The restrictions in paragraphs (a) and (b) of this section do not apply to portable tanks, freight containers, motor vehicles or rail cars which—
- (1) In addition to any placards required by this part, may be placarded in conformance with the IMDG Code; or
- (2) Are placarded in conformance with the TDG Regulations.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

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

Authority: 49 U.S.C. 1803, 1804; 1808; 49 CFR 1.53; unless otherwise noted.

§ 173.8 [Reserved]

8. Section 173.8 is removed and reserved.

§ 173.314 [Amended]

9. Section 173.314(h) is amended by replacing the section reference "§ 173.8" with the section reference "§ 173.12a".

PART 174—CARRIAGE BY RAIL

9. The authority citation for Part 174 continues to read as follows:

Authority: 49 U.S.C. 1803, 1804; 1808; 49 CFR 1.53, unless otherwise noted.

10. Section 174.11 is revised to read as follows:

§ 174.11 Canadian shipments and packagings.

A Canadian shipment or package may be transported by rail car within the

United States if it is in compliance with the requirements of this subchapter or the TDG Regulations and the regulations of the Canadian Transport Commission as provided in § 171.12a of this subchapter.

§ 174.59 [Amended]

11. Section 174.59 is amended by adding a sentence at the end of the paragraph to read: "For Canadian shipments, required placards lost in transit, must be replaced either by those required by Part 172 of this subchapter or by those authorized under § 171.12a."

PART 176—CARRIAGE BY VESSEL

12. The authority citation for Part 176 continues to read as follows:

Authority: 46 U.S.C. 170 (7)(a-c); 49 U.S.C. 1803, 1804; 1808; 49 CFR 1.53.

§ 176.11 [Amended]

13. Paragraph 176.11(b) is amended by replacing the section reference "§ 173.8" with the section reference "§ 173.12a".

PART 177—CARRIAGE BY PUBLIC HIGHWAY

14. The authority citation for Part 177 continues to read as follows:

Authority: 49 U.S.C. 1803; 1804; 1808; 49 CFR 1.53.

§ 177.805 [Amended]

15. Section 177.805 is amended by replacing the section reference "§ 173.8" with the section reference "§ 171.12a".

§ 177.823 [Amended]

16. Section 177.823 is amended by inserting the words "or as authorized in § 171.12a" after the words "Part 172".

PART 179—SPECIFICATIONS FOR TANK CARS

17. The authority citation for Part 179 continues to read as follows:

Authority: 49 U.S.C. 1804; 1808; 49 CFR 1.53; unless otherwise noted.

§§ 179.105-1 and 179.106-1 [Amended]

18. Sections 179.105-1 and 179.106-1 are amended by replacing the section references to "§ 173.8" with the section references "§ 171.12a".

Issued in Washington, DC on October 4, 1985, under authority delegated in 49 CFR Part 1, Appendix A.

M. Cynthia Douglass,
Acting Director, Materials Transportation Bureau.

[FR Doc. 85-24301 Filed 10-10-85; 8:45 am]
BILLING CODE 4910-80-M

49 CFR Parts 172, 173, 176, 177, and 178

[Docket No. HM-189C; Amdt. Nos. 172-101, 173-192, 176-23, 177-67, 178-85]

Editorial Corrections and Clarifications

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

ACTION: Final rule.

SUMMARY: The purpose of these amendments to the Hazardous Materials Regulations (HMR) is to correct certain editorial errors, and to make minor regulatory changes which will not impose any new requirements on persons subject to the HMR.

EFFECTIVE DATE: October 30, 1985.

FOR FURTHER INFORMATION CONTACT: Edward T. Mazzullo, Regulations Development Branch, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 426-2075.

SUPPLEMENTARY INFORMATION: In its maintenance of the HMR, MTB performs an annual review of the regulations to detect errors which may be causing confusion to users. Inaccuracies detected in Title 49, Code of Federal Regulations (CFR), Parts 100-199, revised as of November 1, 1984, include incorrect references to other rules and regulations in the CFR, and misstatements of certain regulatory requirements. Also, in response to inquiries which MTB received concerning the clarity of particular requirements specified in the HMR, changes are made which should reduce uncertainties.

Since these amendments do not impose new requirements, notice and public procedure thereon are unnecessary. For the same reason, these amendments are effective without the customary 30 day delay following publication. This will allow the changes to appear in the next revision of 49 CFR.

The MTB has determined that this rule, as promulgated, is not a major rule under the terms of Executive Order 12291 or significant under DOT implementing procedures (44 FR 11034). A final regulatory evaluation and environmental assessment was not prepared as these amendments are not substantive changes to the HMR.

Based on limited information available concerning the size and nature of entities likely to be affected by these amendments, I certify that these amendments will not, as promulgated, have a significant economic impact on a substantial number of small entities.