

reduces from four to two the number of time zones in Alaska. Effective on that date, the entire State was moved to the Yukon time zone (9 hours behind Greenwich Mean Time), except that part of the Aleutian Islands that is west of 169 degrees 30 minutes west longitude; that part is in the Alaska-Hawaii time zone, 10 hours behind Greenwich. To facilitate its depiction on navigational charts, the State of Alaska has suggested, and representatives of the Departments of Defense, Commerce, and Transportation have agreed upon, the following description of the boundary between the two zones:

Starting on the international boundary line as established in the United States-Russian Convention of 1967, longitude 169 degrees west as it passes between Big Diomed Island and Little Diomed Island, going southerly and westerly along said convention line to its intersection with longitude 173 degrees west, thence southerly along said longitude to latitude 60 degrees north, thence easterly along said latitude to longitude 171 degrees west, thence southerly along said longitude to latitude 55 degrees north, thence easterly along said latitude to longitude 169 degrees 30 minutes west, thence southerly along said longitude as far as necessary.

All parts of the State of Alaska east of this line are in the Yukon time zone; all parts west of it are in the Alaska-Hawaii time zone. A map of the United States showing this new line in Alaska is available (without charge for small quantities) at the address and telephone number shown above. The map also shows every State and county in the United States, all United States time zones, and the areas of the United States exempt from the observance of daylight saving time.

Authority: Act of March 19, 1918, as amended by the Uniform Time Act of 1966 and Pub. L. 97-449, 15 U.S.C. 260-64; 49 CFR 1-59(a).

Issued in Washington, DC, on November 17, 1983.

James H. Burnley IV,
General Counsel.

[FR Doc. 83-31873 Filed 11-28-83; 8:45 am]

BILLING CODE 4910-02-M

Research and Special Programs Administration

49 CFR Parts 107, 171, 172, 173, 175 and 178

[Docket No. HM-184A, Amdt. Nos. 107-12, 171-77, 172-87 173-170, 175-30, 178-78]

Implementation of the ICAO Technical Instructions

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

ACTION: Final rule.

SUMMARY: This document amends the Hazardous Materials Regulations (HMR) in order to permit the offering, acceptance and transportation by aircraft, and by motor vehicle incident to transportation by aircraft, of hazardous materials shipments conforming to the most recent edition of the International Civil Aviation Organization (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). These amendments are necessary to facilitate the continued shipment of hazardous materials in international commerce by air when the 1984 edition of the ICAO Technical Instructions becomes effective on January 1, 1984, pursuant to decisions taken by the ICAO Council regarding implementation of Annex 18 to the Convention on International Civil Aviation.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Edward A. Altemos, Office of Hazardous Materials Regulation, Materials Transportation Bureau, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-0858.

SUPPLEMENTARY INFORMATION: On August 4, 1983, the MTB published a notice (Docket HM-184A, Notice No. 83-4) in the Federal Register (48 FR 35471) which requested public comment on the need to amend the Hazardous Materials Regulations (HMR) in order to take account of the 1984 edition of the ICAO Technical Instructions.

Seventeen commenters responded to Notice No. 83-4. Following full consideration of the comments received, the proposals contained in the notice are being adopted with certain changes. All comments received generally supported the actions proposed in the Notice of Proposed Rulemaking. Certain commenters made comments or suggestions relative to specific provisions in the proposed amendments. The following is a summary of such comments by section.

Section 171.7. No comments.

Section 171.8. One commenter noted that the definition of "Competent authority" proposed for inclusion in this section differed slightly from that contained in 49 CFR, Part 107. While there is no substantive difference in these definitions, the MTB believes there is merit in maintaining consistency in the wording of the definitions and is amending the definition of "Competent authority" in § 107.3 to agree with that now being included in § 171.8.

Section 171.11. Two commenters supported, in principle, the changes proposed to this section, but felt that the specific reference to Class 6.1, Packing Group III and Class 9 in the proposed paragraph (d)(4)(i) was redundant in view of the inclusion of the words ". . . that is regulated by this subchapter for transportation by highway . . ." in paragraph (d)(4). The MTB does not agree since there are certain materials in ICAO Class 6.1, Packing Group III and ICAO Class 9 which are regulated by highway, but for which no single DOT Hazard Class corresponds to the ICAO Class (e.g., "Drugs or Medicines, n.o.s., containing flammable aerosol and/or non-flammable aerosol, and/or flammable liquid and/or toxic substance, in small inner packaging", ICAO Class 9). Therefore, the specific references to ICAO Class 6.1, Packing Group III and ICAO Class 9 have been retained.

Section 172.408. In the preamble to the Notice, it was inadvertently stated that a change was being proposed to this section to allow the use of the method of identification of aircraft unit load devices and freight containers prescribed in the ICAO Technical Instructions to be employed as an alternative to the labeling required by this section. One commenter felt that such a provision should be included in this section. However, since § 172.408(e)(3) already permits placarding in accordance with § 172.512(b) as an alternative to labeling, and the ICAO method of identification is being included in § 172.512(b), a similar amendment to § 172.408(e)(3) is considered unnecessary.

Section 172.512. One commenter requested clarification regarding the responsibility to placard a freight container or aircraft unit load device being offered for transportation by highway subsequent to being transported by air, and which had been identified as containing dangerous goods during air transport in the manner provided in Part 5, Chapter 2, Section 2.7 of the ICAO Technical Instructions. It is the opinion of the MTB that, as provided in § 172.508, it is the responsibility of the person offering the hazardous material to the motor carrier to provide the motor carrier with the placards required for the transportation of the freight container or aircraft unit load device by highway.

Section 173.6. No comments.

Section 173.88. One commenter made a general comment regarding this section in which he stated that the section should contain the criteria by

which the Associate Director for Hazardous Materials Regulation may approve a new explosive or authorize the transportation of a sample. The MTB believes this is unnecessary since the minimum test criteria are already set forth in Subpart C of 49 CFR or in the supplement of the ICAO Technical Instructions, as appropriate. It must be emphasized that, in making the proposal to amend § 173.86, the MTB did not intend to suggest that there would be a significant departure from existing practice in approving explosives, except as necessary to facilitate the movement of explosives domestically and internationally.

Five comments were received regarding the proposed new § 173.86(f). One commenter opposed the addition on the basis that ". . . all explosives should be tested and approved by the competent authority . . .". Proposed paragraph (f) *does* require approval by the competent authority (i.e., the MTB) and, even under the existing § 173.86, the competent authority (i.e., the MTB) does not actually test explosives, but instead delegates the actual testing to disinterested third parties or Federal agencies. Therefore, the MTB considers that within the context of this comment, the proposed § 173.86(f) is, in principle, no different from the existing § 173.86 and, therefore, no change to the proposed wording is being made as a result of this comment.

Two commenters supported the basic principle of the proposed § 173.86(f), but objected to the proposed wording because it would eliminate the requirement for third party testing of explosives. The MTB shares this concern and has modified the wording of this paragraph to provide that an approval may be issued only on the basis of a report of tests conducted by disinterested third parties, or on the basis of approvals issued by the competent authority of a foreign government. In the former case, the approval may only be issued when examination of the explosives by the Bureau of Explosives or Bureau of Mines is impracticable. These commenters also suggested that a limitation of ten pounds be placed on the weight of an explosives sample which the Associate Director may authorize for transportation for the purpose of examination by the Bureau of Explosives or Bureau of Mines. The MTB believes this to be unnecessary since the maximum weight of sample to be transported will be considered by the MTB before issuing an authorization. Therefore, no change has been made in this regard. However, this provision has been expanded to include shipment of

the sample to the Bureau of Mines or other government agency.

One commenter suggested that, pursuant to the provisions of § 173.86(f), on the basis of tests conducted solely by a shipper or manufacturer, the Associate Director should be permitted only to authorize the transportation of an explosives sample for examination by the Bureau of Explosives or Bureau of Mines and should not be authorized to issue an approval. The MTB believes that the revised wording of this paragraph, which requires tests to be performed by disinterested third parties, addresses the concerns of this commenter and has made no further changes in this regard.

One commenter supported the proposed § 173.86(f) and felt that the MTB should generally be permitted to issue approvals on the basis of manufacturer's tests and without Bureau of Explosives or Bureau of Mines examination. The MTB believes that such unqualified reliance on manufacturer's tests for the approval of explosives is not in the public interest. As indicated in the MTB's response to previous comments, it is the MTB's intent that Bureau of Explosives or Bureau of Mines examination should be required except when it is impracticable and when the results of tests performed by disinterested third parties can be provided as a substitute for Bureau of Explosives or Bureau of Mines testing.

One comment was received relative to the proposed § 173.86(g). This commenter suggested that this paragraph be modified to permit land mode shipments from Canada to be made under the authority of approvals issued by the Canadian Competent Authority. The MTB is of the opinion that since this question relates specifically to reciprocal arrangements between the United States and Canada, it should more appropriately be dealt with under Docket No. HM-188 and that any decision regarding this suggestion should await final publication of the new Canadian multimodal regulations. Therefore, no change is being made to § 173.86(g) as suggested.

Sections 175.10-175.630. No comments.

Section 178.0-3. This section has been amended to permit the marking of packagings with the United Nations (UN) symbol and packaging identification code as provided in the ICAO Technical Instructions. Although this amendment was not proposed in the notice, the MTB believes that, due to minor differences between the provisions in the IMDG Code and those in the ICAO Technical Instructions for

the marking of packagings with the UN symbol and packaging identification code, it is imperative to authorize the application of these markings in accordance with the ICAO Technical Instructions as well as the IMDG Code. Since the amendment does not impose mandatory additional requirements, notice and procedure thereon are considered unnecessary.

List of Subjects

49 CFR Part 107

Hazardous materials program procedures.

49 CFR Part 171

Hazardous materials transportation, 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 175

Hazardous materials transportation, Air carriers.

49 CFR Part 178

Hazardous materials, Motor vehicle safety, Packaging and containers.

In consideration of the foregoing, 49 CFR Part 107, 171, 172, 173 and 175 and 178 are amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. In § 107.3, the definition of "Competent Authority" is revised to read:

§ 107.3 Definitions.

"Competent Authority" means a national agency responsible under its national law for the control or regulation of a particular aspect of the transportation of hazardous materials (dangerous goods). The term "Appropriate authority", as used in the ICAO Technical Instructions, has the same meaning as "Competent Authority". The Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, is the United States Competent Authority for purposes of this part.

PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

2. In § 171.7 paragraph (d)(27) is revised to read:

§ 171.7 Matter incorporated by reference.

(d) . . .
 (27) International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air, DOC 9284-AN/905 (ICAO Technical Instructions), 1984 edition.

3. In § 171.8 a new definition for "Competent authority" is added in appropriate alphabetical order to read:

§ 171.8 Definitions and abbreviations.

"Competent authority" means a national agency responsible under its national law for the control or regulation of a particular aspect of the transportation of hazardous materials (dangerous goods). The term "Appropriate authority", as used in the ICAO Technical Instructions, has the same meaning as "Competent Authority". The Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, is the United States Competent Authority for purposes of this subchapter and 46 CFR Parts 64 and 146.

4. In § 171.11, paragraph (d)(7) is renumbered (d)(8), paragraphs (d)(4)(ii) and (d)(4)(iii) are renumbered (d)(4)(iii) and (d)(4)(iv) respectively, paragraph (d)(4)(i) is revised and new paragraphs (d)(4)(ii) and (d)(7) are added to read:

§ 171.11 Use of ICAO Technical Instructions.

(d) . . .
 (4) When a hazardous material, that is regulated by this subchapter for transportation by highway, is transported by motor vehicle on a public highway under the provisions of this section, the motor vehicle must be placarded in accordance with Subpart F of Part 172 of this subchapter and the shipping paper must include—

(i) With the exception of hazardous materials in ICAO Class 6.1, Packaging Group III, and in ICAO Class 9, the name of the DOT hazard class most closely corresponding to the ICAO Class in association with the basic description required by the ICAO Technical instructions unless the shipping name contains the key word or words of the hazard class of the material;

(ii) The letters "ORM-E" in association with the basic description for a material in ICAO Class 6.1, Packaging Group III or in ICAO Class 9, that is also a hazardous substance;

(7) If a United States variation is indicated in the ICAO Technical

Instructions for any provision governing the transport of the hazardous material, the hazardous material is transported in conformance with that variation.

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

5. In § 172.512, the section heading and paragraphs (a) and (b) are revised to read:

§ 172.512 Freight containers and aircraft unit load devices.

(a) *Capacity of 640 cubic feet or more.* Each person who offers for transportation, and each person who loads and transports, a hazardous material in a freight container or aircraft unit load device having a capacity of 640 cubic feet or more shall affix to the freight container or aircraft unit load device the placards specified for the material in accordance with § 172.504. However,—

(1) The placarding exception provided in § 172.504(c)(1) applies to motor vehicles transporting freight containers and aircraft unit load devices.

(2) The placarding exception provided by paragraphs (c)(1) and (c)(2) of § 172.504 applies to each freight container and aircraft unit load device being transported for delivery to a consignee immediately following air or water shipment, and,

(3) Placarding is not required on a freight container or aircraft unit load device if it is only transported by air and is identified as containing a hazardous material in the manner provided in Part 5, Chapter 2, Section 2.7, of the ICAO Technical Instructions.

(b) *Capacity less than 640 cubic feet.* Each person who offers for transportation by air, and each person who loads and transports by air, a hazardous material in a freight container or aircraft unit load device having a capacity of less than 640 cubic feet shall affix one placard of the type specified by paragraph (a) of section unless the freight container or aircraft unit load device—

(1) Is labeled in accordance with § 172.406(e)(3);

(2) Contains radioactive materials requiring the Radioactive Yellow III label and is placarded with one Radioactive placard and is labeled in accordance with § 172.406(e); or,

(3) Is identified as containing a hazardous material in the manner provided in Part 5, Chapter 2, Section 2.7, of the ICAO Technical Instructions.

When hazardous materials are offered for transportation, not involving air transportation, in a freight container having a capacity of less than 640 cubic feet the freight container need not be placarded. However, if not placarded it must be labeled in accordance with Subpart E of this part.

PART 173—SHIPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

6. In § 173.6, a new paragraph (d) is added to read:

§ 173.6 Shipments by air.

(d) No person may offer for transportation aboard aircraft an overpack containing hazardous materials which require segregation under the provisions of § 173.78 of this subchapter.

7. In § 173.86, paragraph (c)(2) is amended by replacing the words "paragraph (d) or (e)" with the words "paragraph (d), (e), (f), or (g)". paragraph (d) is revised by removing the words "and approval" and new paragraph (f) and (g) are added to read:

§ 173.86 New explosives definitions; approval and notification.

(f) Notwithstanding the provisions of paragraph (b) or (d) of this section, the Associate Director for Hazardous Materials Regulation may approve a new explosive on the basis of an approval issued for the explosive by the competent authority of a foreign government, or, when examination of explosives by the Bureau of Explosives or Bureau of Mines is impracticable, on the basis of reports of tests conducted by disinterested third parties, or may approve the transportation of an explosives sample for the purpose of examination by the Bureau of Explosives, or the Bureau of Mines or other government agency.

(g) Notwithstanding the provisions of paragraph (b) of this section, an explosive may be transported under the provisions of §§ 171.11, 171.12 or 176.11 without the approval of the Associate Director for Hazardous Materials Regulation provided that the Associate Director for Hazardous Materials Regulation has acknowledged, in writing, the acceptability of an approval issued by the competent authority of a foreign government pursuant to the provisions of the UN Recommendations, the ICAO Technical Instructions, the IMDG Code or other national or

international regulations based on the provisions of the UN Recommendations. In such cases, a copy of the approval of the foreign competent authority, and a copy of the written acknowledgement of its acceptability must accompany each shipment of that explosive.

PART 175—CARRIAGE BY AIRCRAFT

8. In § 175.10, paragraph (a)(18) is amended and a new paragraph (a)(21) added to read:

§ 175.10 Exceptions.

(a) . . .

(18) Carbon dioxide gas cylinders worn by passengers for the operation of mechanical limbs and spare cylinders of a similar size for the same purpose in sufficient quantities to ensure an adequate supply for the duration of the journey.

(21) Catalytic hair curlers containing hydrocarbon gas, not more than one per passenger or crew member, when carried in checked baggage, provided that the safety cover is securely fitted over the heating element. Gas refills for such curlers are not permitted in checked or carry-on baggage.

9. In § 175.33, a new paragraph (a)(6) is added to read:

§ 175.33 Notification of pilot-in-command.

(a) . . .

(6) An indication, when applicable, that a hazardous material is being carried under terms of an exemption.

§ 175.78 [Amended]

10. In § 175.78, Note 3 to Table 1 is revised by removing the period at the end of the note and adding the words "except that compatibility groups C, D and E may be stowed together. Explosives of ICAO Division 1.4, Compatibility Group S may be stowed with explosives of all compatibility groups with the exception of A and L."

11. In § 175.630, paragraph (a) is revised to read:

§ 175.630 Special requirements for poisons and etiologic agents.

(a) Hazardous materials bearing the POISON or ETIOLOGIC AGENT label may not be carried in the same compartment of an aircraft with material which is marked as or known to be foodstuffs, feed, or any other edible material intended for consumption by humans or animals unless either the poisons or etiologic agents and the foodstuffs, feed, or other edible materials are loaded in separate unit load devices which, when stowed on the aircraft, are not adjacent to each other, or the poisons or etiologic agents are loaded in one closed unit load device and the foodstuffs, feed or other materials are loaded in another closed unit load device.

PART 178—SHIPPING CONTAINER SPECIFICATIONS

12. In § 178.0-3, paragraphs (a) and (a)(1) are amended to read:

§ 178.0-3 United Nations symbol and packaging identification code.

(a) In addition to the markings required by this subchapter, packagings may be marked with the United Nations symbol and packaging identification code as provided in the ICAO Technical Instructions or in Annex 1 to the IMDG Code provided that the person applying these markings has established that the packaging conforms to the applicable provisions of the ICAO Technical Instructions or Annex 1 to the IMDG Code, respectively.

(1) If an indication of the State in whose territory the specified tests have been carried out or of the State authorizing the allocation of the mark is required, the letters "USA" shall be used.

(49 U.S.C. 1803, 1804, 1806; 49 CFR 1.53 App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this document does not constitute a "major rule" under the terms of Executive Order 12291 or a significant regulation under DOT's regulatory policy and procedures (44 FR 11034) or require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, et seq.). I certify that this proposal will not have a significant economic impact on a substantial number of small entities because the overall economic impact of this proposal is minimal. A regulatory evaluation and environmental assessment are available for review in the docket.

Issued in Washington, D.C. on November 21, 1983.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 83-31764 Filed 11-29-83; 9:45 am] BILLING CODE 4910-00-01