

DEPARTMENT OF TRANSPORTATION**Research and Special Programs
Administration****49 CFR Parts 171, 172 and 173****[Docket No. HM-166L; Notice No. 82-1]****Regulation of Consumer Commodities;
Paint and Paint Related Material
Adhesive, n.o.s.****AGENCY:** Materials Transportation
Bureau, Research and Special Programs
Administration, DOT.**ACTION:** Notice of proposed rulemaking.**SUMMARY:** The Materials Transportation Bureau (MTB) is proposing to reduce the flash point limitation from 73° F to 20° F. for flammable liquids in inside containers, each having a rated capacity of one gallon or less, that may be shipped as consumer commodities, including paint and paint related material. Also proposed is a uniform description for paint products so that they may be described in a consistent manner by shippers. This action will reduce burdens on shippers and carriers of these materials, clarify the proper shipping name and identification number for Adhesive, n.o.s., and reduce NTB's backlog of rulemaking petitions.**DATE:** Comments must be received by April 2, 1982.**ADDRESS:** Address comments to:
Dockets Branch, Materials
Transportation Bureau, U.S. Department
of Transportation, Washington, D.C.
20590. Comments should identify the
docket and be submitted in five copies.
The Dockets Branch is located in Room
8426 of the Nassif Building, 400 Seventh
Street, SW., Washington, D.C. Public
dockets may be reviewed between the
hours of 8:30 a.m. and 5:00 p.m. Monday
through Friday.**FOR FURTHER INFORMATION CONTACT:**
Darrell L. Raines, Chief, Exemptions and
Regulations Termination Branch, Office
of Hazardous Materials Regulation,
Materials Transportation Bureau,
Washington, D.C. 20590 (202-472-2726).**SUPPLEMENTARY INFORMATION:** This
document is the thirteenth in a series of
notices and amendments designed to
reduce regulatory burdens by

incorporating changes in the Hazardous Materials Regulations based on either petitions for rulemaking submitted in accordance with 49 CFR 106.31 or on MTB's own initiative. The MTB published its first notice of proposed rulemaking under Docket HM-166 on November 30, 1978 (43 FR 56070).

This Notice is based on a petition from the National Paint and Coatings Association, Inc. (NPCA) and upon MTB's own initiative. The changes proposed herein would authorize (1) the use of the work "Paint" or the words "Paint related material" as proper shipping names because several of the descriptions used currently for shipping names in § 172.101 are obsolete or are seldom used to describe today's paint products; and (2) expand the coverage of the consumer commodity category for flammable liquids by lowering the flash point limitation for one gallon inside containers specified in § 172.1200(a)(1)(iii) from 73° F. to 20° F. ("Flash point" means the minimum temperature at which a substance gives off flammable vapors which in contact with spark or flame will ignite.). This latter provision will apply to all consumer commodities, although MTB believes the greatest benefit will be derived by the paint industry.

The NPCA has stated that approximately 400 million cans of paint shipped in 1980 were subject to the Department's Hazardous Materials Regulations and that more than 300 million cans were of the one-gallon size. Approximately 100 million one-gallon cans shipped in 1980 had a flash point between 20° F. and 73° F. Therefore, if the proposal is adopted, labels will not be required on approximately 25 million cases of paint for transportation by highway, rail and vessel, resulting in a savings to shippers of .5 million dollars. Also it is estimated that adoption of this proposed rulemaking will eliminate the need for shipping papers on approximately one-half million

individual shipments moving by highway, rail and vessel and will result in annual savings of approximately one million dollars to shippers and carriers of paint and paint related material alone.

As indicated in Docket No. HM-36A; Notice No. 80-5 (45 FR 40628) June 16, 1980, the consequences of incidents involving paint and paint related material shipped in small packagings have been minor, involving only a few minor injuries and no deaths. In view of the limited risk presented by these materials in packagings of one gallon or less, the MTB is proposing to lower the specified flash point from 73° f. to 20° F. in § 173.1200 for materials which are flammable and are eligible to be reclassified as ORM-D and offered for shipment as consumer commodities. This proposed change does not apply to carriage aboard aircraft because these flammable materials, at the increased volume proposed by this Notice, should continue to be subject to inspection as required by § 175.30(b) and (c) before they are loaded aboard passenger carrying aircraft (if authorized) and cargo-only aircraft. Due to the fire hazard should there be any leakage from packages, MTB believes this distinction between carriage aboard aircraft and surface transportation is necessary.

The MTB is proposing to delete the entry "Adhesive, n.o.s. See Cement, liquid, n.o.s." in § 172.101 and add "Adhesive, n.o.s." classed as Flammable liquid and Combustible liquid. Several inquiries have been received concerning the identification number assigned to the proper shipping name "Cement, liquid, n.o.s." and the alternate names "Adhesive, n.o.s.," and "Cement, adhesive, n.o.s." which reference the primary entry. The identification number assigned is NA1133. The "NA" prefix was assigned because "Cement, liquid, n.o.s." does not match the description listed in the United Nations Recommendations for

the Transport of Dangerous Goods. Identification numbers with the "NA" prefix are associated with descriptions that are not recognized for international shipments, except to Canada. This has caused problems because a single description cannot be used for both domestic and international shipments of hazardous materials. Assigning the identification number UN1133 to the proper shipping name and class, "Adhesive, n.o.s., Flammable liquid" and "Adhesive, n.o.s., Combustible liquid," should alleviate the problem.

This proposed rulemaking will result in a substantial savings of time and money to all shippers of paint, paint related material, and other flammable liquids, that may be described as "Consumer commodities" because of the reduction in labeling and related paperwork.

In consideration of the foregoing, Parts 171, 172, and 173 of 49 CFR would be amended to read as follows:

PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

1. In § 171.16, paragraph (c)(3) would be revised to read as follows:

§ 171.16 Detailed hazardous materials incident reports.

* * * * *

(c) * * *

(3) Paint and paint related material when shipped in packagings of five gallons or less.

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PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

2. In § 171.101 the Hazardous Materials Table would be amended by adding, removing, or revising the following named entries to read as follows:

§ 172.101 Hazardous Materials Table.

(1) + T/E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging		(6) Maximum net quantity in one package		(7) Water shipments		
					Excep- tions	Specific require- ments	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo Ves- sel	Pas- senger vessel	Other require- ments
	Remove										
	Adhesive, n.o.s. See Cement, liquid, n.o.s.										
	Aluminum, liquid. See Paint, Enamel, Lacquer, Stain, Shellac, Varnish, etc.										
	Compound, enamel	Flammable liquid.	NA1263	Flammable liquid.	173.118	173.128	1 quart	55 gallons	1, 2	1	
	Compound, lacquer, paint, or varnish, removing, reducing, or thinning, liquid.	Combustible liquid.	NA1142	None	173.118a				1, 2	1, 2	

(1) + /E/A/W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identification number	(4) Label(s) required (if not excepted)	(5) Packaging		(6) Maximum net quantity in one package		(7) Water shipments		
					Exceptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo Vessel	Passenger vessel	Other requirements
	Compound, lacquer, paint, or varnish, removing, liquid.....	Corrosive material.	NA1760.....	Corrosive.....	173.244	173.245	1 quart.....	1 gallon.....	1, 2	1, 2	
	Compound, lacquer, paint, or varnish, removing, reducing, or thinning, liquid. <i>Drier. See Paint drier, liquid</i> <i>Enamel. See Paint, Enamel, Lacquer, etc</i> <i>Lacquer. See Paint, Enamel, Lacquer, Stain, etc</i> <i>Lacquer base, liquid. See Paint, Enamel, Lacquer, Stain, etc.</i> <i>Lacquer removing, reducing, or thinning, compound. See Compound, lacquer, paint, or varnish, removing, reducing or thinning liquid.</i> <i>Mortar stain, liquid.....</i>	Flammable liquid.	NA1142.....	Flammable liquid.	173.118	173.128	1 quart.....	55 gallons...	1, 2	1	3
	<i>Mortar stain, liquid.....</i>	Combustible liquid.	UN1263.....	None.....	173.118a	None	No limit.....	No limit.....	1, 2	1, 2	
	<i>Mortar stain, liquid.....</i>	Flammable liquid.	UN1263.....	Flammable liquid.	173.118	173.128	1 quart.....	55 gallons...	1, 2	1	
	<i>Paint drier, liquid.....</i>	Combustible liquid.	UN1168.....	None.....	173.118a	None	No limit.....	No limit.....	1, 2	1, 2	
	<i>Paint drier, liquid.....</i>	Flammable liquid.	UN1168.....	Flammable liquid.	173.118	173.128	1 quart.....	55 gallons...	1, 2	1	
	<i>Paint, Enamel, Lacquer, Stain, Shellac, or Varnish, Aluminum, Bronze, Gold, Wood filler, liquid or Lacquer base, liquid.</i>	Combustible liquid.	UN1263.....	None.....	173.118a	None	No limit.....	No limit.....	1, 2	1, 2	
	<i>Paint, Enamel, Lacquer, Stain, Shellac, or Varnish; Aluminum, Bronze, Gold, Wood filler, liquid or Lacquer base, liquid.</i> <i>Paint, reducing or thinning compound. See Compound, lacquer, paint, or varnish, removing, reducing or thinning, liquid.</i> <i>Reducing compound, paint, varnish, lacquer, etc. See Compound, lacquer, paint or varnish, removing, reducing, or thinning liquid.</i> <i>Removing compound, paint, varnish, lacquer, etc. See Compound, lacquer, paint or varnish, removing, reducing, or thinning, liquid.</i> <i>Shellac. See Paint, Enamel, Lacquer, Stain, Shellac, Varnish, etc.</i> <i>Stain. See Paint, Enamel, Lacquer, Stain, Shellac, Varnish, etc.</i> <i>Thinning compound, paint, varnish, lacquer, etc. See Compound, lacquer, paint or varnish, removing, reducing or thinning, liquid.</i> <i>Varnish. See Paint, Enamel, Lacquer, Stain, Shellac, Varnish, etc.</i> <i>Varnish drier. See Paint drier, liquid</i> <i>Varnish remover or reducer. See Compound, lacquer, paint or varnish, removing, reducing, or thinning, liquid.</i> <i>Varnish thinning compound. See Compound, lacquer, paint or varnish, removing, reducing, or thinning, liquid.</i> <i>Wood filler, liquid. See Paint, Enamel, Lacquer, Stain, Shellac, Varnish, etc.</i>	Flammable liquid.	UN1263.....	Flammable liquid.	173.118	173.128	1 quart.....	55 gallons...	1, 2	1	
	(Add)										
	Adhesive, n.o.s.....	Combustible liquid.	UN1133.....	None.....	173.118a	None	No limit.....	No limit.....	1, 2	1, 2	
	Adhesive, n.o.s.....	Flammable liquid.	UN1133.....	Flammable liquid.	173.118	173.132	1 quart.....	10 gallons...	1, 2	1	
	Paint.....	Combustible liquid.	UN1263.....	None.....	173.118a	None	No limit.....	No limit.....	1, 2	1, 2	
	Paint related material.....	Combustible liquid.	NA1263.....	None.....	173.118a	None	No limit.....	No limit.....			
	Paint.....	Flammable liquid.	UN1263.....	Flammable liquid.	173.118	173.128	1 quart.....	55 gallons...	1, 2	1	
	Paint related material.....	Flammable liquid.	NA1263.....	Flammable liquid.	173.118	173.128	1 quart.....	55 gallons.....			
	Paint or Paint related material.....	Corrosive material.	NA1760.....	Corrosive.....	173.244	173.245	1 quart.....	1 gallon.....	1, 2	1, 2	

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

3. In § 173.128, the heading and the introductory text of paragraph (a) would be revised to read as follows:

§ 173.128 Paint and paint related material (flammable liquids).

(a) Except as otherwise provided in this part, the description "Paint" is the

proper shipping name for paint, lacquer, enamel, stain, shellac, varnish, liquid aluminum, liquid bronze, liquid gold, liquid wood filler, and liquid lacquer base. The description "Paint related material" is the proper shipping name for a paint thinning, reducing or removing compound or a liquid paint drier. However, if a more specific description is listed in § 172.101, that description must be used. Special

exceptions for shipment of paint and paint related material in the ORM-D class are provided in subpart N of this Part. Paint and paint related material must be packaged as follows:

* * * * *

4. In § 173.132, the heading, introductory text of paragraph (a), and paragraph (b) would be revised to read as follows:

incorporating changes in the Hazardous Materials Regulations based on either petitions for rulemaking submitted in accordance with 49 CFR 106.31 or on MTB's own initiative. The MTB published its first notice of proposed rulemaking under Docket HM-166 on November 30, 1978 (43 FR 56070).

This Notice is based on a petition from the National Paint and Coatings Association, Inc. (NPCA) and upon MTB's own initiative. The changes proposed herein would authorize (1) the use of the work "Paint" or the words "Paint related material" as proper shipping names because several of the descriptions used currently for shipping names in § 172.101 are obsolete or are seldom used to describe today's paint products; and (2) expand the coverage of the consumer commodity category for flammable liquids by lowering the flash point limitation for one gallon inside containers specified in § 172.1200(a)(1)(iii) from 73° F. to 20° F. ("Flash point" means the minimum temperature at which a substance gives off flammable vapors which in contact with spark or flame will ignite.) This latter provision will apply to all consumer commodities, although MTB believes the greatest benefit will be derived by the paint industry.

The NPCA has stated that approximately 400 million cans of paint shipped in 1980 were subject to the Department's Hazardous Materials Regulations and that more than 300 million cans were of the one-gallon size. Approximately 100 million one-gallon cans shipped in 1980 had a flash point between 20° F. and 73° F. Therefore, if the proposal is adopted, labels will not be required on approximately 25 million cases of paint for transportation by highway, rail and vessel, resulting in a savings to shippers of .5 million dollars. Also it is estimated that adoption of this proposed rulemaking will eliminate the need for shipping papers on approximately one-half million

individual shipments moving by highway, rail and vessel and will result in annual savings of approximately one million dollars to shippers and carriers of paint and paint related material alone.

As indicated in Docket No. HM-36A; Notice No. 80-5 (45 FR 40628) June 16, 1980, the consequences of incidents involving paint and paint related material shipped in small packagings have been minor, involving only a few minor injuries and no deaths. In view of the limited risk presented by these materials in packagings of one gallon or less, the MTB is proposing to lower the specified flash point from 73° f. to 20° F. in § 173.1200 for materials which are flammable and are eligible to be reclassified as ORM-D and offered for shipment as consumer commodities. This proposed change does not apply to carriage aboard aircraft because these flammable materials, at the increased volume proposed by this Notice, should continue to be subject to inspection as required by § 175.30(b) and (c) before they are loaded aboard passenger carrying aircraft (if authorized) and cargo-only aircraft. Due to the fire hazard should there be any leakage from packages, MTB believes this distinction between carriage aboard aircraft and surface transportation is necessary.

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the Transport of Dangerous Goods. Identification numbers with the "NA" prefix are associated with descriptions that are not recognized for international shipments, except to Canada. This has caused problems because a single description cannot be used for both domestic and international shipments of hazardous materials. Assigning the identification number UN1133 to the proper shipping name and class, "Adhesive, n.o.s., Flammable liquid" and "Adhesive, n.o.s., Combustible liquid," should alleviate the problem.

This proposed rulemaking will result in a substantial savings of time and money to all shippers of paint, paint related material, and other flammable liquids, that may be described as "Consumer commodities" because of the reduction in labeling and related paperwork.

In consideration of the foregoing, Parts 171, 172, and 173 of 49 CFR would be amended to read as follows:

PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

1. In § 171.16, paragraph (c)(3) would be revised to read as follows:

§ 171.16 Detailed hazardous materials incident reports.

(c) * * *

(3) Paint and paint related material when shipped in packagings of five gallons or less.

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

2. In § 171.101 the Hazardous Materials Table would be amended by adding, removing, or revising the following named entries to read as follows:

§ 172.101 Hazardous Materials Table.

(1) + E.A.W	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(3A) Identifica- tion number	(4) Label(s) required (if not excepted)	(5) Packaging		(6) Maximum net quantity in one package		(7) Water shipments		
					Excep- tions	Specific require- ments	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo Ves- sel	Pas- senger vessel	Other require- ments
					(a)	(b)	(a)	(b)	(a)	(b)	(c)
	Remove										
	Adhesive, n.o.s. See Cement, liquid, n.o.s.										
	Aluminum, liquid. See Paint, Enamel, Lacquer, Stain, Shellac, Varnish, etc										
	Compound, enamel	Flammable liquid	NA1263	Flammable liquid	173.118	173.128	1 quart	55 gallons	1, 2		1
	Compound, lacquer, paint, or varnish, removing, reducing, or thinning, liquid.	Combustible liquid	NA1142	None	173.118a				1, 2		1, 2