

DEPARTMENT OF TRANSPORTATION
Materials Transportation Bureau

[49 CFR Parts 172, 173, 174, 177, and 178]

[Docket No. HM-139B; Notice No. 79-10]

Individual Exemptions, Conversion to Regulations of General Applicability

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, D.O.T.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Materials Transportation Bureau is considering amending the regulations governing the transportation of hazardous materials to incorporate therein a number of changes based on existing exemptions which have been granted to individual applicants allowing them to perform particular functions in a manner that varies from that specified by the regulations. Adoption of these exemptions as rules of general applicability would provide wider access to the benefits of transportation innovations recognized as effective and safe.

DATES: Comments on or before July 25, 1979.

ADDRESS: SEND COMMENTS TO: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Office of Hazardous Materials Regulation, 2100 Second Street, SW., Washington, D.C. 20590 (202-755-4962).

SUPPLEMENTARY INFORMATION: This is

the thirteenth notice published under Docket HM-139 since the first notice appeared in the Federal Register on September 13, 1976. It is apparent that some method is necessary to distinguish between the many different notices and amendments that will continue to appear under this docket number in the future. Consequently, in order to eliminate confusion and provide for easier reference, all notices and amendments published under HM-139 will be identified with a letter suffix. For example, the last notice (43 FR 58834) and the amendment based on that notice were identified as HM-139A. This notice is identified as HM-139B. Primary drafters of these proposals are Darrell L. Raines, and John C. Allen, Office of Hazardous Materials Regulation, and Evan Braude, Office of the Chief Counsel, Research and Special Programs Administration.

Each of the proposed amendments described in the following table is founded upon either: (1) actual shipping experience gained under an exemption, or (2) the data and analysis supplied in the application. In each case the resulting level of safety being afforded the public is considered at least equal to the level of safety provided by the current regulations.

Adoption of an amendment derived from an existing exemption would obviate the need for that exemption. Therefore, it would be terminated. Upon such termination, the holder of the exemption and parties thereto would be individually notified. Adoption of an amendment derived from an application for exemption should provide the relief sought, in which event the exemption request would be denied and the applicant so notified. In the event the Bureau decides not to adopt any of these proposals each pertinent application

would be evaluated and acted upon in accordance with the application provisions of the exemption procedures in 49 CFR Part 107, Subpart B. Consequently, persons commenting on proposed amendments may wish to address both the proposed amendment and the exemption application. Consideration of comments of the merits of including within an amendment modes of transportation other than those for which the exemption application requested is anticipated.

Each mode of transportation for which a particular exemption is authorized or requested is indicated in the "Nature of Exemption of Application" portion of the following table as follows: 1-Motor vehicle, 2-Rail freight, 3-Cargo vessel, 4-Cargo-only aircraft, 5-Passenger-carrying aircraft. The status of the exemption action is indicated in the column titled Identification Number where prefix "E" means an exemption has been issued. The suffix "No" means no applications for exemptions are pending, but the Bureau is taking action by this proposal; the suffix "X" means a renewal application is pending; the suffix "P" means one or more party status applications are pending; and the suffix "N" means a new application for exemption is pending.

These proposals would not significantly affect the costs of regulatory enforcement, nor would additional costs be imposed on the private sector, consumers, or Federal, State or local governments, since these proposals would merely authorize the general use of shipping alternatives previously available to only a few users under exemptions. The safety record of shipments under the identified exemptions demonstrates that significant environmental impacts would not result from any of the proposals.

Proposed Amendments of Hazardous Materials Regulations To Terminate Exemptions

Identification No	Applicant holder	Regulation affected	Nature of exemption or application	Nature of proposed amendment
E 3822-No.	Dow Chemical Co.	§ 173.252(a)(4)	Authorizes shipments of bromine as prescribed in § 173.252(a)(4) except that the total quantity loaded must not be less than 92 percent of the quantity the tank is authorized to carry. (Mode 1.)	To amend the last sentence in § 173.252(a)(4) to read: The total quantity loaded must not be less than 92 percent of the quantity the tank is authorized to carry.
E 6632-X	Roper Plastics, Inc.	§ 178.16-13(3)	Authorizes shipments of certain dry oxidizing materials in single-trip, molded polyethylene containers of 3½ gallon, 6 gallon and 7 gallon capacity. (Modes 1, 2, and 3.) Note.—DOT Specification 35 (§ 178.16) requires two drums, stacked two high, to withstand a static compression test of 600 pounds applied evenly for 48 hours regardless of the size of the drums. Test results have proven that a 3½ gallon specification 35 type drum	To revise the second sentence of § 178.16-13(3) to read: The two drums of identical capacity, stacked two high, must withstand a static compression test applied evenly for 48 hours to the top rim of the top drum without buckling of the side walls or leakage. The compression weight load to be applied must be the greater of 300 pounds or the volume in gallons of one drum times 85 pounds.

Proposed Amendments of Hazardous Materials Regulations To Terminate Exemptions—Continued

Identification No	Applicant holder	Regulation affected	Nature of exemption or application	Nature of proposed amendment
E 6671-No., E7434-No., E7551-No.	Dow Chemical Co., Hercules Inc., Dow Corning Corp., FMC Corp., Natico, Inc.	§ 173.3(c), § 174.48(b), § 177.854(c)(2).	<p>should not be required to withstand the same static load as the 5 to 7 gallon drum. Therefore, it is being proposed here to revise the second sentence of § 178.16-13(3) to authorize a graduate scale based upon a weight per gallon.</p> <p><i>Correction.</i> These exemptions authorized the use of "Recovery Drums" for damaged or defective packages containing a wide range of hazardous materials. An amendment incorporating the provisions of these exemptions became effective on April 27, 1978 (43 FR 17942). Since that time there have been a number of questions concerning the shipment and use of recovery drums. It is being proposed here to eliminate the apparent confusion by amending the requirements for recovery drums to specifically address marking, labeling, shipping paper requirements, and questions over reconditioning and overpacks. (Modes 1, 2, and 3).</p>	<p>To revise § 173.3(c) to read:</p> <p>(c) Packages that are damaged or leaking and which contain corrosive liquids, corrosive solids, flammable liquids, flammable solids, oxidizers, poison B liquids, poison B solids, irritating agents or any material classed as an ORM may be placed inside a metal recovery drum and shipped to a facility for disposal or repackaging under the following conditions:</p> <p>(1) The drum utilized may be either a DOT specification or a non-DOT specification drum as long as the drum has equal or greater structural integrity than a drum that is authorized for the respective material in this subchapter. Maximum capacity shall not exceed 110 gallons.</p> <p>(2) Drums must be provided with adequate closure and, when necessary, provided with sufficient cushioning and absorption material to prevent excessive movement of the damaged package and to absorb leaking liquid.</p> <p>(3) Drums must be marked with the proper shipping name of the material inside the defective packaging and the name and address of the consignee. In addition, the drum must be marked "RECOVERY DRUM."</p> <p>(4) The recovery drum must be labeled as prescribed for the respective material.</p> <p>(5) The shipper shall prepare shipping papers in accordance with Subpart C of Part 172 of this subchapter.</p> <p>(6) The overpack requirements of § 173.25 and the reconditioning requirements of § 173.28(m) of this subchapter do not apply to drums used in accordance with this paragraph.</p> <p>To revise § 174.48(b) to read:</p> <p>(b) During transit, damaged or leaking packages which contain corrosive liquids, corrosive solids, flammable liquids, flammable solids, oxidizers, poison B liquids, poison B solids, irritating agents or any material classed as an ORM may be forwarded to destination or returned to the shipper in a recovery drum meeting all requirements of § 173.3(c) of this subchapter except that shipping papers are not required.</p> <p>To revise § 177.854(c)(2) to read:</p> <p>(2) During transit, damaged or leaking packages which contain corrosive liquids, corrosive solids, flammable liquids, flammable solids, oxidizers, poison B liquids, poison B solids, irritating agents or any material classed as an ORM may be forwarded to destination or returned to the shipper in a recovery drum meeting all requirements of § 173.3(c) of this subchapter.</p> <p>To revise paragraph (b) to read:</p> <p>(b) Each tank may not exceed a rated gross weight of 7,700 pounds.</p>
E 7019-No., E 7992-No., E 7994-No.	Hooker Chemical Co., Stauffer Chemical, Monsanto Company.	§ 178.252-1(b)	Authorizes shipments of phosphorus pentasulfide in DOT Specification 58 metal portable tanks having a maximum gross weight of 7,700 pounds. (Mode 1 and 2).	To add new entries (in <i>italics</i>) to Column (2) of the Hazardous Materials Table § 172.101 and add paragraph (f) of § 173.206 to read: <p>(f) Lithium batteries (or cell) which are hermetically sealed, contain not more than 0.5 grams each of lithium or lithium alloy, separated from each other so as to prevent short circuits, and overpacked in a strong outside container are not subject to the requirements of this subchapter. This exception also applies to batteries shipped as a part of devices such as calculators, photographic equipment and watches.</p>
E 7924-No., E 7883-No.	National Semiconductor Corp., Exxon Enterprises, Union Carbide Corp.	§ 173.206	Authorizes shipments of small lithium cells (batteries) containing not more than 0.5 grams of lithium metal, or lithium-aluminum alloy for use in wrist watches. Cells must be separated from each other so as to prevent short circuits. (Modes 1, 2, 3, 4 and 5).	

Proposed Amendments of Hazardous Materials Regulations To Terminate Exemptions—Continued

Identification No.	Applicant holder	Regulation affected	Nature of exemption or application	Nature of proposed amendment
E 7939-N	Lea-Ronal, Inc.	§ 173.246(a)	Authorizes shipments of various Class B poisons in DOT Specification 37M/2SL composite packaging. (Modes 1, 2, and 4).	To revise paragraph (a)(20) to read: (20) Specification 6D or 37M (§§ 178.102, 178.134 of this subchapter). Cylindrical steel overpacks with inside specifications 2S or 2SL (§§ 178.35, 178.35a of this subchapter) polyethylene containers. Authorized for materials that will not react with polyethylene and result in container failure.
E 7950-No	Martin Marietta Corp.	§ 173.154(a)(9)	Authorizes shipments of dinitrophenol wet with 10 percent by weight of water in DOT Specification 21C400 fiber drums having a maximum net weight of 350 pounds. (Mode 1).	To revise paragraph (a)(9) to read: (9) Specification 21C (§ 178.224 of this subchapter). Fiber drums. Maximum net weight may not exceed 225 pounds except that a 21C400 fiber drum may have a net weight not exceeding 350 pounds.
E 7953-No	Fennwalt Corp.	§ 173.157(a)(5), § 173.157(b)(5)	Authorizes shipments of wet boron trioxide as authorized in § 173.157(a)(5) and § 173.157(b)(5) except that the net weight (dry weight) in each inside container may not exceed 25 pounds. (Modes 1 and 3).	To amend paragraphs (a)(5) and (b)(5) by increasing the net weight (dry weight) in each inside container from 10 pounds to 25 pounds.
E 7961-No	Union Carbide Corps.	§ 173.119(m)(14)	Authorizes shipments of propylene oxide in DOT Specification 114A340W tank cars. (Mode 2).	To revise paragraph (m)(14) to read: (14) Specification 105A100W, 112A200W, or 114A340W (§ 179.100 and 179.101 of this subchapter). Tank cars. Authorized only for propylene oxide except 112A200W also authorized for acrylonitrile.
E 7962-No	DuBoise Chemicals	§ 173.256(a)(7)	Authorizes shipments of a compound, cleaning liquid containing not more than 14 percent hydrofluoric acid, by weight in DOT Specification 37M cylindrical steel overpack with an inside specification 2U polyethylene container. (Modes 1 and 2).	To revise paragraph (a)(7) to read: (7) Specification 37M (§ 178.134 of this subchapter). Cylindrical steel overpack with inside specification 2U (§ 178.24 of this subchapter) polyethylene container. For compounds containing not more than 7 percent hydrofluoric acid by weight, the steel overpack must be a minimum of 22-gauge. For compounds containing more than 7 percent hydrofluoric acid by weight but not over 14 percent hydrofluoric acid by weight, the steel overpack must be a minimum of 20-gauge body and 18-gauge heads. When a full removable head is used, the bolted type ring closure must be 18-gauge.
E 7984-No	Air Products and Chemicals, Inc.	§ 173.154(a)	Authorizes shipment of an oxidizer consisting of a mixture of 24 to 26 percent ammonia, 68 to 70 percent ammonium nitrate and 5 to 7 percent water. (Mode 2).	To add paragraph (a)(21) to read: (21) Specification 105A200 ALW (§ 179.100, 179.101 of this subchapter). Tank cars. Authorized only for a mixture of 24 to 26 percent ammonia, 68 to 70 percent ammonium nitrate and 5 to 7 percent water. Transportation by water is not authorized.
E 8052-No	Sport Spec International, LTD.	§ 173.178(a)	Authorizes shipments of calcium carbide in water-tight metal cans containing not over 5 pounds of product and overpacked in DOT Specification 12B fiberboard boxes. (Modes 1 and 2).	To add paragraph (a)(5) to read: (5) Specification 12B (§ 178.205 of this subchapter). Fiberboard boxes with water-tight metal inside cans of not over 2-quart capacity each. Cans must have welded or soldered side seams, rolled and folded top and bottom seams with a friction or threaded type closure.
E 8064-No	GTE Sylvania	§ 173.247(a)(3)	Authorizes shipments of thionyl chloride in DOT Specification 6G metal drums of type 624 stainless steel and not over 60-gallon capacity each. (Modes 1, 2, and 3).	To revise paragraph (a)(3) to read: (3) Specification 6G (§ 178.63 of this subchapter). Barrels or drums of Type 624 stainless steel not over 60-gallon capacity each. Authorized for thionyl chloride and thionyl chloride only.
E 8070-No	Olin Corp.	§ 173.83(b)	Authorizes shipments of propellant explosives in water in DOT Specification 17H steel drums not over 60-gallon each. (Mode 1).	To add paragraph (b)(2) to read: (2) Specification 17H (§ 178.113 of this subchapter). Steel drums (single-top) not over 60-gallon capacity each.
E 8071-No	Ethyl Corp.	§ 173.383(a)(4)	Revision. This exemption authorized the use of DOT Specification 61 portable tanks having a maximum allowable working pressure of 175 psig. for the shipment of sodium potassium alloy. An amendment incorporating the provisions of this exemption became effective on April 12, 1979 (44 FR 21723). Published rule change requires a "minimum" design pressure of 175 psig. It is being proposed here to change the 175 psig. to read 150 psig. (Modes 1, 2, 3).	To amend the second sentence in § 173.383(a)(4) to read: Tanks shall have a minimum design pressure of 150 pounds per square inch.

Proposed Amendments of Hazardous Materials Regulations To Terminate Exemptions—Continued

Identification No.	Applicant holder	Regulation affected	Nature of exemption or application	Nature of proposed amendment
E 8098-No	Witco Chemical Corp.	§ 173.157(b)	Authorizes shipments of benzoyl peroxide in DOT Specification 21C fiber drums as specified in § 173.157(b)(2) except the net weight (dry weight) in each outside drum may not exceed 55 pounds. (Modes 1, 2, and 3).	To revise paragraph (b)(2) to read: (2) Specification 21C (§ 178.224 of this subchapter). Fiber drum with securely closed inside plastic containers made of polyethylene film at least 0.004 inch thick. Net weight (dry weight) in each outside drum may not exceed 55 pounds.
8190-N	Ethyl Corp.	§ 173.245(a)(32)	Request to ship dimethyl chlorothiophosphate (also known as dimethyl phosphorochloridothionate) in DOT specification 105A300W tank cars. (Mode 2).	To add two new entries to the Hazardous Materials Table in § 172.101 to read: To revise paragraph (a)(32) to read: (32) Specification 103AW, 103A-ALW, 103ANW, 103BW, 103CW, 103EW, 105A100W, 105A200ALW, 111A100F2, 111A60ALW2, 111A60W2, 111A60W5 or AAR-201A80W (§§ 179.100, 179.101, 179.200, and 179.201 of this subchapter). Tank cars. Specification 105A200 ALW tank cars authorized only for acetic anhydride. Specification 105A100W tank cars authorized only for aluminum hydroxide and dimethyl chlorothiophosphate. AAR 201A80W tank cars authorized only for ammonium hydroxide.
8224-N	National Tank Truck Carriers, Inc.	§ 173.247(a)(12), § 173.247a(3), § 173.248(a)(6), § 173.249(a)(6), § 173.250a(2), § 173.252(a)(4), § 173.253(a)(6), § 173.254(a)(5), § 173.255(a)(5), § 173.257(a)(4), § 173.262(a)(11), § 173.262(b)(4), § 173.263(a)(10), § 173.264(a)(14), § 173.264(b)(3), § 173.265(b)(4), § 173.266(f)(2), § 173.267(a)(7), § 173.268(b)(3), § 173.271(a)(8), § 173.272(i)(21), § 173.272(j)(25), § 173.272(i)(29), § 173.273(a)(5), § 173.276(a)(6), § 173.280(a)(6), § 173.289(a)(4), § 173.292(a)(2), § 173.294(a)(3), § 173.295(a)(9), § 173.295(a)(10), § 173.296(a)(2), § 173.297(a)(1).	Request to use DOT Specification MC 310 and MC 311 cargo tanks equipped with bottom outlets (§ 173.343-5) for the shipment of various corrosive liquids.	To revise each of the paragraphs listed in the third column by adding the words "Bottom outlets authorized if they meet § 178.343-5 of this subchapter."

(49 U.S.C. 1803, 1804, 1808, 49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) of App. A, Part 106.)

The Materials Transportation Bureau has determined that this notice will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedure (43 FR 9582). A regulatory evaluation is available in the public docket.

Issued in Washington, D.C. on June 18, 1979.

Alan I. Roberts,
Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

BILLING CODE 4910-60-M

(1) */ W/ A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Labels (a) required (if not excepted)	(5) Packaging		Maximum net quantity in one package		(7) Water shipments		
				(a) Exception	(b) Specific requirements	(a) Passenger carry- ing aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirements
	(Add) <u>Battery, lithium. See lithium battery.</u> <u>Lithium battery. See § 173.206 (f).</u>									

(1) */ W/ A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Labels (a) required (if not excepted)	(5) Packaging		Maximum net quantity in package		(7) Water shipments		
				(a) Exception	(b) Specific requirements	(a) Passenger carry- ing aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Pas- senger vessel	(c) Other requirements
	(Add) Dimethyl chlorothiophos- phate or Dimethyl phos- phorochloridothioate. Dimethyl phosphorochlori- dothioate See Dimethyl chlorothiophosphate.	Corrosive material	Corrosive	§ 173. 244	§ 173. 245	1 quart	1 quart	1,2	1,2	

[FR Doc. 79-19702 Filed 6-22-79; 8:45 am]

BILLING CODE 4910-60-C