

Service (UPS) and the Air Transportation Association of America supported the requirement that shipping papers contain a 24-hour emergency response telephone number to obtain emergency response information concerning hazardous materials, but suggested that the 24-hour emergency response telephone number should not be placed on packages instead of being placed on shipping papers for packages of 30 kilograms or less. This suggestion was based on their concern that, if a package is found to be damaged or leaking, emergency response personnel should not jeopardize their safety by coming into contact with a leaking or damaged package to obtain the emergency response telephone number.

Upon further consideration, RSPA agrees with the commenters. Consequently, the exception, as proposed in the NPRM, to allow shippers to place the emergency response telephone number on packages instead of being placed on shipping papers for packages of 30 kilograms or less has not been adopted.

D. Additional Considerations

Applicability of emergency response information requirements to international shippers. The NPRM did not propose to except persons importing or exporting hazardous materials from compliance with requirements for written emergency response information. To clarify the applicability of emergency response information requirements to import/export shipments of hazardous materials, § 171.11, applicable to shipments of hazardous materials conforming to the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), is revised in this final rule to require compliance with emergency response information requirements in Subpart G of Part 172 of this subchapter. It should be noted that no change in the requirements of § 171.12 have been adopted in this final rule, therein, shipments of hazardous materials made in accordance with the provisions of this section are not excepted from the shipping paper or emergency response information requirements. RSPA notes that both ICAO and the International Maritime Organization (IMO) publish documents containing emergency response information which could be used to satisfy the written emergency response information requirements specified in this final rule, when used in conjunction with a properly prepared shipping paper.

With regard to providing a 24-hour emergency response telephone number, the Hazardous Materials Advisory Council (HMAC) strongly urged RSPA to require foreign shippers that ship hazardous materials into the United States to designate a representative in the U.S., and to ensure that the contact is supplied with sufficient emergency response information to adequately assist emergency responders. Other commenters, such as the Air Transport Association of America and the International Air Transport Association (IATA) were concerned that overseas telephone numbers would be of little use in an emergency in the U.S., and that there could be some difficulty in obtaining emergency response information for import shipments of hazardous materials. RSPA has similar concerns regarding the effectiveness of an overseas 24-hour emergency response telephone number contact for foreign shippers. Although HMAC's proposal to require that foreign shippers designate a representative in the U.S. appears to have merit, it is beyond the scope of this rulemaking. RSPA anticipates addressing this issue in future rulemaking. Until that time, the emergency response information requirements of this final rule apply to all shippers of hazardous materials. Accordingly, the appropriate sections of the HMR, §§ 171.11, and 171.12a, have been revised to require that import shipments of hazardous materials, subject to the provisions of these sections, must conform to the requirements for emergency response information as prescribed in Subpart G of Part 172 of this subchapter.

Applicability of the emergency response information requirements to Canadian shipments of hazardous materials. The requirements under § 171.12a allow hazardous materials shipments from Canada to be transported in the United States, which are transported in accordance with the Canadian "Transport of Dangerous Goods Regulations" (TDG). The TDG regulations contain requirements for the use of certain emergency response information for shipments of hazardous materials. The requirements for completion of the "Emergency Response Form" are set out in the Canadian "Regulations for the Transportation of Dangerous Commodities by Rail." However, the Canadian "Emergency Response Form" only applies to carload, trailerload, truckload or containerload quantities of hazardous materials transported by rail. These Canadian requirements do not, in all instances, fulfill the requirements specified in this

final rule. Therefore, § 171.12a has been revised by the addition of paragraph (a)(7) which requires compliance with the emergency response information provisions of Subpart G of Part 172.

Applicability of emergency response information requirements to empty packagings. The requirements under 49 CFR 173.29, for empty packagings that contain any residue of a hazardous material, specify that unless a packaging is cleaned and purged of all residue, or filled with materials not regulated under 49 CFR, it must be transported in the same manner as required when it previously contained a greater quantity of hazardous materials. This provision also applies to conformance with emergency response information requirements.

Requests for public hearing. Three commenters, the ATA, the Regular Common Carrier Conference (RCCC), and the International Association of Fire Fighters (IAFF) requested that RSPA conduct a public hearing on the merits of the proposals contained in the NPRM. ATA and RCCC requested a joint hearing with DOT and OSHA to address the nature and extent of hazardous materials incidents in the trucking industry and the information necessary to protect employees and others in the event of such incidents. ATA stated:

(This hearing will allow both agencies to hear from the affected industries and to better understand the conflict which will arise as a result of the lack of delineation of regulatory authority of the two agencies. It would also provide DOT and OSHA with the opportunity to hear suggestions which could help to promote national uniformity and increased safety through practical and a realistic communication standard.

RSPA conducted a public hearing on certain aspects of this rulemaking action after issuance of the ANPRM. Comments received during the hearing and the comment period on the ANPRM generally supported the proposal to require that additional emergency response information be included on the shipping paper, such as a 24-hour emergency response information telephone number, and additional shipping descriptions. A majority of the commenters supported the use of the ERG as the document for providing emergency response information in the event of an incident involving hazardous materials. RSPA received over seventy responses to the ANPRM. Based on the responses received to the ANPRM, RSPA issued an NPRM proposing specific regulatory requirements dealing with emergency response communications. In response to the NPRM, more than seventy comments