

## PART 171--GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

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## Subpart A—Applicability, General Requirements, and North American Shipments

### § 171.1 Applicability of Hazardous Materials Regulations (HMR) to persons and functions.

Federal hazardous materials transportation law (49 U.S.C. 5101 *et seq.*) directs the Secretary of Transportation to establish regulations for the safe and secure transportation of hazardous materials in commerce, as the Secretary considers appropriate. The Secretary is authorized to apply these regulations to persons who transport hazardous materials in commerce. In addition, the law authorizes the Secretary to apply these regulations to persons who cause hazardous materials to be transported in commerce. The law also authorizes the Secretary to apply these regulations to persons who manufacture or maintain a packaging or a component of a packaging that is represented, marked, certified, or sold as qualified for use in the transportation of a hazardous material in commerce. Federal hazardous material transportation law also applies to anyone who indicates by marking or other means that a hazardous material being transported in commerce is present in a package or transport conveyance when it is not, and to anyone who tampers with a package or transport conveyance used to transport hazardous materials in commerce or a required marking, label, placard, or shipping description. Regulations prescribed in accordance with Federal hazardous materials transportation law shall govern safety aspects, including security, of the transportation of hazardous materials that the Secretary considers appropriate. In 49 CFR 1.53, the Secretary delegated authority to issue regulations for the safe and secure transportation of hazardous materials in commerce to the Pipeline and Hazardous Materials Safety Administrator. The Administrator issues the Hazardous Materials Regulations (HMR; 49 CFR Parts 171 through 180) under that delegated authority. This section addresses the applicability of the HMR to packagings represented as qualified for use in the transportation of hazardous materials in commerce and to pre-transportation and transportation functions.

(a) *Packagings*. Requirements in the HMR apply to each person who manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a packaging or a component of a packaging that is represented, marked, certified, or sold as qualified for use in the transportation of a hazardous material in commerce, including each person under contract with any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal government who manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a packaging or a component of a packaging that is represented, marked, certified, or sold as qualified for use in the transportation of a hazardous material in commerce.

(b) *Pre-transportation functions*. Requirements in the HMR apply to each person who offers a hazardous material for transportation in commerce, causes a hazardous material to be transported in commerce, or transports a hazardous material in commerce and who performs or is responsible for performing a pre-transportation function, including each person performing pre-transportation functions under contract with any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal government. Pre-transportation functions include, but are not limited to, the following:

- (1) Determining the hazard class of a hazardous material.
- (2) Selecting a hazardous materials packaging.
- (3) Filling a hazardous materials packaging, including a bulk packaging.
- (4) Securing a closure on a filled or partially filled hazardous materials package or container or on a package or container containing a residue of a hazardous material.
- (5) Marking a package to indicate that it contains a hazardous material.
- (6) Labeling a package to indicate that it contains a hazardous material.
- (7) Preparing a shipping paper.
- (8) Providing and maintaining emergency response information.
- (9) Reviewing a shipping paper to verify compliance with the HMR or international equivalents.
- (10) For each person importing a hazardous material into the United States, providing the shipper with timely and complete information as to the HMR requirements that will apply to the transportation of the material within the United States.

- (11) Certifying that a hazardous material is in proper condition for transportation in conformance with the requirements of the HMR.
- (12) Loading, blocking, and bracing a hazardous materials package in a freight container or transport vehicle.
- (13) Segregating a hazardous materials package in a freight container or transport vehicle from incompatible cargo.
- (14) Selecting, providing, or affixing placards for a freight container or transport vehicle to indicate that it contains a hazardous material.

(c) *Transportation functions.* Requirements in the HMR apply to transportation of a hazardous material in commerce and to each person who transports a hazardous material in commerce, including each person under contract with any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal government who transports a hazardous material in commerce. Transportation of a hazardous material in commerce begins when a carrier takes physical possession of the hazardous material for the purpose of transporting it and continues until the package containing the hazardous material is delivered to the destination indicated on a shipping document, package marking, or other medium, or, in the case of a rail car, until the car is delivered to a private track or siding. For a private motor carrier, transportation of a hazardous material in commerce begins when a motor vehicle driver takes possession of a hazardous material for the purpose of transporting it and continues until the driver relinquishes possession of the package containing the hazardous material at its destination and is no longer responsible for performing functions subject to the HMR with respect to that particular package. Transportation of a hazardous material in commerce includes the following:

(1) *Movement.* Movement of a hazardous material by rail car, aircraft, motor vehicle, or vessel (except as delegated by Department of Homeland Security Delegation No. 0170 at 2(103)).

(2) *Loading incidental to movement of a hazardous material.* Loading of packaged or containerized hazardous material onto a transport vehicle, aircraft, or vessel for the purpose of transporting it, including blocking and bracing a hazardous materials package in a freight container or transport vehicle, and segregating a hazardous materials package in a freight container or transport vehicle from incompatible cargo, when performed by carrier personnel or in the presence of carrier personnel. For a bulk packaging, loading incidental to movement is filling the packaging with a hazardous material for the purpose of transporting it when performed by carrier personnel or in the presence of carrier personnel (except as delegated by Department of Homeland Security Delegation No. 0170 at 2(103)), including transloading.

(3) *Unloading incidental to movement of a hazardous material.* Removing a package or containerized hazardous material from a transport vehicle, aircraft, or vessel; or for a bulk packaging, emptying a hazardous material from the bulk packaging after the hazardous material has been delivered to the consignee when performed by carrier personnel or in the presence of carrier personnel or, in the case of a private motor carrier, while the driver of the motor vehicle from which the hazardous material is being unloaded immediately after movement is completed is present during the unloading operation. (Emptying a hazardous material from a bulk packaging while the packaging is on board a vessel is subject to separate regulations as delegated by Department of Homeland Security Delegation No. 0170 at 2(103).) Unloading incidental to movement includes transloading.

(4) *Storage incidental to movement of a hazardous material.* Storage of a transport vehicle, freight container, or package containing a hazardous material by any person between the time that a carrier takes physical possession of the hazardous material for the purpose of transporting it until the package containing the hazardous material has been delivered to the destination indicated on a shipping document, package marking, or other medium, or, in the case of a private motor carrier, between the time that a motor vehicle driver takes physical possession of the hazardous material for the purpose of transporting it until the driver relinquishes possession of the package at its destination and is no longer responsible for performing functions subject to the HMR with respect to that particular package.

(i) Storage incidental to movement includes—

(A) Storage at the destination shown on a shipping document, including storage at a transloading facility, provided the original shipping documentation identifies the shipment as a through-shipment and identifies the final destination or destinations of the hazardous material; and

(B) A rail car containing a hazardous material that is stored on track that does not meet the definition of “private track or siding” in

§171.8, even if the car has been delivered to the destination shown on the shipping document.

(ii) Storage incidental to movement does not include storage of a hazardous material at its final destination as shown on a shipping document.

(d) *Functions not subject to the requirements of the HMR.* The following are examples of activities to which the HMR do not apply:

(1) Storage of a freight container, transport vehicle, or package containing a hazardous material at an offeror facility prior to a carrier taking possession of the hazardous material for movement in transportation in commerce or, for a private motor carrier, prior to a motor vehicle driver taking physical possession of the hazardous material for movement in transportation in commerce.

(2) Unloading of a hazardous material from a transport vehicle or a bulk packaging performed by a person employed by or working under contract to the consignee following delivery of the hazardous material by the carrier to its destination and departure from the consignee's premises of the carrier's personnel or, in the case of a private carrier, departure of the driver from the unloading area.

(3) Storage of a freight container, transport vehicle, or package containing a hazardous material after its delivery by a carrier to the destination indicated on a shipping document, package marking, or other medium, or, in the case of a rail car, storage of a rail car on private track.

(4) Rail and motor vehicle movements of a hazardous material exclusively within a contiguous facility boundary where public access is restricted, except to the extent that the movement is on or crosses a public road or is on track that is part of the general railroad system of transportation, unless access to the public road is restricted by signals, lights, gates, or similar controls.

(5) Transportation of a hazardous material in a motor vehicle, aircraft, or vessel operated by a Federal, state, or local government employee solely for noncommercial Federal, state, or local government purposes.

(6) Transportation of a hazardous material by an individual for non-commercial purposes in a private motor vehicle, including a leased or rented motor vehicle.

(7) Any matter subject to the postal laws and regulations of the United States.

(e) *Requirements of other Federal agencies.* Each facility at which pre-transportation or transportation functions are performed in accordance with the HMR may be subject to applicable standards and regulations of other Federal agencies.

(f) *Requirements of state and local government agencies.* (1) Under 49 U.S.C. 5125, a requirement of a state, political subdivision of a state, or an Indian tribe is preempted, unless otherwise authorized by another Federal statute or DOT issues a waiver of preemption, if—

(i) Complying with both the non-Federal requirement and Federal hazardous materials transportation law, the regulations issued under Federal hazardous material transportation law or a hazardous material transportation security regulation or directive issued by the Secretary of Homeland Security is not possible;

(ii) The non-Federal requirement, as applied or enforced, is an obstacle to accomplishing and carrying out Federal hazardous materials transportation law, the regulations issued under Federal hazardous material transportation law, or a hazardous material transportation security regulation or directive issued by the Secretary of Homeland Security;

(iii) The non-Federal requirement is not substantively the same as a provision of Federal hazardous materials transportation law, the regulations issued under Federal hazardous material transportation law, or a hazardous material transportation security regulation or directive issued by the Secretary of Homeland Security with respect to—

(A) The designation, description, and classification of hazardous material;

(B) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(C) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents;

(D) The written notification, recording, and reporting of the unintentional release of hazardous material; or

(E) The design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a package or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

(iv) A non-Federal designation, limitation or requirement on highway routes over which hazardous material may or may not be transported does not comply with the regulations in subparts C and D of part 397 of this title; or

(v) A fee related to the transportation of a hazardous material is not fair or is used for a purpose that is not related to transporting hazardous material, including enforcement and planning, developing, and maintaining a capability for emergency response.

(2) Subject to the limitations in paragraph (f)(1) of this section, each facility at which functions regulated under the HMR are performed may be subject to applicable laws and regulations of state and local governments and Indian tribes.

(3) The procedures for DOT to make administrative determinations of preemption are set forth in subpart E of part 397 of this title with respect to non-Federal requirements on highway routing (paragraph (f)(1)(iv) of this section) and in subpart C of part 107 of this chapter with respect to all other non-Federal requirements.

(g) *Penalties for noncompliance.* Each person who knowingly violates a requirement of the Federal hazardous material transportation law, an order issued under Federal hazardous material transportation law, subchapter A of this chapter, or a special permit or approval issued under subchapter A or C of this chapter is liable for a civil penalty of not more than \$50,000 and not less than \$250 for each violation, except the maximum civil penalty is \$100,000 if the violation results in death, serious illness or severe injury to any person or substantial destruction of property, and a minimum \$450 civil penalty applies to a violation relating to training. When a violation is a continuing one and involves transporting of hazardous material or causing them to be transported, each day of the violation is a separate offense. Each person who knowingly violates §171.2(l) or willfully or recklessly violates a provision of the Federal hazardous material transportation law, an order issued under Federal hazardous material transportation law, subchapter A of this chapter, or a special permit or approval issued under subchapter A or C of this chapter, shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both, except the maximum amount of imprisonment shall be 10 years in any case in which a violation involves the release of a hazardous material which results in death or bodily injury to any person.

[68 FR 61937, Oct. 30, 2003; 70 FR 20031, Apr. 15, 2005, as amended at 70 FR 73162, Dec. 9, 2005; 71 FR 8488, Feb. 17, 2006; 71 FR 44931, Aug. 8, 2006]

## **§ 171.2 General requirements.**

(a) Each person who performs a function covered by this subchapter must perform that function in accordance with this subchapter.

(b) Each person who offers a hazardous material for transportation in commerce must comply with all applicable requirements of this subchapter, or an exemption or special permit, approval, or registration issued under this subchapter or under subchapter A of this chapter. There may be more than one offeror of a shipment of hazardous materials. Each offeror is responsible for complying with the requirements of this subchapter, or an exemption or special permit, approval, or registration issued under this subchapter or subchapter A of this chapter, with respect to any pre-transportation function that it performs or is required to perform; however, each offeror is responsible only for the specific pre-transportation functions that it performs or is required to perform, and each offeror may rely on information provided by another offeror, unless that offeror knows or, a reasonable person, acting in the circumstances and exercising reasonable care, would have knowledge that the information provided by the other offeror is incorrect.

(c) Each person who performs a function covered by or having an effect on a specification or activity prescribed in part 178, 179, or 180 of this subchapter, an approval issued under this subchapter, or an exemption or special permit issued under subchapter A of this chapter, must perform the function in accordance with that specification, approval, an exemption or special permit, as appropriate.

(d) No person may offer or accept a hazardous material for transportation in commerce or transport a hazardous material in commerce unless that person is registered in conformance with subpart G of part 107 of this chapter, if applicable.

(e) No person may offer or accept a hazardous material for transportation in commerce unless the hazardous material is properly classed, described, packaged, marked, labeled, and in condition for shipment as required or authorized by applicable requirements of this subchapter or an exemption or special permit, approval, or registration issued under this subchapter or subchapter A of this chapter.

(f) No person may transport a hazardous material in commerce unless the hazardous material is transported in accordance with applicable requirements of this subchapter, or an exemption or special permit, approval, or registration issued under this subchapter or subchapter A of this chapter. Each carrier who transports a hazardous material in commerce may rely on information provided by the offeror of the hazardous material or a prior carrier, unless the carrier knows or, a reasonable person, acting in the circumstances and exercising reasonable care, would have knowledge that the information provided by the offeror or prior carrier is incorrect.

(g) No person may represent, mark, certify, sell, or offer a packaging or container as meeting the requirements of this subchapter governing its use in the transportation of a hazardous material in commerce unless the packaging or container is manufactured, fabricated, marked, maintained, reconditioned, repaired, and retested in accordance with the applicable requirements of this subchapter. No person may represent, mark, certify, sell, or offer a packaging or container as meeting the requirements of an exemption, a special permit, approval, or registration issued under this subchapter or subchapter A of this chapter unless the packaging or container is manufactured, fabricated, marked, maintained, reconditioned, repaired, and retested in accordance with the applicable requirements of the exemption, special permit, approval, or registration issued under this subchapter or subchapter A of this chapter. The requirements of this paragraph apply whether or not the packaging or container is used or to be used for the transportation of a hazardous material.

(h) The representations, markings, and certifications subject to the prohibitions of paragraph (g) of this section include:

(1) Specification identifications that include the letters "ICC", "DOT", "CTC", "MC", or "UN";

(2) Exemption, special permit, approval, and registration numbers that include the letters "DOT", "EX", "M", or "R"; and

(3) Test dates associated with specification, registration, approval, retest, exemption, or special permit markings indicating compliance with a test or retest requirement of the HMR, or an exemption, special permit, approval, or registration issued under the HMR or under subchapter A of this chapter.

(i) No person may certify that a hazardous material is offered for transportation in commerce in accordance with the requirements of this subchapter unless the hazardous material is properly classed, described, packaged, marked, labeled, and in condition for shipment as required or authorized by applicable requirements of this subchapter or an exemption or special permit, approval, or registration issued under this subchapter or subchapter A of this chapter. Each person who offers a package containing a hazardous material for transportation in commerce in accordance with the requirements of this subchapter or an exemption or special permit, approval, or registration issued under this subchapter or subchapter A of this chapter, must assure that the package remains in condition for shipment until it is in the possession of the carrier.

(j) No person may, by marking or otherwise, represent that a container or package for transportation of a hazardous material is safe, certified, or in compliance with the requirements of this chapter unless it meets the requirements of all applicable regulations issued under Federal hazardous material transportation law.

(k) No person may, by marking or otherwise, represent that a hazardous material is present in a package, container, motor vehicle, rail car, aircraft, or vessel if the hazardous material is not present.

(l) No person may alter, remove, deface, destroy, or otherwise unlawfully tamper with any marking, label, placard, or description on a document required by Federal hazardous material transportation law or the regulations issued under Federal hazardous material transportation law. No person may alter, deface, destroy, or otherwise unlawfully tamper with a package, container, motor vehicle, rail car, aircraft, or vessel used for the transportation of hazardous materials.

(m) No person may falsify or alter an exemption or special permit, approval, registration, or other grant of authority issued under

this subchapter or subchapter A of this chapter. No person may offer a hazardous material for transportation or transport a hazardous material in commerce under an exemption or special permit, approval, registration or other grant of authority issued under this subchapter or subchapter A of this chapter if such grant of authority has been altered without the consent of the issuing authority. No person may represent, mark, certify, or sell a packaging or container under an exemption or special permit, approval, registration or other grant of authority issued under this subchapter or subchapter A of this chapter if such grant of authority has been altered without the consent of the issuing authority.

[68 FR 61937, Oct. 30, 2003, as amended at 70 FR 43643, July 28, 2005; 70 FR 73162, Dec. 9, 2005]

### **§ 171.3 Hazardous waste.**

(a) No person may offer for transportation or transport a hazardous waste (as defined in §171.8 of this subchapter) in interstate or intrastate commerce except in accordance with the requirements of this subchapter.

(b) No person may accept for transportation, transport, or deliver a hazardous waste for which a manifest is required unless that person:

(1) Has marked each motor vehicle used to transport hazardous waste in accordance with §390.21 or §1058.2 of this title even though placards may not be required;

(2) Complies with the requirements for manifests set forth in §172.205 of this subchapter; and

(3) Delivers, as designated on the manifest by the generator, the entire quantity of the waste received from the generator or a transporter to:

(i) The designated facility or, if not possible, to the designated alternate facility;

(ii) The designated subsequent carrier; or

(iii) A designated place outside the United States.

Note: Federal law specifies penalties up to \$250,000 fine for an individual and \$500,000 for a company and 5 years imprisonment for the willful discharge of hazardous waste at other than designated facilities. 49 U.S.C. 5124.

(c) If a discharge of hazardous waste or other hazardous material occurs during transportation, and an official of a State or local government or a Federal agency, acting within the scope of his official responsibilities, determines that immediate removal of the waste is necessary to prevent further consequence, that official may authorize the removal of the waste without the preparation of a manifest. [Note: In such cases, EPA does not require carriers to have EPA identification numbers.]

Note 1: EPA requires shippers (generators) and carriers (transporters) of hazardous wastes to have identification numbers which must be displayed on hazardous waste manifests. See 40 CFR parts 262 and 263. (Identification number application forms may be obtained from EPA regional offices.)

Note 2: In 40 CFR part 263, the EPA sets forth requirements for the cleanup of releases of hazardous wastes.

[Amdt. 171–53, 45 FR 34586, May 22, 1980, as amended by Amdt. 171–53, 45 FR 74648, Nov. 10, 1980; Amdt. 171–78, 49 FR 10510, Mar. 20, 1984; Amdt. 171–107, 54 FR 40068, Sept. 29, 1989; Amdt. 171–111, 55 FR 52466, Dec. 21, 1990; 56 FR 66157, Dec. 20, 1991; Amdt. 171–2, 59 FR 49132, Sept. 26, 1994; Amdt. 171–141, 61 FR 21102, May 9, 1996]

### **§ 171.4 Marine pollutants.**

(a) Except as provided in paragraph (c) of this section, no person may offer for transportation or transport a marine pollutant, as defined in §171.8, in intrastate or interstate commerce except in accordance with the requirements of this subchapter.



(b) The requirements of this subchapter for the transportation of marine pollutants are based on the provisions of Annex III of the 1973 International Convention for Prevention of Pollution from Ships, as modified by the Protocol of 1978 (MARPOL 73/78).

(c) *Exceptions.* Except when transported aboard vessel, the requirements of this subchapter specific to marine pollutants do not apply to non-bulk packagings transported by motor vehicles, rail cars or aircraft.

[Amdt. 171–116, 57 FR 52934, Nov. 5, 1993, as amended by Amdt. 107–39, 61 FR 51337, Oct. 1, 1996]

**§ 171.6 Control numbers under the Paperwork Reduction Act.**

(a) *Purpose and scope.* This section collects and displays the control numbers assigned to the HMR collections of information by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. This section complies with the requirements of 5 CFR 1320.7(f), 1320.12, 1320.13 and 1320.14 (OMB regulations implementing the Paperwork Reduction Act of 1995) for the display of control numbers assigned by OMB to collections of information of the HMR.

(b) *OMB control numbers.* The table in paragraph (b)(2) of this section sets forth the control numbers assigned to collection of information in the HMR by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

(1) Column 1 lists the OMB control number assigned to the HMR collections of information. Column 2 contains the Report Title of the approved collection of information. Column 3 lists the part(s) or section(s) in 49 CFR identified or described in the collection of information.

(2) Table.

Current OMB control No.	Title	Title 49 CFR part or section where identified and described
2137–0014	Cargo Tank Specification Requirements	§§107.503, 107.504, 178.320, 178.337, 178.338, 178.345, 180.407, 180.409, 180.413, 180.417.
2137–0018	Inspection and Testing of Portable Tanks and Intermediate Bulk Containers	§§173.24, 173.32, 178.3, 178.255, 178.273, 178.274, 178.703, 178.801, 180.352, 180.605.
2137–0022	Testing, Inspection, and Marking Requirements for Cylinders	§§173.302a, 173.303, 173.304, 173.309, 178.2, 178.3, 178.35, 178.44, 178.45, 178.46, 178.57, 178.59, 178.60, 178.61, 178.68, 180.205, 180.209, 180.211, 180.213, 180.215, Appendix C to Part 180.
2137–0034	Hazardous Materials Shipping Papers and Emergency Response Information	§§172.200, 172.201, 172.202, 172.203, 172.204, 172.505, 172.600, 172.602, 172.604, 172.606, 173.6, 173.7, 173.22, 173.56, 174.24, 174.26, 174.114, 175.30, 175.31, 175.33, 176.24, 176.27, 176.30, 176.36, 176.89, 177.817.
2137–0039	Hazardous Materials Incidents Reports	§§171.15, 171.16, 171.21.
2137–0051	Rulemaking and Special Permit Petitions	§§105.30, 105.40, 106.95, 106.110, 107.105, 107.107, 107.109, 107.113, 107.117, 107.121, 107.123, 107.125, 107.205, 107.211, 107.215, 107.217, 107.219, 107.221, 107.223.

2137-0510	RAM Transportation Requirements	Part 173, Subpart I, §§173.22, 173.411, 173.415, 173.416, 173.417, 173.457, 173.471, 173.472, 173.473, 173.476.
2137-0542	Flammable Cryogenic Liquids	§§173.318, 177.816, 177.840, 180.405.
2137-0557	Approvals for Hazardous Materials	§§107.402, 107.403, 107.405, 107.502, 107.503, 107.705, 107.713, 107.715, 107.717, 107.803, 107.805, 107.807, 110.30, 172.101, 172.102, Special Provisions 19, 26, 53, 55, 60, 105, 118, 121, 125, 129, 131, 133, 136, B45, B55, B61, B69, B77, B81, N10, N72, 173.2a, 173.4, 173.7, 173.21, 173.22, 173.24, 173.31, 173.38, 173.51, 173.56, 173.58, 173.59, 173.124, 173.128, 173.159, 173.166, 173.171, 173.214, 173.222, 173.224, 173.225, 173.245, 173.301, 173.305, 173.306, 173.314, 173.315, 173.316, 173.318, 173.334, 173.340, 173.411, 173.433, 173.457, 173.471, 173.472, 173.476, 174.50, 174.63, 175.8, 175.85, 175.701, 175.703, 176.168, 176.340, 176.704, 178.3, 178.35, 178.47, 178.53, 178.273, 178.274, 178.503, 178.509, 178.605, 178.606, 178.608, 178.801, 178.813, 180.213.
2137-0559	(Rail Carriers and Tank Car Tank Requirements) Requirements for Rail Tank Car Tanks—Transportation of Hazardous Materials by Rail.	§§172.102, Special provisions: B45, B46, B55, B61, B69, B77, B78, B81; 173.10, 173.31, 174.20, 174.50, 174.63, 174.104, 174.114, 174.204, 179.3, 179.4, 179.5, 179.6, 179.7, 179.11, 179.18, 179.22, 179.100-9, 179.100-12, 179.100-13, 179.100-16, 179.100-17, 179.102-4, 179.102-17, 179.103-1, 179.103-2, 179.103-3, 179.103-5, 179.200-10, 179.200-14, 179.200-15, 179.200-16, 179.200-17, 179.200-19, 179.201-3, 179.201-8, 179.201-9, 179.220-4, 179.220-7, 179.220-8, 179.220-13, 179.220-15, 179.220-17, 179.220-18, 179.220-20, 179.220-22, 179.300-3, 179.300-7, 179.300-9, 179.300-12, 179.300-13, 179.300-15, 179.300-20, 179.400-3, 179.400-4, 179.400-11, 179.400-13, 179.400-16, 179.400-17, 179.400-19, 179.400-20, 179.500-5, 179.500-8, 179.500-12, 179.500-18, 180.505, 180.509, 180.515, 180.517.
2137-0572	Testing Requirements for Non-Bulk Packaging	§§178.2, 178.601.
2137-0582	Container Certification Statement	§§176.27, 176.172.
2137-0586	Hazardous Materials Public Sector Training and Planning Grants	Part 110.
2137-0591	Response Plans for Shipments of Oil	Part 130.

2137-0595	Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service	§§173.315, 178.337-8, 178.337-9, 180.405, 180.416.
2137-0612	Hazardous Materials Security Plans	Part 172, Subpart I, §§172.800, 172.802, 172.804.
2137-0613	Subsidiary Hazard Class and Number/Type of Packagings	§§172.202, 172.203
2137-0620	Inspection and Testing of Meter Provers	Part 173, Subpart A, §173.5a.
2137-0621	Requirements for United Nations (UN) Cylinders	§§173.301, 173.304, 173.304b, 178.69, 178.70, 178.74, 178.75, 180.207, 180.209, 180.212, 180.215, 180.217.

[Amdt. 171-111, 56 FR 66157, Dec. 20, 1991, as amended at 57 FR 1877, Jan. 16, 1992; Amdt. 171-121, 58 FR 51527, Oct. 1, 1993; Amdt. 171-137, 61 FR 33254, June 26, 1996; 62 FR 51558, Oct. 1, 1997; 64 FR 51915, Sept. 27, 1999; 64 FR 61220, Nov. 10, 1999; 65 FR 58619, Sept. 29, 2000; 67 FR 61012, Sept. 27, 2002; 67 FR 51640, Aug. 8, 2002; 68 FR 31628, May 28, 2003; 68 FR 45010, July 31, 2003; 69 FR 54045, Sept. 7, 2004; 70 FR 33379, June 8, 2005; 70 FR 56090, Sept. 23, 2005; 70 FR 73163, Dec. 9, 2005; 71 FR 54391, Sept. 14, 2006; 72 FR 55683, Oct. 1, 2007]

### § 171.7 Reference material.

(a) *Matter incorporated by reference* —(1) *General*. There is incorporated, by reference in parts 170-189 of this subchapter, matter referred to that is not specifically set forth. This matter is hereby made a part of the regulations in parts 170-189 of this subchapter. The matter subject to change is incorporated only as it is in effect on the date of issuance of the regulation referring to that matter. The material listed in paragraph (a)(3) has been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval and a notice of any change in the material will be published in the Federal Register. Matters referenced by footnote are included as part of the regulations of this subchapter.

(2) *Accessibility of materials*. All incorporated matter is available for inspection at:

(i) The Office of Hazardous Materials Safety, Office of Hazardous Materials Standards, East Building, PHH-10, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001; and

(ii) The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(3) *Table of material incorporated by reference*. The following table sets forth material incorporated by reference. The first column lists the name and address of the organization from which the material is available and the name of the material. The second column lists the section(s) of this subchapter, other than §171.7, in which the matter is referenced. The second column is presented for information only and may not be all inclusive.

Source and name of material	49 CFR reference
<i>Air Transport Association of America</i> , 1301 Pennsylvania Avenue, N.W., Washington, DC 20004-1707:	
ATA Specification No. 300 Packaging of Airline Supplies, Revision 19, July 31, 1996	172.102.
<i>The Aluminum Association</i> , 420 Lexington Avenue, New York, NY 10017:	
Aluminum Standards and Data, Seventh Edition, June 1982	172.102; 178.65.
<i>American National Standards Institute, Inc.</i> , 25 West 43rd Street, New York, NY 10036:	
ANSI/ASHRAE 15-94, Safety Code for Mechanical Refrigeration	173.306; 173.307.
ANSI B16.5-77, Steel Pipe Flanges, Flanged Fittings	178.360-4.

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<i>American Petroleum Institute</i> , 1220 L Street, NW, Washington, D.C. 20005–4070:	
API Recommended Practice Closures of Underground Petroleum Storage Tanks, 3rd Edition, March 1996	172.102.
<i>American Pyrotechnics Association (APA)</i> , P.O. Box 213, Chestertown, MD 21620:	
APA Standard 87–1, Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, December 1, 2001 version	173.56.
<i>American Society of Mechanical Engineers</i> , ASME International, 22 Law Drive, P.O. Box 2900, Fairfield, NJ 07007–2900:	
ASME Code, Sections II (Parts A and B), V, VIII (Division 1), and IX of 1998 Edition of American Society of Mechanical Engineers Boiler and Pressure Vessel Code	172.102; 173.24b; 173.32; 173.306; 173.315; 173.318; 173.420; 178.245–1; 178.245–3; 178.245–4; 178.245–6; 178.245–7; 178.255–1; 178.255–2; 178.255–14; 178.255–15; 178.273; 178.274; 178.276; 178.277; 178.320; 178.337–1; 178.337–2; 178.337–3; 178.337–4; 178.337–6; 178.337–16; 178.337–18; 178.338–1; 178.338–2; 178.338–3; 178.338–3; 178.338–4; 178.338–5; 178.338–6; 178.338–13; 178.338–16; 178.338–18; 178.338–19; 178.345–1; 178.345–2; 178.345–3; 178.345–4; 178.345–7; 178.345–14; 178.345–15; 178.346–1; 178.347–1; 178.348–1; 179.400–3; 180.407.
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<i>American Society for Testing and Materials</i> , 100 Barr Harbor Drive, West Conshohocken, PA 19428:	
Noncurrent ASTM Standards are available from: Engineering Societies Library, 354 East 47th Street, New York, NY 10017	
ASTM A 20/A 20M–93a Standard Specification for General Requirements for Steel Plates for Pressure Vessels	178.337–2; 179.102–4; 179.102–1; 179.102–17.
ASTM A 47–68 Malleable Iron Castings	179.200–15.

ASTM A 240/A 240M-99b Standard Specification for Heat-Resisting Chromium and Chromium-Nickel Stainless Steel Plate, Sheet and Strip for Pressure Vessels	178.57; 178.358-5; 179.100-7; 179.100-10; 179.102-1; 179.102-4; 179.102-17; 179.200-7; 179.201-5; 179.220-7; 179.300-7; 179.400-5.
ASTM A 242-81 Standard Specification for High-Strength Low-Alloy Structural Steel	178.338-2.
ASTM A 262-93a Standard Practices for Detecting Susceptibility to Intergranular Attack in Austenitic Stainless Steels	179.100-7; 179.200-7; 179.201-4.
ASTM A 285-78 Pressure Vessel Plates, Carbon Steel, Low- and Intermediate-Tensile Strength	179.300-7.
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ASTM A 441-81 Standard Specification for High-Strength Low-Alloy Structural Manganese Vanadium Steel	178.338-2.
ASTM A 514-81 Standard Specification for High-Yield Strength Quenched and Tempered Alloy Steel Plate, Suitable for Welding	178.338-2.
ASTM A 515/A 515M-03 Standard Specification for Pressure Vessel Plates, Carbon Steel, for Intermediate- and Higher-Temperature Service	179.300-7.
ASTM A 516/A 516M-90 Standard Specification for Pressure Vessel Plates, Carbon Steel, for Moderate and Lower-Temperature Service	178.337-2; 179.100-7; 179.102-1; 179.102-2; 179.102-4; 179.102-17; 179.200-7; 179.220-7; 179.300-7.
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ASTM A 572-82 Standard Specification for High-Strength Low-Alloy Columbium-Vanadium Steels of Structural Quality	178.338-2.
ASTM A 588-81 Standard Specification for High-Strength Low-Alloy Structural Steel with 50 Ksi Minimum Yield Point to 4 in. Thick	178.338-2.
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ASTM B 557–84 Tension Testing Wrought and Cast Aluminum and Magnesium-Alloy Products	178.46.
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<i>American Welding Society</i> , 550 N.W. Le Jeune Road, Miami, Florida 33126:	

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OECD Guideline for Testing of Chemicals, No. 404 “Acute Dermal Irritation/Corrosion,” 1992	173.137.
<i>Transport Canada</i> , TDG Canadian Government Publishing Center, Supply and Services, Canada, Ottawa, Ontario, Canada K1A 059:	
Transportation of Dangerous Goods Regulations (Transport Canada TDG Regulations), August 2001 including Clear Language Amendments SOR/2001-286, Amendment 1 (SOR/2002-306) August 8, 2002; Amendment 2 (SOR/2003-273) July 24, 2003; Amendment 3 (SOR/2003-400) December 3, 2003; Amendment 4 (SOR/2005-216) July 13, 2005; and Amendment 5 (SOR/2005-279) September 21, 2005	171.12; 171.22; 171.23; 172.401; 172.502; 172.519; 172.602; 173.31; 173.32; 173.33
<i>Truck Trailer Manufacturers Association</i> , 1020 Princess Street, Alexandria, Virginia 22314:	
TTMA RP No. 61-98, Performance of manhole and/or Fill Opening Assemblies on MC 306, DOT 406, Non-ASME MC 312 and Non-ASME DOT 412 Cargo Tanks, June 1, 1998	180.405.
TTMA RP No. 81-97, Performance of Spring Loaded Pressure Relief Valves on MC 306, MC 307, MC 312, DOT 406, DOT 407, and DOT 412 Tanks, July 1, 1997 Edition	178.345-10; 178.346-3.
TTMA TB No. 107, Procedure for Testing In-Service Unmarked and/or Uncertified MC 306 and Non-ASME MC 312 Type Cargo Tank Manhole Covers, June 1, 1998 Edition	180.405.
<i>United Nations</i> , United Nations Sales Section, New York, NY 10017:	
UN Recommendations on the Transport of Dangerous Goods, Fourteenth revised edition (2005), Volumes I and II	171.8; 171.12; 172.202; 172.401; 172.502; 173.22; 173.24; 173.24b; 173.40; 173.56; 173.192; 173.197; 173.302b; 173.304b; 178.75; 178.274; 178.801.
UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Fourth revised edition, (2003), and Addendum 2, (2004)	172.102; 173.21; 173.56; 173.57; 173.58; 173.115; 173.124; 173.125; 173.127; 173.128; 173.137; 173.185; Part 173, appendix H; 178.274.
<i>United States Enrichment Corporation, Inc. (USEC)</i> :	
USEC Inc., 6903 Rockledge Drive, Bethesda, MD 20817	
USEC-651—Good Handling Practices for Uranium Hexafluoride, Revision 8, January 1999	173.417

(b) *List of informational materials not requiring incorporation by reference.* The materials listed in this paragraph do not require approval for incorporation by reference and are included for informational purposes. These materials may be used as noted in those sections in which the material is referenced.

Source and name of material	49 CFR reference
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<i>American Biological Safety Association</i>	
1202 Allanson Road, Mundelein, IL 60060	
Risk Group Classification for Infectious Agents, 1998	173.134
<i>American Institute of Chemical Engineers (AIChE)</i> ,	
3 Park Avenue New York, NY 10016-5991	
Process Safety Progress Journal, Vol. 21, No. 2	
Example of a Test Method for Venting Sizing: OPPSD/SPI Methodology	Note to §173. 225(h)(3)(vi).
<i>American Society for Testing and Materials</i> , 100 Barr Harbor Drive, West Conshohocken, PA 19428:	
Noncurrent ASTM Standards are available from: Engineering Societies Library, 354 East 47th Street, New York, NY 10017	
ASTM E 380-89 Standards for Metric Practice	171.10
<i>Association of American Railroads</i> ,	
American Railroads Building, 50 F Street, NW., Washington, DC 20001	
AAR Catalog Nos. SE60CHT; SE60CC; SE60CHTE; SE60CE; SE60DC; SE60DE	179.14
AAR Catalog Nos. SE67CC; SE67CE; SE67BHT; SE67BC; SE67BHTE; SE67BE	179.14
AAR Catalog Nos. SE68BHT; SE68BC; SE68BHTE; SE68BE	179.14
AAR Catalog Nos. SE69AHTE; SE69AE	179.14
AAR Catalog Nos. SF70CHT; SF70CC; SF70CHTE; SF70CE	179.14
AAR Catalog Nos. SF73AC; SF73AE; SF73AHT; SF73AHTE	179.14
AAR Catalog Nos. SF79CHT; SF79CC; SF79CHTE; SF79CE	179.14
<i>Bureau of Explosives</i> ,	
Hazardous Materials Systems (BOE), Association of American Railroads, American Railroads Building, 50 F Street, NW., Washington, DC 20001	
Fetterley's Formula (The Determination of the Relief Dimensions for Safety Valves on Containers in which Liquefied gas is charged and when the exterior surface of the container is exposed to a temperature of 1,200 °F.)	173.315
Pamphlet 6, Illustrating Methods for Loading and Bracing Carload and Less-Than-Carload Shipments of Explosives and Other Dangerous Articles, 1962	174.55; 174.101; 174.112; 174.115; 174.290
Pamphlet 6A (includes appendix No. 1, October 1944 and appendix 2, December 1945), Illustrating Methods for Loading and Bracing Carload and Less-Than-Carload Shipments of Loaded Projectiles, Loaded Bombs, etc., 1943	174.101; 174.290
Pamphlet 6C, Illustrating Methods for Loading and Bracing Trailers and Less-Than-Trailer Shipments of Explosives and Other Dangerous Articles Via Trailer-on-Flatcar (TOFC) or Container-on-Flatcar (COFC), 1985	174.55; 174.63; 174.101; 174.112; 174.115
Emergency Handling of Hazardous Materials in Surface Transportation, 1989	171.7
<i>Centers for Disease Control and Prevention</i>	
1600 Clifton Road, Atlanta, GA 30333	

Biosafety in Microbiological and Biomedical Laboratories, Fourth Edition, April 1999	173.134
<i>National Institutes of Health</i>	
Bethesda, MD 20892	
NIH Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines), January 2001, Appendix B	173.134
<i>Pantone Incorporated</i>	
590 Commerce Boulevard, Carlstadt, New Jersey 07072-3098	
Pantone®Formula guide coated/uncoated, Second Edition 2004	172.407, 172.519
<i>Society of Plastics Industries, Inc.,</i>	
Organic Peroxide Producers Safety Division, 1275 K Street, NW., Suite 400, Washington, DC 20005	
Self Accelerating Decomposition Temperature Test, 1972	173.21

[Amdt. 171-111, 55 FR 52466, Dec. 21, 1990; 71 FR 78611, Dec. 29, 2006]

**Editorial Note:** For Federal Register citations affecting §171.7, see the List of CFR Sections Affected which appears in the Finding Aids section of the printed volume and on GPO Access.

**Editorial Note:** At 68 FR 19273, Apr. 18, 2003, §171.7(a)(3) was amended by removing the entry for “TTMA TB No. 81” under “Truck Trailer Manufacturers Association”. The amendment could not be incorporated because that entry does not exist.

## § 171.8 Definitions and abbreviations.

In this subchapter,

*Administrator* means the Administrator, Pipeline and Hazardous Materials Safety Administration.

*Aerosol* means any non-refillable receptacle containing a gas compressed, liquefied or dissolved under pressure, the sole purpose of which is to expel a nonpoisonous (other than a Division 6.1 Packing Group III material) liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.

*Aggregate lithium content* means the sum of the grams of lithium content or equivalent lithium content contained by the cells comprising a battery.

*Agricultural product* means a hazardous material, other than a hazardous waste, whose end use directly supports the production of an agricultural commodity including, but not limited to a fertilizer, pesticide, soil amendment or fuel. An *agricultural product* is limited to a material in Class 3, 8 or 9, Division 2.1, 2.2, 5.1, or 6.1, or an ORM-D material.

*Approval* means a written authorization, including a competent authority approval, from the Associate Administrator or other designated Department official, to perform a function for which prior authorization by the Associate Administrator is required under subchapter C of this chapter (49 CFR parts 171 through 180.)

*Approved* means approval issued or recognized by the Department unless otherwise specifically indicated in this subchapter.

*Asphyxiant gas* means a gas which dilutes or replaces oxygen normally in the atmosphere.

*Associate Administrator* means the Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

*Atmospheric gases* means air, nitrogen, oxygen, argon, krypton, neon and xenon.

*Authorized Inspection Agency* means: (1) A jurisdiction which has adopted and administers one or more sections of the ASME Boiler and Pressure Vessel Code as a legal requirement and has a representative serving as a member of the ASME Conference Committee; or (2) an insurance company which has been licensed or registered by the appropriate authority of a State of the United States or a Province of Canada to underwrite boiler and pressure vessel insurance in such State or Province.

*Authorized Inspector* means an Inspector who is currently commissioned by the National Board of Boiler and Pressure Vessel Inspectors and employed as an Inspector by an Authorized Inspection Agency.

*Bag* means a flexible packaging made of paper, plastic film, textiles, woven material or other similar materials.

*Bar* means 1 BAR = 100 kPa (14.5 psi).

*Barge* means a non-selfpropelled vessel.

*Biological product.* See §173.134 of this subchapter.

*Bottle* means an inner packaging having a neck of relatively smaller cross section than the body and an opening capable of holding a closure for retention of the contents.

*Bottom shell* means that portion of a tank car tank surface, excluding the head ends of the tank car tank, that lies within two feet, measured circumferentially, of the bottom longitudinal center line of the tank car tank.

*Box* means a packaging with complete rectangular or polygonal faces, made of metal, wood, plywood, reconstituted wood, fiberboard, plastic, or other suitable material. Holes appropriate to the size and use of the packaging, for purposes such as ease of handling or opening, or to meet classification requirements, are permitted as long as they do not compromise the integrity of the packaging during transportation, and are not otherwise prohibited in this subchapter.

*Break-bulk* means packages of hazardous materials that are handled individually, palletized, or unitized for purposes of transportation as opposed to bulk and containerized freight.

*Btu* means British thermal unit.

*Bulk packaging* means a packaging, other than a vessel or a barge, including a transport vehicle or freight container, in which hazardous materials are loaded with no intermediate form of containment and which has:

- (1) A maximum capacity greater than 450 L (119 gallons) as a receptacle for a liquid;
- (2) A maximum net mass greater than 400 kg (882 pounds) and a maximum capacity greater than 450 L (119 gallons) as a receptacle for a solid; or
- (3) A water capacity greater than 454 kg (1000 pounds) as a receptacle for a gas as defined in §173.115 of this subchapter.

*Bundle of cylinders* means assemblies of UN cylinders fastened together and interconnected by a manifold and transported as a unit. The total water capacity for the bundle may not exceed 3,000 L, except that a bundle intended for the transport of gases in Division 2.3 is limited to a water capacity of 1,000 L.

*Bureau of Explosives* means the Bureau of Explosives (B of E) of the Association of American Railroads.

*C* means Celsius or Centigrade.

*Captain of the Port (COTP)* means the officer of the Coast Guard, under the command of a District Commander, so designated by

the Commandant for the purpose of giving immediate direction to Coast Guard law enforcement activities within an assigned area. As used in this subchapter, the term *Captain of the Port* includes an authorized representative of the Captain of the Port.

*Carfloat* means a vessel that operates on a short run on an irregular basis and serves one or more points in a port area as an extension of a rail line or highway over water, and does not operate in ocean, coastwise, or ferry service.

*Cargo aircraft only* means an aircraft that is used to transport cargo and is not engaged in carrying passengers. For purposes of this subchapter, the terms *cargo aircraft only*, *cargo-only aircraft* and *cargo aircraft* have the same meaning.

*Cargo tank* means a bulk packaging that:

(1) Is a tank intended primarily for the carriage of liquids or gases and includes appurtenances, reinforcements, fittings, and closures (for the definition of a tank, see 49 CFR 178.320, 178.337–1, or 178.338–1, as applicable);

(2) Is permanently attached to or forms a part of a motor vehicle, or is not permanently attached to a motor vehicle but which, by reason of its size, construction or attachment to a motor vehicle is loaded or unloaded without being removed from the motor vehicle; and

(3) Is not fabricated under a specification for cylinders, intermediate bulk containers, multi-unit tank car tanks, portable tanks, or tank cars.

*Cargo tank motor vehicle* means a motor vehicle with one or more cargo tanks permanently attached to or forming an integral part of the motor vehicle.

*Cargo vessel* means: (1) Any vessel other than a passenger vessel; and

(2) Any ferry being operated under authority of a change of character certificate issued by a Coast Guard Officer-in-Charge, Marine Inspection.

*Carrier* means a person who transports passengers or property in commerce by rail car, aircraft, motor vehicle, or vessel.

CC means closed-cup.

*Character of vessel* means the type of service in which the vessel is engaged at the time of carriage of a hazardous material.

*Class* means hazard class. See *hazard class*.

*Class 1*. See §173.50 of this subchapter.

*Class 2*. See §173.115 of this subchapter.

*Class 3*. See §173.120 of this subchapter.

*Class 4*. See §173.124 of this subchapter.

*Class 5*. See §173.128 of this subchapter.

*Class 6*. See §173.132 of this subchapter.

*Class 7*. See §173.403 of this subchapter.

*Class 8*. See §173.136 of this subchapter.



*Class 9.* See §173.140 of this subchapter.

*Closure* means a device which closes an opening in a receptacle.

*COFC* means container-on-flat-car.

*Combination packaging* means a combination of packaging, for transport purposes, consisting of one or more inner packagings secured in a non-bulk outer packaging. It does not include a composite packaging.

*Combustible liquid.* See §173.120 of this subchapter.

*Commerce* means trade or transportation in the jurisdiction of the United States within a single state; between a place in a state and a place outside of the state; or that affects trade or transportation between a place in a state and place outside of the state.

*Compatibility group letter* means a designated alphabetical letter used to categorize different types of explosive substances and articles for purposes of stowage and segregation. See §173.52 of this subchapter.

*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 (IBR, see §171.7), has the same meaning as *Competent Authority*. For purposes of this subchapter, the Associate Administrator is the Competent Authority for the United States.

*Composite packaging* means a packaging consisting of an outer packaging and an inner receptacle, so constructed that the inner receptacle and the outer packaging form an integral packaging. Once assembled it remains thereafter an integrated single unit; it is filled, stored, shipped and emptied as such.

*Compressed gas.* See §173.115 of this subchapter.

*Consignee* means the person or place shown on a shipping document, package marking, or other media as the location to which a carrier is directed to transport a hazardous material.

*Consumer commodity* means a material that is packaged and distributed in a form intended or suitable for sale through retail sales agencies or instrumentalities for consumption by individuals for purposes of personal care or household use. This term also includes drugs and medicines.

*Containership* means a cargo vessel designed and constructed to transport, within specifically designed cells, portable tanks and freight containers which are lifted on and off with their contents intact.

*Corrosive material.* See §173.136 of this subchapter.

*Crate* means an outer packaging with incomplete surfaces.

*Crewmember* means a person assigned to perform duty in an aircraft during flight time.

*Cryogenic liquid.* See §173.115(g) of this subchapter.

*Cultures and stocks.* See §173.134 of this subchapter.

*Cylinder* means a pressure vessel designed for pressures higher than 40 psia and having a circular cross section. It does not include a portable tank, multi-unit tank car tank, cargo tank, or tank car.

*Dangerous when wet material.* See §173.124 of this subchapter.

*Design Certifying Engineer* means a person registered with the Department in accordance with subpart F of part 107 of this chapter who has the knowledge and ability to perform stress analysis of pressure vessels and otherwise determine whether a cargo tank design and construction meets the applicable DOT specification. A *Design Certifying Engineer* meets the knowledge and ability requirements of this section by meeting any one of the following requirements:

- (1) Has an engineering degree and one year of work experience in cargo tank structural or mechanical design;
- (2) Is currently registered as a professional engineer by appropriate authority of a state of the United States or a province of Canada; or
- (3) Has at least three years' experience in performing the duties of a Design Certifying Engineer prior to September 1, 1991.

*Designated facility* means a hazardous waste treatment, storage, or disposal facility that has been designated on the manifest by the generator.

*Diagnostic specimen*. See §173.134 of this subchapter.

*District Commander* means the District Commander of the Coast Guard, or his authorized representative, who has jurisdiction in the particular geographical area.

*Division* means a subdivision of a hazard class.

*DOD* means the U.S. Department of Defense.

*Domestic transportation* means transportation between places within the United States other than through a foreign country.

*DOT or Department* means U.S. Department of Transportation.

*Drum* means a flat-ended or convex-ended cylindrical packaging made of metal, fiberboard, plastic, plywood, or other suitable materials. This definition also includes packagings of other shapes made of metal or plastic (e.g., round taper-necked packagings or pail-shaped packagings) but does not include cylinders, jerricans, wooden barrels or bulk packagings.

*Elevated temperature material* means a material which, when offered for transportation or transported in a bulk packaging:

- (1) Is in a liquid phase and at a temperature at or above 100 °C (212 °F);
- (2) Is in a liquid phase with a flash point at or above 37.8 °C (100 °F) that is intentionally heated and offered for transportation or transported at or above its flash point; or
- (3) Is in a solid phase and at a temperature at or above 240 °C (464 °F).

*Engine* means a locomotive propelled by any form of energy and used by a railroad.

*EPA* means U.S. Environmental Protection Agency.

*Equivalent lithium content* means, for a lithium-ion cell, the product of the rated capacity, in ampere-hours, of a lithium-ion cell times 0.3, with the result expressed in grams. The equivalent lithium content of a battery equals the sum of the grams of equivalent lithium content contained in the component cells of the battery.

*Etiologic agent*. See §173.134 of this subchapter.

*EX number* means a number preceded by the prefix "EX", assigned by the Associate Administrator, to an item that has been evaluated under the provisions of §173.56 of this subchapter.

*Explosive.* See §173.50 of this subchapter.

*F* means degree Fahrenheit.

*Farmer* means a person engaged in the production or raising of crops, poultry, or livestock.

*Federal hazardous material transportation law* means 49 U.S.C. 5101 *et seq.*

*Ferry vessel* means a vessel which is limited in its use to the carriage of deck passengers or vehicles or both, operates on a short run on a frequent schedule between two points over the most direct water route, other than in ocean or coastwise service, and is offered as a public service of a type normally attributed to a bridge or tunnel.

*Filling density* has the following meanings:

- (1) For compressed gases in cylinders, see §173.304a(a)(2) table note 1.
- (2) For compressed gases in tank cars, see §173.314(c) table note 1.
- (3) For compressed gases in cargo tanks and portable tanks, see §173.315(a) table note 1.
- (4) For cryogenic liquids in cylinders, except hydrogen, see §173.316(c)(1).
- (5) For hydrogen, cryogenic liquid in cylinders, see §173.316(c)(3) table note 1.
- (6) For cryogenic liquids in cargo tanks, see §173.318(f)(1).
- (7) For cryogenic liquids in tank cars, see §173.319(d)(1).

*Flammable gas.* See §173.115 of this subchapter.

*Flammable liquid.* See §173.120 of this subchapter.

*Flammable solid.* See §173.124 of this subchapter.

*Flash point.* See §173.120 of this subchapter.

*Freight container* means a reusable container having a volume of 64 cubic feet or more, designed and constructed to permit being lifted with its contents intact and intended primarily for containment of packages (in unit form) during transportation.

*Fuel tank* means a tank other than a cargo tank, used to transport flammable or combustible liquid, or compressed gas for the purpose of supplying fuel for propulsion of the transport vehicle to which it is attached, or for the operation of other equipment on the transport vehicle.

*Fumigated lading.* See §§172.302(g) and 173.9.

*Gas* means a material which has a vapor pressure greater than 300 kPa (43.5 psia) at 50 °C (122 °F) or is completely gaseous at 20 °C (68 °F) at a standard pressure of 101.3 kPa (14.7 psia).

*Gross weight* or *Gross mass* means the weight of a packaging plus the weight of its contents.

*Hazard class* means the category of hazard assigned to a hazardous material under the definitional criteria of part 173 of this subchapter and the provisions of the §172.101 table. A material may meet the defining criteria for more than one hazard class but

is assigned to only one hazard class.

*Hazard zone* means one of four levels of hazard (Hazard Zones A through D) assigned to gases, as specified in §173.116(a) of this subchapter, and one of two levels of hazards (Hazard Zones A and B) assigned to liquids that are poisonous by inhalation, as specified in §173.133(a) of this subchapter. A hazard zone is based on the LC50 value for acute inhalation toxicity of gases and vapors, as specified in §173.133(a).

*Hazardous material* means a substance or material that the Secretary of Transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and has designated as hazardous under section 5103 of Federal hazardous materials transportation law (49 U.S.C. 5103). The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in the Hazardous Materials Table (see 49 CFR 172.101), and materials that meet the defining criteria for hazard classes and divisions in part 173 of subchapter C of this chapter.

*Hazardous substance* for the purposes of this subchapter, means a material, including its mixtures and solutions, that—

- (1) Is listed in the appendix A to §172.101 of this subchapter;
- (2) Is in a quantity, in one package, which equals or exceeds the reportable quantity (RQ) listed in the appendix A to §172.101 of this subchapter; and
- (3) When in a mixture or solution—
  - (i) For radionuclides, conforms to paragraph 7 of the appendix A to §172.101.
  - (ii) For other than radionuclides, is in a concentration by weight which equals or exceeds the concentration corresponding to the RQ of the material, as shown in the following table:

RQ pounds (kilograms)	Concentration by weight	
	Percent	PPM
5000 (2270)	10	100,000
1000 (454)	2	20,000
100 (45.4)	0.2	2,000
10 (4.54)	0.02	200
1 (0.454)	0.002	20

The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance in appendix A to §172.101 of this subchapter, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

*Hazardous waste*, for the purposes of this chapter, means any material that is subject to the Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency specified in 40 CFR part 262.

*Hazmat* means a hazardous material.

*Hazmat employee* means: (1) A person who is:

- (i) Employed on a full-time, part time, or temporary basis by a hazmat employer and who in the course of such full time, part time or temporary employment directly affects hazardous materials transportation safety;
- (ii) Self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft) transporting hazardous materials in

commerce who in the course of such self-employment directly affects hazardous materials transportation safety;

(iii) A railroad signalman; or

(iv) A railroad maintenance-of-way employee.

(2) This term includes an individual, employed on a full time, part time, or temporary basis by a hazmat employer, or who is self-employed, who during the course of employment:

(i) Loads, unloads, or handles hazardous materials;

(ii) Designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.

(iii) Prepares hazardous materials for transportation;

(iv) Is responsible for safety of transporting hazardous materials;

(v) Operates a vehicle used to transport hazardous materials.

*Hazmat employer means:*

(1) A person who employs or uses at least one hazmat employee on a full-time, part time, or temporary basis; and who:

(i) Transports hazardous materials in commerce;

(ii) Causes hazardous materials to be transported in commerce; or

(iii) Designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs or tests a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous materials in commerce;

(2) A person who is self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft) transporting materials in commerce; and who:

(i) Transports hazardous materials in commerce;

(ii) Causes hazardous materials to be transported in commerce; or

(iii) Designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs or tests a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous materials in commerce; or

(3) A department, agency, or instrumentality of the United States Government, or an authority of a State, political subdivision of a State, or an Indian tribe; and who:

(i) Transports hazardous materials in commerce;

(ii) Causes hazardous materials to be transported in commerce; or

(iii) Designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs or tests a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous materials in commerce.

*Hermetically sealed* means closed by fusion, gasketing, crimping, or equivalent means so that no gas or vapor can enter or escape.

*HMR* means the Hazardous Materials Regulations, Parts 171 through 180 of this chapter.

*IAEA* means International Atomic Energy Agency.

*IATA* means International Air Transport Association.

*ICAO* means International Civil Aviation Organization.

*IMO* means International Maritime Organization.

*Incorporated by reference* or *IBR* means a publication or a portion of a publication that is made a part of the regulations of this subchapter. See §171.7.

*Infectious substance (etiologic agent)*. See §173.134 of this subchapter.

*Inner packaging* means a packaging for which an outer packaging is required for transport. It does not include the inner receptacle of a composite packaging.

*Inner receptacle* means a receptacle which requires an outer packaging in order to perform its containment function. The inner receptacle may be an inner packaging of a combination packaging or the inner receptacle of a composite packaging.

*Intermediate bulk container* or *IBC* means a rigid or flexible portable packaging, other than a cylinder or portable tank, which is designed for mechanical handling. Standards for IBCs manufactured in the United States are set forth in subparts N and O of part 178 of this subchapter.

*Intermediate packaging* means a packaging which encloses an inner packaging or article and is itself enclosed in an outer packaging.

*Intermodal container* means a freight container designed and constructed to permit it to be used interchangeably in two or more modes of transport.

*Intermodal portable tank* or *IM portable tank* means a specific class of portable tanks designed primarily for international intermodal use.

*International transportation* means transportation—

- (1) Between any place in the United States and any place in a foreign country;
- (2) Between places in the United States through a foreign country; or
- (3) Between places in one or more foreign countries through the United States.

*Irritating material*. See §173.132(a)(2) of this subchapter.

*Jerrican* means a metal or plastic packaging of rectangular or polygonal cross-section.

*Large packaging* means a packaging that—

- (1) Consists of an outer packaging which contains articles or inner packagings;

- (2) Is designated for mechanical handling;
- (3) Exceeds 400 kg net mass or 450 liters (118.9 gallons) capacity;
- (4) Has a volume of not more than 3 m<sup>3</sup> (see §178.801(i) of this subchapter); and
- (5) Conforms to the requirements for the construction, testing and marking of large packagings as specified in the UN Recommendations, Chapter 6.6 (incorporated by reference; see §171.7).

*Limited quantity*, when specified as such in a section applicable to a particular material, means the maximum amount of a hazardous material for which there is a specific labeling or packaging exception.

*Lighter* means a mechanically operated flame-producing device employing an ignition device and containing a Class 3 or a Division 2.1 material. For design, capacity, and filling density requirements for lighters containing a Division 2.1 material, see §173.308.

*Lighter refill* means a pressurized container that does not contain an ignition device but does contain a release device and is intended for use as a replacement cartridge in a lighter or to refill a lighter with a Division 2.1 flammable gas fuel. For capacity limits, see §173.306(h) of this subchapter.

*Liquid* means a material, other than an elevated temperature material, with a melting point or initial melting point of 20 °C (68 °F) or lower at a standard pressure of 101.3 kPa (14.7 psia). A viscous material for which a specific melting point cannot be determined must be subjected to the procedures specified in ASTM D 4359 “Standard Test Method for Determining Whether a Material is Liquid or Solid” (IBR, see §171.7).

*Liquid phase* means a material that meets the definition of liquid when evaluated at the higher of the temperature at which it is offered for transportation or at which it is transported, not at the 37.8 °C (100 °F) temperature specified in ASTM D 4359 (IBR, see §171.7).

*Lithium content* means the mass of lithium in the anode of a lithium metal or lithium alloy cell. The lithium content of a battery equals the sum of the grams of lithium content contained in the component cells of the battery. For a lithium-ion cell see the definition for “equivalent lithium content”.

*Loading incidental to movement* means loading by carrier personnel or in the presence of carrier personnel of packaged or containerized hazardous material onto a transport vehicle, aircraft, or vessel for the purpose of transporting it, including the loading, blocking and bracing a hazardous materials package in a freight container or transport vehicle, and segregating a hazardous materials package in a freight container or transport vehicle from incompatible cargo. For a bulk packaging, *loading incidental to movement* means filling the packaging with a hazardous material for the purpose of transporting it. *Loading incidental to movement* includes transloading.

*Magazine vessel* means a vessel used for the receiving, storing, or dispensing of explosives.

*Magnetic material*. See §173.21(d) of this subchapter.

*Marine pollutant*, means a material which is listed in appendix B to §172.101 of this subchapter (also see §171.4) and, when in a solution or mixture of one or more marine pollutants, is packaged in a concentration which equals or exceeds:

- (1) Ten percent by weight of the solution or mixture for materials listed in the appendix; or
- (2) One percent by weight of the solution or mixture for materials that are identified as severe marine pollutants in the appendix.

*Marking* means a descriptive name, identification number, instructions, cautions, weight, specification, or UN marks, or combinations thereof, required by this subchapter on outer packagings of hazardous materials.

*Material of trade* means a hazardous material, other than a hazardous waste, that is carried on a motor vehicle—

- (1) For the purpose of protecting the health and safety of the motor vehicle operator or passengers;
- (2) For the purpose of supporting the operation or maintenance of a motor vehicle (including its auxiliary equipment); or
- (3) By a private motor carrier (including vehicles operated by a rail carrier) in direct support of a principal business that is other than transportation by motor vehicle.

*Material poisonous by inhalation* means:

- (1) A gas meeting the defining criteria in §173.115(c) of this subchapter and assigned to Hazard Zone A, B, C, or D in accordance with §173.116(a) of this subchapter;
- (2) A liquid (other than as a mist) meeting the defining criteria in §173.132(a)(1)(iii) of this subchapter and assigned to Hazard Zone A or B in accordance with §173.133(a) of this subchapter; or
- (3) Any material identified as an inhalation hazard by a special provision in column 7 of the §172.101 table.

*Maximum allowable working pressure* or *MAWP*: For DOT specification cargo tanks used to transport liquid hazardous materials, see §178.320(a) of this subchapter.

*Maximum capacity* means the maximum inner volume of receptacles or packagings.

*Maximum net mass* means the allowable maximum net mass of contents in a single packaging, or as used in subpart M of part 178 of this subchapter, the maximum combined mass of inner packaging, and the contents thereof.

*Metered delivery service* means a cargo tank unloading operation conducted at a metered flow rate of 378.5 L (100 gallons) per minute or less through an attached delivery hose with a nominal inside diameter of 3.175 cm (1 1/4 inches) or less.

*Miscellaneous hazardous material*. See §173.140 of this subchapter.

*Mixture* means a material composed of more than one chemical compound or element.

*Mode* means any of the following transportation methods; rail, highway, air, or water.

*Motor vehicle* includes a vehicle, machine, tractor, trailer, or semitrailer, or any combination thereof, propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property. It does not include a vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

*Movement* means the physical transfer of a hazardous material from one geographic location to another by rail car, aircraft, motor vehicle, or vessel.

*Multiple-element gas container* or *MEGC* means assemblies of UN cylinders, tubes, or bundles of cylinders interconnected by a manifold and assembled within a framework. The term includes all service equipment and structural equipment necessary for the transport of gases.

*Name of contents* means the proper shipping name as specified in §172.101 of this subchapter.

*Navigable waters* means, for the purposes of this subchapter, waters of the United States, including the territorial seas.

*Non-bulk packaging* means a packaging which has:



- (1) A maximum capacity of 450 L (119 gallons) or less as a receptacle for a liquid;
- (2) A maximum net mass of 400 kg (882 pounds) or less and a maximum capacity of 450 L (119 gallons) or less as a receptacle for a solid; or
- (3) A water capacity of 454 kg (1000 pounds) or less as a receptacle for a gas as defined in §173.115 of this subchapter.

*Nonflammable gas.* See §173.115 of this subchapter.

*N.O.S.* means not otherwise specified.

*N.O.S. description* means a shipping description from the §172.101 table which includes the abbreviation *n.o.s.*

*NPT* means an American Standard taper pipe thread conforming to the requirements of NBS Handbook H-28 (IBR, see §171.7).

*NRC (non-reusable container)* means a packaging (container) whose reuse is restricted in accordance with the provisions of §173.28 of this subchapter.

*Occupied caboose* means a rail car being used to transport non-passenger personnel.

*Officer in Charge, Marine Inspection* means a person from the civilian or military branch of the Coast Guard designated as such by the Commandant and who under the supervision and direction of the Coast Guard District Commander is in charge of a designated inspection zone for the performance of duties with respect to the enforcement and administration of title 52, Revised Statutes, acts amendatory thereof or supplemental thereto, rules and regulations thereunder, and the inspection required thereby.

*Offshore supply vessel* means a cargo vessel of less than 500 gross tons that regularly transports goods, supplies or equipment in support of exploration or production of offshore mineral or energy resources.

*Operator* means a person who controls the use of an aircraft, vessel, or vehicle.

*Organic peroxide.* See §173.128 of this subchapter.

*ORM* means other regulated material. See §173.144 of this subchapter.

*Outage* or *ullage* means the amount by which a packaging falls short of being liquid full, usually expressed in percent by volume.

*Outer packaging* means the outermost enclosure of a composite or combination packaging together with any absorbent materials, cushioning and any other components necessary to contain and protect inner receptacles or inner packagings.

*Overpack*, except as provided in subpart K of part 178 of this subchapter, means an enclosure that is used by a single consignor to provide protection or convenience in handling of a package or to consolidate two or more packages. *Overpack* does not include a transport vehicle, freight container, or aircraft unit load device. Examples of overpacks are one or more packages:

- (1) Placed or stacked onto a load board such as a pallet and secured by strapping, shrink wrapping, stretch wrapping, or other suitable means; or
- (2) Placed in a protective outer packaging such as a box or crate.

*Oxidizer.* See §173.127 of this subchapter.

*Oxidizing gas* means a gas which may, generally by providing oxygen, cause or contribute to the combustion of other material more than air does.

*Oxygen generator (chemical)* means a device containing chemicals that upon activation release oxygen as a product of chemical reaction.

*Package or Outside Package* means a packaging plus its contents. For radioactive materials, see §173.403 of this subchapter.

*Packaging* means a receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the minimum packing requirements of this subchapter. For radioactive materials packaging, see §173.403 of this subchapter.

*Packing group* means a grouping according to the degree of danger presented by hazardous materials. Packing Group I indicates great danger; Packing Group II, medium danger; Packing Group III, minor danger. See §172.101(f) of this subchapter.

*Passenger* (With respect to vessels and for the purposes of part 176 only) means a person being carried on a vessel other than:

- (1) The owner or his representative;
- (2) The operator;
- (3) A bona fide member of the crew engaged in the business of the vessel who has contributed no consideration for his carriage and who is paid for his services; or
- (4) A guest who has not contributed any consideration directly or indirectly for his carriage.

*Passenger-carrying aircraft* means an aircraft that carries any person other than a crewmember, company employee, an authorized representative of the United States, or a person accompanying the shipment.

*Passenger vessel* means—

- (1) A vessel subject to any of the requirements of the International Convention for the Safety of Life at Sea, 1974, which carries more than 12 passengers;
- (2) A cargo vessel documented under the laws of the United States and not subject to that Convention, which carries more than 16 passengers;
- (3) A cargo vessel of any foreign nation that extends reciprocal privileges and is not subject to that Convention and which carries more than 16 passengers; and
- (4) A vessel engaged in a ferry operation and which carries passengers.

*Person* means an individual, corporation, company, association, firm, partnership, society, joint stock company; or a government, Indian tribe, or authority of a government or tribe offering a hazardous material for transportation in commerce or transporting a hazardous material to support a commercial enterprise. This term does not include the United States Postal Service or, for purposes of 49 U.S.C. 5123 and 5124, a Department, agency, or instrumentality of the government.

*Person who offers or offeror* means:

- (1) Any person who does either or both of the following:
  - (i) Performs, or is responsible for performing, any pre-transportation function required under this subchapter for transportation of the hazardous material in commerce.
  - (ii) Tenders or makes the hazardous material available to a carrier for transportation in commerce.

(2) A carrier is not an offeror when it performs a function required by this subchapter as a condition of acceptance of a hazardous material for transportation in commerce ( e.g. , reviewing shipping papers, examining packages to ensure that they are in conformance with this subchapter, or preparing shipping documentation for its own use) or when it transfers a hazardous material to another carrier for continued transportation in commerce without performing a pre-transportation function.

*PHMSA* means the Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

*Placarded car* means a rail car which is placarded in accordance with the requirements of part 172 of this subchapter.

*Poisonous gas*. See §173.115 of this subchapter.

*Poisonous materials*. See §173.132 of this subchapter.

*Portable tank* means a bulk packaging (except a cylinder having a water capacity of 1000 pounds or less) designed primarily to be loaded onto, or on, or temporarily attached to a transport vehicle or ship and equipped with skids, mountings, or accessories to facilitate handling of the tank by mechanical means. It does not include a cargo tank, tank car, multi-unit tank car tank, or trailer carrying 3AX, 3AAX, or 3T cylinders.

*Preferred route or Preferred highway* is a highway for shipment of *highway route controlled quantities* of radioactive materials so designated by a State routing agency, and any Interstate System highway for which an alternative highway has not been designated by such State agency as provided by §397.103 of this title.

*Pre-transportation function* means a function specified in the HMR that is required to assure the safe transportation of a hazardous material in commerce, including—

- (1) Determining the hazard class of a hazardous material.
- (2) Selecting a hazardous materials packaging.
- (3) Filling a hazardous materials packaging, including a bulk packaging.
- (4) Securing a closure on a filled or partially filled hazardous materials package or container or on a package or container containing a residue of a hazardous material.
- (5) Marking a package to indicate that it contains a hazardous material.
- (6) Labeling a package to indicate that it contains a hazardous material.
- (7) Preparing a shipping paper.
- (8) Providing and maintaining emergency response information.
- (9) Reviewing a shipping paper to verify compliance with the HMR or international equivalents.
- (10) For each person importing a hazardous material into the United States, providing the shipper with timely and complete information as to the HMR requirements that will apply to the transportation of the material within the United States.
- (11) Certifying that a hazardous material is in proper condition for transportation in conformance with the requirements of the HMR.
- (12) Loading, blocking, and bracing a hazardous materials package in a freight container or transport vehicle.
- (13) Segregating a hazardous materials package in a freight container or transport vehicle from incompatible cargo.

(14) Selecting, providing, or affixing placards for a freight container or transport vehicle to indicate that it contains a hazardous material.

*Primary hazard* means the hazard class of a material as assigned in the §172.101 table.

*Private track* or *Private siding* means: (i) Track located outside of a carrier's right-of-way, yard, or terminals where the carrier does not own the rails, ties, roadbed, or right-of-way, or

(ii) Track leased by a railroad to a lessee, where the lease provides for, and actual practice entails, exclusive use of that trackage by the lessee and/or a general system railroad for purpose of moving only cars shipped to or by the lessee, and where the lessor otherwise exercises no control over or responsibility for the trackage or the cars on the trackage.

*Proper shipping name* means the name of the hazardous material shown in Roman print (not italics) in §172.101 of this subchapter.

*Psi* means pounds per square inch.

*Psia* means pounds per square inch absolute.

*Psig* means pounds per square inch gauge.

*Public vessel* means a vessel owned by and being used in the public service of the United States. It does not include a vessel owned by the United States and engaged in a trade or commercial service or a vessel under contract or charter to the United States.

*Pyrophoric liquid*. See §173.124(b) of this subchapter.

*Radioactive materials*. See §173.403 of this subchapter for definitions relating to radioactive materials.

*Rail car* means a car designed to carry freight or non-passenger personnel by rail, and includes a box car, flat car, gondola car, hopper car, tank car, and occupied caboose.

*Railroad* means a person engaged in transportation by rail.

*Receptacle* means a containment vessel for receiving and holding materials, including any means of closing.

*Registered Inspector* means a person registered with the Department in accordance with subpart F of part 107 of this chapter who has the knowledge and ability to determine whether a cargo tank conforms to the applicable DOT specification. A *Registered Inspector* meets the knowledge and ability requirements of this section by meeting any one of the following requirements:

- (1) Has an engineering degree and one year of work experience relating to the testing and inspection of cargo tanks;
- (2) Has an associate degree in engineering and two years of work experience relating to the testing and inspection of cargo tanks;
- (3) Has a high school diploma (or General Equivalency Diploma) and three years of work experience relating to the testing and inspection of cargo tanks; or
- (4) Has at least three years' experience performing the duties of a Registered Inspector prior to September 1, 1991.

*Regulated medical waste*. See §173.134 of this subchapter.

*Reportable quantity (RQ)* for the purposes of this subchapter means the quantity specified in column 2 of the appendix to §172.101 for any material identified in column 1 of the appendix.

*Research* means investigation or experimentation aimed at the discovery of new theories or laws and the discovery and interpretation of facts or revision of accepted theories or laws in the light of new facts. Research does not include the application of existing technology to industrial endeavors.

*Residue* means the hazardous material remaining in a packaging, including a tank car, after its contents have been unloaded to the maximum extent practicable and before the packaging is either refilled or cleaned of hazardous material and purged to remove any hazardous vapors.

*SADT* means self-accelerated decomposition temperature. See §173.21(f) of this subchapter.

*Salvage packaging* means a special packaging conforming to §173.3 of this subchapter into which damaged, defective, leaking, or non-conforming hazardous materials packages, or hazardous materials that have spilled or leaked, are placed for purposes of transport for recovery or disposal.

*SCF* (standard cubic foot) means one cubic foot of gas measured at 60 °F. and 14.7 psia.

*Secretary* means the Secretary of Transportation.

*Self-defense spray* means an aerosol or non-pressurized device that:

(1) Is intended to have an irritating or incapacitating effect on a person or animal; and

(2) Meets no hazard criteria other than for Class 9 (for example, a pepper spray; see §173.140(a) of this subchapter) and, for an aerosol, Division 2.1 or 2.2 (see §173.115 of this subchapter), except that it may contain not more than two percent by mass of a tear gas substance (e.g., chloroacetophenone (CN) or 0-chlorobenzylmalonitrile (CS); see §173.132(a)(2) of this subchapter.)

*Settled pressure* means the pressure exerted by the contents of a UN pressure receptacle in thermal and diffusive equilibrium.

*Sharps*. See §173.134 of this subchapter.

*Shipping paper* means a shipping order, bill of lading, manifest or other shipping document serving a similar purpose and prepared in accordance with subpart C of part 172 of this chapter.

*Siftproof packaging* means a packaging impermeable to dry contents, including fine solid material produced during transportation.

*Single packaging* means a non-bulk packaging other than a combination packaging.

*Solid* means a material which is not a gas or a liquid.

*Solution* means any homogeneous liquid mixture of two or more chemical compounds or elements that will not undergo any segregation under conditions normal to transportation.

*Special permit* means a document issued by the Associate Administrator under the authority of 49 U.S.C. 5117 permitting a person to perform a function that is not otherwise permitted under subchapter A or C of this chapter, or other regulations issued under 49 U.S.C. 5101 et seq. (e.g., Federal Motor Carrier Safety routing requirements). The terms "special permit" and "exemption" have the same meaning for purposes of subchapter A or C of this chapter or other regulations issued under 49 U.S.C. 5101 through 5127. An exemption issued prior to October 1, 2005 remains valid until it is past its expiration date, terminated by the Associate Administrator, or issued as a special permit, whichever occurs first.

*Specification packaging* means a packaging conforming to one of the specifications or standards for packagings in part 178 or part 179 of this subchapter.

*Spontaneously combustible material*. See §173.124(b) of this subchapter.

*Stabilized* means that the hazardous material is in a condition that precludes uncontrolled reaction. This may be achieved by methods such as adding an inhibiting chemical, degassing the hazardous material to remove dissolved oxygen and inerting the air space in the package, or maintaining the hazardous material under temperature control.

*State* means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, or any other territory or possession of the United States designated by the Secretary.

*State-designated route* means a preferred route selected in accordance with U.S. DOT "Guidelines for Selecting Preferred Highway Routes for Highway Route Controlled Quantities of Radioactive Materials" or an equivalent routing analysis which adequately considers overall risk to the public.

*Storage incidental to movement* means storage of a transport vehicle, freight container, or package containing a hazardous material by any person between the time that a carrier takes physical possession of the hazardous material for the purpose of transporting it in commerce until the package containing the hazardous material is physically delivered to the destination indicated on a shipping document, package marking, or other medium, or, in the case of a private motor carrier, between the time that a motor vehicle driver takes physical possession of the hazardous material for the purpose of transporting it in commerce until the driver relinquishes possession of the package at its destination and is no longer responsible for performing functions subject to the HMR with respect to that particular package.

(1) *Storage incidental to movement* includes—

(i) Storage at the destination shown on a shipping document, including storage at a transloading facility, provided the shipping documentation identifies the shipment as a through-shipment and identifies the final destination or destinations of the hazardous material; and

(ii) Rail cars containing hazardous materials that are stored on track that does not meet the definition of "private track or siding" in §171.8, even if those cars have been delivered to the destination shown on the shipping document.

(2) Storage incidental to movement does not include storage of a hazardous material at its final destination as shown on a shipping document.

*Stowage* means the act of placing hazardous materials on board a vessel.

*Strong outside container* means the outermost enclosure which provides protection against the unintentional release of its contents under conditions normally incident to transportation.

*Subsidiary hazard* means a hazard of a material other than the primary hazard. (See *primary hazard*).

*Table in §172.101 or §172.101 table* means the Hazardous Materials Table in §172.101 of this subchapter.

*Technical name* means a recognized chemical name or microbiological name currently used in scientific and technical handbooks, journals, and texts. Generic descriptions are authorized for use as technical names provided they readily identify the general chemical group, or microbiological group. Examples of acceptable generic chemical descriptions are organic phosphate compounds, petroleum aliphatic hydrocarbons and tertiary amines. For proficiency testing only, generic microbiological descriptions such as bacteria, mycobacteria, fungus, and viral samples may be used. Except for names which appear in subpart B of part 172 of this subchapter, trade names may not be used as technical names.

*TOFC* means trailer-on-flat-car.

*Top shell* means the tank car tank surface, excluding the head ends and bottom shell of the tank car tank.

*Toxin*. See §173.134 of this subchapter.

*Trailership* means a vessel, other than a carfloat, specifically equipped to carry motor transport vehicles and fitted with installed securing devices to tie down each vehicle. The term *trailership* includes *Roll-on/Roll-off (RO/RO)* vessels.

*Train* means one or more engines coupled with one or more rail cars, except during switching operations or where the operation is that of classifying and assembling rail cars within a railroad yard for the purpose of making or breaking up trains.

*Trainship* means a vessel other than a rail car ferry or carfloat, specifically equipped to transport railroad vehicles, and fitted with installed securing devices to tie down each vehicle.

*Transloading* means the transfer of a hazardous material by any person from one bulk packaging to another bulk packaging, from a bulk packaging to a non-bulk packaging, or from a non-bulk packaging to a bulk packaging for the purpose of continuing the movement of the hazardous material in commerce.

*Transport vehicle* means a cargo-carrying vehicle such as an automobile, van, tractor, truck, semitrailer, tank car or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, rail car, etc.) is a separate transport vehicle.

*Transportation* or *transport* means the movement of property and loading, unloading, or storage incidental to that movement.

*UFC* means Uniform Freight Classification.

*UN* means United Nations.

*UN cylinder* means a transportable pressure receptacle with a water capacity not exceeding 150 L that has been marked and certified as conforming to the applicable requirements in part 178 of this subchapter.

*UN portable tank* means an intermodal tank having a capacity of more than 450 liters (118.9 gallons). It includes a shell fitted with service equipment and structural equipment, including stabilizing members external to the shell and skids, mountings or accessories to facilitate mechanical handling. A UN portable tank must be capable of being filled and discharged without the removal of its structural equipment and must be capable of being lifted when full. Cargo tanks, rail tank car tanks, non-metallic tanks, non-specification tanks, bulk bins, and IBCs and packagings made to cylinder specifications are not UN portable tanks.

*UN pressure receptacle* means a UN cylinder or tube.

*UN Recommendations* means the UN Recommendations on the Transport of Dangerous Goods (IBR, see §171.7).

*UN standard packaging* means a packaging conforming to standards in the UN Recommendations (IBR, see §171.7).

*UN tube* means a seamless transportable pressure receptacle with a water capacity exceeding 150 L but not more than 3,000 L that has been marked and certified as conforming to the requirements in part 178 of this subchapter.

*Undeclared hazardous material* means a hazardous material that is: (1) Subject to any of the hazard communication requirements in subparts C (Shipping Papers), D (Marking), E (Labeling), and F (Placarding) of Part 172 of this subchapter, or an alternative marking requirement in Part 173 of this subchapter (such as §§173.4(a)(10) and 173.6(c)); and (2) offered for transportation in commerce without any visible indication to the person accepting the hazardous material for transportation that a hazardous material is present, on either an accompanying shipping document, or the outside of a transport vehicle, freight container, or package.

*Unintentional release* means the escape of a hazardous material from a package on an occasion not anticipated or planned. This includes releases resulting from collision, package failures, human error, criminal activity, negligence, improper packing, or unusual conditions such as the operation of pressure relief devices as a result of over-pressurization, overfill or fire exposure. It does not include releases, such as venting of packages, where allowed, and the operational discharge of contents from packages.

*Unit load device* means any type of freight container, aircraft container, aircraft pallet with a net, or aircraft pallet with a net over an igloo.

*United States* means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, or any other territory or possession of the United States designated by the Secretary.

*Unloading incidental to movement* means removing a packaged or containerized hazardous material from a transport vehicle, aircraft, or vessel, or for a bulk packaging, emptying a hazardous material from the bulk packaging after the hazardous material has been delivered to the consignee when performed by carrier personnel or in the presence of carrier personnel or, in the case of a private motor carrier, while the driver of the motor vehicle from which the hazardous material is being unloaded immediately after movement is completed is present during the unloading operation. (Emptying a hazardous material from a bulk packaging while the packaging is on board a vessel is subject to separate regulations as delegated by Department of Homeland Security Delegation No. 0170.1 at 2(103).) *Unloading incidental to movement* includes transloading.

*Vessel* includes every description of watercraft, used or capable of being used as a means of transportation on the water.

*Viscous liquid* means a liquid material which has a measured viscosity in excess of 2500 centistokes at 25 °C. (77 °F.) when determined in accordance with the procedures specified in ASTM Method D 445–72 “Kinematic Viscosity of Transparent and Opaque Liquids (and the Calculation of Dynamic Viscosity)” or ASTM Method D 1200–70 “Viscosity of Paints, Varnishes, and Lacquers by Ford Viscosity Cup.”

*Volatility* refers to the relative rate of evaporation of materials to assume the vapor state.

*Water reactive material*. See §173.124(c) of this subchapter.

*Water resistant* means having a degree of resistance to permeability by and damage caused by water in liquid form.

*Wooden barrel* means a packaging made of natural wood, of round cross-section, having convex walls, consisting of staves and heads and fitted with hoops.

*Working pressure* for purposes of UN pressure receptacles, means the settled pressure of a compressed gas at a reference temperature of 15 °C (59 °F).

*W.T.* means watertight.

[Amdt. 171–32, 41 FR 15994, Apr. 15, 1976]

**Editorial Note:** For Federal Register citations affecting §171.8, see the List of CFR Sections Affected which appears in the Finding Aids section of the printed volume and on GPO Access.

## **§ 171.9 Rules of construction.**

(a) In this subchapter, unless the context requires otherwise:

- (1) Words imparting the singular include the plural;
- (2) Words imparting the plural include the singular; and
- (3) Words imparting the masculine gender include the feminine;

(b) In this subchapter, the word: (1) “Shall” is used in an imperative sense;

(2) “Must” is used in an imperative sense;

(3) “Should” is used in a recommendatory sense;



(4) "May" is used in a permissive sense to state authority or permission to do the act described, and the words "no person may \* \* \*" or "a person may not \* \* \*" means that no person is required, authorized, or permitted to do the act described; and

(5) "Includes" is used as a word of inclusion not limitation.

[Amdt. 171-32, 41 FR 15996, Apr. 15, 1976, as amended by Amdt. 171-32A, 41 FR 40630, Sept. 20, 1976; Amdt. 171-121, 58 FR 51528, Oct. 1, 1993]

## § 171.10 Units of measure.

(a) *General.* To ensure compatibility with international transportation standards, most units of measure in this subchapter are expressed using the International System of Units ("SI" or metric). Where SI units appear, they are the regulatory standard. U.S. standard or customary units, which appear in parentheses following the SI units, are for information only and are not intended to be the regulatory standard.

(b) Abbreviations for SI units of measure generally used throughout this subchapter are as shown in paragraph (c) of this section. Customary units shown throughout this subchapter are generally not abbreviated.

(c) *Conversion values.* (1) Conversion values are provided in the following table and are based on values provided in ASTM E 380, "Standard for Metric Practice".

(2) If an exact conversion is needed, the following conversion table should be used.

Table of Conversion Factors for SI Units

Measurement	SI to U.S. standard	U.S. standard to SI
Activity	1 TBq=27 Ci	1 Ci=0.037 TBq
Length	1 cm=0.3937008 in 1 m=3.280840 ft	1 in=2.540000 cm 1 ft=0.3048000 m
Thickness	1 mm=0.03937008 in	1 in=25.40000 mm
Mass (weight)	1 kg=2.204622 lb 1 g=0.03527397 oz	1 lb=0.4535924 kg 1 oz=28.34952 g
Pressure	1 kPa=0.1450377 psi 1 Bar=100 kPa=14.504 psi 1 kPa=7.5 mm Hg	1 psi=6.894757 kPa 1 psi=0.06895 Bar
Radiation level	1 Sv/hr=100 rem/hr	1 rem/hr=0.01 Sv/hr
Volume (liquid)	1 L=0.2641720 gal 1 mL=0.03381402 oz 1 m <sup>3</sup> =35.31466 ft <sup>3</sup>	1 gal=3.785412 L 1 oz=29.57353 mL 1 ft <sup>3</sup> =0.02831685 m <sup>3</sup>
Density	1 kg/m <sup>3</sup> =0.06242797 lb/ft <sup>3</sup>	1 lb/ft <sup>3</sup> =16.01846 kg/m <sup>3</sup>
Force	1 Newton = 0.2248 Pound-force	1 Pound-force=4.483 N

Abbreviation for units of measure are as follows:

Unit of measure and abbreviation:

(SI): millimeter, mm; centimeter, cm; meter, m; gram, g; kilogram, kg; kiloPascal, kPa; liter, L; milliliter, mL; cubic meter, m<sup>3</sup>;

Terabecquerel, TBq; Gigabecquerel, GBq; millisievert, mSv; Newton, N;

(U.S.): Inch, in; foot, ft; ounce, oz; pound, lb; psig, psi; gallon, gal; cubic feet, ft<sup>3</sup>; Curie, Ci; millicurie, mCi; millirem, mrem.

[Amdt. 171–111, 56 FR 66159, Dec. 20, 1991, as amended by Amdt. 171–136, 60 FR 49108, Sept. 21, 1995; Amdt. 171–135, 60 FR 50302, Sept. 28, 1995; 66 FR 33335, June 21, 2001; 66 FR 45378, Aug. 28, 2001; 68 FR 75740, Dec. 31, 2003]

## § 171.11 [Reserved]

## § 171.12 North American Shipments.

(a) *Requirements for the use of the Transport Canada TDG Regulations.* (1) A hazardous material transported from Canada to the United States, from the United States to Canada, or transiting the United States to Canada or a foreign destination may be offered for transportation or transported by motor carrier and rail in accordance with the Transport Canada TDG Regulations (IBR, see §171.7) as authorized in §171.22, provided the requirements in §§171.22 and 171.23, as applicable, and this section are met. In addition, a cargo tank motor vehicle, portable tank or rail tank car authorized by the Transport Canada TDG Regulations may be used for transportation to, from, or within the United States provided the cargo tank motor vehicle, portable tank or rail tank car conforms to the applicable requirements of this section. Except as otherwise provided in this subpart, the requirements in parts 172, 173, and 178 of this subchapter do not apply for a material transported in accordance with the Transport Canada TDG Regulations if all other requirements of this subpart and the TDG Regulations are met.

(2) *General packaging requirements.* When the provisions of this subchapter require a DOT specification or UN standard packaging to be used for transporting a hazardous material, a packaging authorized by the Transport Canada TDG Regulations may be used, subject to the limitations of this part, and only if it is equivalent to the corresponding DOT specification or UN packaging (see §173.24(d)(2) of this subchapter) authorized by this subchapter.

(3) *Bulk packagings.* A portable tank, cargo tank motor vehicle or rail tank car equivalent to a corresponding DOT specification and conforming to and authorized by the Transport Canada TDG Regulations may be used provided—

(i) An equivalent type of packaging is authorized for the hazardous material according to the §172.101 table of this subchapter;

(ii) The portable tank, cargo tank motor vehicle or rail tank car conforms to the requirements of the applicable part 173 bulk packaging section specified in the §172.101 table for the material to be transported;

(iii) The portable tank, cargo tank motor vehicle or rail tank car conforms to the requirements of all assigned bulk packaging special provisions (B codes, and T and TP codes) in §172.102 of this subchapter; and

(iv) The bulk packaging conforms to all applicable requirements of §§173.31, 173.32, 173.33 and 173.35 of this subchapter, and parts 177 and 180 of this subchapter. The periodic retests and inspections required by §§173.31, 173.32 and 173.33 of this subchapter may be performed in accordance with part 180 of this subchapter or in accordance with the requirements of the TDG Regulations provided that the intervals prescribed in part 180 of this subchapter are met.

(v) Rail tank cars must conform to the requirements of Canadian General Standards Board standard 43.147 (IBR, see §171.7).

(4) *Cylinders.* When the provisions of this subchapter require that a DOT specification or a UN pressure receptacle must be used for a hazardous material, a packaging authorized by the Transport Canada TDG Regulations may be used only if it corresponds to the DOT specification or UN standard authorized by this subchapter. Unless otherwise excepted in this subchapter, a cylinder (including a UN pressure receptacle) may not be transported unless—

(i) The packaging is a UN pressure receptacle marked with the letters “CAN” for Canada as a country of manufacture or a country

of approval or is a cylinder that was manufactured, inspected and tested in accordance with a DOT specification or a UN standard prescribed in part 178 of this subchapter, except that cylinders not conforming to these requirements must meet the requirements in §171.23. Each cylinder must conform to the applicable requirements in part 173 of this subchapter for the hazardous material involved.

(ii) The packaging is a Canadian Transport Commission (CTC) specification cylinder manufactured, originally marked and approved in accordance with the CTC regulations and in full conformance with the Transport Canada TDG Regulations.

(A) The CTC specification corresponds with a DOT specification and the cylinder markings are the same as those specified in this subchapter except that they were originally marked with the letters "CTC" in place of "DOT";

(B) The cylinder has been requalified under a program authorized by the Transport Canada TDG Regulations or requalified in accordance with the requirements in §180.205 within the prescribed requalification period provided for the corresponding DOT specification;

(C) When the regulations authorize a cylinder for a specific hazardous material with a specification marking prefix of "DOT", a cylinder marked "CTC" which otherwise bears the same markings that would be required of the specified "DOT" cylinder may be used; and

(D) Transport of the cylinder and the material it contains is in all other respects in conformance with the requirements of this subchapter (e.g. valve protection, filling requirements, operational requirements, etc.).

(5) *Class 1 (explosive) materials*. When transporting Class 1 (explosive) material, rail and motor carriers must comply with 49 CFR 1572.9 and 1572.11 to the extent the requirements apply.

(6) *Primary lithium batteries and cells*. Packages containing primary lithium batteries and cells that meet the exception in §172.102, Special Provision 188 or 189 of this subchapter must be marked "PRIMARY LITHIUM BATTERIES—FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT" or "LITHIUM METAL BATTERIES—FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT." The provisions of this paragraph do not apply to packages that contain 5 kg (11 pounds) net weight or less of primary lithium batteries cells that are contained in or packed with equipment.

(b) *Shipments to or from Mexico*. Unless otherwise excepted, hazardous materials shipments from Mexico to the United States or from the United States to Mexico must conform to all applicable requirements of this subchapter. When a hazardous material that is a material poisonous by inhalation (see §171.8) is transported by highway or rail from Mexico to the United States, or from the United States to Mexico, the following requirements apply:

(1) The shipping description must include the words "Toxic Inhalation Hazard" or "Poison-Inhalation Hazard" or "Inhalation Hazard", as required in §172.203(m) of this subchapter.

(2) The material must be packaged in accordance with requirements of this subchapter.

(3) The package must be marked in accordance with §172.313 of this subchapter.

(4) Except as provided in paragraph (e)(5) of this section, the package must be labeled or placarded POISON GAS or POISON INHALATION HAZARD, as appropriate, in accordance with subparts E and F of this subchapter.

(5) A label or placard that conforms to the UN Recommendations (IBR, see §171.7) specifications for a "Division 2.3" or "Division 6.1" label or placard may be substituted for the POISON GAS or POISON INHALATION HAZARD label or placard required by §§172.400(a) and 172.504(e) of this subchapter on a package transported in a closed transport vehicle or freight container. The transport vehicle or freight container must be marked with identification numbers for the material, regardless of the total quantity contained in the transport vehicle or freight container, in the manner specified in §172.313(c) of this subchapter and placarded as required by subpart F of this subchapter.

**Editorial Note:** For Federal Register citations affecting §171.12, see the List of CFR Sections Affected which appears in the Finding Aids section of the printed volume and on GPO Access.

## § 171.12a [Reserved]

## § 171.14 Transitional provisions for implementing certain requirements.

*General.* The purpose of the provisions of this section is to provide an orderly transition to certain new requirements so as to minimize any burdens associated with them.

(a) *Previously filled packages* —(1) *Packages filled prior to October 1, 1991.* Notwithstanding the marking and labeling provisions of subparts D and E, respectively, of part 172, and the packaging provisions of part 173 and subpart B of part 172 of this subchapter, a package may be offered for transportation and transported prior to October 1, 2001, if it—

(i) Conforms to the old requirements of this subchapter in effect on September 30, 1991;

(ii) Was filled with a hazardous material prior to October 1, 1991;

(iii) Is marked “Inhalation Hazard” if appropriate, in accordance with §172.313 of this subchapter or Special Provision 13, as assigned in the §172.101 table; and

(iv) Is not emptied and refilled on or after October 1, 1991.

(2) *Non-bulk packages filled prior to October 1, 1996.* Notwithstanding the packaging provisions of subpart B of part 172 and the packaging provisions of part 173 of this subchapter with respect to UN standard packagings, a non-bulk package other than a cylinder may be offered for transportation and transported domestically prior to October 1, 1999, if it—

(i) Conforms to the requirements of this subchapter in effect on September 30, 1996;

(ii) Was filled with a hazardous material prior to October 1, 1996; and

(iii) Is not emptied and refilled on or after October 1, 1996.

(b) [Reserved]

(c) *Non-specification fiber drums.* A non-specification fiber drum with a removable head is authorized for a liquid hazardous material in Packing Group III that is not poisonous by inhalation for which the packaging was authorized under the requirements of part 172 or part 173 of this subchapter in effect on September 30, 1991. This authorization expires on the date on which funds are authorized to be appropriated to carry out chapter 51 of title 49, United States Code (related to transportation of hazardous materials), for fiscal years beginning after September 30, 1997. Information concerning this funding authorization date may be obtained by contacting the Office of the Associate Administrator.

(d) A final rule published in the Federal Register on December 29, 2006, effective January 1, 2007, resulted in revisions to this subchapter. During the transition period, until January 1, 2008, as provided in paragraph (d)(1) of this section, a person may elect to comply with either the applicable requirements of this subchapter in effect on December 31, 2006, or the requirements published in the December 29, 2006 final rule.

(1) *Transition dates.* The effective date of the final rule published on December 29, 2006 is January 1, 2007. A delayed compliance date of January 1, 2008, is authorized. Unless otherwise specified, on and after January 1, 2008, all applicable regulatory requirements adopted in the final rule in effect on January 1, 2007, must be met.

(2) *Intermixing old and new requirements.* Marking, labeling, placarding, and shipping paper descriptions must conform to either the old requirements of this subchapter in effect on December 31, 2006, or the new requirements of this subchapter in the final rule without intermixing communication elements, except that intermixing is permitted during the applicable transition period for

packaging, hazard communication and handling provisions, as follows:

- (i) If either shipping names or identification numbers are identical, a shipping paper may display the old shipping description even if the package is marked and labeled under the new shipping description;
  - (ii) If either shipping names or identification numbers are identical, a shipping paper may display the new shipping description; and
  - (iii) Either old or new placards may be used regardless of whether old or new shipping descriptions, labels, and package markings are used.
- (3) [Reserved]
- (4) Until January 1, 2010, a hazardous material may be transported in an IM, IMO, or DOT Specification 51 portable tank in accordance with the T Codes (Special Provisions) assigned to a hazardous material in Column (7) of the §172.101 Table in effect on September 30, 2001.
- (5) Proper shipping names that included the word “inhibited” prior to the June 21, 2001 final rule in effect on October 1, 2001 are authorized on packagings and shipping papers in place of the word “stabilized” until October 1, 2007. Proper shipping names that included the word “compressed” prior to the final rule published on July 31, 2003 and effective on October 1, 2003 may continue to be shown on packagings and shipping papers until October 1, 2007.
- (6) Section 172.202(a)(7) requires the number and types of packages to be indicated on shipping papers. Until October 1, 2007, a person may elect to comply with the requirements for the number and type of packages in effect on September 30, 2003.
- (e) The shipping description sequences in effect on December 31, 2006, may be used until January 1, 2013.
- (f) Except for transportation by highway, a Division 5.2 label and a Division 5.2 placard conforming to the specifications in §§172.427 and 172.552, respectively, of this subchapter in effect on December 31, 2006, may be used until January 1, 2011. For transportation by highway, a Division 5.2 placard conforming to the specifications in §172.552 of this subchapter in effect on December 31, 2006 may be used until January 1, 2014.
- (g) The Class 3 and Division 6.1 classification criteria and packing group assignments in effect on December 31, 2006, may be used until January 1, 2012.

[Amdt. 171–131, 59 FR 67406, Dec. 29, 1994]

**Editorial Note:** For Federal Register citations affecting §171.14, see the List of CFR Sections Affected which appears in the Finding Aids section of the printed volume and on GPO Access

## Subpart B—Incident Reporting, Notification, BOE Approvals and Authorization

### § 171.15 Immediate notice of certain hazardous materials incidents.

(a) *General.* As soon as practical but no later than 12 hours after the occurrence of any incident described in paragraph (b) of this section, each person in physical possession of the hazardous material must provide notice by telephone to the National Response Center (NRC) on 800-424-8802 (toll free) or 202-267-2675 (toll call). Notice involving an infectious substance (etiologic agent) may be given to the Director, Centers for Disease Control and Prevention, U.S. Public Health Service, Atlanta, GA, 800-232-0124 (toll free), in place of notice to the NRC. Each notice must include the following information:

- (1) Name of reporter;
- (2) Name and address of person represented by reporter;
- (3) Phone number where reporter can be contacted;
- (4) Date, time, and location of incident;
- (5) The extent of injury, if any;
- (6) Class or division, proper shipping name, and quantity of hazardous materials involved, if such information is available; and
- (7) Type of incident and nature of hazardous material involvement and whether a continuing danger to life exists at the scene.

(b) *Reportable incident.* A telephone report is required whenever any of the following occurs during the course of transportation in commerce (including loading, unloading, and temporary storage):

- (1) As a direct result of a hazardous material—
  - (i) A person is killed;
  - (ii) A person receives an injury requiring admittance to a hospital;
  - (iii) The general public is evacuated for one hour or more;
  - (iv) A major transportation artery or facility is closed or shut down for one hour or more; or
  - (v) The operational flight pattern or routine of an aircraft is altered;
- (2) Fire, breakage, spillage, or suspected radioactive contamination occurs involving a radioactive material (see also §176.48 of this subchapter);
- (3) Fire, breakage, spillage, or suspected contamination occurs involving an infectious substance other than a regulated medical waste;
- (4) A release of a marine pollutant occurs in a quantity exceeding 450 L (119 gallons) for a liquid or 400 kg (882 pounds) for a solid; or
- (5) A situation exists of such a nature ( e.g., a continuing danger to life exists at the scene of the incident) that, in the judgment of the person in possession of the hazardous material, it should be reported to the NRC even though it does not meet the criteria of paragraph (b) (1), (2), (3) or (4) of this section.

(c) *Written report.* Each person making a report under this section must also make the report required by §171.16 of this subpart.

Note to §171.15: Under 40 CFR 302.6, EPA requires persons in charge of facilities (including transport vehicles, vessels, and aircraft) to report any release of a hazardous substance in a quantity equal to or greater than its reportable quantity, as soon as that person has knowledge of the release, to DOT's National Response Center at (toll free) 800-424-8802 or (toll) 202-267-2675.

[68 FR 67759, Dec. 3, 2003, as amended at 72 FR 55684, Oct. 1, 2007]

### **§ 171.16 Detailed hazardous materials incident reports.**

(a) *General.* Each person in physical possession of a hazardous material at the time that any of the following incidents occurs during transportation (including loading, unloading, and temporary storage) must submit a Hazardous Materials Incident Report on DOT Form F 5800.1 (01/2004) within 30 days of discovery of the incident:

- (1) Any of the circumstances set forth in §171.15(b);
- (2) An unintentional release of a hazardous material or the discharge of any quantity of hazardous waste;
- (3) A specification cargo tank with a capacity of 1,000 gallons or greater containing any hazardous material suffers structural damage to the lading retention system or damage that requires repair to a system intended to protect the lading retention system, even if there is no release of hazardous material; or
- (4) An undeclared hazardous material is discovered.

(b) *Providing and retaining copies of the report.* Each person reporting under this section must—

- (1) Submit a written Hazardous Materials Incident Report to the Information Systems Manager, PHH-63, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, Washington, DC 20590-0001, or an electronic Hazardous Material Incident Report to the Information System Manager, DHM-63, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590-0001 at <http://hazmat.dot.gov>;
- (2) For an incident involving transportation by aircraft, submit a written or electronic copy of the Hazardous Materials Incident Report to the FAA Security Field Office nearest the location of the incident; and
- (3) Retain a written or electronic copy of the Hazardous Materials Incident Report for a period of two years at the reporting person's principal place of business. If the written or electronic Hazardous Materials Incident Report is maintained at other than the reporting person's principal place of business, the report must be made available at the reporting person's principal place of business within 24 hours of a request for the report by an authorized representative or special agent of the Department of Transportation.

(c) *Updating the incident report.* A Hazardous Materials Incident Report must be updated within one year of the date of occurrence of the incident whenever:

- (1) A death results from injury caused by a hazardous material;
- (2) There was a misidentification of the hazardous material or package information on a prior incident report;
- (3) Damage, loss or related cost that was not known when the initial incident report was filed becomes known; or
- (4) Damage, loss, or related cost changes by \$25,000 or more, or 10% of the prior total estimate, whichever is greater.

(d) *Exceptions.* Unless a telephone report is required under the provisions of §171.15 of this part, the requirements of paragraphs (a), (b), and (c) of this section do not apply to the following incidents:

- (1) A release of a minimal amount of material from—
  - (i) A vent, for materials for which venting is authorized;
  - (ii) The routine operation of a seal, pump, compressor, or valve; or
  - (iii) Connection or disconnection of loading or unloading lines, provided that the release does not result in property damage.
- (2) An unintentional release of hazardous material when:
  - (i) The material is properly classed as—
    - (A) ORM-D; or
    - (B) a Packing Group III material in Class or Division 3, 4, 5, 6.1, 8, or 9;
  - (ii) Each package has a capacity of less than 20 liters (5.2 gallons) for liquids or less than 30 kg (66 pounds) for solids;
  - (iii) The total aggregate release is less than 20 liters (5.2 gallons) for liquids or less than 30 kg (66 pounds) for solids; and
  - (iv) The material is not—
    - (A) Offered for transportation or transported by aircraft,
    - (B) A hazardous waste, or
    - (C) An undeclared hazardous material.
- (3) An undeclared hazardous material discovered in an air passenger's checked or carry-on baggage during the airport screening process. (For discrepancy reporting by carriers, see §175.31 of this subchapter.)

[68 FR 67759, Dec. 3, 2003; 69 FR 30119, May 26, 2004, as amended at 70 FR 56091, Sept. 23, 2005]

## **§§ 171.17-171.18 [Reserved]**

### **§ 171.19 Approvals or authorizations issued by the Bureau of Explosives.**

Effective December 31, 1998, approvals or authorizations issued by the Bureau of Explosives (BOE), other than those issued under part 179 of this subchapter, are no longer valid.

[63 FR 37459, July 10, 1998]

### **§ 171.20 Submission of Examination Reports.**

- (a) When it is required in this subchapter that the issuance of an approval by the Associate Administrator be based on an examination by the Bureau of Explosives (or any other test facility recognized by PHMSA), it is the responsibility of the applicant to submit the results of the examination to the Associate Administrator.
- (b) Applications for approval submitted under paragraph (a) of this section, must be submitted to the Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, Washington, DC 20590-0001.
- (c) Any applicant for an approval aggrieved by an action taken by the Associate Administrator, under this subpart may file an



appeal with the Administrator, PHMSA within 30 days of service of notification of a denial.

[Amdt. 171–54, 45 FR 32692, May 19, 1980, as amended by Amdt. 171–66, 47 FR 43064, Sept. 30, 1982; Amdt. 171–109, 55 FR 39978, Oct. 1, 1990; Amdt. 171–111, 56 FR 66162, Dec. 20, 1991; 66 FR 45378, Aug. 28, 2001]

**§ 171.21 Assistance in investigations and special studies.**

(a) A shipper, carrier, package owner, package manufacturer or certifier, repair facility, or person reporting an incident under the provisions of §171.16 must:

(1) Make all records and information pertaining to the incident available to an authorized representative or special agent of the Department of Transportation upon request; and

(2) Give an authorized representative or special agent of the Department of Transportation reasonable assistance in the investigation of the incident.

(b) If an authorized representative or special agent of the Department of Transportation makes an inquiry of a person required to complete an incident report in connection with a study of incidents, the person shall:

(1) Respond to the inquiry within 30 days after its receipt or within such other time as the inquiry may specify; and

(2) Provide true and complete answers to any questions included in the inquiry.

[68 FR 67760, Dec. 3, 2003]

## Subpart C—Authorization and Requirements for the Use of International Transport Standards and Regulations

**Source:** 72 FR 25172, May 3, 2007, unless otherwise noted.

### § 171.22 Authorization and conditions for the use of international standards and regulations.

(a) *Authorized international standards and regulations* . This subpart authorizes, with certain conditions and limitations, the offering for transportation and the transportation in commerce of hazardous materials to, from, or within the United States in accordance with the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), the International Maritime Dangerous Goods Code (IMDG Code), Transport Canada's Transportation of Dangerous Goods Regulations (Transport Canada TDG Regulations), and the International Atomic Energy Agency Regulations for the Safe Transport of Radioactive Material (IAEA Regulations) (IBR, see §171.7).

(b) *Limitations on the use of international standards and regulations* . A hazardous material that is offered for transportation or transported in accordance with the international standards and regulations authorized in paragraph (a) of this section—

(1) Is subject to the requirements of the applicable international standard or regulation and must be offered for transportation or transported in conformance with the applicable standard or regulation; and

(2) Must conform to all applicable requirements of this subpart.

(c) *Materials excepted from regulation under international standards and regulations* . A material designated as a hazardous material under this subchapter, but excepted from or not subject to the international transport standards and regulations authorized in paragraph (a) of this section (e.g., paragraph 1.16 of the Transport Canada TDG Regulations excepts from regulation quantities of hazardous materials less than or equal to 500 kg gross transported by rail) must be transported in accordance with all applicable requirements of this subchapter.

(d) *Materials not regulated under this subchapter* . Materials not designated as hazardous materials under this subchapter but regulated by an international transport standard or regulation authorized in paragraph (a) of this section may be offered for transportation and transported in the United States in full compliance (i.e., packaged, marked, labeled, classed, described, stowed, segregated, secured) with the applicable international transport standard or regulation.

(e) *Forbidden materials* . No person may offer for transportation or transport a hazardous material that is a forbidden material or package as designated in—

(1) Section 173.21 of this subchapter;

(2) Column (3) of the §172.101 Table of this subchapter;

(3) Column (9A) of the §172.101 Table of this subchapter when offered for transportation or transported on passenger aircraft or passenger railcar; or

(4) Column (9B) of the §172.101 Table of this subchapter when offered for transportation or transported by cargo aircraft.

(f) *Complete information and certification* . (1) Except for shipments into the United States from Canada conforming to §171.12, each person importing a hazardous material into the United States must provide the forwarding agent at the place of entry into the United States timely and complete written information as to the requirements of this subchapter applicable to the particular shipment.

(2) After May 4, 2009, the shipper, directly or through the forwarding agent at the place of entry, must provide the initial U.S. carrier with the shipper's certification required by §172.204 of this subchapter, unless the shipment is otherwise excepted from the certification requirement. Except for shipments for which the certification requirement does not apply, a carrier may not accept a hazardous material for transportation unless provided a shipper's certification.

(3) All shipping paper information and package markings required in accordance with this subchapter must be in English. The use of shipping papers and a package marked with both English and a language other than English, in order to dually comply with this subchapter and the regulations of a foreign entity, is permitted under this subchapter.

(4) Each person who provides for transportation or receives for transportation (see §§174.24, 175.30, 176.24 and 177.817 of this subchapter) a shipping paper must retain a copy of the shipping paper or an electronic image thereof that is accessible at or through its principal place of business in accordance with §172.201(e) of this part.

(g) *Additional requirements for the use of international standards and regulations* . All shipments offered for transportation or transported in the United States in accordance with this subpart must conform to the following requirements of this subchapter, as applicable:

(1) The emergency response information requirements in subpart G of part 172 of this subchapter;

(2) The training requirements in subpart H of part 172 of this subchapter, including function-specific training in the use of the international transport standards and regulations authorized in paragraph (a) of this section, as applicable;

(3) The security requirements in subpart I of part 172 of this subchapter;

(4) The incident reporting requirements in §§171.15 and 171.16 of this part for incidents occurring within the jurisdiction of the United States including on board vessels in the navigable waters of the United States and aboard aircraft of United States registry anywhere in air commerce;

(5) For export shipments, the general packaging requirements in §§173.24 and 173.24a of this subchapter;

(6) For export shipments, the requirements for the reuse, reconditioning, and remanufacture of packagings in §173.28 of this subchapter; and

(7) The registration requirements in subpart G of part 107 of this chapter.

[72 FR 25172, May 3, 2007, as amended at 72 FR 55091 Sept. 28, 2007]

### **§ 171.23 Requirements for specific materials and packagings transported under the ICAO Technical Instructions, IMDG Code, Transport Canada TDG Regulations, or the IAEA Regulations.**

All shipments offered for transportation or transported in the United States under the ICAO Technical Instructions, IMDG Code, Transport Canada TDG Regulations, or the IAEA Regulations (IBR, see §171.7) must conform to the requirements of this section, as applicable.

(a) *Conditions and requirements for cylinders* —(1) Except as provided in this paragraph, a filled cylinder (pressure receptacle) manufactured to other than a DOT specification or a UN standard in accordance with part 178 of this subchapter, or a DOT exemption or special permit cylinder or a cylinder used as a fire extinguisher in conformance with §173.309(a) of this subchapter, may not be transported to, from, or within the United States.

(2) Cylinders (including UN pressure receptacles) transported to, from, or within the United States must conform to the applicable requirements of this subchapter. Unless otherwise excepted in this subchapter, a cylinder must not be transported unless—

(i) The cylinder is manufactured, inspected and tested in accordance with a DOT specification or a UN standard prescribed in part 178 of this subchapter, except that cylinders not conforming to these requirements must meet the requirements in paragraphs (a) (3), (a)(4) or (a)(5) of this section;

(ii) The cylinder is equipped with a pressure relief device in accordance with §173.301(f) of this subchapter and conforms to the applicable requirements in part 173 of this subchapter for the hazardous material involved;

(iii) The openings on an aluminum cylinder in oxygen service conform to the requirements of this paragraph, except when the cylinder is used for aircraft parts or used aboard an aircraft in accordance with the applicable airworthiness requirements and operating regulations. An aluminum DOT specification cylinder must have an opening configured with straight (parallel) threads. A UN pressure receptacle may have straight (parallel) or tapered threads provided the UN pressure receptacle is marked with the thread type, e.g. "17E, 25E, 18P, or 25P" and fitted with the properly marked valve; and

(iv) A UN pressure receptacle is marked with "USA" as a country of approval in conformance with §§178.69 and 178.70 of this subchapter.

(3) Importation of cylinders for discharge within a single port area: A cylinder manufactured to other than a DOT specification or UN standard in accordance with part 178 of this subchapter and certified as being in conformance with the transportation regulations of another country may be authorized, upon written request to and approval by the Associate Administrator, for transportation within a single port area, provided—

(i) The cylinder is transported in a closed freight container;

(ii) The cylinder is certified by the importer to provide a level of safety at least equivalent to that required by the regulations in this subchapter for a comparable DOT specification or UN cylinder; and

(iii) The cylinder is not refilled for export unless in compliance with paragraph (a)(3) of this section.

(4) Filling of cylinders for export or for use on board a vessel: A cylinder not manufactured, inspected, tested and marked in accordance with part 178 of this subchapter, or a cylinder manufactured to other than a UN standard, DOT specification, exemption or special permit, may be filled with a gas in the United States and offered for transportation and transported for export or alternatively, for use on board a vessel, if the following conditions are met:

(i) The cylinder has been requalified and marked with the month and year of requalification in accordance with subpart C of part 180 of this subchapter, or has been requalified as authorized by the Associate Administrator;

(ii) In addition to other requirements of this subchapter, the maximum filling density, service pressure, and pressure relief device for each cylinder conform to the requirements of this part for the gas involved; and

(iii) The bill of lading or other shipping paper identifies the cylinder and includes the following certification: "This cylinder has (These cylinders have) been qualified, as required, and filled in accordance with the DOT requirements for export."

(5) Cylinders not equipped with pressure relief devices: A DOT specification or a UN cylinder manufactured, inspected, tested and marked in accordance with part 178 of this subchapter and otherwise conforms to the requirements of part 173 for the gas involved, except that the cylinder is not equipped with a pressure relief device may be filled with a gas and offered for transportation and transported for export if the following conditions are met:

(i) Each DOT specification cylinder or UN pressure receptacle must be plainly and durably marked "For Export Only";

(ii) The shipping paper must carry the following certification: "This cylinder has (These cylinders have) been retested and refilled in accordance with the DOT requirements for export."; and

(iii) The emergency response information provided with the shipment and available from the emergency response telephone contact person must indicate that the pressure receptacles are not fitted with pressure relief devices and provide appropriate guidance for exposure to fire.

(b) *Conditions and requirements specific to certain materials* —(1) *Aerosols* . Except for a limited quantity of a compressed gas in a container of not more than 4 fluid ounces capacity meeting the requirements in §173.306(a)(1) of this subchapter, the proper shipping name "Aerosol," UN1950, may be used only for a non-refillable receptacle containing a gas compressed, liquefied, or dissolved under pressure the sole purpose of which is to expel a nonpoisonous (other than Division 6.1, Packing Group III material) liquid, paste, or powder and fitted with a self-closing release device (see §171.8). In addition, an aerosol must be in a metal packaging when the packaging exceeds 7.22 cubic inches.

(2) *Air bag inflator, air bag module and seat-belt pretensioner* . For each approved air bag inflator, air bag module and seat-belt pretensioner, the shipping paper description must conform to the requirements in §173.166(c) of this subchapter.

(i) The EX number or product code must be included in association with the basic shipping description. When a product code is used, it must be traceable to the specific EX number assigned to the inflator, module or seat-belt pretensioner by the Associate Administrator. The EX number or product code is not required to be marked on the outside package.

(ii) The proper shipping name “Articles, pyrotechnic *for technical purposes* , UN0431” must be used for all air bag inflators, air bag modules, and seat-belt pretensioners meeting the criteria for a Division 1.4G material.

(3) *Chemical oxygen generators* . Chemical oxygen generators must be approved, classed, described, packaged, and transported in accordance with the requirements of this subchapter.

(4) *Class 1 (explosive) materials* . Prior to being transported, Class 1 (explosive) materials must be approved by the Associate Administrator in accordance with §173.56 of this subchapter. Each package containing a Class 1 (explosive) material must conform to the marking requirements in §172.320 of this subchapter.

(5) *Hazardous substances*. A material meeting the definition of a hazardous substance as defined in §171.8, must conform to the shipping paper requirements in §172.203(c) of this subchapter and the marking requirements in §172.324 of this subchapter:

(i) The proper shipping name must identify the hazardous substance by name, or the name of the substance must be entered in parentheses in association with the basic description and marked on the package in association with the proper shipping name. If the hazardous substance meets the definition for a hazardous waste, the waste code (for example, D001), may be used to identify the hazardous substance;

(ii) The shipping paper and the package markings must identify at least two hazardous substances with the lowest reportable quantities (RQs) when the material contains two or more hazardous substances; and

(iii) The letters “RQ” must be entered on the shipping paper either before or after the basic description, and marked on the package in association with the proper shipping name for each hazardous substance listed.

(6) *Hazardous wastes* . A material meeting the definition of a hazardous waste (see §171.8) must conform to the following:

(i) The shipping paper and the package markings must include the word “Waste” immediately preceding the proper shipping name;

(ii) The shipping paper must be retained by the shipper and by each carrier for three years after the material is accepted by the initial carrier (see §172.205(e)(5)); and

(iii) A hazardous waste manifest must be completed in accordance with §172.205 of this subchapter.

(7) *Marine pollutants* . Except for marine pollutants (see §171.8) transported in accordance with the IMDG Code, marine pollutants transported in bulk packages must meet the shipping paper requirements in §172.203(l) of this subchapter and the package marking requirements in §172.322 of this subchapter.

(8) *Organic peroxides* . Organic peroxides not identified by technical name in the Organic Peroxide Table in §173.225(b) of this subchapter must be approved by the Associate Administrator in accordance with §173.128(d) of this subchapter.

(9) *Poisonous materials, Division 6.1* . Division 6.1 hazardous materials transported as limited quantities are not excepted from labeling (see §173.153(b)).

(10) *Poisonous by inhalation materials* . A material poisonous by inhalation (see §171.8) must conform to the following requirements:

- (i) The words "Poison-Inhalation Hazard" or "Toxic-Inhalation Hazard" and the words "Zone A," "Zone B," "Zone C," or "Zone D" for gases, or "Zone A" or "Zone B" for liquids, as appropriate, must be entered on the shipping paper immediately following the basic shipping description. The word "Poison" or "Toxic" or the phrase "Poison-Inhalation Hazard" or "Toxic-Inhalation Hazard" need not be repeated if it otherwise appears in the shipping description;
- (ii) The material must be packaged in accordance with the requirements of this subchapter;
- (iii) The package must be marked in accordance with §172.313 of this subchapter; and
- (iv) Except as provided in subparagraph (B) of this paragraph (b)(10)(iv) and for a package containing anhydrous ammonia prepared in accordance with the Transport Canada TDG Regulations, the package must be labeled or placarded with POISON INHALATION HAZARD or POISON GAS, as appropriate, in accordance with Subparts E and F of part 172 of this subchapter.
- (A) For a package transported in accordance with the IMDG Code in a closed transport vehicle or freight container, a label or placard conforming to the IMDG Code specifications for a "Class 2.3" or "Class 6.1" label or placard may be substituted for the POISON GAS or POISON INHALATION HAZARD label or placard, as appropriate. The transport vehicle or freight container must be marked with the identification numbers for the hazardous material, regardless of the total quantity contained in the transport vehicle or freight container, in the manner specified in §172.313(c) of this subchapter and placarded as required by subpart F of part 172 of this subchapter.
- (B) For a package transported in accordance with the Transport Canada TDG Regulations in a closed transport vehicle or freight container, a label or placard conforming to the TDG Regulations specifications for a "Class 2.3" or "Class 6.1" label or placard may be substituted for the POISON GAS or POISON INHALATION HAZARD label or placard, as appropriate. The transport vehicle or freight container must be marked with the identification numbers for the hazardous material, regardless of the total quantity contained in the transport vehicle or freight container, in the manner specified in §172.313(c) of this subchapter and placarded as required by subpart F of part 172 of this subchapter. While in transportation in the United States, the transport vehicle or freight container may also be placarded in accordance with the appropriate Transport Canada TDG Regulations in addition to being placarded with the POISON GAS or POISON INHALATION HAZARD placards.
- (11) *Class 7 (radioactive) materials*. (i) Highway route controlled quantities (see §173.403 of this subchapter) must be shipped in accordance with §§172.203(d)(4) and (d)(10); 172.507, and 173.22(c) of this subchapter;
- (ii) For fissile materials and Type B, Type B(U), and Type B(M) packagings, the competent authority certification and any necessary revalidation must be obtained from the appropriate competent authorities as specified in §§173.471, 173.472, and 173.473 of this subchapter, and all requirements of the certificates and revalidations must be met;
- (iii) Type A package contents are limited in accordance with §173.431 of this subchapter;
- (iv) The country of origin for the shipment must have adopted the edition of TS-R-1 of the IAEA Regulations referenced in §171.7;
- (v) The shipment must conform to the requirements of §173.448, when applicable;
- (vi) The definition for "radioactive material" in §173.403 of this subchapter must be applied to radioactive materials transported under the provisions of this subpart;
- (vii) Except for limited quantities, the shipment must conform to the requirements of §172.204(c)(4) of this subchapter; and
- (viii) Excepted packages of radioactive material, instruments or articles, or articles containing natural uranium or thorium must conform to the requirements of §§173.421, 173.424, or 173.426 of this subchapter, as appropriate.
- (12) *Self-reactive materials*. Self-reactive materials not identified by technical name in the Self-reactive Materials Table in §173.224 (b) of this subchapter must be approved by the Associate Administrator in accordance with §173.124(a)(2)(iii) of this subchapter.

## § 171.24 Additional requirements for the use of the ICAO Technical Instructions.

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(a) A hazardous material that is offered for transportation or transported within the United States by aircraft, and by motor vehicle or rail either before or after being transported by aircraft in accordance with the ICAO Technical Instructions (IBR, see §171.7), as authorized in paragraph (a) of §171.22, must conform to the requirements in §171.22, as applicable, and this section.

(b) Any person who offers for transportation or transports a hazardous material in accordance with the ICAO Technical Instructions must comply with the following additional conditions and requirements:

(1) All applicable requirements in parts 171 and 175 of this subchapter (also see 14 CFR 121.135, 121.401, 121.433a, 135.323, 135.327 and 135.333);

(2) The quantity limits prescribed in the ICAO Technical Instructions for transportation by passenger-carrying or cargo aircraft, as applicable;

(3) The conditions or requirements of a United States variation, when specified in the ICAO Technical Instructions.

(c) *Highway transportation* . For transportation by highway prior to or after transportation by aircraft, a shipment must conform to the applicable requirements of part 177 of this subchapter, and the motor vehicle must be placarded in accordance with subpart F of part 172.

(d) *Conditions and requirements specific to certain materials* . Hazardous materials offered for transportation or transported in accordance with the ICAO Technical Instructions must conform to the following specific conditions and requirements, as applicable:

(1) *Batteries* —(i) *Nonspillable wet electric storage batteries* . Nonspillable wet electric storage batteries are not subject to the requirements of this subchapter provided—

(A) The battery meets the conditions specified in Special Provision 67 of the ICAO Technical Instructions;

(B) The battery, its outer packaging, and any overpack are plainly and durably marked “NONSPILLABLE” or “NONSPILLABLE BATTERY”; and

(C) The batteries or battery assemblies are offered for transportation or transported in a manner that prevents short circuiting or forced discharge, including, but not limited to, protection of exposed terminals.

(ii) *Primary lithium batteries and cells* . Primary lithium batteries and cells are forbidden for transportation aboard passenger-carrying aircraft. Equipment containing or packed with primary lithium batteries or cells are forbidden for transport aboard passenger-carrying aircraft except as provided in §172.102, Special Provision A101 of this subchapter. When transported aboard cargo-only aircraft, packages containing primary lithium batteries and cells transported in accordance with Special Provision A45 of the ICAO Technical Instructions must be marked “PRIMARY LITHIUM BATTERIES—FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT” or “LITHIUM METAL BATTERIES—FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT.” This marking is not required on packages that contain 5 kg (11 pounds) net weight or less of primary lithium batteries or cells that are contained in or packed with equipment.

(iii) *Prototype lithium batteries and cells* . Prototype lithium batteries and cells are forbidden for transport aboard passenger aircraft and must be approved by the Associate Administrator prior to transportation aboard cargo aircraft, in accordance with the requirements of Special Provision A55 in §172.102 of this subchapter.

(2) *Oxygen cylinders* . A cylinder containing “ *Oxygen, compressed* ” may not be transported aboard a passenger-carrying aircraft, or in an inaccessible cargo location aboard a cargo-only aircraft, unless it is packaged as required by parts 173 and 178 of this subchapter and is placed in an overpack or outer packaging that satisfies the requirements of Special Provision A52 in §172.102.

**§ 171.25 Additional requirements for the use of the IMDG Code.**

(a) A hazardous material may be offered for transportation or transported to, from or within the United States by vessel, and by motor carrier and rail in accordance with the IMDG Code (IBR, see §171.7), as authorized in §171.22, provided all or part of the movement is by vessel. Such shipments must conform to the requirements in §171.22, as applicable, and this section.

(b) Any person who offers for transportation or transports a hazardous material in accordance with the IMDG Code must conform to the following additional conditions and requirements:

(1) Unless otherwise excepted, a shipment must conform to the requirements in part 176 of this subchapter. For transportation by rail or highway prior to or subsequent to transportation by vessel, a shipment must conform to the applicable requirements of parts 174 and 177 respectively, of this subchapter, and the motor vehicle or rail car must be placarded in accordance with subpart F of part 172 of this subpart. When a hazardous material regulated by this subchapter for transportation by highway is transported by motor vehicle on a public highway under the provisions of this subpart, the segregation requirements of Part 7, Chapter 2 of the IMDG Code are authorized.

(2) The stowage and segregation requirements in Part 7 of the IMDG Code may be substituted for the stowage and segregation requirements in part 176 of this subchapter.

(3) Packages containing primary lithium batteries and cells that are transported in accordance with Special Provision 188 of the IMDG Code must be marked "PRIMARY LITHIUM BATTERIES—FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT" or "LITHIUM METAL BATTERIES—FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT." This marking is not required on packages that contain 5 kg (11 pounds) net weight or less of primary lithium batteries and cells that are contained in or packed with equipment.

(c) *Conditions and requirements for bulk packagings* . Except for IBCs and UN portable tanks used for the transportation of liquids or solids, bulk packagings must conform to the requirements of this subchapter. Additionally, the following requirements apply:

(1) UN portable tanks must conform to the requirements in Special Provisions TP37, TP38, TP44 and TP45 when applicable, and any applicable bulk special provisions assigned to the hazardous material in the Hazardous Materials Table in §172.101 of this subchapter;

(2) IMO Type 5 portable tanks must conform to DOT Specification 51 or UN portable tank requirements, unless specifically authorized in this subchapter or approved by the Associate Administrator;

(3) Except as specified in this subpart, for a material poisonous (toxic) by inhalation, the T Codes specified in Column 13 of the Dangerous Goods List in the IMDG Code may be applied to the transportation of those materials in IM, IMO and DOT Specification 51 portable tanks, when these portable tanks are authorized in accordance with the requirements of this subchapter; and

(4) No person may offer an IM or UN portable tank containing liquid hazardous materials of Class 3, PG I or II, or PG III with a flash point less than 100 °F (38 °C); Division 5.1, PG I or II; or Division 6.1, PG I or II, for unloading while it remains on a transport vehicle with the motive power unit attached, unless it conforms to the requirements in §177.834(o) of this subchapter.

(d) *Use of IMDG Code in port areas* . (1) Except for Division 1.1, 1.2, and Class 7 materials, a hazardous material being imported into or exported from the United States or passing through the United States in the course of being shipped between locations outside the United States may be offered and accepted for transportation and transported by motor vehicle within a single port area, including contiguous harbors, when packaged, marked, classed, labeled, stowed and segregated in accordance with the IMDG Code, offered and accepted in accordance with the requirements of subparts C and F of part 172 of this subchapter pertaining to shipping papers and placarding, and otherwise conforms to the applicable requirements of part 176 of this subchapter.

(2) The requirement in §172.201(d) of this subchapter for an emergency telephone number does not apply to shipments made in accordance with the IMDG Code if the hazardous material is not offloaded from the vessel, or is offloaded between ocean vessels at a U.S. port facility without being transported by public highway.



[72 FR 25172, May 3, 2007, as amended at 72 FR 44847, Aug. 9, 2007]

**§ 171.26 Additional requirements for the use of the IAEA Regulations.**

A Class 7 (radioactive) material being imported into or exported from the United States or passing through the United States in the course of being shipped between places outside the United States may be offered for transportation or transported in accordance with the IAEA Regulations (IBR, see §171.7) as authorized in paragraph (a) of §171.22, provided the requirements in §171.22, as applicable, are met.