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Federal Communications Commission.

Marlene H. Dortch,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, and 178

[Docket No. RSPA-2003-13658 (HM-215E)]

RIN 2137-AD94

Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions

AGENCY: Research and Special Programs
Administration (RSPA), DOT.

ACTION: Final rule; response to appeals
and corrections.

SUMMARY: On July 31, 2003, RSPA published a final rule under Docket Number RSPA-2002-13658 (HM-215E) amending the Hazardous Materials Regulations (HMR) based on corresponding provisions of international standards. The revisions were made to facilitate the transportation of hazardous materials in international commerce. In response to appeals submitted by persons affected by the July 31, 2003 final rule, this final rule amends certain requirements. This final rule also corrects errors in the July 31, 2003 final rule.

DATES: Effective Date: June 22, 2004.

Delayed Compliance Date: October 1, 2004.

FOR FURTHER INFORMATION CONTACT: Joan McIntyre, Office of Hazardous Materials Standards, (202) 366-8553, or Shane Kelley, International Standards, (202) 366-0656, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 2003, the Research and Special Programs Administration (RSPA, we) published a final rule under Docket HM-215E (68 FR 44992) revising the HMR to maintain alignment with recent changes to corresponding

provisions in international standards. Changes to the International Maritime Dangerous Goods Code (IMDG Code), the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), and the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations) necessitated amendments to domestic regulations to provide consistency and facilitate the transport of hazardous materials in international commerce. This final rule responds to five appeals and certain comments concerning amendments in the July 31, 2003 final rule. This rulemaking also corrects various errors made during the development of the rule and the printing process. Because the amendments adopted herein impose no new regulatory burden on any person, these amendments are being made effective without the usual 30-day delay following publication.

II. Discussion and Resolution of Appeals

Five organizations submitted appeals to the July 31, 2003 final rule. The appellants are the American Trucking Associations (ATA), Arch Chemicals, Inc., Argonne National Laboratory (Argonne), Geo Specialty Chemicals (GEO), and the Truckload Carriers Association (TCA).

• *"Hydrazine aqueous solution, UN2030," § 172.101, Hazardous Materials Table (HMT).*

In the July 31, 2003 final rule, we revised the HMT entry "Hydrazine, aqueous solution, *with more than 37% hydrazine, by mass*," UN2030 by adding Packing Group I and III entries to the previously existing Packing Group II entry. In addition, the Packing Group II special provisions in Column (7) were revised. During the printing process, the bulk special provisions, with the exception of Special Provision 151, were inadvertently omitted in the HMT, in both the NPRM and the final rule. After publication of the final rule, the error was brought to our attention through an appeal submitted by Arch Chemicals. The appellant requested the addition of the following special provisions for "Hydrazine, aqueous solution, *with more than 37% hydrazine, by mass*," UN2030: Packing Group I, B16, B53, T10, TP2, TP13; Packing Group II, B16, B53, IB2, T7, TP2, TP13; and Packing Group III, B16, B53, IB3, T4, TP1. We agree with the appellant, and these printing omissions are being corrected in this final rule.

Arch Chemicals also requested that we submit a position paper to the UN

Transport of Dangerous Goods Subcommittee requesting revision of the UN Recommendations to align the T Codes assigned to "Hydrazine, aqueous solution," UN2030 with the HMR T Codes. We submitted a position paper for consideration at the 24th session to amend the T codes as adopted in this final rule; however, a decision on the paper was deferred until the 25th session, which will be held in July 2004.

• *Packaging Type Indication on Shipping Papers, § 172.202.* In the July 31, 2003 final rule, we revised § 172.202(a)(6) by requiring the packaging type to be indicated on shipping papers by either the generic type (for example, "drum") or the specification number type (for example, "UN 1A1"). We received appeals from ATA and TCA requesting that we revise this amendment by requiring the generic packaging type to be mandatory for indication on shipping papers and for the specification number packaging type to be optionally included in parentheses following the generic packaging type. For example, "4 drums" or "4 drums (UN1A1)." The Dangerous Goods Advisory Council (DGAC) also submitted a comment supporting this requested revision.

The appellants state that the additional training that would be required to teach drivers to recognize specification number types would be costly and not practicable for the trucking industry and that the specification number types are not as easily recognizable as the generic type descriptions.

In developing the final rule, our intent was to provide flexibility by authorizing the use of either type of packaging description. We did not intend to impose additional burdens for training employees to recognize the specification numbers for the types of packagings. After reviewing this information, we agree with the appellants and conclude that the more easily recognizable generic type descriptions are also valuable to emergency responders who may not be familiar with packaging specification numbers. We are not, however, specifying that the specification number packaging type must be in parentheses following the generic description as requested by the appellants. To provide for flexibility and for persons who are currently including the specification number without the parentheses, we are providing for the specification number to be included in the description without imposing a format (for example, "12 drums," "12 1H1 drums," or "12 drums (1H1)." Based on the merits of the information brought to our attention

through the appeals, we are revising paragraph (a)(6) to require a generic packaging type on shipping papers and to allow the specification number packaging type to be included in the description.

- *Dicumyl Peroxide*, §§ 172.102 and 173.225.

We received an appeal from GEO requesting revisions to the Dicumyl peroxide, UN3110 entries in the § 172.102 Special Provision IB52 Table and the § 173.225 Organic Peroxide Table. In the Special Provision IB52 Table, the appellant requested that we add the previously authorized rigid plastic (31H1) and composite (31HA1) intermediate bulk containers (IBCs). The two types of IBCs were contained in Special Provision IB52, but were inadvertently omitted during the printing of the final rule. We are making the correction as requested.

In the § 173.225 Organic Peroxide Table, GEO questioned the accuracy of the Diluent B column entry, “≤48,” and suggested that it belonged in the Diluent I column for inert solids. We agree and are correcting the error as requested.

- *Lithium Batteries and Cells*, § 173.185.

We received an appeal from Argonne requesting a revision to § 173.185 to clarify that, except for passenger-carrying aircraft, large batteries packaged in accordance with paragraph (k) in that section may be transported by all other modes of transportation, and that for transport by cargo aircraft, the packaging must be approved by the Associate Administrator. The appellant stated that the wording of the last sentence in paragraph (k) appears to limit the packaging provisions to use by cargo aircraft only and fails to provide for use by highway, rail or vessel. We agree that the sentence is incorrect and are editorially revising the paragraph as requested.

III. Corrections and Revisions

Part 171

Section 171.14. Paragraphs (d), (d)(1), and (d)(6) are revised as follows:

- Paragraphs (d) and (d)(1) are revised to reflect the publication of the amendments in this final rule.
- Paragraph (d)(6) is revised to clarify that it is the requirement in § 172.202(a)(6) specific to the number and type of packages on shipping papers that will become mandatory on October 1, 2007. In the July 31, 2003 final rule, we referred to the correct paragraph (a)(6), but used the wording “total quantity,” which was in error.

Part 172

Section 172.101 Hazardous Materials Table (HMT). We are correcting entries in the HMT as follows:

- The entry “Air bag inflators, or Air bag modules, or Seat-belt pretensioners,” UN3268 is revised by correcting the Column (7) Special Provision entry “166” to read “160,” as discussed in the preamble in the July 31, 2003 final rule.
- The entry “N,N-Dimethylcyclohexylamine,” UN2264 is corrected to read “N,N-Dimethylcyclohexylamine.” The correction appears as a “Remove/Add” in this rulemaking.
- The entry “Ethylene,” UN1962 is revised to correctly align Columns (7) through (10B).
- The entry “Hydrazine, aqueous solution, with more than 37% hydrazine, by mass,” UN2030 is corrected by adding the bulk special provisions for the three Packing Group entries. See the preamble discussion under “Discussion and Resolution of Appeals” in this final rule.
- For the Packing Group I entry for “Hydrocarbons, liquid, n.o.s.,” UN3295, Column (7) is corrected by adding Special Provision 144. During the printing process “144” was inadvertently omitted. Special Provision 144 was added to the entry in a final rule published April 18, 2003, under RSPA Docket No. 98–3554 (HM–213) (68 FR 19275).
- For the entry “Organophosphorus compound, toxic, flammable, n.o.s.,” UN3279, Columns (9A) and (9B) are corrected to read “1 L” and “30 L,” respectively. The typographical errors in the two quantity limitations occurred during the printing process.
- The entry “Self-reactive liquid type F,” UN3229 is revised by correcting the Column (8B) non-bulk packaging authorization section number “114” to read “224.”
- The entry “1,1,1-Trifluoroethane, compressed or Refrigerant gas, R143a,” UN2035 is corrected by removing the word “compressed.” The correction appears as a “Remove/Add” in this rulemaking. In the July 31, 2003 final rule (page 44995 of the **Federal Register**), we revised certain proper shipping names for compressed and liquefied gases that were incorporated into the Twelfth Edition of the UN Recommendations and during the process we overlooked “1,1,1-Trifluoroethane.” For additional preamble discussion see § 173.115 (page 45004) of the July 31, 2003 **Federal Register**. Additionally, see § 171.14(d)(5) (page 44994) for continued use authorization for

including the word “compressed” until October 1, 2007.

Section 172.102, Special Provisions 15, 132 and IB52. We are making corrections to Special Provisions 15 and 132, and to the Special Provision IB52 Table.

In the July 31, 2003 final rule, we revised Special Provision 15 for consistency with packagings authorized for limited quantity exceptions. The special provision is assigned to “Chemical kits,” UN3316 and “First aid kits,” UN3316. We also relocated the authorized packagings to § 173.161. After publication of the final rule, we received comments that the third and fourth sentences in the special provision conflict with the provisions in § 173.161. We agree that the sentences are in error and are removing them in this final rule.

In the July 31, 2003 final rule, we revised Special Provision 132 by adding the criteria for use of the special provision. In a subsequent minor editorial final rule (HM–189U) published on December 31, 2003, the special provision text in effect prior to the July 31, 2003 final rule was inadvertently added back into the regulatory text. We are correcting the error by reinstating the special provision as printed in the July 31, 2003 final rule.

For discussion regarding Special Provision IB52, see the preamble discussion on Dicumyl peroxide under “Discussion and Resolution of Appeals” in this final rule.

Section 172.202(a)(2). We revised paragraph (a)(2) in the July 31, 2003 final rule to require the subsidiary hazard class(es) or subsidiary division number(s) to be entered in parentheses following the primary hazard class or division number on shipping papers. The provision authorizing the hazard class names (for example, “oxidizer”) to be entered following the numerical hazard class or following the basic description was removed. We received a comment from Wilbur-Ellis requesting that we reinstate the provision as an option. Wilbur-Ellis stated that the hazard class names are valuable from a safety perspective because they more easily identify the hazard of the material for certain emergency response personnel. We agree and, with the addition of new paragraph (a)(2)(iii) and minor reformatting of paragraph (a)(2), we are reinstating the provision into the HMR as an option for domestic transport.

Section 172.202(a)(6). See earlier preamble discussion on packaging type indication on shipping papers under “Discussion and Resolution of Appeals” in this final rule.

Part 173

Section 173.185. See earlier preamble discussion on lithium batteries and cells, under "Discussion and Resolution of Appeals" in this final rule.

Section 173.225. See earlier preamble discussion on Dicumyl peroxide under "Discussion and Resolution of Appeals" in this final rule.

Part 178

In the July 31, 2003 final rule, we revised paragraph (c)(1)(ii) to clarify the information that the packaging manufacturer and each subsequent distributor are required to provide to packaging users. After publication of the final rule, we received a comment from DGAC requesting the removal of references to §§ 173.24 and 173.27. DGAC stated that the revision imposes an unreasonable and impossible burden on packaging manufacturers by requiring them to ensure that the packaging meets the general requirements in §§ 173.24 and 173.27. DGAC stated that such requirements are the responsibility of the offeror as stated in §§ 173.24 and 173.27. Upon further consideration, we agree that the references to §§ 173.24 and 173.27 may impose an unintended and unwarranted burden on the packaging manufacturer and imply that responsibility for compliance with the requirements of these sections rests with the packaging manufacturer rather than the shipper. The requirements in §§ 173.24, 173.24a and 173.27 are the responsibility of the shipper. A package that meets the performance requirements of Part 178 does not necessarily meet the general requirements of Part 173. The shipper must undertake additional steps to ensure that a hazardous material packaging that is purchased from a packaging manufacturer meets all of the applicable requirements. Therefore, on our own initiative we are removing the phrase "and the general packaging requirements in §§ 173.24 and 173.27 of this subchapter" from the paragraph. To the extent that a packaging manufacturer represents a packaging as meeting a requirement of § 173.24, § 173.27, or any other provision of the HMR, it should be noted that under the provisions of § 171.2(c), the packaging manufacturer is held responsible for any misrepresentation.

Additionally, we are retaining the last sentence which makes reference to the pressure differential requirements in § 173.27. As discussed in the July 31, 2003 final rule, we agree that the shipper must determine that the package is suitable for the intended hazardous material to be transported;

however, the requirement for the manufacturer to provide guidance to assist the shipper in ensuring that the packaging meets the relevant air transport pressure differential requirement is not beyond the capability of the packaging manufacturer (see preamble discussion on page 45007 of the July 31, 2003 final rule).

V. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and was not reviewed by the Office of Management and Budget. This final rule is a non-significant rule under the Regulatory Policies and Procedures of the Department of Transportation [44 FR 11034]. The revisions adopted in this final rule do not alter the cost-benefit analysis and conclusions contained in the Regulatory Evaluation prepared for the July 31, 2003 final rule. The Regulatory Evaluation is available for review in the public docket for this rulemaking.

B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This rulemaking preempts State, local and Indian tribe requirements but does not propose any regulation that has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The Federal hazardous material transportation law, 49 U.S.C. 5101–5127, contains an express preemption provision (49 U.S.C. 5125(b)) that preempts State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

- (1) The designation, description, and classification of hazardous materials;
- (2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;
- (3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;
- (4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous; or
- (5) The design, manufacture, fabrication, marking, maintenance,

recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This final rule addresses covered subject items (1), (2), and (3) above and would preempt State, local, and Indian tribe requirements not meeting the "substantively the same" standard. Federal hazardous materials transportation law provides at section 5125(b)(2) that, if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of this final rule and not later than two years after the date of issuance. The effective date of Federal preemption is September 20, 2004.

C. Executive Order 13175

This final rule was analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not have tribal implications, does not impose substantial direct compliance costs, and is required by statute, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities, unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. This final rule applies to offerors and carriers of hazardous materials, some of whom are small entities, such as chemical users and suppliers, packaging manufacturers, distributors, and battery manufacturers. Based on comments and appeals to the July 31, 2003 final rule that we received from industry and associations representing large and small entities, this final rule revises certain requirements in the HMR to correct or clarify provisions, and is generally intended to provide relief to shippers, carriers and packaging manufacturers, including small entities. Therefore, I certify that these amendments will not have a significant economic impact on a substantial number of small entities.

Need for the final rule. This final rule addresses appeals to a final rule published July 31, 2003, which harmonized certain requirements in the HMR with recently adopted

international transportation standards. RPSA's rulemaking procedures permit affected persons to appeal agency final rules if compliance with the final rule is not practical, reasonable, or in the public interest. 49 CFR 106.115.

Description of Actions. In this final rule, we are correcting a number of the provisions adopted in the July 31, 2003 final rule. The corrections are necessary to address inadvertent errors and omissions and printing mistakes and to clarify certain of the provisions adopted in the July 31, 2003 final rule. Further, we are permitting shippers additional flexibility in preparing shipping papers by reinstating a provision that permits inclusion of hazard class names following the basic shipping description. As well, we are revising the provision for inclusion of package type on a shipping paper to permit use of generic names for package types while permitting inclusion of the packaging specification as an option. Finally, we are clarifying that responsibility for compliance with the general packaging requirements in §§ 173.24 and 173.37 rests with the shipper, not the packaging manufacturer.

Identification of potentially affected small entities. Businesses likely to be affected by the final rule are persons who offer for transportation or transport hazardous materials in commerce, including hazardous materials manufacturers and distributors; transportation companies, including air, highway, rail, and vessel carriers; hazardous waste generators; and container and packaging manufacturers.

Unless alternative definitions have been established by the agency in consultation with the Small Business Administration (SBA), the definition of "small business" has the same meaning as under the Small Business Act. Since no such special definition has been established, we employ the thresholds published by SBA for establishments that will be subject to this final rule. Based on data for 1997 compiled by the U.S. Census Bureau, it appears that upwards of 95 percent of persons affected by this final rule are small businesses. These entities would incur no increased costs to comply with the provisions of this final rule. Rather, the final rule permits these entities additional flexibility to comply with its requirements.

Reporting and recordkeeping requirements. This final rule includes no new requirements for reporting or recordkeeping.

Related Federal rules and regulations. There are no related Federal rules or regulations governing the transportation

of hazardous materials in domestic or international commerce.

Alternate proposals for small businesses. The Regulatory Flexibility Act directs agencies to establish exceptions and differing compliance standards for small businesses, where it is possible to do so and still meet the objectives of applicable regulatory statutes. In the case of hazardous materials transportation, it is not possible to establish exceptions or differing standards and still accomplish our safety objectives.

This final rule was developed under the assumption that small businesses make up the overwhelming majority of entities that will be subject to its provisions. Thus, the final rule provides additional flexibility for compliance with its provisions, including alternatives for compliance and extended compliance periods.

Conclusion. We conclude that while this final rule applies to a substantial number of small entities, there will not be a significant economic impact on those small entities. There are no new compliance costs associated with the proposals in this final rule.

This final rule has been developed in accordance with Executive Order 13272 ("Proper Consideration of Small Entities in Agency Rulemaking") and DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of draft rules on small entities are properly considered.

E. Paperwork Reduction Act

This final rule does not impose new information collection requirements.

F. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

G. Unfunded Mandates Reform Act

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$120.7 million or more to either State, local or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

H. Environmental Assessment

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to consider the consequences of major Federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. The environmental assessment prepared for the July 31, 2003 final rule can be found in the public docket for this rulemaking. The revisions adopted in this final rule do not alter the conclusions contained in the environmental assessment. There are no significant environmental impacts associated with this final rule.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Reporting and recordkeeping requirements.

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 178

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, amend 49 CFR Chapter I as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 1. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

■ 2. In § 171.14, paragraphs (d) introductory text, (d)(1) and (d)(6) are revised to read as follows:

§ 171.14 Transitional provisions for implementing certain requirements.

* * * * *

(d) A final rule published in the **Federal Register** on July 31, 2003, effective October 1, 2003, as amended in a final rule published in the **Federal Register** on June 22, 2004, effective June 22, 2004, resulted in revisions to this subchapter. During the transition period, until October 1, 2004, as provided in paragraph (d)(1) of this

section, a person may elect to comply with the applicable requirements of this subchapter in effect on September 30, 2003.

(1) *Transition dates.* The effective date of the final rule published on July 31, 2003 is October 1, 2003 and the effective date of the final rule published on June 22, 2004 is June 22, 2004. Delayed compliance is authorized until October 1, 2004. Unless otherwise specified, on October 1, 2004, all applicable regulatory requirements adopted in these final rules must be met.

* * * * *

(6) Section 172.202(a)(6) 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.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

- 3. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.
- 4. In § 172.101, the Hazardous Materials Table is amended by removing, adding and revising, in the appropriate alphabetical sequence, the following entries to read as follows:

§ 172.101—HAZARDOUS MATERIALS TABLE

Symbols	Hazardous materials and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions	(8) Packaging (§ 173.* * *)			(9) Quantity limitations		(10) Vessel stowage	
							Exceptions	Non-Bulk	Bulk	Passenger aircraft/rail	Cargo air-craft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
[REMOVE:]													
	N,N-Dimethylcyclohexylamine.	8	UN2264 ...	II	8,3	B2, IB2, T7, TP2.	154	202	243	1L	30 L	A	40
	1,1,1-Trifluoroethane, compressed or Refrigerant gas, R143a.	2.1	UN2035 ...		2.1	T50	306	304	314, 315	Forbidden	150 kg	B	40
		*	*		*	*	*		*				
[ADD:]													
	N,N-Dimethylcyclohexylamine.	8	UN2264 ...	II	8,3	B2, IB2, T7, TP2.	154	202	243	1 L	30 L	A	40
	1,1,1-Trifluoroethane or Refrigerant gas, R143a.	2.1	UN2035 ...		2.1	T50	306	304	314, 315	Forbidden	150 kg	B	40
		*	*		*	*	*		*				
[REVISE:]													
	Air bag inflators, or Air bag modules, or Seat-belt pretensioners.	9	UN3268 ...	III	9	160	166	166	166	25 kg	100 kg	A	
		*	*		*	*	*		*				
	Ethylene	2.1	UN1962 ...		2.1		306	304	302	Forbidden	150 kg	E	40
		*	*		*	*	*		*				
	Hydrazine aqueous solution with more than 37% hydrazine, by mass.	8	UN2030 ...	I	8, 6.1	151, B16, B53, T10, TP2, TP13.	None	201	243	Forbidden	2.5 L	D	40
			II		8, 6.1	B16, B53, IB2, T7, TP2, TP13.	None	202	243	Forbidden	30 L	D	40
			III		8, 6.1	B16, B53, IB3, T4, TP1.	154	203	241	5 L	60 L	D	40
		*	*		*	*	*		*				
	Hydrocarbons, liquid, n.o.s.	3	UN3295 ...	I	3	144, T11, TP1, TP8.	150	201	243	1 L	30 L	E	

§ 172.101—HAZARDOUS MATERIALS TABLE—Continued

(1) Symbols	(2) Hazardous materials and proper shipping names	(3) Hazard class or di- vision	(4) Identifica- tion numbers	(5) PG	(6) Label codes	(7) Special provisions	(8) Packaging (§ 173.* *)			(9) Quantity limitations		(10) Vessel stowage	
							Exceptions	Non-Bulk	Bulk	Passenger aircraft/rail	Cargo air-craft only	Location	Other
							(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	Organophosphorus compound, toxic, flammable, n.o.s.	* 6.1	UN3279	I	6.1, 3	5, T14, TP2, TP13, TP27.	None	201	243	1 L	30 L	B	40
	Self-reactive liquid type F.	* 4.1	UN3229	II	4.1	T23	None	224	None	10 L	25 L	D	61
		*			*	*			*	*	*		

* * * * *

■ 5. In § 172.102:

- a. In paragraph (c)(1), Special Provisions 15 and 132 are revised, and
- b. In paragraph (c)(4), in Table 2, IBC Code IB52 is revised to read as follows:

§ 172.102 Special Provisions.

* * * * *

(c) * * *

(1) * * *

Code/Special Provisions

* * * * *

15 This entry applies to “Chemical kits” and “First aid kits” containing one or more compatible items of hazardous materials in boxes, cases, etc. that are used for medical, analytical, diagnostic or testing purposes. For transportation by aircraft, materials forbidden for transportation by passenger aircraft or

cargo aircraft may not be included in the kits. Chemical kits and first aid kits are excepted from the specification packaging requirements of this subchapter when packaged in combination packagings. Chemical kits and first aid kits are also excepted from the labeling and placarding requirements of this subchapter, except when offered for transportation or transported by air. Chemical and first aid kits may be transported in accordance with the consumer commodity and ORM exceptions in § 173.156, provided they meet all required conditions. Kits that are carried on board transport vehicles for first aid or operating purposes are not subject to the requirements of this subchapter.

* * * * *

132 This entry may only be used for uniform, ammonium nitrate-base

fertilizer mixtures, containing nitrogen, phosphate or potash, meeting the following criteria: (1) Contains not more than 70% ammonium nitrate; and (2) Contains not more than 0.4% total combustible, organic material calculated as carbon or with not more than 45% ammonium nitrate and unrestricted combustible material. Fertilizers within these composition limits are only subject to the requirements of this subchapter when transported by aircraft or vessel, and are not subject to the requirements of this subchapter if shown by a trough test, as specified in the UN Manual of Tests and Criteria, Part III, Sub-section 38.2 (IBR, see § 171.7 of this subchapter), not to be liable to self-sustaining decomposition.

* * * * *

(4) * * *

TABLE 2.—ORGANIC PEROXIDE IBC CODE (IB52)

UN no.	Organic peroxide	Type of IBC	Maximum quantity (liters)	Control temperature	Emergency temperature
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
REVISE:	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
3110	Dicumyl peroxide, less than or equal to 100%.	31A 31H1 31HA1	2000		
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

* * * * *

- 6. In § 172.202, paragraph (a)(2) is revised; paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii) are added; and paragraph (a)(6) is revised to read as follows:

§ 172.202 Description of hazardous material on shipping papers.

(a) * * *

(2) The hazard class or division number prescribed for the material, as shown in Column (3) of the § 172.202 Table. Except for combustible liquids, the subsidiary hazard class(es) or subsidiary division number(s) must be entered in parentheses immediately following the primary hazard class or division number.

In addition—

(i) The words “Class” or “Division” may be included preceding the primary and subsidiary hazard class or division numbers.

(ii) The hazard class need not be included for the entry “Combustible liquid.”

(iii) For domestic shipments, primary and subsidiary hazard class or division names may be entered following the numerical hazard class or division or following the basic description. For example, “Oxygen, compressed, 2.2 (non-flammable, non-poisonous compressed gas), 5.1 (oxidizer), UN1072,” or “Oxygen, compressed, 2.2, 5.1, UN1072, (non-flammable, non-poisonous compressed gas) (oxidizer)”;

* * * * *

(6) The number and type of packages must be indicated. The type of packages must be indicated by description of the package (for example, “12 drums”). Indication of the packaging specification number (“1H1”) may be included in the description of the package (for example, “12 1H1 drums” or “12 drums (UN 1A1).” Abbreviations may be used for indicating packaging types (for example, “cyl.” for “cylinder”) provided the abbreviations are commonly accepted and recognizable.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

- 7. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

- 8. In § 173.185, in paragraph (k), the last sentence is revised to read as follows:

§ 173.185 Lithium batteries and cells.

* * * * *

(k) * * * Batteries packaged in this manner are not permitted for transportation by passenger aircraft, and may be transported by cargo aircraft only if approved by the Associate Administrator prior to transportation.

- 9. In § 173.225, in the Organic Peroxide Table, the entry “ADicumyl peroxide, UN3110” is revised to read as follows:

§ 173.225 Packaging requirements and other provisions for organic peroxides.

* * * * *

ORGANIC PEROXIDE TABLE

Technical name	ID number	Concentration (mass %)	Diluent (mass %)			Water mass %	Packing method	Temperature (°C)		Notes
			A	B	I			Control	Emergency	
(1)	(2)	(3)	(4a)	(4b)	(4c)	(5)	(6)	(7a)	(7b)	(8)
[REVISE:]										
Dicumyl peroxide	UN3110	>52–100			≤48		OP8, IBC, Bulk.			9, 11, 14

* * * * *

PART 178—SPECIFICATIONS FOR PACKAGINGS

■ 10. The authority citation for Part 178 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

■ 11. In “178.2, paragraph (c)(1)(ii) is revised to read as follows:

§ 178.2 Applicability and responsibility.

* * * * *

(c) * * *

(1) * * *

(ii) With information specifying the type(s) and dimensions of the closures, including gaskets and any other components needed to ensure that the packaging is capable of successfully passing the applicable performance tests. This information must include any procedures to be followed, including closure instructions for inner packagings and receptacles, to effectively assemble and close the packaging for the purpose of preventing leakage in transportation. For packagings sold or represented as being in conformance with the requirements of this subchapter applicable to transportation by aircraft, this information must include relevant guidance to ensure that the packaging, as prepared for transportation, will withstand the pressure differential requirements in “173.27 of this subchapter.

* * * * *

Issued in Washington, DC on June 3, 2004 under authority delegated in 49 CFR Part 1.

Samuel G. Bonasso,

Deputy Administrator, Research and Special Programs Administration.

[FR Doc. 04–12992 Filed 6–21–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Parts 541, 542 and 543**

[Docket No. NHTSA–2002–12231]

RIN 2127–A146

Federal Motor Vehicle Theft Prevention Standard; Correction

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Correcting amendments.

SUMMARY: On April 6, 2004, the National Highway Traffic Safety Administration (NHTSA) published a final rule extending anti-theft parts marking requirements pursuant to the Anti Car Theft Act of 1992 and subsequent finding by the Attorney General. The preamble and the regulatory text of the final rule contain several typographical errors and require an application clarification.

This document corrects the typographical errors and clarifies the application of the standard.

DATES: Effective on September 1, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. George Feygin, Office of Chief Counsel (Telephone: 202–366–2992) (Fax: 202–366–3820), 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On April 6, 2004, the National Highway Traffic Safety Administration (NHTSA) published a final rule extending anti-theft parts marking requirements pursuant to the Anti Car Theft Act of 1992 and subsequent finding by the Attorney General. The final rule extending parts marking requirements applies to all passenger cars; multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of 6,000 pounds or less; and certain light

trucks with a GVWR of 6,000 pounds or less. A portion of the preamble and the regulatory text require additional text to clarify that the final rule applies to all passenger cars regardless of GVWR.

In addition, the final rule contained several typographical errors and outdated citations of authority. NHTSA is publishing this correcting amendment to remedy these errors.

This amendment to the final rule is effective September 1, 2006. Making this clarification and remedying these errors will not impose any additional substantive requirements or burdens on manufacturers. Therefore, NHTSA finds for good cause that notice and opportunity for comment on these amendments are not necessary.

■ In FR Doc. 04–7492 published on April 6, 2004 (69 FR 17960), make the following corrections:

■ 1. On page 17965, in the second column, second paragraph under subsection “3. Gross Vehicle Weight Rating,” the second sentence is corrected as follows: “Therefore, NHTSA does not have the authority to apply this standard to multipurpose passenger vehicles with a GVWR greater than 6,000 pounds or to light duty trucks with a GVWR greater than 6,000 pounds.”

PART 541—[CORRECTED]

■ 2. On page 17967, first column, the authority citation for part 541 is corrected as follows:

1. The authority citation for part 541 continues to read as follows:

Authority: 49 U.S.C. 322, 33101, 33102, 33103, 33104, 33105; delegation of authority at 49 CFR 1.50.

■ 3. On page 17967, first column, § 541.3(a) is corrected as follows:

§ 541.3 Application.

* * * * *

(a) Passenger motor vehicle parts identified in § 541.5(a) that are present: