

This rule is being published as a final rule and made effective upon signature by the Secretary. As the rule relates to Departmental management, procedures, and practices, notice and comment on it are unnecessary under 5 U.S.C. 553(b)(3)(A). In addition, the Secretary finds that there is good cause to make this rule effective upon publication pursuant to 5 U.S.C. 553(d)(2), as a change to internal policy.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

The final rule is not considered a significant regulatory action under Executive Order 12866 and the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). There are no costs associated with this rule.

B. Executive Order 13132

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999. This final rule does not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of the States. Therefore, the consultation and funding requirements do not apply.

C. Executive Order 13084

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13084 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. I hereby certify this final rule, which amends the CFR to reflect a modification of authority from the Secretary, will not have a significant economic impact on a substantial number of small businesses.

E. Paperwork Reduction Act

This rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

F. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

■ In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

PART 1—[AMENDED]

■ 1. The authority citation for Part 1 is revised to read as follows:

Authority: 49 U.S.C. 322; 46 U.S.C. 2104(a); 28 U.S.C. 2672; 31 U.S.C. 3711(a)(2); Pub. L. 101–552, 104 Stat. 2736; Pub. L. 106–159, 113 Stat. 1748; Pub. L. 107–71, 115 Stat. 597; Pub. L. 107–295, 116 Stat. 2064; Pub. L. 107–296, 116 Stat. 2135; Pub. L. 108–447, div. H, 118 Stat. 3199.

■ 2. In § 1.23, revise paragraph (o) to read as follows:

§ 1.23 Spheres of primary responsibility.

* * * * *

(o) Office of Intelligence, Security and Emergency Response. Responsible for intelligence and security matters within the Department of Transportation that affect the safety of the traveling public, and for emergency preparedness and response functions and activities within the Department and operation of the Department's Crisis Management Center.

* * * * *

■ 3. In § 1.53, remove and reserve paragraph (e).

■ 4. Revise § 1.69 to read as follows:

§ 1.69 Delegations to the Director of Intelligence, Security, and Emergency Response.

The Director of Intelligence, Security, and Emergency Response is delegated authority for the following:

(a) *Intelligence and Security.* Carry out the functions assigned to the Secretary by the Aviation Security Improvement Act of 1990, section 101 (Pub. L. 101–508; November 16, 1990) relating to intelligence and security matters in all modes of transportation.

(b) *Emergency preparedness and response.* Carry out the functions related to emergency preparedness vested in the Secretary by 49 U.S.C. 101 and 301 or delegated to the Secretary by or through the Defense Production Act of 1950, 50 U.S.C. App. 2061 *et seq.*; Executive Order 10480, as amended; Executive Order 12148; Executive Order 12656; Executive Order 12742; Executive Order

12919, as amended; Reorganization Plan No. 3 or 1978; and such other statutes, executive orders, and other directives as may pertain to emergency preparedness.

Issued this 4th day of February 2005, at Washington, DC.

Norman Y. Mineta,

Secretary of Transportation.

[FR Doc. 05–2803 Filed 2–14–05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. RSPA–2005–20104 (Notice No. 05–02)]

Regulatory Flexibility Act Section 610 and Plain Language Reviews

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

ACTION: Notice of regulatory review; request for comments.

SUMMARY: RSPA requests comments on the economic impact of its regulations on small entities. As required by the Regulatory Flexibility Act and as published in DOT's Semi-Annual Regulatory Agenda, we are analyzing the rules applicable to general shipment and packaging requirements for shippers to identify requirements that may have a significant economic impact on a substantial number of small entities. We also request comments on ways to make these regulations easier to read and understand.

DATES: Comments must be received by May 16, 2005.

ADDRESSES: You may submit comments identified by the docket number RSPA–2005–20104 (Notice No. 05–02) by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1–202–493–2251.
- Mail: Docket Management System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.

- Hand Delivery: To the Docket Management System; Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

Instructions: You must include the agency name and docket number RSPA–2005–20104 (Notice No. 05–02) at the beginning of your comment. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit <http://dms.dot.gov>.

Docket: You may view the public docket through the Internet at <http://dms.dot.gov> or in person at the Docket Management System office at the above address.

FOR FURTHER INFORMATION CONTACT: Susan Gorsky, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, telephone (202) 366–8553; or Donna O’Berry, Office of Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, telephone (202) 366–4400.

SUPPLEMENTARY INFORMATION:

I. Section 610 of the Regulatory Flexibility Act

A. Background and Purpose

Section 610 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), requires agencies to conduct periodic reviews of rules that have a significant economic impact on a substantial number of small business entities. The purpose of the review is to determine whether such rules should be continued without change, amended, or rescinded, consistent with the objectives of applicable statutes, to minimize any significant economic impact of the rules on a substantial number of such small entities.

B. Review Schedule

The Department of Transportation (DOT) published its Semiannual Regulatory Agenda on December 13, 2004 (69 FR 73492), listing in Appendix D (69 FR 73505) those regulations that each operating administration will review under section 610 during the next 12 months. Appendix D also contains DOT’s 10-year review plan for all of its existing regulations.

The Research and Special Programs Administration (RSPA, we) has divided its Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) into 10 groups by subject area. Each group will be reviewed once every 10 years, undergoing a two-stage process—an Analysis Year and Section 610 Review Year. For purposes of the review announced in this notice, the Analysis year began in December 2004,

coincident with the fall 2004 publication of the Semiannual Regulatory Agenda, and will conclude in the fall of 2005.

During the Analysis Year, we will analyze each of the rules in a given year’s group to determine whether any rule has a significant impact on a substantial number of small entities and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. In each fall’s Regulatory Agenda, we will publish the results of the analyses we completed during the previous year. For rules that have a negative finding, we will provide a short explanation. For parts, subparts, or other discrete sections of rules that do have a significant impact on a substantial number of small entities, we will announce that we will be conducting a formal section 610 review during the following 12 months.

The section 610 review will determine whether a specific rule should be revised or revoked to lessen its impact on small entities. We will consider: (1) The continued need for the rule; (2) the nature of complaints or comments received from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other federal rules or with state or local government rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. At the end of the Review Year, we will publish the results of our review.

The following table shows the 10-year analysis and review schedule:

RSPA SECTION 610 REVIEW PLAN 1999–2009

Title	Regulation	Analysis year	Review year
Incident reports	§§ 171.15 and 171.16	1998	N/A
Hazmat safety procedures	Parts 106 and 107	1999	N/A
General Information, Regulations, and Definitions	Part 171.		
Carriage by Rail and Highway	Parts 174 and 177	2000	N/A
Carriage by Vessel	Part 176	2001	N/A
Radioactive Materials	Parts 172, 173, 174, 175, 176, 177, 178.	2002	N/A
Explosives	Parts 172, 173, 174, 176, 177	2003	N/A
Cylinders	Parts 172, 173, 174, 176, 177, 178, 180.		
Shippers—General Requirements for Shipments and Packagings	Part 173	2004	2005
Specifications for Non-bulk Packagings	Part 178	2005	2006
Training and planning grants	Part 110.		
Specifications for Bulk Packagings	Parts 178, 179, 180	2006	2007
Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements.	Part 172	2007	2008
Carriage by Aircraft	Part 175.		

C. Regulations Under Analysis

During Year 6 (2004–2005), the Analysis Year, we will conduct a preliminary assessment of the rules in 49 CFR Part 173 applicable to general shipment and packaging requirements for shippers. The review will include the following subparts:

PART 173

Subpart	Title
Subpart A	General.
Subpart B	Preparation of Hazardous Materials for Transportation.
Subpart D	Definitions, Classification, Packing Group Assignments and Exceptions for Hazardous Materials Other Than Class 1 and Class 7.
Subpart E	Non-bulk Packaging for Hazardous Materials Other Than Class 1 and Class 7.
Subpart F	Bulk Packaging for Hazardous Materials Other Than Class 1 and Class 7.
Subpart G	Gases; Preparation and Packaging.
Subpart I	Class 7 (Radioactive) Materials.

We are seeking comments on whether any requirements for shippers in Part 173 have a significant impact on a substantial number of small entities. “Small entities” include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions

with populations under 50,000. If your business or organization is a small entity and if any of the transportation requirements applicable to shippers in Part 173 has a significant economic impact on your business or organization, please submit a comment explaining how and to what degree these rules affect you, the extent of the economic impact on your business or organization, and why you believe the economic impact is significant.

II. Plain Language

A. Background and Purpose

Plain language helps readers find requirements quickly and understand them easily. Examples of plain language techniques include:

- (1) Undesignated center headings to cluster related sections within subparts.
- (2) Short words, sentences, paragraphs, and sections to speed up reading and enhance understanding.
- (3) Sections as questions and answers to provide focus.
- (4) Personal pronouns to reduce passive voice and draw readers into the writing.
- (5) Tables to display complex information in a simple, easy-to-read format.

For an example of a rule drafted in plain language, you can refer to RSPA’s final rule entitled “Revised and Clarified Hazardous Materials Safety Rulemaking and Program Procedures,” which was published June 25, 2002 (67 FR 42948). This final rule revised and

clarified the hazardous materials safety rulemaking and program procedures by rewriting 49 CFR Part 106 and Subpart A of Part 107 in plain language and creating a new part 105 that contains definitions and general procedures.

B. Review Schedule

In conjunction with our section 610 reviews, we will be performing plain language reviews of the HMR over a 10-year period on a schedule consistent with the section 610 review schedule. Thus, our review of requirements in Part 173 applicable to general shipment and packaging requirements for shippers will also include a plain language review to determine if the regulations can be reorganized and/or rewritten to make them easier to read, understand, and use. We encourage interested persons to submit draft regulatory language that clearly and simply communicates regulatory requirements, and other recommendations, such as putting information in tables or consolidating regulatory requirements, that may make the regulations easier to use.

Issued in Washington, DC on February 9, 2005 under authority delegated in 49 CFR Part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration.

[FR Doc. 05–2873 Filed 2–14–05; 8:45 am]

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