

TABLE I.—SECTION-BY-SECTION COMPARISON FOR THE PREVIOUS, PROPOSED, AND FINAL RULES—Continued

Previous rule	Proposed rule	Final rule
§ 261.10(a)—Prohibited improvements on National Forest System land or facilities without a special use authorization, contract, or approved operating plan.	§ 261.10(a)—Not addressed by the proposed rule.	§ 261.10(a)—Provides that this prohibition is subject to the waiver provisions in § 251.50(c) through (e).
§ 261.55—Specified prohibitions on trails	§ 261.55—Changed “forest development trail” to “National Forest System trail” in the heading and introductory text.	§ 261.55—Makes no change from the proposed rule.
Part 295—Pertained to the administration of motor vehicle use off National Forest System roads.	Part 295—Changed “Forest Service roads” to “National Forest System roads”.	Part 295—Makes no change from the proposed rule.

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DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****49 CFR Part 172**

[Docket No. RSPA–2004–18575 (HM–189X)]

RIN 2137–AE03

Hazardous Materials Regulations: Minor Editorial Corrections**AGENCY:** Research and Special Programs Administration (RSPA), DOT.**ACTION:** Final rule; editorial corrections.

SUMMARY: This final rule corrects errors in the 49 CFR 172.101 Hazardous Materials Table (HMT) made during the recent publication of 49 CFR Parts 100 to 185. In the most recent publication of 49 CFR Parts 100–185, a number of entries in the HMT were inadvertently removed.

DATES: The effective date of the amendments adopted herein is October 1, 2004. Immediate compliance is authorized.

FOR FURTHER INFORMATION CONTACT: T. Glenn Foster, Office of Hazardous Materials Standards, (202) 366–8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:**I. Background**

This final rule corrects the inadvertent deletion of certain entries in the § 172.101 Hazardous Materials Table (HMT) primarily made during the recent publication of 49 CFR Parts 100 to 185. These errors were the result of a misunderstanding concerning the amendatory language in final rules that affected the HMT, in particular, Docket HM–215E (July 31, 2003; 68 FR 44992).

The amendments contained in this rule are minor changes and do not impose new requirements. Because these amendments do not impose new requirements, notice and public procedure are unnecessary. The following is a summary of the amendments made under this final rule.

We are amending the HMT to correct certain entries as follows:

1. The following entries, that were inadvertently removed, are being reinserted:

- “Adhesives, containing a flammable liquid, UN1133,” Packing Groups I and III;
- “Coating Solution (includes surface treatments or coatings used for industrial or other purposes such as vehicle undercoating, drum or barrel lining), UN1139,” Packing Groups I and III;
- “Extracts, aromatic, liquid, UN1169,” Packing Group III;
- “Flammable liquids, n.o.s., UN1993,” Packing Groups II and III;
- “Hydrobromic acid, with not more than 49 percent hydrobromic acid, UN1788,” Packing Group II;
- “Hydrocarbons, liquid, n.o.s., UN3295,” Packing Groups II and III;
- “Organochlorine pesticides, liquid, toxic, flammable, flash point not less than 23 degrees C, UN2995,” Packing Group I;
- “Paint including paint, lacquer, enamel, stain, shellac solutions, varnish, polish, liquid filler, and liquid lacquer base, UN1263,” Packing Groups I and III;
- “Paint related material including paint thinning, drying, removing, or reducing compound, UN1263,” Packing Groups I and III;
- “Pentanes, UN1265,” Packing Groups I;
- “Perfumery products with flammable solvents, UN1266,” Packing Group III;
- “Printing ink, flammable or Printing ink related material (including printing ink thinning or reducing compound), flammable, UN1210,” Packing Groups I and III;

- “Resin solution, flammable, UN1866,” Packing Groups I and III;
- “Rubber solution, UN1287,” Packing Group III;
- Tars, liquid, including road asphalt and oils, bitumen and cut backs, UN1999,” Packing Group III; and
- “Wood preservatives, liquid, UN1306,” Packing Group III.

2. The first occurrence of the entry “Organochlorine pesticides, liquid, toxic, flammable, flash point not less than 23 degrees C, UN2995,” Packing Group III, is removed.

3. The entry “[PG II],” immediately preceding the entry “Pentanes, UN1265,” is removed.

4. The entry “Gasohol gasoline mixed with ethyl alcohol, with not more than 20 percent alcohol, NA1203,” Packing Group I, is replaced with “Gasohol gasoline mixed with ethyl alcohol, with not more than 20 percent alcohol, NA1203,” Packing Group II.

II. 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 therefore, was not reviewed by the Office of Management and Budget. This final rule is not a significant rule under the Regulatory Policies and Procedures of the Department of Transportation [44 FR 11034]. Because there is no impact of this rule, preparation of a regulatory impact analysis is not warranted.

B. Executive Order 13132

RSPA is not aware of any State, local, or Indian tribe requirements that would be preempted by correcting editorial errors and making minor regulatory changes. This final rule does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

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

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This rule makes minor editorial changes which will not impose any new requirements on persons subject to the HMR; thus, there are no direct or indirect adverse economic impacts for small units of government, businesses or other organizations.

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 \$100 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.

List of Subjects in 49 CFR Part 172

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

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

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

■ 1. The authority citation for part 172 continues to read as follows:

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

§ 172.101 [Amended]

■ 2. In § 172.101, the Hazardous Materials Table is amended as follows:

§ 172.101—HAZARDOUS MATERIALS TABLE

(1) Symbols	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class or division	(4) Identification numbers	(5) PG	(6) Label codes	(7) Special provisions (§172.102)	(8) Packaging (§ 173.***)		(9) Quantity limitations		(10) Vessel stowage		
							Exceptions	Nonbulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	[REMOVE:]												
*	Adhesives, containing a flammable liquid.	3	UN1133	II	3	149, B52, IB2, T4, TP1, TP8.	*	173	*	242 5 L	60 L	B.	
*	Coating solution (includes surface treatments or coatings used for industrial or other purposes such as vehicle undercoating, drum or barrel lining).	3	UN1139	II	3	149, IB2, T4, TP1, TP8.	*	202	*	242 5 L	60 L	B.	
*	Extracts, aromatic, liquid.	3	UN1169	II	3	149, IB2, T4, TP1, TP8.	*	202	*	242 5 L	60 L	B.	
G	Flammable liquids, n.o.s.	3	UN1993	I	3	T11, TP1, TP27	*	201	*	243 1 L	30 L	E.	
D	Gasohol gasoline mixed with ethyl alcohol, with not more than 20 percent alcohol.	3	NA1203	I	3	144.	*	202	*	242 5 L	60 L	E.	
*	Hydrobromic acid, with more than 4 percent hydrobromic acid 9.	8	UN1788				*		*				
*	Hydrobromic acid, with not more than 49 percent hydrobromic acid.	8	UN1788	III	8	IB3, T4, TP1	*	203	*	241 5 L	60 L	C	
*	Hydrocarbons, liquid, n.o.s.	3	UN3295	I	3	T11, TP1, TP8, TP28	*	201	*	243 1 L	30 L	E.	
*	Organochlorine pesticides, liquid, toxic flammable, flash point not less than 23 degrees C.	6.1	UN2995	III	6.1, 3	B1, IB3, T7, TP2, TP28.	*	203	*	242 60 L	220 L	A	40

§ 172.101—HAZARDOUS MATERIALS TABLE—Continued

(1) Symbols	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class or division	(4) Identification numbers	(5) PG	(6) Label codes	(7) Special provisions (§ 172.102)	(8) Packaging (§ 173.***)		(9) Quantity limitations			(10) Vessel stowage	
							Exceptions	Nonbulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
			UN2995	II	6.1, 3	IB2, T11, TP2, TP13, TP27	None	202	243	5 L	60 L	B	40
			UN2995	III	6.1, 3	B1, IB3, T7, TP2, TP28	153	203	242	60 L	220 L	A	40
*	Paint including paint, lacquer, enamel, stain, shellac solutions, varnish, polish, liquid filler, and liquid lacquer base.	3	UN1263	II	3	I49, B52, IB2, T4, TP1, TP8	150	173	242	5 L	60 L	B	
*	Paint related material including paint thinning, drying, re-mov-ing, or reducing compound.	3	UN1263	II	3	149, B52, IB2, T4, TP1, TP8	150	173	242	5 L	60 L	B	
	[PG II only]. Pentanes	3	UN1265	II	3	IB2, T4, TP1	150	202	243	5 L	60 L	E	
*	Perfumery products with flammable sol-vents.	3	UN1266	II	3	149, IB2, T4, TP1, TP8	150	202	242	15 L	60 L	B	
*	Printing ink, flam-mable or Printing ink related material (including printing ink thinning or re-duc-ing compound), flammable.	3	UN1210	II	3	149, IB2, T4, TP1, TP8	150	173	242	5 L	60 L	B	
*	Resin solution, flam-mable.	3	UN1866	II	3	149, B52, IB2, T4, TP1, TP8	150	173	242	5 L	60 L	B	
*	Rubber solution	3	UN1287	II	3	149, IB2, T4, TP1, TP8	150	202	242	5 L	60 L	B	
*	Tars, liquid including road asphalt and oils, bitumen and cut backs.	3	UN1999	II	3	149, B13, IB2, T3, TP3, TP29	150	202	242	5 L	60 L	B	
*	Wood preservatives	3	UN1306	II	3	149, IB2, T4, TP1, TP8	150	202	242	5 L	60 L	B	

§ 172.101—HAZARDOUS MATERIALS TABLE—Continued

(1) Symbols	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class or division	(4) Identification numbers	(5) PG	(6) Label codes	(7) Special provisions (§172.102)	(8) Packaging (§ 173.***)		(9) Quantity limitations			(10) Vessel stowage	
							(8A) Exceptions	(8B) Nonbulk	(8C) Bulk	(9A) Passenger aircraft/rail	(9B) Cargo aircraft only	(10A) Location	(10B) Other
	Organochlorine pesticides, liquid, toxic, flammable, flash point not less than 23 degrees C.	*	6.1 UN2995	I	6.1, 3	T14, TP2, TP13, TP27.	*	201	243 1 L	30 L	B		40
			.....	II	6.1, 3	IB2, T11, TP2, TP13, TP27.	None	202	243 5 L	60 L	B		40
			.....	III	6.1, 3	B1, IB3, T7, TP2, TP28.	153	203	242 60 L	220 L	A		40
	Paint including paint, lacquer, enamel, stain, shellac solutions, varnish, polish, liquid filler, and liquid lacquer base.	*	3 UN1263	I	3	T11, TP1, TP8	*	201	243 1 L	30 L	E		
			.....	II	3	149, B52, IB2, T4, TP1, TP8.	150	173	242 5 L	60 L	B		
			.....	III	3	B1, B52, IB3, T2, TP1	150	173	242 60 L	220 L	A		
	Paint related material including paint thinning, chying, re-moving, or reducing compound.	*	3 UN1263	I	3	T11, TP1, TP8	*	201	243 1 L	30 L	E		
			.....	II	3	149, B52, IB2, T4, TP1, TP8.	150	173	242 5 L	60 L	B		
			.....	III	3	B1, B52, IB3, T2, TP1	150	173	242 60 L	220 L	A		
	Pentanes	*	3 UN1265	I	3	T11, TP2	*	201	243 1 L	30 L	E		
			.....	II	3	IB2, T4, TP1	150	202	242 5 L	60 L	E		
	Perfumery products with flammable solvents.	*	3 UN1266	II	3	149, IB2, T4, TP1, TP8.	150	202	242 5 L	60 L	B		
			.....	III	3	B1, IB3, T2, TP1	150	203	242 60 L	220 L	A		
	Printing ink, flammable or Printing ink related material (including printing ink thinning or reducing compound, flammable).	*	3 UN1210	I	3	T11, TP1, TP8	*	173	243 1 L	30 L	E		
			.....	II	3	149, IB2, T4, TP1, TP8.	150	173	242 5 L	60 L	B		
			.....	III	3	B1, IB3, T2, TP1	150	173	242 60 L	220 L	A		

Resin solution, flammable.	*	3	UN1866	.... I	..... 3	.....	B52, T11, TP1, TP8 ..	150	.....	*	201	243	1 L	.....	30 L	.....	E.
				.... II	..... 3	.....	149, B52, IB2, T4, TP1, TP8	150	.....	*	173	242	5 L	.....	60 L	.....	B.
				.... III	..... 3	.....	B1, B52, IB3, T2, TP1	150	.....	*	173	242	60 L	.....	220 L	.....	A.
Rubber solution	*	3	UN1287	.... II	..... 3	.....	149, IB2, T4, TP1, TP8	150	.....	*	202	242	5 L	.....	60 L	.....	B.
				.... III	..... 3	.....	B1, IB3, T2, TP1	150	.....	*	203	242	60 L	.....	220 L	.....	A.
Tars, liquid including road asphalt and oils, bitumen and cut backs.	*	3	UN1999	.... II	..... 3	.....	149, B13, IB2, T3, TP3, TP29	150	.....	*	202	242	5 L	.....	60 L	.....	B.
				.... III	..... 3	.....	B1, B13, IB3, T1, TP3	150	.....	*	203	242	60 L	.....	220 L	.....	A.
Wood preservatives	*	3	UN1306 II 3	149, IB2, T4, TP1, TP8	150	*	202	242	5 L	60 L	B.
			 III 3	B1, IB3, T2, TP1	150	*	203	242	60 L	220 L	A.
	*									*							40

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Issued in Washington, DC, on July 6, 2004, under authority delegated in 49 CFR Part 1.

Samuel G. Bonasso,

Deputy Administrator, Research and Special Programs Administration.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 544

[Docket No.: NHTSA-2004-17217]

RIN 2127-AJ29

Insurer Reporting Requirements; List of Insurers Required To File Reports

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule updates Appendices A and C of 49 CFR Part 544, insurer reporting requirements. The appendices list those passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experiences. An insurer included in any of these appendices must file three copies of its report for the 2001 calendar year before October 25, 2004.

DATES: This final rule becomes effective on July 13, 2004. Insurers listed in the appendices are required to submit reports before October 25, 2004.

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Ballard's telephone number is (202) 366-0846. Her fax number is (202) 493-2290.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 49 U.S.C. 33112, Insurer reports and information, NHTSA requires certain passenger motor vehicle insurers to file an annual report with the agency. Each insurer's report includes information about thefts and recoveries of motor vehicles, the rating rules used by the insurer to establish premiums for comprehensive coverage, the actions taken by the insurer to reduce such premiums, and the actions taken by the insurer to reduce or deter theft. Under the agency's regulation, 49 CFR Part 544, the following insurers are subject to the reporting requirements: (1) Those issuers of motor vehicle insurance

policies whose total premiums account for 1 percent or more of the total premiums of motor vehicle insurance issued within the United States; (2) those issuers of motor vehicle insurance policies whose premiums account for 10 percent or more of total premiums written within any one state; and (3) rental and leasing companies with a fleet of 20 or more vehicles not covered by theft insurance policies issued by insurers of motor vehicles, other than any governmental entity.

Pursuant to its statutory exemption authority, the agency exempted certain passenger motor vehicle insurers from the reporting requirements.

A. Small Insurers of Passenger Motor Vehicles

Section 33112(f)(2) provides that the agency shall exempt small insurers of passenger motor vehicles if NHTSA finds that such exemptions will not significantly affect the validity or usefulness of the information in the reports, either nationally or on a state-by-state basis. The term "small insurer" is defined, in Section 33112(f)(1)(A) and (B), as an insurer whose premiums for motor vehicle insurance issued directly or through an affiliate, including pooling arrangements established under state law or regulation for the issuance of motor vehicle insurance, account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States. However, that section also stipulates that if an insurance company satisfies this definition of a "small insurer," but accounts for 10 percent or more of the total premiums for all motor vehicle insurance issued in a particular state, the insurer must report about its operations in that state.

In the final rule establishing the insurer reports requirement (52 FR 59; January 2, 1987), 49 CFR part 544, NHTSA exercised its exemption authority by listing each insurer subject to the reporting requirements in Appendix A. Because the number of insurers subject to the reporting requirements is smaller than the number of insurers that fall under the 1% exemption, the agency chooses to publish the shorter list of insurers subject to the reporting requirements of 49 U.S.C. 33112. In Appendix B, NHTSA lists those insurers required to report for particular states because each insurer had a 10 percent or greater market share of motor vehicle premiums in those states. In the January 1987 final rule, the agency stated that it would update Appendices A and B annually. NHTSA updates the appendices based on data voluntarily provided by

insurance companies to A.M. Best,¹ which A.M. Best publishes in its State/Line Report each spring. The agency uses the data to determine the insurers' market shares nationally and in each state.

B. Self-insured Rental and Leasing Companies

In addition, upon making certain determinations, NHTSA grants exemptions to self-insurers, *i.e.*, any person who has a fleet of 20 or more motor vehicles (other than any governmental entity) used for rental or lease whose vehicles are not covered by theft insurance policies issued by insurers of passenger motor vehicles (see 49 U.S.C. 33112(b)(1)). Under 49 U.S.C. 33112(e)(1) and (2), NHTSA may exempt a self-insurer from reporting, if the agency determines:

(1) The cost of preparing and furnishing such reports is excessive in relation to the size of the business of the insurer; and

(2) The insurer's report will not significantly contribute to carrying out the purposes of Chapter 331.

In a final rule published June 22, 1990 (55 FR 25606), the agency granted a class exemption to all companies that rent or lease fewer than 50,000 vehicles, because it believed that the largest companies' reports sufficiently represent the theft experience of rental and leasing companies. NHTSA concluded that smaller rental and leasing companies' reports do not significantly contribute to carrying out NHTSA's statutory obligations and that exempting such companies will relieve an unnecessary burden on them. As a result of the June 1990 final rule, the agency added Appendix C, consisting of an annually updated list of the self-insurers subject to Part 544. Following the same approach as in Appendix A, Appendix C contains only the self-insurers subject to reporting, instead of the self-insurers that are exempted. NHTSA updates Appendix C based primarily on information from *Automotive Fleet Magazine* and *Business Travel News*.²

C. When a Listed Insurer Must File a Report

Under Part 544, as long as an insurer is listed, it must file reports on or before October 25 of each year. Thus, any

¹ A.M. Best Company is a well recognized source of insurance company ratings and information. 49 U.S.C. 33112(i) authorizes NHTSA to consult with public and private organizations as necessary.

² *Automotive Fleet Magazine* and *Business Travel News* are publications that provide information on the size of fleets and market share of rental and leasing companies.