

Executive Order 12866, dated September 30, 1993.

## B. Regulatory Flexibility Act

This rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because manufacturers of COTS items have not generally changed their manufacturing and purchasing practices based on DoD regulations. The burden generally falls on the Government to forego purchase of the item or to process a domestic nonavailability determination requested by the prime contractor. So far, only large contractors have had the resources to request a domestic nonavailability determination. If there is any impact of this proposed rule, it should be beneficial, because small businesses providing COTS items, many of whom are subcontractors, will not have to—

- Rely on the prime contractor to request a domestic nonavailability determination from the Government; or
- Face the decision whether to cease doing business with the Government or set up systems to track and segregate all DoD parts that contain specialty metals.

Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2007–D013.

## C. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) does not apply, because the proposed rule contains no information collection requirements.

### List of Subjects in 48 CFR Parts 212 and 225

Government procurement.

**Michele P. Peterson,**

*Editor, Defense Acquisition Regulations System.*

Therefore, DoD proposes to amend 48 CFR parts 212 and 225 as follows:

1. The authority citation for 48 CFR parts 212 and 225 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR Chapter 1.

### PART 212—ACQUISITION OF COMMERCIAL ITEMS

2. Section 212.570 is added to read as follows:

### 212.570 Applicability of certain laws to contracts and subcontracts for the acquisition of commercially available off-the-shelf items.

10 U.S.C. 2533b, Requirement to buy strategic materials critical to national security from American sources, is not applicable to contracts and subcontracts for the acquisition of commercially available off-the-shelf items as defined in 41 U.S.C. 431(c).

### PART 225—FOREIGN ACQUISITION

3. Section 225.7002–2 is amended by adding paragraph (q) to read as follows:

#### 225.7002–2 Exceptions.

\* \* \* \* \*

(q) Acquisitions of commercially available off-the-shelf items containing specialty metals.

[FR Doc. E7–12763 Filed 6–29–07; 8:45 am]

**BILLING CODE 5001–08–P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

#### 49 CFR Part 172

[RSPA Docket No. 2006–26322 (HM–206F)]

RIN 2137–AE21

### Hazardous Materials: Revision of Requirements for Emergency Response Telephone Numbers

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** In this NPRM, PHMSA proposes to amend the Hazardous Materials Regulations (HMR) to clarify requirements governing emergency response information services provided by arrangement with hazardous materials offerors. In order to preserve the effectiveness of these arrangements for providing accurate and timely emergency response information, PHMSA proposes to require that basic identifying information (offeror name or contract number) be included in shipping papers. This information will enable the service provider to identify the shipper on whose behalf it is accepting responsibility for providing emergency response information in the event of a hazardous materials incident.

**DATES:** Comments must be received by August 31, 2007. To the extent possible, we will consider late filed comments as we determine what further action will be taken.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Federal Rulemaking 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, Dockets Operations, M–30, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

- *Hand Delivery:* To U.S. Department of Transportation, Dockets Operations, M–30, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001 between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays.

*Instructions:* Include the agency name and docket number PHMSA–06–26322 (HM–206F) or the Regulatory Identification Number (RIN) for this rulemaking 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. If sent by mail, comments must be submitted in duplicate. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard or access our Web site at <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 Operations office at the above address.

**FOR FURTHER INFORMATION CONTACT:** Joan McIntyre, Office of Hazardous Materials Standards, telephone (202) 366–8553, Pipeline and Hazardous Materials Safety Administration.

**FOR FURTHER INFORMATION CONTACT:** Joan McIntyre, Office of Hazardous Materials Standards, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation.

### SUPPLEMENTARY INFORMATION:

#### I. Background

The proposed rule would make a narrow, clarifying change to the requirements of the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) applicable to shipping papers for certain hazardous materials shipments. With limited exceptions not applicable here, the HMR require that shipments of hazardous materials be accompanied by shipping papers and other documentation designed to communicate to transport workers and

emergency responders the hazards associated with a specific shipment. This information must include the immediate hazard to health; risks of fire or explosion; immediate precautions to be taken in the event of an accident; immediate methods for handling fires; initial methods for handling spills in the absence of fire; and preliminary first aid measures. The information must be in writing, in English, and presented on a shipping paper or related shipping document (see § 172.602).

In addition to written emergency response information, § 172.604 of the HMR requires a person who offers a hazardous material for transportation in commerce to provide an emergency response telephone number on the shipping paper. The emergency response telephone number must connect a caller to the offeror or to a party capable of, and accepting responsibility for, providing detailed information about the hazardous materials shipment. The emergency response telephone number is used by emergency responders and transport workers to obtain detailed, product-specific information, including directions for remedial measures to be taken in the event of an incident during transportation.

The telephone number must be answered by a person who is knowledgeable about the material being shipped and possesses comprehensive emergency response and incident mitigation information for that material, or has immediate access to a person who possesses such knowledge. Under this standard, "immediate access" requires that the emergency response information be provided to the emergency responder or transportation worker promptly and with no undue delay. Additionally, the emergency response telephone number must be active, with no limitations, during the entire time a shipment is in transportation, including storage incidental to movement and intermodal shipments that are transferred from one carrier to another for continued transportation. The term "storage incidental to movement" means storage occurring between the time a hazardous material is offered for transportation and the time it is delivered to the consignee (see definition for "storage incidental to movement" in § 171.8).

As set forth in § 172.604(a), it is the responsibility of the person who offers a hazardous material for transportation to provide an emergency response telephone number meeting the requirements in the HMR. As currently required in § 172.604(b), a person offering a hazardous material must

ensure that the emergency response service provider has up-to-date information on the hazardous material and that the emergency response service provider is capable of and has accepted responsibility for providing detailed emergency response information.

As revised under a final rule, HM-223A, published on July 28, 2005 (70 FR 43638), the definition of a "person who offers or offeror" (49 CFR 171.8) includes "any person who performs, or is responsible for performing, any pre-transportation function required under this subchapter for transportation of the hazardous material in commerce." The definition goes on to provide that a carrier is not an offeror when it performs a function as a condition of accepting a hazardous material shipment for continued transportation without performing a pre-transportation function (see definition for "pre-transportation function" in § 171.8). Offerors and carriers may rely on information provided by a previous offeror or carrier unless they know, or a reasonable person acting in the circumstances and exercising reasonable care would know, that the information provided to them is incorrect.

Any person subject to the HMR, who by action or inaction and with knowledge of incorrect information, prevents immediate access to emergency response information creates a potential safety hazard and is in violation of the HMR. Additionally, an offeror or an interconnecting carrier who knowingly or willfully provides incorrect information to a subsequent carrier, or a subsequent carrier who knowingly accepts and continues to use inaccurate information, is in violation of the HMR. A civil or criminal penalty (see §§ 107.329 and 107.333) may be assessed against any person subject to the HMR who knowingly or willfully offers for transportation or transports a hazardous material in a manner not complying with the HMR.

## II. Purpose of This NPRM

We have become aware of a number of problems associated with emergency response telephone numbers on shipping papers, specifically related to the increasing use by shippers of emergency response service providers to comply with the requirements of § 172.604. In such situations, the original shipper (offeror) enters into a contract or agreement with an agency or organization (industry associations may offer this service to their members) accepting responsibility for providing detailed emergency response information in accordance with § 172.604(b). The telephone number on

the shipping paper is the telephone number of the emergency response service provider, but the original shipper is not required to include a notation to this effect on the shipping paper, nor is the name of the original shipper required to appear on the shipping paper. Thus, the identity of the person who arranged with the emergency response service provider is not readily available through shipping documentation.

The International Vessel Operators Hazardous Materials Association (VOHMA) has requested that we revise the emergency response telephone number requirement to link the emergency response service provider to the original shipper who arranged for the emergency response service. VOHMA states that valuable time is lost when shipments are delayed while emergency responders or enforcement officers are attempting to obtain or verify emergency response information and their efforts are obstructed because the party who arranged with the emergency response service is not noted on the shipping papers.

This problem is exacerbated because, under the HMR, a carrier or freight forwarder preparing a shipping paper for the continued movement of a hazardous material in commerce may rely on information provided by the original shipper for the preparation of the new shipping paper (for example, the classification of the material, the compatibility of the material with the packaging being used, or the emergency response telephone number), so long as the carrier or freight forwarder exercises due care. For example, a carrier or freight forwarder may rely on an emergency response telephone number provided by a preceding offeror unless it is aware (or should be aware) of facts indicating the emergency response telephone number is not operative and does not meet the requirements of § 172.604(b).

The initial shipment of hazardous materials may be handled by several entities before reaching its final destination. For example, a motor carrier may accept a shipment from the originating shipper for transportation and deliver the material to a freight forwarder to arrange continued transportation. The freight forwarder may prepare shipping papers using the emergency response telephone number provided by the originating shipper. The freight forwarder may then arrange for continued shipment of the hazardous material by rail; a rail carrier may prepare shipping documentation using the information, including the emergency response telephone number,

provided by the freight forwarder. The shipping documentation accompanying the shipment may or may not include the name of the originating shipper. In cases where the originating shipper arranges with an emergency response service to provide telephone service, the nexus between the shipper and emergency response service provider may be lost as new shipping papers are prepared at each stage of transportation.

Without the name of the person who arranged for an emergency response service, an emergency response service provider may not be able to communicate the product-specific information that was provided by the shipper. This could result in a serious problem if transportation workers or emergency response personnel must use the telephone number to request assistance in handling an accident or emergency. Most emergency response services will attempt to provide assistance whether or not they can verify that the original shipper arranged for emergency response service.

However, without the identification of the party who has made arrangements with the service, it may not be possible for the emergency response service to quickly access information specific to the material involved in the accident, thereby defeating the purpose of the requirement in § 172.604 to enable transport workers and emergency response personnel to expeditiously obtain detailed information about a hazardous materials shipment. A delay or improper response due to lack of accurate and timely emergency response information may place emergency response personnel, transportation workers and the general public and environment at increased risk. Expedient identification of the hazards and direction for appropriate clean up associated with specific hazardous materials is critical in mitigating the consequences of hazardous materials incidents.

### III. Proposals in this NPRM

To remedy the problem discussed above, in this NPRM, we propose to require the person who offers a hazardous material for transportation and who uses an emergency response service provider to comply with the requirements of § 172.604 to be identified on the originating shipping paper and any subsequent shipping papers that use the service provider's emergency response number.

Specifically, we propose to:

- Require that the shipper (offeror) who has made the arrangement with the emergency response service provider be identified on the shipping paper. Any

party preparing a shipping paper would be required to identify the original shipper, by name or contract number, with the emergency response telephone number indicated on the shipping paper, and clearly note the identification in association with the emergency response telephone number, or insert and identify its own emergency response telephone number conforming to the requirements in Subpart G of Part 172.

- Clarify that any person preparing a subsequent shipping paper for continued transport of hazardous materials may not omit the original shipper's (offeror's) name if the shipper is the registrant for the emergency response telephone service. Again, the name of the original shipper or its contract number with the emergency response service provider would be required to be included on the shipping paper, or the person preparing subsequent shipping papers must insert and identify by name its own valid emergency response number conforming to the requirements in Subpart G of Part 172.

In addition to the amendments described above, we are also proposing the following clarifications:

- To clarify that international telephone numbers used to comply with the emergency response telephone number requirement must include the country code and city code. VOHMA requested this clarification to ensure that emergency responders and transportation workers have a complete emergency response telephone number for international shipments.

- To clarify that the emergency response telephone number requirements do not apply to transport vehicles or freight containers containing lading that has been fumigated and displays the FUMIGANT marking, as required by § 173.9 of the HMR, unless other hazardous materials are present in the cargo transport unit.

The proposals in this NPRM are intended to fill a gap that was unforeseen when we initially adopted these requirements in 1989 under Docket HM-126C (54 FR 27138, 06/27/89). If adopted, the proposed rule should serve to eliminate delays in transportation due to lack of information, and eliminate enforcement problems created when enforcement personnel are not able to verify emergency response telephone numbers. Most importantly, the proposals in this NPRM will help to ensure that transportation workers and emergency

response personnel are provided with accurate, timely information about the hazardous materials involved in a transportation accident or other emergency.

### IV. Rulemaking Analyses and Notices

#### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed 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 proposed rule is a non-significant rule under the Regulatory Policies and Procedures of the Department of Transportation [44 FR 11034].

If adopted, the proposals in this NPRM should result in minimal costs to shippers to add the required information to shipping papers. The emergency response telephone number is currently required on the shipping paper. Adding a notation to identify the person who arranged with an emergency response services provider should not add any significant time to the process of completing a shipping paper or to the cost of providing it. Moreover, the proposed notation on a shipping paper of the identity of the person who made arrangements with an emergency response telephone service is currently common industry practice for the initial shipper.

The small costs that may be incurred are more than offset by the safety benefits resulting from faster and more efficient response to hazardous materials transportation accidents and other emergencies. The provisions of this NPRM clarify and support the intent of the current emergency response telephone number requirement by ensuring emergency response personnel have immediate access to crucial emergency information specific to the hazardous material involved.

#### B. Executive Order 13132

This proposed rule has been analyzed in accordance with the principles and criteria set forth in Executive Order 13132 ("Federalism"). Any rule resulting from this rulemaking will preempt State, local and Indian tribe requirements but will not have 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 hazmat law contains an express preemption provision (49 U.S.C.

5125(b)), preempting State, local, and Indian tribe requirements on covered subjects, as follows:

(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 materials; 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 proposed rule addresses covered subject item (3) above and would preempt State, local, and Indian tribe requirements not meeting the "substantively the same" standard. Federal hazmat 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 a final rule and not later than two years after the date of issuance. The proposed effective date of Federal preemption for this rule is (90 days after publication of a final rule).

#### C. Executive Order 13175

This proposed rule was analyzed in accordance with the principles and criteria set forth in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this proposed rule does not have tribal implications, and does not impose substantial direct compliance costs, 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 the rule is not expected to have a significant impact on a substantial number of small entities. In this case, although the requirements of the proposed rule would apply to a substantial number of small entities, none would sustain significant economic impact as a result of the rule.

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

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 the proposed amendments if adopted. Based on data for 1997 compiled by the U.S. Census Bureau, more than 95 percent of persons that would be affected by this rule are small businesses.

*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.

*Conclusion.* While the proposed rule would apply to a substantial number of small entities, there would not be a significant impact on those entities. This proposed rule revises the HMR's emergency response telephone requirements to enable emergency response services and others providing such service to supply the required HMR emergency response information to first responders. The impact of this new requirement is expected to be minimal; the indication of the emergency response telephone number on shipping papers is a current requirement and the proposed notation of the identity of the emergency response telephone services' registrant is currently common industry practice for the initial shipper. The problem, as discussed in the preamble of this rulemaking, primarily arises from subsequent carriers omitting the registrant's name when preparing new shipping papers for a shipment continuing on to its final destination. Our proposal to add the identification of

the telephone number's registrant to shipping papers will eliminate an obstruction that could interfere with the transmission of crucial emergency response information to first responders on the scene of an incident.

Additionally, the proposal would serve to eliminate delays in transportation due to lack of information, and eliminate enforcement problems stemming from possible invalid emergency response telephone number violations.

This proposed 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

By requiring that additional information be included in certain shipping papers, this NPRM may result in a minimal increase in annual paperwork burden and costs attributable to the HMR. PHMSA currently has an approved information collection under OMB Control Number 2137-0034, "Hazardous Materials Shipping Papers & Emergency Response Information," reflecting 6,536,111 burden hours and expiring on May 31, 2008.

Under the Paperwork Reduction Act of 1995, no person is required to respond to an information collection unless it has been approved by OMB and displays a valid OMB control number. Section 1320.8(d), Title 5, Code of Federal Regulations requires that PHMSA provide interested members of the public and affected agencies an opportunity to comment on information and recordkeeping requests.

This notice identifies a revised information collection request that PHMSA will submit to OMB for approval based on the requirements in this proposed rule. PHMSA has developed burden estimates to reflect changes in this proposed rule. PHMSA estimates that the additional information collection and recordkeeping burden as proposed in this rule would be as follows:

OMB Control No. 2137-0034:  
Annual Number of Respondents:  
250,000.  
Annual Responses: 260,000,000.  
Annual Burden Hours: 1,805.  
Annual Costs: \$1,805.00.

PHMSA specifically requests comments on the information collection and recordkeeping burdens associated with developing, implementing, and

maintaining these requirements for approval under this proposed rule.

Requests for a copy of this information collection should be directed to Deborah Boothe or T. Glenn Foster, Office of Hazardous Materials Standards (PHH-11), Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., East Building, 2nd Floor, PHH-10, Washington, DC 20590-0001, Telephone (202) 366-8553.

Address written comments to the Dockets Unit as identified in the **ADDRESSES** section of this rulemaking. We will consider all comments regarding information collection burdens received prior to the close of the comment period identified in the **DATES** section of this rulemaking. In addition, you may submit comments specifically related to the information collection burden to the PHMSA Desk Officer, Office of Management and Budget at fax number 202-395-6974. If these proposed requirements are adopted in a final rule, PHMSA will submit the revised information collection and recordkeeping requirements to the OMB for approval.

#### 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 proposed 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. We regulate hazardous materials transported by aircraft, vessel, rail, and highway. The potential for environmental damage or contamination exists when packages of hazardous materials are involved in accidents or en route incidents resulting from cargo shifts, valve failures, package

failures, or loading, unloading, or handling problems. The ecosystems that could be affected by a release include air, water, soil, and ecological resources (for example, wildlife habitats). The adverse environmental impacts associated with releases of most hazardous materials are short-term impacts that can be greatly reduced or eliminated through proper emergency response action and prompt clean up of the accident scene. The proposals in this NPRM would improve the effectiveness of the HMR by enabling emergency responders on the scene of a hazardous materials incident to quickly and efficiently identify hazards and mitigate potential risks to the environment. There are no significant environmental impacts associated with proposals in this NPRM.

#### I. Privacy Act

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 (Volume 65, Number 70; Pages 19477-78), which may also be found at <http://dms.dot.gov>.

#### 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, we propose to amend 49 CFR Chapter I 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. 5101-5128, 44701; 49 CFR 1.45 and 1.53.

2. In § 172.201, revise paragraph (d) to read as follows:

#### **§ 172.201 Preparation and retention of shipping papers.**

\* \* \* \* \*

(d) *Emergency response telephone number.* Except as provided in § 172.604(c), a shipping paper must contain an emergency response telephone number and, if utilizing an

emergency response telephone number service provider, identify the person who has a contractual agreement with the service provider, as prescribed in subpart G of this part.

\* \* \* \* \*

3. In § 172.604, make the following changes:

a. Revise paragraph (a) introductory text;

b. At the end of paragraph (a)(3)(i), remove the word "or";

c. Revise paragraphs (a)(3)(ii) and (b); and

d. Add new paragraph (c)(3).

The addition and revisions read as follows:

#### **§ 172.604 Emergency response telephone number.**

(a) A person who offers a hazardous material for transportation must provide an emergency response telephone number, including the area code or country code and city code. This information is for use in the event of an emergency involving the hazardous material. The telephone number must be—

(1) \* \* \*

(2) \* \* \*

(3) \* \* \*

(ii) Entered once on the shipping paper in a clearly visible location. This provision may be used only if the telephone number applies to each hazardous material entered on the shipping paper, and if it is indicated that the telephone number is for emergency response information (for example: "EMERGENCY CONTACT: \* \* \*").

(b) The telephone number required by paragraph (a) of this section must include the number of the person offering the hazardous material for transportation or of an emergency response service provider capable of, and accepting responsibility for, providing the information required by paragraph (a)(2). Where an emergency response service provider is used, the offeror must be identified by name or contract number on the shipping paper and must ensure the service provider has received current information on the material. A person preparing subsequent shipping papers for continued transportation in commerce must include the information required by this section.

(c) \* \* \*

(3) Transport vehicles or freight containers containing lading that has been fumigated and displays the FUMIGANT marking (see § 172.302(g)) as required by § 173.9 of this subchapter), unless other hazardous

materials are present in the cargo transport unit.

Issued in Washington, DC on June 21, 2007 under authority delegated in 49 CFR Part 106.

**Theodore L. Willke,**

*Acting Associate Administrator for  
Hazardous Materials Safety.*

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