



**DEPARTMENT OF TRANSPORTATION  
HAZARDOUS MATERIALS REGULATIONS BOARD  
WASHINGTON, D.C. 20590**

21201

[Docket No. HM-46; Amdts. 172-12, 173-56, 174-12, 177-19, 178-21]

**RAILWAY AND HIGHWAY FUSEES  
Reclassification as Flammable Solids**

On April 22, 1970, the Hazardous Materials Regulations Board published Docket No. HM-46; Notice No. 70-7 (35 F.R. 6439), proposing reclassification of railway and highway fusees from explosive C to the flammable solid classification.

The reasons for the Board's decision to propose reclassification were set forth in the notice of proposed rule making. The Board specifically pointed out that it did not agree with a petition that shipments of fusees should be exempted from the labeling and placarding requirements of the Hazardous Materials Regulations. The original petition filed for reclassification did not contain supporting data for such exemptions.

Interested persons were invited to give their views on the proposal. Initially many of the comments received did not question the reclassification but requested withdrawal of the notice because of the labeling and placarding requirements. Subsequently, the commenters amended their requests for withdrawal of the notice, and now agree with the Board's decision. On the basis of the original petition for rule change and the comments received in response to the subject notice, the Board concludes that reclassification and the labeling and placarding requirements are warranted.

The Air Transport Association noted that, as proposed, the new rule would no longer permit fusees to be transported on passenger-carrying aircraft as presently authorized by 14 CFR 103.7(b)(2). The ATA stated it was not aware of difficulties with fusees in air transportation. In response to ATA's comment, a corresponding change is being made in 14 CFR 103.7(b) in this issue of the FEDERAL REGISTER to eliminate this unintended restriction.

In consideration of the foregoing, 49 CFR Parts 172, 173, 174, 177, and 178 are amended as follows:

**PART 172—COMMODITY LIST OF  
HAZARDOUS MATERIALS CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 170-189 OF THIS CHAPTER**

In § 172.5 paragraph (a), the commodity list is amended as follows:

**§ 172.5 List of hazardous materials.**

(a) \* \* \*

Article	Classed as—	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in one outside container by rail express
<i>Cancel</i>				
Highway fusees.....	Expl. C	No exemption, 173.108.....		200 pounds.
Railway fusees.....	do	do.....		Do.
<i>Add</i>				
Fusees (railway and highway) -	F.S.	No exemption, 173.154a.....	Yellow.....	Do.
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**PART 173—SHIPPERS**

(A) In Part 173 Table of Contents § 173.108 is amended; § 173.154a is added to read as follows:

Sec.  
173.108 Common fireworks, signal flares, hand signal devices, smoke signals, smoke candles, smoke grenades, smokepots, and Very signal cartridges.  
173.154a Fusees.

(B) In § 173.100, paragraph (y) is amended to read as follows:

§ 173.100 Definition of Class C explosives.

(y) Smoke candles, smokepots, smoke grenades, smoke signals, signal flares, hand signal devices, and Very signal cartridges are devices designed to produce visible effects for signal purposes. These devices must contain no bursting charges and no more than 200 grams of pyrotechnic composition each (see note 1), exclusive of smoke composition (see note 2), unless greater weight of composition is approved by the Bureau of Explosives.

(C) In § 173.108 the heading, the introductory text of paragraph (a), and paragraph (a)(5) are amended; paragraph (a)(6) is added; paragraph (b) is canceled; paragraph (d) is amended to read as follows:

§ 173.108 Common fireworks, signal flares, hand signal devices, smoke signals, smoke candles, smoke grenades, smokepots, and Very signal cartridges.

(a) Class C explosives covered by this section must, unless otherwise specifically provided for, be securely packed in packages complying with the following specifications.

(5) Fireworks, such as sparklers, with match tip or head, or similar ignition point or surface, must have each individual tip, head, or similar ignition point or surface entirely covered and securely protected against accidental contact or friction.

(6) Signal flares may be packed with nonexplosive or nonflammable articles provided the outside packages are marked as prescribed in this section.

(b) [Canceled]

(d) Each outside package must be plainly marked in letters not less than seven-sixteenths of an inch in height "Common Fireworks," "Signal Flares," "Hand Signal Devices," "Smoke Signals," "Smoke Candles," "Smoke Pots," "Smoke Grenades," or "Very Signal Cartridges," as appropriate, and with the additional words "Handle Carefully—Keep Fire Away."

(D) Section 173.154a is added to read as follows:

§ 173.154a Fusees.

(a) A fusee is a device designed to burn at a controlled rate and to produce

visible effects for signaling purposes. It consists of a pasteboard or fiber tube containing a colored flare mixture and with or without a means of support. The composition of the fusee must be such that spontaneous ignition does not occur when the moistened composition is exposed to a temperature of 212° F. for 72 consecutive hours. Fusees must have individual tip, head, or similar ignition point or surface entirely covered and securely protected against accidental contact or friction. Fusees must be securely packed in packages complying with the following specifications:

(1) Specifications 15A, 15B, 15C, 16A, 19A, or 19B (§§ 178.168, 178.169, 178.170, 178.185, 178.190, 178.191 of this chapter). Wooden boxes having a gross weight not to exceed 150 pounds for specification 19B boxes; 200 pounds for the other boxes. When specification 15C boxes are used, devices must be packed in airtight inside metal receptacles.

(2) Specification 12B (§ 178.205 of this chapter) fiberboard boxes. Boxes must have reinforced ends proven to be capable of preventing penetration of spikes through the outside box when a sample package, prepared as for shipment, is subjected to two drops from a height of 4 feet onto a solid surface. The package must be dropped so as to strike diagonally with the spikes in a downward position. Gross weight not to exceed 65 pounds except that gross weight not to exceed 75 pounds is authorized in boxes made in accordance with § 178.205-24 of this chapter.

(3) Specification 29 (§ 178.226 of this chapter). Mailing tubes, provided the penetration of the spikes of the fusees through the outside container is prevented by the method specified for fiberboard boxes, specification 12B, in subparagraph (2) of this paragraph. Gross weight not to exceed 5 pounds.

(4) Fusees without spikes when offered for shipment may be packed in packages prescribed in this paragraph, omitting the protection required for these devices when equipped with spikes.

(5) Fusees may be packed with nonexplosive or nonflammable articles provided the outside packages are marked as prescribed in this section.

(b) Each outside package must be plainly marked in letters not less than seven-sixteenths inch in height "Fusees" and with the additional words "Handle Carefully—Keep Fire Away."

**PART 174—CARRIERS BY RAIL FREIGHT**

(A) In Part 174 Table of Contents, § 174.538 is amended to read as follows:

Sec.  
174.538 Loading and storage chart of hazardous materials.

(B) § 174.538 the heading is amended; in paragraph (a) item 9 of the loading and storage chart is amended in both the vertical and horizontal columns to read as follows:

§ 174.538 Loading and storage chart of hazardous materials.

(a) \* \* \*

Item 9—Fireworks, common.

**PART 177—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY**

(A) In Part 177 Table of Contents, § 177.848 is amended to read as follows:

Sec.  
177.848 Loading and storage chart of hazardous materials.

(B) In § 177.848 the heading is amended; in paragraph (a) item 9 of the loading and storage chart is amended in both the vertical and horizontal columns to read as follows:

§ 177.848 Loading and storage chart of hazardous materials.

(a) \* \* \*

Item 9—Fireworks, common.

**PART 178—SHIPPING CONTAINER SPECIFICATIONS**

(A) In § 178.205-24 the heading and paragraph (a) are amended to read as follows:

§ 178.205 Specification 12B; fiberboard boxes.

§ 178.205-24 Special box; authorized only for fusees.

(a) Must comply with this specification except that the box must be constructed of double faced corrugated fiberboard at least 400-pound test or solid fiberboard of same strength. Lining and pads are not required. Authorized gross weight is 75 pounds. For fusees equipped with spikes, box-end protection as required in § 173.154a(a)(2) of this chapter must be provided.

This amendment is effective December 31, 1971, however, compliance with the regulations, as amended herein, is authorized immediately.

(Secs. 831-835, title 18, U.S.C.; sec. 9, Department of Transportation Act, 49 U.S.C. 1657; title VI, sec. 902(h), Federal Aviation Act of 1958, 49 U.S.C. 1421-1430 and 1472(h))

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W. F. REA III,  
Rear Admiral, Board Member,  
for the U.S. Coast Guard.

MAC E. ROGERS,  
Board Member, for the Federal  
Railroad Administration.

ROBERT A. KAYE,  
Board Member, for the Federal  
Highway Administration.

JAMES F. RUDOLPH,  
Board Member, for the Federal  
Aviation Administration.

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