
DEPARTMENT OF TRANSPORTATION
**Research and Special Programs
Administration**
49 CFR Parts 171, 172, 173, and 175

[Docket No. HM-126C; Amdt. Nos. 171-102,
172-116, 173-213, 175-45]

RIN No. 2137-AA88

**Emergency Response Communication
Standards; Corrections In Response to
Petitions for Reconsideration; and
Extension of Effective Date**

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

ACTION: Final rule; corrections in
response to petitions for
reconsideration; and extension of
effective date.

SUMMARY: This document revises and extends the effective date of the final rule published on June 27, 1989, under Docket HM-126C (54 FR 27138). The final rule amended the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180) by establishing new emergency response information requirements for the transportation of hazardous materials. These revisions are made in response to eleven petitions for reconsideration of certain aspects of the final rule.

EFFECTIVE DATES: The effective date of the final rule published June 27, 1989, (54 FR 27138) is changed from April 2, 1990 to June 4, 1990. The effective date of this Final Rule, which is in response to petitions for reconsideration, is June 4, 1990. However, compliance with this final rule is authorized immediately.

FOR FURTHER INFORMATION CONTACT: Helen L. Engrum, Standards Division, Office of Hazardous Materials Transportation, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. Telephone: (202) 365-4488.

SUPPLEMENTARY INFORMATION: A final rule, published on June 27, 1989, amended the HMR to include new requirements for additional emergency response information on shipping papers and packages, and maintenance of emergency response information on transport vehicles and at transportation facilities. The requirements adopted under Docket HM-126C are intended to

improve hazard communication standards by requiring that more detailed emergency response information accompany shipments of hazardous materials. This final rule requires that: (1) Emergency response information be provided to transporters, carried on transport vehicles and maintained at facilities where hazardous materials are received, stored or handled during transportation, (2) shipping papers contain an emergency response telephone number which is monitored 24 hours a day in order to provide detailed emergency response information to emergency responders, and (3) technical names be included in the descriptions of materials described on shipping papers by "n.o.s." (not otherwise specified) descriptions.

RSPA received eleven petitions for reconsideration from various chemical manufacturers and chemical and other trade associations following publication of the final rule. These petitions, and the actions being taken by RSPA in this final rule, are discussed in the following paragraphs.

I. Petitions for Reconsideration
A. Definition of Technical Name

Seven petitioners requested that the definition in 49 CFR 171.3 for "technical name" be revised to provide protection for "trade secrets", while establishing a mechanism by which the chemical identities of hazardous materials are made known, by allowing the use of chemical family group names in place of specific technical names of materials which may disclose trade secrets. The Chemical in place of specific technical names of materials which may disclose trade secrets. The Chemical Specialties Manufacturers Association (CSMA) believes that the continued protection of trade secret formulary information is critical to the success of many chemical specialty products. CSMA stated:

"... CSMA petitions RSPA to reconsider the amended definition of "technical name" so as to provide necessary protection for trade secrets while also establishing a mechanism by which the specific chemical identities of hazardous chemicals could be obtained quickly in the event of an emergency. Alternatively, CSMA petitions RSPA to implement other means of protecting these trade secrets. RSPA's decision not to provide protection for trade secrets not only would result in the loss of valuable trade secrets, but is also unnecessary in light of alternative methods of providing specific chemical identities which Congress specifically ordered in Title III of the Superfund Amendments and Reauthorization Act of 1988 (SARA) and which EPA and OSHA have implemented."

The Chemical Manufacturers Association (CMA) indicated that the former definition of technical name provided shippers with a mechanism to protect trade secrets; and that one member company estimates that the new requirement would force it to disclose its trade secrets for 20 to 60 products. CMA indicated that other companies also would expect loss of trade secrets. Other petitioners, addressing the revision to the definition of technical name, expressed concerns similar to those identified by CMA.

Under Docket HM-126C, as noted in the definition of "technical name" in § 171.8, the use of trade names as the specific technical name is not permitted. However, CMA expressed concerns involving the use of trade names or common names and stated that, in most cases, a trade name or common name is usually the product name. Because emergency response information can be obtained from CHEMTREC by using the product name, they believe using the product name would be the best method of retrieving chemical-specific emergency response information. CMA stated:

"The requirement to include the highly-specific technical names in parentheses for n.o.s. materials will greatly limit the benefits that CHEMTREC could otherwise provide."

RSPA believes that, in most instances, use of a trade name as the technical name of a material on a shipping paper would not identify the chemical constituents of most materials in emergencies. The objective of the requirement for identifying technical constituents is to ensure that these constituents are readily known to emergency response personnel so that they can quickly implement procedures for responding to and mitigating hazardous materials incidents. The intent of the requirement for a 24-hour emergency response telephone number is to provide emergency response information beyond what is immediately available to the responder at the scene of an incident. Using a product name as the technical name on a shipping paper will not quickly identify the specific chemicals in a material and, therefore, it may not be used to meet the definition for technical name in § 171.8, or to satisfy the additional emergency response information requirements in § 172.203(k). However, a shipping paper may contain additional information as currently specified in § 172.201(a)(4). Consequently, the regulations do not prohibit the entry of product names or trade names on the shipping paper as additional information.

A petition from Merck and Co., Inc., in regard to technical names for

pharmaceutical products described by "n.o.s." descriptions, requested that the current edition of the "United States Adopted Names (USAN)" and the "United States Pharmacopeial Convention, Inc. (USP) Dictionary of Drug Names" be included in the definition of "technical name" in 49 CFR 171.8, as sources of technical names for pharmaceutical drugs. By revising the definition of the technical name to read essentially as the former definition in § 171.8, the inclusion of the aforementioned documents as sources of technical names for pharmaceutical drugs would not be necessary since the former definition allows the use of chemical names in recognized scientific and technical handbooks, journals and texts, such as the USAN and USP.

Petitioners offered several recommendations to resolve this issue, which they believed would still provide the necessary information to emergency responders. Among these were: (1) Restoration of the former definition of technical name while retaining the other provisions of the final rule; (2) a requirement that the emergency telephone contact have available trade secret chemical identities, to be provided to emergency response personnel only in the event of an emergency; or, (3) inclusion of a regulatory mechanism to address a shipper's assertion of the need for trade secret protection.

In issuing the final rule, RSPA did not envision undue disclosure of trade secret information. Generally, RSPA was responding to a need to make more product specific information available to emergency responders in their attempts to mitigate incidents involving hazardous materials. Because an exact chemical formulation is not required under the final rule, RSPA did not believe that showing the identification of technical names of no more than two constituents in mixtures and solutions on shipping papers and packages would require disclosure of "trade secret" information relative to the product being shipped. However, based on the merits of the petitions for reconsideration, RSPA is revising the definition of "technical name" to read essentially as the former definition in 49 CFR 171.8. The use of a "trade name" as a technical name is still prohibited, except for those trade names that appear in the Tables in part 172. This revision of the definition for technical name should alleviate the difficulties identified by petitioners relative to the disclosure of trade secret information.

B. Emergency Response Information

A petition from the Air Transport Association of America (ATA) concerned the requirement to have emergency response information "immediately available" and maintained in the same manner as prescribed for shipping papers aboard aircraft. In their petition, ATA stated that the requirements of this final rule focus more on problems experienced in surface transportation, in which large volumes of hazardous materials in transportation may create emergencies in a variety of jurisdictions. ATA expressed concern that RSPA did not take into account the fact that shipping paper aboard aircraft are attached to the packages of hazardous materials stowed in cargo compartments, which in most cases are inaccessible to the crew in flight. ATA believes that a better way to provide information to cockpit crews would be to require the appropriate emergency response information be maintained at an air carrier's systems operations control center, accessible by crews in flight by radio, and not to require the information to be aboard aircraft.

ATA also questioned whether the requirement for maintenance of emergency response information aboard aircraft would be subject to record retention requirements as are applicable to shipping papers under 49 CFR 175.30(a)(2), and stated that the new regulations do not clearly delineate the responsibility of a shipper to provide to a carrier current, detailed emergency response information and, therefore, a carrier would be obliged to accept and carry any emergency response data that the shipper tenders with the shipment. ATA stated that the regulatory requirements should address shippers' and carriers' obligations for providing and maintaining emergency response information. They further stated that in view of the objectives of some of the provisions of the final rule, safer, more efficient alternatives are available in the air mode to achieve the results DOT seeks.

RSPA does not agree with ATA's contention that emergency response information should not be available aboard aircraft. ATA stated, however, that although they do not support the maintenance of emergency response information in the cockpit of an aircraft, they may be more willing to accept the requirement if compliance precluded the carriage of numerous MSDS. Since the written notification to pilot-in-command contains the basic description of hazardous materials, RSPA believes that

the requirement for maintenance of emergency response information documents would be satisfied if maintained in the same manner as the notification to pilot-in-command of hazardous materials aboard aircraft. Therefore, the requirement in 49 CFR 175.33 is revised to require that emergency response information be maintained in the same manner as the notification to pilot-in-command.

Shippers have expressed uncertainty with respect to their responsibility to ensure that emergency response information is present during transportation of the hazardous material. The Conference on Safe Transportation of Hazardous Articles, Inc. (COSTHA) expressed concerns that:

"Although the rule imposes an obligation on a shipper of hazardous materials to assure that the identified emergency response information is immediately available when the shipment is offered for transportation, the rule does not indicate the manner in which a shipper is to fulfill this responsibility. As a result, hazardous materials shippers have expressed uncertainty with respect to their obligations under the final rule, and concern that their actions taken in an attempt to comply with the rule might be deemed insufficient by DOT."

RSPA believes shippers could fulfill their responsibility to facilitate compliance with the requirements for emergency response information in a number of ways. For example: the shipper may place the ERG or an equivalent document on the transport vehicle, ensure that such placement occurs, or put the required emergency response information on the shipping papers. A shipper might take any of several steps to ensure that the carrier has emergency response information on the vehicle. These steps could include requiring a driver to sign an acknowledgement form either separate from or included on the shipping paper, a visual inspection to determine the presence of appropriate guidance material on the vehicle, or a contractual agreement between the shipper and the carrier to maintain emergency response information on the vehicle during transportation of the hazardous material. However, if the driver of a vehicle does not have the required emergency response information, the shipper must ensure that a copy of the ERG or equivalent document accompanies the shipment when it is offered for transportation.

To ensure immediate availability of emergency response information, the intent of the final rule is to improve and communication standards by ensuring that more detailed emergency

response information accompanies shipments of hazardous materials. RSPA understands the concerns of carriers in being obliged to accept any form of emergency response information (e.g., MSDS). Because there could conceivably be numerous MSDS's for different hazardous materials on transport vehicles, aboard aircraft and aboard vessels, carriers have indicated they would prefer the MSDS's not be used to satisfy the emergency response information requirements for hazardous shipments. RSPA notes that those same concerns were raised in response to the August 1987 NPRM. It is for this reason, in part, that RSPA provided flexibility in the final rule, allowing for various methods of complying with the requirements regarding the form of emergency response information. Carriers may choose to comply with the emergency response information requirements by maintaining a copy of the ERG on each vehicle transporting hazardous materials. In regard to ATA's concerns, air carriers may use the ICAO emergency response guidance or an equivalent document aboard aircraft. Shippers and carriers can execute agreements that the carrier will maintain the required emergency response information. In addition, since emergency response information is required on transport vehicles, aboard aircraft and aboard vessels only when hazardous materials are being carried, emergency response documents would not be subject to the record retention requirements applicable to shipping papers, such as for air carriers under § 175.30(a)(2). RSPA believes that the decision concerning which method(s) to use to implement this requirement is an operational matter to be decided between the shipper and carrier.

C. Telephone Contact for Emergency Response Information

ATA expressed doubts about the efficacy of the 24-hour emergency response telephone number required on shipping papers for shipments originating overseas, and especially with respect to shipments from individuals. They believe that the 24-hour emergency response telephone number attaches an "umbilical cord" to a shipment that no ordinary individual or noncommercial shipper can provide, and that, to eliminate some of the most extreme problems related to the 24-hour telephone number requirement, there should be an exception for certain commodities, such as dry ice, motor vehicles (self-propelled vehicles), and life-saving appliances, self-initiating (inflatable liferafts), which may pose a limited hazard in transportation.

RSPA agrees with ATA's contention that certain hazardous materials, on the basis that they may pose a limited hazard in transportation, should generally be excepted from the requirements for providing a 24-hour emergency response telephone number and, in the final rule, RSPA included a provision allowing hazardous materials for which shipping papers are not required to be excepted from the emergency response information requirements. However, RSPA does not believe that ATA has provided sufficient justification for extending this exception to the materials specifically named in ATA's petition or to other categories of hazardous materials. Therefore, this portion of ATA's petition is denied.

In this document, an editorial correction is made to clarify the requirement in § 172.604(a)(2) addressing the 24-hour emergency response telephone number and the qualifications of that contact. The intent of the 24-hour emergency telephone number requirement is that the number must be the shipper's, or a number that can be immediately accessed (e.g., CHEMTREC), wherein the contact will be capable of providing comprehensive emergency response information.

D. Additional Considerations

Marking the Technical Name on Non-Bulk Packages of Hazardous Materials

A petition from Liquid Air concerned the requirement for marking the technical name on packages of hazardous materials in parentheses "immediately following" the proper shipping name for compressed gases described by "n.o.s." descriptions (i.e., Compressed gas, n.o.s.). The requirements of the final rule made no provision for marking non-bulk packages filled prior to the effective date of April 2, 1990 (54 FR 27138). Liquid Air stated that they would need at least 2-3 years until April 2, 1992 or 1993 to use up current compressed gas, n.o.s. label inventories at their facilities and at their label vendor. They were of the opinion that the Occupational Safety and Health Administration's (OSHA) requirement for marking non-bulk packagings should satisfy DOT's concerns that the identity of the ingredients be made known to emergency response personnel.

Several other petitioners stated that RSPA should provide an exception from marking the technical name on packages of hazardous materials that are currently in the distribution system, for which transportation to end users may

not be completed prior to the effective date of the final rule. Although a phase-in time of approximately nine months was provided for in the final rule, RSPA agrees this may not be an adequate time period for transportation of all packages filled prior to the effective date. Therefore, in this revision of the final rule, RSPA is providing that packages filled prior to the effective date may continue to be shipped until one year thereafter without the need to remark them in accordance with the new marking requirements.

Liquid Air and other petitioners believe that the present method of identifying the technical names of components of n.o.s. descriptions on non-bulk packages "in association with" the proper shipping name should be permitted to continue. The new provision in paragraph (c) of § 172.203 requires that the technical name of the hazardous material be displayed "immediately following" rather than "in association with" the proper shipping name on non-bulk packages. For consistency, and in view of petitioners' concerns for marking the technical name(s) of the ingredients of hazardous materials on non-bulk packages, marking which conforms to OSHA's Hazard Communication Standard (HCS; 29 CFR 1910-1200(f)) for labeling containers and, for compressed gas cylinders, labeling or marking permitted by the Compressed Gas Association (CGA) Pamphlet C-7 are acceptable for meeting the marking requirements of the final rule. Therefore, the provision in paragraph (c) of § 172.203 is being revised to permit the display of the technical name of the hazardous material "in association with" rather than "immediately following" the proper shipping name.

Additional Description Requirements for Hazardous Waste Materials

The Chemical Waste Transportation Institute's (CWTI) petition requested an exception for all hazardous waste materials. In addition to the exceptions provided in the final rule (54 FR 27138) for (1) Wastes in lab packs (§ 173.12), and (2) wastes that are also hazardous substances described as "Hazardous waste, liquid or solid, n.o.s." and additionally described in accordance with § 172.203(c), CWTI requested that RSPA permit the use of the EPA hazardous waste number in place of the technical name description on shipping papers and packages for hazardous wastes which are described by "n.o.s." descriptions, are not also hazardous substances, and meet DOT hazard classes other than ORM-E.

RSPA believes that in an emergency situation the best way to identify the hazards associated with a material described by an "n.o.s." description is through its technical name. RSPA realizes that for many waste materials the chemical constituents that contribute predominately to the hazards of the materials may be unknown. However, allowing the use of the EPA hazardous waste number in place of the technical name for all hazardous wastes, even when the chemical constituents are known, would defeat the intent of the final rule that more specific information be available in an emergency situation. Therefore, for hazardous wastes which are described by "n.o.s." descriptions, are not also hazardous substances, and meet the definition of any DOT hazard class, other than ORM-E, the exception in § 172.203(k)(4)(ii) is revised to allow the use of the EPA hazardous waste number in place of the technical name—but only in those instances where the chemical constituents are unknown. Therefore, CWTI's petition to unconditionally except all hazardous wastes from the requirement for inclusion of technical names for "n.o.s." descriptions on shipping papers and packages is granted in part and denied in part.

Delay of Effective Date of the Final Rule Under Docket HM-126C

The American Trucking Associations petitioned for a delay of the April 2, 1990 effective date of the final rule to assure that all its affected member carriers will be afforded the necessary time to equip their vehicles with the latest edition of the DOT Emergency Response Guidebook (ERG). The petition, filed after the allowable time, requested that RSPA grant a delay of 90 days from the date of public availability of the ERG for implementation of that part of 49 CFR, subpart G of part 172, requiring emergency response information to accompany shipping papers for hazardous materials shipments. The American Trucking Associations stated:

" * * * Although it is a shipper responsibility to provide the necessary information, carriers realize that the most effective method of compliance with the final rule will best be accomplished through the use of the Emergency Response Guidebook." In real-world applications, Less-than-Truckload (LTL) carriers have all but ruled out the use of individual Material Safety Data Sheets (MSDS) or printing the information on each shipping paper as methods of compliance with the final rule. For ease of compliance with the final rule, most carriers have elected to place a copy of the latest Emergency Response Guidebook in the cab of each truck."

Based on the changes made to the final rule under Docket HM-126C, as a result of the petitions for reconsideration, which also included requests for the delay of the effective date, RSPA is extending the effective date of the final rule to June 4, 1990. Also, RSPA anticipates that the 1990 Emergency Response Guidebook, for initial response to hazardous materials incidents, will be available from commercial sources in the Spring of 1990.

Changes made to the final rule issued June 27, 1989, are discussed in order of the section affected in the following paragraphs. Additional editorial changes and clarifications of the regulations are discussed in this section-by-section review.

II. Review by Sections

The regulatory text of this document amends the HMR as published in the October 1, 1989 edition of title 49, Code of Federal Regulations (49 CFR). However, as an aid to the reader, the following section-by-section review of changes shows the page numbers in the June 27, 1989 final rule on which the affected sections appear.

Section 171.8. In § 171.8, on page 54 FR 27144, the definition of "technical name" is revised to allow the use of descriptions for hazardous materials found in "scientific and technical handbooks, journals and texts."

Section 172.203. On page 54 FR 27144, an editorial correction is made in § 172.203(k)(2) in the example of the shipping description to include the hazard class for materials containing two or more hazardous materials. On page 54 FR 27145, in § 172.203(k)(4)(i) the proper shipping name is revised to show "or" in italics, and § 172.203(k)(4)(ii) is being revised to allow the EPA hazardous waste number in place of the technical name on shipping papers and packages for all hazardous wastes described by n.o.s. descriptions, only in those instances where the chemical constituents are unknown. In addition, paragraph (l) of this section is revised to change the paragraph reference "(i)(2)", which was removed and redesignated, to read "[k] (1) and (2)" of this section. (The revision to paragraph (l) of this section was inadvertently omitted in the June 27, 1989, final rule.)

Section 172.301. In § 172.301, on page 54 FR 27145, paragraph (c) is revised by removing the words "immediately following" and inserting in their place the words "in association with". Also, a paragraph (d)(3) is added to this section to provide an exception from the technical name marking requirements

for non-bulk packages filled prior to the effective date of this final rule.

Section 172.505. In § 172.505, the paragraph reference "172.203(k)(4)", which was revised, is corrected to read § 172.203(m)(3)", which was added to § 172.203. (The correction to § 172.505 was inadvertently omitted in the June 27, 1989 final rule.)

Section 172.602. On page 54 FR 27148, § 172.602(a) is revised to allow descriptions under regulations of ICAO, IMDG and the TDG, as appropriate. On page 54 FR 27148, paragraph (a)(5) of this section is revised to delete the words "small" and "large" fires. On page 54 FR 27148, § 172.602, paragraph (b)(3)(ii), is rewritten to allow use of hazardous materials descriptions other than those specified in § 172.101, if otherwise permitted, such as those authorized under §§ 171.11, 171.12, and 171.12a for shipments under the ICAO Technical Instructions, the IMDG Code and the TDG regulations, respectively. On page 54 FR 27148, paragraph (b)(3)(iii) is revised to clarify that, aboard aircraft, the ICAO ERG and, aboard vessels, the IMO EMS may be used to satisfy the requirements for emergency response information. In addition, on page 54 FR 27148, paragraph (c)(1) of this section is revised to require that emergency response information be maintained in the same manner as the written notification to pilot-in-command aboard aircraft.

Section 172.604. § 172.604(a)(2), on page 54 FR 27148, the word "either" is added between the words "is" and "knowledgeable" and the word "and" is added between the words "shipped" and "has" to clarify that the 24-hour telephone number may be the shipper's, or the number of an organization that is capable of providing comprehensive emergency response information.

Section 173.4. In § 173.4, paragraph (a)(1)(iii), the paragraph reference "§ 172.203(k)(4)", which was revised, is corrected to read "§ 172.203(m)(3)", which was added to § 172.203. (The revision to § 173.4 was inadvertently omitted in the June 27, 1989 final rule.)

Section 175.33. This section is amended by revising paragraph (b) to require that the emergency response information be maintained in the same manner as the written notification to pilot-in-command aboard aircraft transporting hazardous materials. This section did not appear in the June 27, 1989 final rule.

III. Administrative Notices

A. Paperwork Reduction Act

The changes and new requirements information collection in §§ 172.201,

172.203, 172.602, and 172.604 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-522) under OMB control numbers 2137-0034 and 2137-0580 (expiration date: June 30, 1992).

B. Executive Order 12291

The RSPA has determined that this final rule (1) does not meet the criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule; (2) is not considered to be a "significant" rule under DOT Regulatory Policies and Procedures (44 FR 11034); (3) will not affect not-for-profit enterprises or small governmental jurisdictions; and (4) does not require a Regulatory Impact Analysis or an Environmental Impact Statement under the National Environmental Policy Act (49 U.S.C. 4321 *et seq.*). The changes made in this final rule do not modify or affect the original regulatory evaluation, which is available for review in the Docket.

C. Executive Order 12612

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

D. Impact on Small Entities

Based on limited information concerning size and nature of entities likely affected by this final rule, I certify this regulation will not have a significant economic impact on a substantial number of small entities. The changes made to this final rule do not modify or affect the original regulatory evaluation, which is available for review in the Docket.

E. Regulatory Information Number (RIN)

A regulatory information 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 number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 171

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

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Shipping papers, Markings, and Emergency response information.

49 CFR Part 173

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

49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

Note: The effective date of the final rule published June 27, 1989 [54 FR 27138], is changed from April 2, 1990 to June 4, 1990.

In consideration of the foregoing, 49 CFR parts 171, 172, 173, and 175 are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 is revised to read as follows:

Authority: U.S.C. App. 1802, 1803, 1804, 1805, 1808; 49 CFR part 1.

§ 171.8 [Amended]

2. In § 171.8, the definition of "Technical name" is revised to read as follows:

§ 171.8 Definitions and abbreviations.

Technical name means a recognized chemical name currently used in scientific and technical handbooks, journals, and texts. Generic descriptions are authorized for use as technical names provided they readily identify the general chemical group. Examples of acceptable generic descriptions are organic phosphate compound, petroleum aliphatic hydrocarbons, and tertiary amines. Except for names which appear in subpart B of part 172 of this subchapter, trade names may not be used as technical names.

PART 172—HAZARDOUS MATERIALS TABLES, HAZARDOUS MATERIALS COMMUNICATIONS REQUIREMENTS AND EMERGENCY RESPONSE INFORMATION REQUIREMENTS

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

Authority: 49 U.S.C. App. 1803, 1804, 1808; 49 CFR part 1.

4. In § 172.203, paragraphs (k)(2), (k)(4)(i), (k)(4)(ii) and (l) are revised to read as follows:

§ 172.203 Additional description requirements.

(k) * * *

(2) If a hazardous material is a mixture or solution of two or more hazardous materials, the technical names of at least two components most predominately contributing to the hazards of the mixture or solution must be entered on the shipping paper as required by paragraph (k) of this section. For example, "Flammable liquid, corrosive, n.o.s., Flammable liquid, UN2924 (contains Methanol, Potassium hydroxide)".

(3) * * *

(4) * * *

(i) To a material that is described using the proper shipping name "Hazardous Substance, liquid or solid, n.o.s." provided the material is described in accordance with the provisions of § 172.203(c) of this part; or

(ii) To a material that is a hazardous waste provided the chemical constituents are unknown and the EPA hazardous waste number is included on the shipping paper in association with the basic description; or a hazardous waste which is described in accordance with the provisions of § 172.203(c) of this part.

(i) *IM portable tanks.* A hazardous material described by an "n.o.s." entry in § 172.101 or § 172.102 (when authorized) and offered for transportation in an IM portable tank must be described on shipping papers in accordance with the provisions of paragraphs (k)(1) and (k)(2) of this section.

5. In § 172.301, paragraph (c) is revised and paragraph (d)(3) is added to read as follows:

§ 172.301 General marking requirements.

(c) *Technical names.* Each non-bulk packaging containing hazardous materials subject to the provisions of § 172.203(k) of this part must be marked with the technical name in parentheses in association with the proper shipping name, in accordance with the requirements and exceptions specified for display of technical descriptions on shipping papers in § 172.203(k) of this part.

(d) * * *

(3) Display of technical names on non-bulk packagings filled for shipment prior to June 4, 1990 until June 4, 1991.

6. Section 172.505 is revised to read as follows:

§ 172.505 Special placarding requirements for certain poisonous materials.

Each transport vehicle and freight container that contains a material subject to the "Poison-Inhalation Hazard" shipping paper description of § 172.203(m)(3) must be placarded POISON on each side and each end in addition to the placards required by § 172.504. This requirement also applies to portable tanks. Duplication of POISON placards is not required nor display of UN class numbers at the bottom of additional placards required by this section.

7. In § 172.602, paragraphs (a)(1), (a)(5), (b)(3)(ii), (b)(3)(iii), and (c)(1) are revised to read as follows:

§ 172.602 Emergency response information.

(a) * * *

(1) The basic description and technical name of the hazardous material as required by §§ 172.202 and 172.203(k), the ICAO Technical Instructions, the IMDG Code, or the TDG Regulations, as appropriate;

(5) Immediate methods for handling fires;

(b) * * *

(3) * * *

(ii) In a document, other than a shipping paper, that includes both the basic description and technical name of the hazardous material as required by §§ 172.202 and 172.203(k), the ICAO Technical Instructions, the IMDG Code, or the TDG Regulations, as appropriate, and the emergency response information required by this subpart (e.g., a material safety data sheet); or

(iii) Related to the information on a shipping paper, a written notification to pilot-in-command, or a dangerous cargo manifest, in a separate document (e.g., an emergency response guidance document), in a manner that cross-references the description of the hazardous material on the shipping paper with the emergency response information contained in the document. Aboard aircraft, the ICAO "Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods" and, aboard vessels, the IMO "Emergency Procedures for Ships Carrying Dangerous Goods", or equivalent documents, may be used to satisfy the requirements of this section for a separate document.

(c) * * *

(1) *Carriers.* Each carrier who transports a hazardous material shall

maintain the information specified in paragraph (a) of this section in the same manner as prescribed for shipping papers, except that the information must be maintained in the same manner aboard aircraft as the notification to pilot-in-command, and aboard vessels in the same manner as the dangerous cargo manifest. This information must be immediately accessible to train crew personnel, drivers of motor vehicles, flight crew members, and bridge personnel on vessels for use in the event of incidents involving hazardous materials.

8. In § 172.604, paragraph (a)(2) is revised to read as follows:

§ 172.604 Emergency response telephone number.

(a) * * *

(1) * * *

(2) The number of a person who is either knowledgeable of the hazards and characteristics of the hazardous material being shipped and has comprehensive emergency response and accident mitigation information for that material, or has immediate access to a person who possesses such knowledge and information; and

PART 173--SHIPPERS-GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

9. The authority citation for part 173 is revised to read as follows:

Authority: 49 U.S.C. app. 1803, 1804, 1805, 1808; 49 CFR part 1.

10. In § 173.4, paragraph (a)(1)(iii) is revised to read as follows:

§ 173.4 Exceptions for small quantities.

(a) * * *

(1) * * *

(iii) One (1) gram for authorized materials classed as Poison B or subject to the "Poison-Inhalation Hazard" shipping paper description requirements of § 172.203(m)(3); and

PART 175--CARRIAGE BY AIRCRAFT

11. The authority citation for part 175 is revised to read as follows:

Authority: 49 U.S.C. app. 1803, 1804, 1807, 1808; 49 CFR part 1.

12. In § 175.33, paragraph (b) is revised to read as follows:

§ 175.33 Notification of pilot-in-command.

(b) A copy of the written notification to pilot-in-command shall be readily available to the pilot-in-command

g flight. Emergency response
mation required by subpart G of
172 of this subchapter must be
tair ed in the same manner as the
en notification to pilot-in-command
ig transport of the hazardous
rial aboard the aircraft.

ed in Washington, DC January 2, 1990
authority delegated in 49 CFR part 1.

s P. Dungan,
nistrator, Research and Special
ans Administration.

oc. 00-339 Filed 1-9-90; 8:45 am]

1 CODE 4910-60-M