

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****49 CFR Parts 107, 171, 176, and 177****[Docket No. RSPA-03-14982 (HM-232C)]****RIN 2137-AD79****Hazardous Materials: Enhancing Hazardous Materials Transportation Security****AGENCY:** Research and Special Programs Administration (RSPA), DOT.**ACTION:** Interim final rule and request for comments.

SUMMARY: This interim final rule incorporates into the Hazardous Materials Regulations a requirement that shippers and transporters of certain hazardous materials comply with Federal security regulations that apply to motor carrier and vessel transportation. In addition, this interim final rule revises the procedures for applying for an exemption from the Hazardous Materials Regulations to require applicants to certify compliance with applicable Federal transportation security laws and regulations. This interim final rule will assure that shippers and transporters are aware of and comply with their security obligations.

DATES: *Effective Date.* This interim final rule is effective May 5, 2003.

Compliance Date: June 4, 2003.

Comments. Submit comments by June 4, 2003. To the extent possible, we will consider late-filed comments as we develop a final rule.

ADDRESSES: Submit comments to the Dockets Management System, U.S. Department of Transportation, Room PL 401, 400 Seventh Street, SW., Washington, DC. 20590-0001. Comments should identify Docket Number RSPA-03-14982 (HM-232C) and be submitted in two copies. If you wish to receive confirmation of receipt of your written comments, include a self-addressed, stamped postcard. You may also submit comments by e-mail by accessing the Dockets Management System web site at <http://dms.dot.gov/> and following the instructions for submitting a document electronically.

The Dockets Management System is located on the Plaza level of the Nassif Building at the Department of Transportation at the above address. You can review public dockets there between the hours of 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You can also review comments on-line at the DOT Dockets

Management System web site at <http://dms.dot.gov/>.

FOR FURTHER INFORMATION CONTACT: Susan Gorsky, (202) 366-8553, Office of Hazardous Materials Standards, Research and Special Programs Administration.

SUPPLEMENTARY INFORMATION:**List of Topics**

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I. Background

Hazardous materials are essential to the economy of the United States and the well being of its people. Hazardous materials fuel cars and trucks, and heat and cool homes and offices. Hazardous materials are used for farming and medical applications and in manufacturing, mining, and other industrial processes. Millions of tons of explosive, toxic, corrosive, flammable, and radioactive materials are transported every day. Hazardous materials move by plane, train, truck, or vessel in quantities ranging from several ounces to many thousands of gallons. The vast majority of hazardous materials shipments arrive safely at their destinations. Most incidents that do occur involve small releases of material and present no serious threat to life or property.

Hazardous materials are substances that may pose a threat to public safety or the environment during transportation because of their physical, chemical, or nuclear properties. The hazardous material regulatory system is a risk management system that is prevention-oriented and focused on identifying a safety hazard and reducing the probability and quantity of a hazardous material release. Under the Department of Transportation's Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180), hazardous materials are categorized by hazard analysis and experience into hazard classes and packing groups. The regulations require each shipper to classify a material in accordance with these hazard classes and packing groups; the process of classifying a hazardous material is itself a form of hazard analysis. Further, the regulations require the shipper to communicate the material's hazards through use of the hazard class, packing group, and proper

shipping name on the shipping paper and the use of labels on packages and placards on transport vehicles. Thus the shipping paper, labels, and placards communicate the most significant findings of the shipper's hazard analysis. A hazardous material is assigned to one of three packing groups based upon its degree of hazard, from a high hazard, Packing Group I, to a low hazard, Packing Group III, material. The quality, damage resistance, and performance standards of the packaging in each packing group are appropriate for the hazards of the material transported.

Under the HMR, which are based on the internationally recognized United Nations system for classification, identification, and ranking of hazardous materials, all hazardous materials are divided into nine general classes according to their physical, chemical, and nuclear properties as follows:

- Class 1—Explosives
- Class 2—Compressed, flammable, nonflammable, and poison gases
- Class 3—Flammable liquids
- Class 4—Flammable solids
- Class 5—Oxidizers and organic peroxides
- Class 6—Toxic and infectious materials
- Class 7—Radioactive materials
- Class 8—Corrosive materials
- Class 9—Miscellaneous dangerous substances and articles

Within Classes 1, 2, 4, 5, and 6, there are more specifically defined divisions, and within Class 1 there are Compatibility Group subdivisions, as well. The hazard classes and divisions are not mutually exclusive. Certain hazardous materials have multiple dangerous properties, each of which must be addressed according to its relative potential to do harm. In these cases, the UN system and the HMR allow identification and communication of both the primary and subsidiary threats.

DOT's hazardous materials transportation safety program has historically focused on reducing risks related to the unintentional release of hazardous materials. The HMR are designed to achieve two goals: (1) To ensure that hazardous materials are packaged and handled safely during transportation, thus minimizing the possibility of their release should an incident occur, and (2) to effectively communicate to carriers, transportation workers, and emergency responders the hazards of the materials being transported. The HMR specify how to classify and package a hazardous material. Further, the HMR prescribe a system of hazard communication using