

Petition No.	Request
1416	Amend the requirements for materials listed as hazardous substances in the § 172.101 Table, Appendix A, Table I, that only meet the hazard class definition of a Class 9 (miscellaneous) material. The petitioner requested that markings, labels, and placards be allowed to remain on such packages containing a residue of such substances, although the rail cars have been unloaded to a quantity less than the reportable quantity (RQ). Requested by Bayer Corporation (Proposed revision in § 172.514(b) to eliminate confusion regarding these types of returned rail car shipments).

II. Marking Requirements

A. Non-Odorized Marking on Cylinders, Portable Tanks, Cargo Tanks, and Tank Cars Containing Liquefied Petroleum Gas

With certain exceptions, all liquefied petroleum gas (LPG) must be odorized when transported in portable tanks or cargo tanks, as prescribed in Note 2 of § 173.315(b)(1). Odorization must indicate positively, with a distinctive odor, the presence of gas down to a concentration in air of not more than one-fifth the lower limit of combustibility. Exceptions are permitted if odorization is harmful in the use or further processing of LPG, or if odorization will serve no useful purpose as a warning agent. There is no requirement in the HMR to odorize LPG in cylinders or tank cars. The fact that LPG is odorized or not is not required to be communicated to emergency responders or the general public.

The New Jersey State Firemen's Mutual Benevolent Association (the Association) petition requested that packages containing non-odorized propane that are already required to be placarded have the phrase NON-AEROMATIC or NON-ODORIZED added either above or below the word "propane." The Association stated that emergency response personnel may be unaware of leaks or spills of propane because there is no detectable odor to alert these persons of the hazardous condition present.

We believe this petition has merit. This lack of additional hazard warning information could cause emergency responders to make inappropriate decisions in mitigating an accident, potentially jeopardizing their safety or the public safety.

In 1984, we published an NPRM, Docket HM-126D; Notice No. 84-11 (49 FR 38164) that proposed several changes in parts 171, 172 and 173 regarding odorization of liquefied petroleum gas (LPG), in addition to other revisions. The comments we received ranged from complete support to direct opposition. In a final rule (52 FR 29526) published August 10, 1987, we stated that the odorization issue would be handled under a separate docket. In comments to the HM-126D

rulemaking, an LPG carrier representative and the National LP-Gas Association stated that non-odorized LPG is transported in fewer than 300 cargo tanks, fewer than 600 tank cars, approximately 3500 cylinders, and approximately 100 portable tanks. Commenters also stated that less than 1 percent of the LPG transported by motor vehicle is non-odorized and approximately 94 percent of LPG is transported by motor vehicle.

Emergency responders may assume that each bulk packaging displaying the LPG proper shipping name, or a technical name such as butane, isobutylene, or propane, contains an odorant. However, to provide the appropriate hazard warning information when packaging do not contain an odorant, we believe NON-ODORIZED should be marked in association with the proper shipping name on a cylinder (except for DOT 2P and 2Q containers and DOT 39 cylinders), portable tank, cargo tank, or tank car containing LPG. The specification DOT 2P, 2Q or 39 packagings would not be subject to the marking requirement because of their small size. At an incident involving such cylinders, emergency response personnel would have to get too close to such packages to determine whether they were marked NON-ODORIZED, which could jeopardize the health and safety of the responders.

Therefore, to provide the necessary warning, we propose to require NON-ODORIZED marking on certain cylinders, portable tanks, cargo tanks and tank cars. For portable tanks, cargo tanks and tank cars, the size of the marking would be as prescribed in the general marking requirements for bulk packagings. The annual cost of this marking, using pressure sensitive, vinyl labels that have a 5- to 7-year life expectancy, would be minimal. Accordingly, we propose to amend §§ 172.301, 172.326, 172.328, and 172.330, to require the marking NON-ODORIZED for LPG that does not contain an odorant.

B. Organic Peroxide Identification Number Marking

Currently, a Division 5.2 ORGANIC PEROXIDE placard is specified in both Table 1 and Table 2 of § 172.504. In

Table 1, a Division 5.2 placard is required for any quantity of an organic peroxide, Type B, liquid or solid, temperature controlled. In Table 2, a Division 5.2 placard is required for organic peroxides not covered by Table 1 when 1,001 pounds or more are on a transport vehicle. Thus, an ORGANIC PEROXIDE placard may or may not indicate that the material is temperature controlled.

The Los Angeles Police Department (LAPD) petition (P-1327) requested that we require an identification number to be displayed on each bulk packaging, unit load device, freight container, transport vehicle, or rail car, when the material transported is a temperature-controlled organic peroxide subject to placarding under § 172.504(e), Table 1. The LAPD said this will clearly identify the organic peroxides requiring special response needs based on temperature controls. The LAPD said that the current requirement to placard any amount of "5.2, Organic peroxide, Type B, liquid or solid, temperature-controlled" material does not convey the warning to emergency personnel that the material must be temperature controlled. This issue was previously discussed in a final rule responding to petitions for reconsideration under HM-206 (62 FR 39398; 07/22/97). During that process, we denied LAPD's petition because such a change was not proposed in the NPRM, and was beyond the scope of that rulemaking. However, because organic peroxides that require refrigeration for stabilization purposes during transportation pose a substantial hazard in any incident that would result in a loss of temperature control, we said this suggestion had merit, and would be considered in future rulemaking.

Under the current regulations, a bulk packaging is required to display an identification number marking. Similarly, a transport vehicle or freight container containing a single hazardous material in non-bulk packagings having an aggregate gross weight of 4000 kg (8,820 pounds) or more is also required to display the identification number on the exterior of the transport vehicle or freight container. In addition, the shipping paper provides appropriate information on organic peroxide temperature-controlled material,