

CGA suggested several factors that it believes justify this proposal. For example, cylinder neck labels are less subject to abrasions than cylinder body labels and are less likely to loosen and fall off. Further, the smaller markings affixed to the shoulder of cylinders are more visible when cylinders are grouped together than when the information is on a label affixed to the cylinder wall. These markings have been used in Canada since 1985, and thus reciprocity with Canada would be maintained. Furthermore, CGA stated that the CGA Pamphlet C-7 marking enhances industry's ability to meet the Occupational Safety and Health Administration's requirement that precautionary labels not be removed from containers until containers have been emptied.

We believe that the CGA petition has merit. Experience shows that this alternative marking, currently authorized for cylinders carried by private and contract carriers, clearly communicates the degree of hazard associated with Division 2.1 or Division 2.2 gases in cylinders offered for transportation in commerce. The marking prescribed in the CGA Pamphlet C-7, Appendix A, will not detract from a common carrier's ability to segregate and stow cylinders since cylinders shipped individually must be moved individually by employees who are close enough to read the smaller marking and label. In addition, the proper shipping name and identification number of the hazardous material are marked adjacent to the smaller hazard warning label, which makes identification of the products easier. For consistency with international standards, we are proposing to permit the use of the markings specified in Pamphlet C-7 on cylinders containing compressed gases in Divisions 2.1, 2.2, or 2.3, which may be shipped in accordance with the exceptions from labeling prescribed in § 172.400a.

We believe such markings will be equally effective in communicating the hazard of the material being shipped. Safety would not be reduced because shipping papers and placards on the transport vehicles provide hazard warning information that can be used in the event of an emergency. Paragraph 5.2.2.2.1.2 of the UN Recommendations permits cylinders for Class 2 gases to bear labels representative of those specified. The Canadian and European regulations, which are based on the UN Recommendations, authorize labels which have been reduced in size, as appropriate, for display on the non-cylindrical part of the cylinders. Thus, this proposal would enhance

international harmonization of standards. Therefore, in this NPRM, for consistency with provisions in the UN Recommendations and Canadian and European regulations, we are proposing to revise the requirement in § 172.400a(a)(1) to broaden the labeling exception to apply to all modes of transportation, by air, water, rail or highway.

#### *E. Placarding Exception for Class 9 Materials (Domestic)*

Mr. Tom Sever, Hazardous Materials Coordinator, Motor Vehicle Enforcement, Iowa Department of Transportation, requested we rescind an interpretation dated February 25, 1997 pertaining to domestic transportation of Class 9 (miscellaneous) material, change the definition of domestic transportation listed in § 171.8, or eliminate the Class 9 placarding requirements in § 172.504(f)(9) and the placard itself in § 172.560. Mr. Sever said that the requirement should have uniform intent; that is, require use of the CLASS 9 placard when the shipment is passing through the United States and destined for a foreign country.

Our February 25, 1997 letter addressed a highway shipment of 12,440 pounds of "Environmentally hazardous substances, solid, n.o.s., 9, UN 3077, PG III, RQ (Lead)" from Garland, Texas to Alberta, Canada. We stated that for those portions of transportation that occur within the borders of the United States, a shipment in international transportation is eligible for the same placarding exceptions that apply to transportation which is domestic only. For these purposes, the definition of "domestic transportation" includes not only transportation exclusively within the United States, but also that domestic portion of international transportation that occurs between places within the United States. Therefore, CLASS 9 placards are not required to be displayed on a shipment of Class 9 hazardous material while it is within the United States.

We do not agree that the placarding exception in § 172.504(f)(9) should be eliminated, but we do agree that the provision should be clarified to minimize misunderstanding. Therefore, we propose to revise the provision to clarify that the Class 9 placarding exception applies to international shipments of Class 9 material while moving in the United States.

#### *F. Footnote to Table 1 (Placards)—Editorial Correction*

We are proposing an editorial revision in § 172.504(e), Table 1, to correct citations in Footnote 1, pertaining to

placarding for certain shipments of radioactive materials. The footnote would be corrected to read as follows: "Radioactive placard also required for exclusive use shipments of low specific activity material and surface contaminated objects transported in accordance with § 173.427(b)(3) or (c) of this subchapter."

#### **V. Training and Emergency Response Information**

##### *A. Emergency Response Telephone Number Requirements*

The HMR require a person offering a hazardous material for transportation to provide an emergency response telephone number (including the area code or international access code) on the shipping paper for use in the event of an emergency involving the material. The emergency response telephone number must be that of a person who has comprehensive knowledge of emergency response and incident mitigation information about the hazardous material being shipped. As an alternative, the number may be of a person who has "immediate access" to a person who possesses such information. The emergency response telephone number must be monitored at all times for as long as the hazardous material is being transported, including during storage incidental to the movement of the hazardous material. Storage that is incidental to movement generally is storage that occurs between the time a hazardous material is offered for transportation and the time it reaches its destination and is delivered to the consignee.

We know that some shippers have misinterpreted "immediate access" as authorizing them to use a "call back" system that requires an emergency responder to wait for a return telephone call. To clarify the requirement for "immediate access," we are proposing to revise § 172.604 to indicate that beeper numbers and call-back systems do not conform to the requirements in § 172.604 and are not acceptable under the HMR.

##### *B. Residues of Class 9 (Miscellaneous) Hazardous Substances, When Less Than RQ Remains*

An "empty" packaging is not subject to any other requirement of the HMR if any hazardous material shipping name and identification number markings, any hazard warning labels or placards, and any other markings indicating that the material is hazardous (e.g., RQ) are removed, obliterated, or securely covered in transportation and: (1) The packaging is unused; (2) the packaging