

mass, 200 kg.” We agree that the example may be misleading and have removed the example from the section.

Several commenters noted that the sentence “Abbreviations may be used to specify the unit of measurement for the total quantity” is redundant because it is permitted in 172.202(c). We agree and have removed the sentence.

One commenter requested we retain the current phrase “* * * of the hazardous material covered by the description * * *” and not adopt the new phrase “* * * of each hazardous material bearing a different proper shipping name, UN number or packing group * * *.” We agree that the existing wording is adequate considering each element of the proposed language is a part of the “description” and have retained the current text.

One commenter suggested we use the term “packages containing only residue” rather than the term “empty packagings.” This comment is outside the scope of this rulemaking.

One commenter requested that we require a gross mass, and not a net mass or volume, due to placarding requirements. Because this was not proposed in the NPRM, the comment is beyond the scope of this final rule.

Section 172.203. We are removing and relocating paragraphs (i)(1), (i)(2), (i)(3) and (i)(6). With adoption of the requirement to indicate types of packagings on shipping papers in § 172.202, we are consolidating the four vessel requirements in § 172.203(i) by moving them to the description requirements in § 172.202(a)(5). The paragraphs address additional shipping paper requirements for the identification of the type, number and gross mass of packagings, and the identification of subsidiary hazards consistent with international standards. The current paragraphs (i)(4) and (i)(5) are redesignated (i)(1) and (i)(2).

Section 172.301. Paragraph (a)(1) is revised to reflect the new alternative marking requirement in § 172.315 for packages containing limited quantities of hazardous materials. Packages containing limited quantities of hazardous materials must be marked with the proper shipping name in accordance with § 172.301, or in accordance with the new alternative marking in § 172.315 that consists of an identification number placed within a diamond. (See § 172.315). Several commenters requested that we allow a shipment to be transported solely via highway and rail when marked and labeled for transport by aircraft. These comments, however, were based on the NPRM text which proposed to incorporate the marking as a mandatory

requirement. Because we are adopting the marking as an alternative to the current requirements, a limited quantity package prepared for air transport is also acceptable for transportation solely by highway and rail without adding the marking as specified by § 172.315.

Section 172.312. A new paragraph (c)(6) is added to allow packages containing liquid infectious substances in primary receptacles not exceeding 50 ml (1.7 oz) to be excepted from the requirements in § 172.312(a). Section 172.312(a) requires liquid hazardous materials packaged in non-bulk combination packagings to be packed with closures upward and to be legibly marked with orientation markings.

Section 172.315. A new section, § 172.315, is added as an alternative marking requirement for packagings containing limited quantities of hazardous materials. This section allows limited quantity packagings to be marked with the identification (ID) number placed within a diamond. After considering the comments discussed below, we are incorporating the diamond marking into the HMR as an alternative to, rather than a replacement of, the existing marking requirements for limited quantities. In addition, the UN Committee of Experts on the Transport of Dangerous Goods will be addressing requirements for limited quantities and consumer commodities during their 2003–2004 work program. While we are not aware of any proposals to change the package marking for limited quantities, there is a possibility that changes may be discussed and adopted, and therefore, replacing the existing requirement would be premature at this time.

Not all commenters support adopting the requirement. Several commenters opposed the requirement because the diamond marking is not contained in the ICAO Technical Instructions. One commenter incorrectly stated that the requirement is not contained in any of the international standards, including the IMDG Code, and asked us to explain our purpose for proposing the limited quantity marking. Currently, the diamond marking is contained in Chapter 3.4.5.1.2 of the IMDG Code and in Chapter 3.4 of the UN Recommendations. By incorporating the marking as an alternative requirement, persons have the flexibility to continue using the current limited quantity package marking.

With respect to the ICAO Technical Instructions, we agree with the commenters’ argument that incorporating the marking requirement will create unnecessary problems. Several commenters noted that under

the current limited quantity requirements, they may mark and label packages containing limited quantities prepared for air transport and also ship them domestically by ground. URS Corporation stated that if we adopted this requirement, packages prepared for air transport displaying a hazard label and marked with the ID number and proper shipping name would need to be additionally marked with the new limited quantity marking when also transported by highway or rail. This would preclude shippers from using a single system of marking and labeling when packages marked and labeled for air transport are also being transported by highway or rail. We agree that applying the new limited quantity marking for packages prepared for air transport would be redundant. The commenters requested that we allow a shipment to be shipped via ground when marked and labeled for air transport, regardless of whether any portion of the transport includes transportation by air. In response to the commenters’ request, we are revising the regulatory text in paragraph (a) by adding the words “Except for transportation by aircraft.”

Some commenters requested an extended transition period, until October 1, 2006, for the continued use of the existing limited quantity requirement. The commenters pointed out that the October 1, 2004 delayed implementation date may not afford industry enough time to clear their stocks of packagings marked in accordance with the current marking requirements. With the adoption of this requirement as an option, the current limited quantity marking is retained and, therefore, an extended transition period is not necessary.

The Florida Department of Environmental Protection, Bureau of Emergency Response (FDEP–BER) believes that all packages should display the proper shipping name in order to determine the contents. FDEP–BER stated that ID numbers are not as easy and quick to identify as proper shipping names. In addition, using the ID number instead of a proper shipping name may require a person to consult reference materials to determine the contents of the packages because certain ID numbers apply to more than one chemical or reference only a generic shipping description that lacks the specific composition of the material. While we recognize the concerns of the commenters, we do not agree that indicating the UN number in lieu of the proper shipping name will compromise safety. We believe the proper shipping name can be quickly determined using