

requirement that prohibits freight containers exceeding 6 m (20 feet) in length from carrying more than 5000 kg (11,023 lbs) net explosive weight of most explosive substances. This provision was removed from the IMDG Code because it placed an inconsistent and unnecessary restriction on containers exceeding 6 m (20 ft) in length, while placing no such restriction on smaller containers. We received a comment from the Sporting Arms and Ammunition Manufacturers' Institute supporting this revision.

Sections 176.410 and 176.415. We are updating these sections for consistency with international standards and with the prior removal of ammonium nitrate fertilizer proper shipping names from the HMR.

Part 178

Section 178.2. Paragraph (c)(1)(ii) is revised by clarifying the information that the packaging manufacturer and each subsequent distributor are required to provide to packaging users. We received several comments concerning this revision. DGAC supports the revision stating that the clarification recognizes the flexibility necessary for effective communication between the manufacturer and packaging user. RIPA supports the general intent of the revision and stated that it is consistent with the UN Model Regulations and should result in ensuring that shippers do a better job of closing packages. RIPA believes that packaging manufacturers and distributors should be required to clearly describe the complete closure system needed for proper closure, including inner packagings, and closure procedures used in passing the applicable performance tests. We agree with this statement and believe that the text, as proposed, adequately addressed these intentions.

RIPA also states we should recognize that shippers often diverge from the manufacturer's instructions to accommodate site-specific conditions, and that "recommended closure torque values may safely be expressed as minimum values, median values, or a range of values." In response to RIPA's comment about allowing shippers to deviate from the closure instructions, our intent, as stated in the NPRM, was to clarify the information that the packaging manufacturer must provide. We did not propose provisions for deviating from closure instructions and considered these recommendations beyond the scope of this rulemaking. For the same reasons, we disagree with RIPA's recommendation to use the phrase "procedural guidelines for closure recommended by the packaging

manufacturer" instead of "procedures to be followed." RIPA's proposal that we add a new paragraph (c)(1)(ii)(A) to allow the use of torque values is not necessary because current requirements do not preclude ranges of values from being specified in the closure instructions.

RIPA also states that "the manner in which shippers (*i.e.* fillers) close packagings will often vary from plant to plant" and provides an example indicating "that some shippers will tighten drum plugs just prior to shipping to account for possible expansion of the metal or plastic that results from heat exposure that occurs from the time the drum is filled and the time it is placed on a transport vehicle and that other plants have found no need for such a practice." Our position is that the manufacturer could easily and realistically include guidance in the closure instructions to indicate, for example, that "after filling and prior to transport, the shipper should check the tightness of closures to determine if the effects of heating, cooling or gasket relaxation have resulted in the need to tighten the closure." While we agree that the shipper has the responsibility for determining the suitability of packagings for the hazardous materials offered for transport, and for ensuring that a package is assembled, closed, or otherwise prepared for transport in compliance with the applicable specifications and requirements for the applicable packaging design type, we believe that the manufacturer needs to provide specific information to allow the shipper to fulfill his responsibilities. The amendments to this section are intended to improve the quality of information provided by manufacturers to shippers in order to enhance safety.

PPG Industries submitted a comment requesting that the last sentence concerning the package being capable of withstanding the pressure differential requirements be removed. PPG Industries indicated that the pressure-differential capability needed by a given packaging is dependent on the material packaged, and that the packaging manufacturer cannot determine full compliance. Single packages for containing liquids are tested and marked with a pressure test rating, which may or may not be suitable for air shipment. It is up to the shipper to determine whether a packaging is suitable for air shipments based on its size, and to determine the appropriate pressure test capability to contain the particular hazardous material packaged. While we agree that the shipper must determine that the package is suitable for the intended hazardous material to

be transported, we do not agree that the requirement for the manufacturer to provide guidance to assist the shipper in ensuring that the packaging meets the relevant air transport pressure differential requirement is beyond the capability of the packaging manufacturer. For example, the instruction could indicate that the inner packaging was successfully tested to a pressure differential test at 95 kPa and clearly describe the complete closure system needed for proper closure and the closure procedures used in passing the applicable performance tests. While some hazardous materials may require a different pressure differential, the closure instructions should be sufficient to allow the shipper to determine whether the packaging is suitable for the material, modes of transport and transport conditions. The closure instructions should provide sufficient details relevant to the procedures for closures consistent with the procedure necessary to enable the packaging to meet the pressure differential for which it was tested. Considering this information, the shipper would be able to properly determine whether the package was suitable for the material and for air transport. Based on the foregoing, we are adopting the revised paragraph with editorial changes for clarity.

Section 178.274. Based on oral comment submitted to HM-215D, in paragraph (j)(6) the size of the "NOT FOR RAIL TRANSPORT" marking is revised from 20 cm (8 inches) to no less than 10 cm (4 inches) in height. We agree with the commenter's reasoning that 8 inches is excessive for portable tanks in that it could require a decal as long as 14 feet, 3 inches.

Section 178.705. We are correcting the paragraph (c)(1)(iv)(A) wall thickness table for metal IBCs. During the typesetting process of the HM-215D final rule (66 FR 33316), the headings for the IBC types were misaligned, and we are correcting them as presented in the HM-215D NPRM (65 FR 63294) published on October 23, 2000.

Section 178.812. In § 178.812(b)(1), we are adding the words "with the load being evenly distributed," consistent with the wording in § 178.812(b)(2). This text is necessary to clarify that the test must not be conducted with the load unequally applied to an individual lifting device. Although we discussed this revision in the preamble of the NPRM, the word "evenly" was inadvertently omitted from the regulatory text.