

§§ 173.314(g)(1) and 173.319(a)(3) to § 171.15. We also proposed to require notification to the Federal Railroad Administration (FRA) instead of the BOE by “the person with knowledge (shipper or carrier).” Commenters generally supported notification to the FRA, however, two commenters opposed moving the reporting requirements into § 171.15 because “the reporting requirement for late delivery of time sensitive materials does not meet the criteria of reporting under § 171.15.” The commenters opposed assignment of the reporting responsibility to “the person with knowledge (shipper or carrier)” and said this language is not specific enough and could cause “instances of noncompliance” where the shipper believes the carrier is the “person with knowledge” and vice versa. Commenters are also divided on who should be assigned the reporting responsibility. Some commenters want the responsibility assigned to the shipper, others to the carrier. Another commenter objected to having to choose from multiple telephone numbers depending on time of day to report these late shipments. Based on valid concerns from commenters that the reporting requirements for late shipments do not fit the reporting criteria under § 171.15 and the various other issues raised by commenters that we need to further review, we are not adopting this proposal at this time.

#### Part 172

##### Section 172.101

We are amending the entry for “Butylene” by adding a limited quantity exception for compressed gases (*see* § 173.306) in column (8A) of the Hazardous Materials Table (HMT). This amendment corrects an oversight in previous rulemakings and is consistent with the entries for “Petroleum gases, liquefied” and other hydrocarbons.

We are adding a new domestic entry for “Cartridges power devices, ORM-D” to the HMT for consistency with the packaging exceptions authorized in § 173.63(b). This entry is limited to those cartridges, small arms and cartridges power devices which are authorized to be reclassified and shipped as ORM-D in § 173.63(b)(1).

For Zone B Toxic Inhalation Hazard entries with ID numbers UN3303, UN3304, UN3305, UN3306, UN3307, UN3308, UN3309, and UN3310, we are amending the HMT by adding Special Provisions B9 and B14; and for Zone C Toxic Inhalation Hazard entries with the same ID numbers, we are adding Special Provision B14. The special provisions

were inadvertently omitted in previous rulemakings.

In the NPRM, we proposed to remove the letter “I” in column (1) of the HMT for compressed gas entries with ID numbers UN 3304, UN 3305, and UN 3306 and liquefied gas entries with ID numbers UN 3308, UN 3309 and UN 3310. The letter “I” identifies proper shipping names which are appropriate for describing materials in international transportation. A commenter pointed out that removal of the letter “I” in column 1 of the HMT from these Division 2.3 materials, which show a Class 8 subsidiary hazard, is inappropriate because the definition of Class 8 in § 173.136 is limited to solid and liquid materials. A Class 8 subsidiary hazard for Division 2.3 materials is only prescribed under international regulations. RSPA agrees with the commenter; therefore, this proposal is not adopted.

For the entry “Liquefied gas, toxic, oxidizing, corrosive, n.o.s.” Hazard Zones B, C and D, we are correcting a typographical error in the subsidiary labeling requirements by removing the Division 2.1 label requirement and adding the Division 5.1 label in its place.

We are revising the entry for “Gas sample, non-pressurized, toxic, n.o.s., UN 3169” by adding Special Provision 6 in column (7) of the HMT. The entry is classed as a Division 2.3 poisonous gas and must be described as an inhalation hazard under the provisions of the HMR. A commenter pointed out that the entry “Gas sample, non-pressurized, toxic, flammable, n.o.s., UN 3168” which is also a Division 2.3 gas and must be described as an inhalation hazard material, should also be assigned Special Provision 6. We agree with the commenter and are revising the entry for “Gas sample, non-pressurized, toxic, flammable, n.o.s., UN 3168” in the HMT accordingly.

##### Section 172.504

We are revising paragraph (d) to clarify that the placarding exception for non-bulk packagings containing only the residue of a hazardous material covered by table 2 does not apply to materials subject to the subsidiary placarding requirements in § 172.505 (*e.g.*, poison inhalation hazard). A material subject to the subsidiary placarding requirements in § 172.505 requires placarding for the subsidiary hazard in addition to any other required placards regardless of quantity.

#### Part 173

##### Section 173.3

We are revising § 173.3 to allow a DOT 3A480 or 3AA480 cylinder containing chlorine or sulphur dioxide (both materials poisonous by inhalation) that has developed a leak in the valve or fusible plug to be temporarily repaired using a Chlorine Institute Emergency Kit “A” and be transported by private or contract carrier one time, one way, from the point of discovery to the appropriate facility for discharge and examination. Similarly, we are allowing a DOT 106A500 multi-unit tank car tank containing chlorine or sulphur dioxide that has developed a leak in the valve or fusible plug to be temporarily repaired using a Chlorine Institute Emergency Kit “B.” We have authorized the use of the kits under the exemption program for several years with satisfactory shipping experience. Adopting these exemption provisions into the regulations will eliminate the need for an exemption and facilitate the movement of affected containers to appropriate facilities. We are also correcting a typographical error in the paragraph (d) heading to read “DOT 106A500” instead of “DOT 105A500”. The commenters supported the proposal; however, several commenters requested that use of the “A” and “B” kits be extended to other specification packagings as well as to other compressed gases. Our proposal in the NPRM is based on a satisfactory shipping record under the exemption program using the “A” kits to temporarily repair leaking 3A480 and 3AA480 cylinders and the “B” kits to temporarily repair DOT 106A500 multi-unit tank car tanks containing chlorine or sulphur dioxide. Therefore, we are adopting the amendment as proposed. While other materials might develop a satisfactory shipping record if tested, neither RSPA nor FRA is aware of significant experience in the use of “A” or “B” kits for commodities other than chlorine or sulphur dioxide or for containers other than the specification 3A480/3AA480 cylinders or DOT 106A500 multi-unit tank car tanks. Proponents of this expansion have not presented sufficient or convincing evidence to substantiate a more extensive amendment to the HMR. Including other types of packagings and materials is outside the scope of this rulemaking and may be considered in a future rulemaking.

##### Section 173.12

We are revising § 173.12(c) to authorize the reuse of packagings for shipments of all wastes, not just waste