

The maximum criminal fines under Title 18 of the United States Code are \$250,000 for an individual and \$500,000 for a corporation.

Section 171.2. We are revising this section to clarify those persons and activities that are subject to the requirements of the HMR. Generally, the revisions adopted in this section restate more clearly the current requirements and prohibitions.

Paragraph (a) states that a person who performs a function that is required by the HMR must perform the function in accordance with the HMR.

Paragraph (b) requires a person who offers hazardous materials for transportation in commerce to comply with the HMR or with an exemption, approval, or registration issued in accordance with the HMR.

Paragraph (c) requires each person who performs a function covered by or having an effect on the packaging specifications in parts 178, 179, or 180 of the HMR or an exemption or approval to perform the function in accordance with the specification, exemption, or approval.

Paragraph (d) prohibits any person subject to the registration requirements in subpart G of Part 107 from offering or accepting a hazardous material for transportation in commerce or from transporting a hazardous material in commerce unless that person is registered.

Paragraph (e) prohibits any person from offering or accepting a hazardous material for transportation in commerce unless the hazardous material is prepared for shipment as required by the HMR or an applicable exemption, approval, or registration.

Paragraph (f) prohibits any person from transporting a hazardous material in commerce except in conformance with the HMR or an applicable exemption, approval, or registration.

Paragraph (g) restates requirements in current paragraph (c) of § 171.2.

Paragraph (g) prohibits any person from representing, marking, certifying, selling, or offering a packaging as meeting the requirements of the HMR unless the packaging is manufactured, fabricated, marked, maintained, reconditioned, repaired, and retested in accordance with the applicable HMR requirements. Paragraph (g) applies the same prohibition to any person who performs these functions under the terms of an exemption, approval, or registration. This paragraph also requires a packaging marked as meeting a DOT specification or UN standard to conform to the specification or standard at all times that the marking is visible. The requirements of paragraph (g), like

the current requirements in § 171.2(a), apply whether or not the packaging is used for the transportation in commerce of a hazardous material.

Paragraph (h) restates the requirements in current paragraph (d) of § 171.2. This paragraph lists the representations, markings, and certifications subject to the prohibitions of paragraph (g) of this section.

Paragraph (i) prohibits any person from certifying that a hazardous material is offered for transportation in commerce in accordance with the HMR unless the hazardous material has been prepared for shipment as required or authorized by the HMR or an exemption, approval, or registration. This paragraph requires persons who offer a hazardous materials package for transportation under the HMR to assure that the package remains in condition for shipment until it is in the possession of the transporting carrier.

Paragraph (j) prohibits any person from marking or representing that a packaging for transporting a hazardous material in commerce is safe, certified, or in compliance with the HMR unless it meets all applicable regulatory requirements issued under Federal hazmat law. This paragraph restates a prohibition in current paragraph (f)(1) of § 171.2.

Paragraph (k) prohibits any person from marking or representing that a hazardous material is present in a package or transportation conveyance if the hazardous material is not, in fact, present. This paragraph restates a prohibition in current paragraph (f)(2) of § 171.2.

Paragraph (l) prohibits any person from unlawfully tampering with any marking, label, placard, or description on a document that is required by Federal hazmat law or a regulation issued under Federal hazmat law. This paragraph also prohibits any person from unlawfully tampering with a package or transportation conveyance used to transport hazardous materials. This paragraph restates a prohibition in current paragraphs (g)(1) and (g)(2) of § 171.2.

Paragraph (m) prohibits any person from falsifying or altering an exemption, approval, registration, or other grant of authority relevant to the transportation of hazardous materials issued by RSPA. This paragraph further prohibits any person from offering a hazardous material for transportation under an exemption, approval, registration, or other grant of authority that has been altered without the consent of RSPA. Finally, this paragraph prohibits any person from representing, marking, certifying, or selling a packaging under

an exemption, approval, registration, or other grant of authority that has been altered without the consent of RSPA.

Section 171.8. We are revising definitions for the terms “carrier,” “person,” and “private track and siding.” We are adding definitions for the following terms: “Administrator,” “Associate Administrator,” “commerce,” “consignee,” “hazmat,” “HMR,” “loading incidental to movement,” “movement,” “pre-transportation function,” “Secretary,” “storage incidental to movement,” “transloading,” “transportation or transport,” “transportation facility,” and “unloading incidental to movement.” We are deleting the definition for the term “sheathing” because it is confusing and not necessary to an understanding of the HMR.

Part 173

Section 173.1. We are removing paragraph (c) and redesignating current paragraph (d) as paragraph (c). Current paragraph (c) is redundant with the revisions to §§ 171.1 and 171.2.

Section 173.10. The NPRM proposed removing the requirements in this section. A number of commenters oppose the deletion. Upon consideration of the comments and consultation with FRA, we agree that the section should not be removed.

Section 173.30. In the NPRM, we proposed to remove this section because it conflicts with the new definitions of “loading incidental to movement” and “unloading incidental to movement” proposed in §§ 171.1 and 171.8. Upon further consideration, we have decided to retain this section with modifications to clarify that persons who are subject to the loading and unloading requirements of the HMR must comply with all applicable loading and unloading regulations.

Section 173.31. We are adding new paragraph (g) to consolidate requirements related to the protection of train and engine crews during rail tank car loading and unloading operations.

Part 174

We are revising § 174.67 as discussed earlier in this preamble to incorporate revisions to rail tank car unloading requirements to incorporate certain exemptions provisions and clarify and update the requirements.

VI. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is considered a significant regulatory action under Executive Order 12866 and the