

## Aviation Group Client Update

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### PHMSA ISSUES FINAL RULE UPDATING AND CLARIFYING REGULATIONS

Last month, the Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a [Final Rule](#) updating and clarifying miscellaneous regulations. The amendments are intended to promote safe transportation practices, eliminate unnecessary regulatory requirements, clarify certain requirements, address a petition for rulemaking, incorporate a special permit into the Hazardous Materials Regulations (HMR), facilitate international commerce, simplify the regulations, and update various entries in the Hazardous Materials Table (HMT) and corresponding special provisions.

On April 26, 2012, PHMSA published a [Notice of Proposed Rulemaking \(NPRM\)](#) regarding these amendments. The proposed amendments were identified through PHMSA's review of the HMR and previously issued letters of interpretation, as part of the Department of Transportation's (DOT) Retrospective Regulatory Review (RRR). In response, PHMSA received 22 comments in response to the NPRM, some in support of the proposed changes and some in opposition to them. In the Final Rule, PHMSA discusses the amendments that were ultimately adopted and the ones that were not.

In the Final Rule, PHMSA adopts the provisions summarized below and discusses the comments received in response to the NPRM.

- Permit designated agents for non-residents to submit designation requests by electronic mail in addition to traditional mail.
- Add the Sulphur Institute's (TSI) "Molten Sulphur Rail Tank Car Guidance" document to the list of informational materials not requiring incorporation by reference in § 171.7 (Responds to petition for rulemaking P-1581).
- Revise the § 172.101 HMT to correct an error in the transportation requirements for entries listed under the proper shipping name, "Hydrazine Dicarboxylic Acid Diazide."
- Revise the § 172.101 HMT to remove the entry for "Zinc ethyl, see Diethylzinc" that was superseded by proper shipping names adopted in a previous rulemaking.
- Add inadvertently omitted entries for "Paint related material, flammable, corrosive (including paint thinning or reducing compound)" UN3469, PG II, and PG III to the § 172.101 HMT.
- Remove references to special provisions B72 and B74 in § 172.102.
- Revise special provision 138 in § 172.102 to clarify the lead solubility calculation used to classify a material as a Marine Pollutant.
- Revise the shipping paper requirements in § 172.203(e) to permit the phrase "Residue last contained" to be placed before or after the basic shipping description sequence, or for rail shipments, directly preceding the proper shipping name in the basic shipping description sequence.



- Update the training recordkeeping requirements in § 172.704 to specify that a hazmat employer must make hazmat employee training records available upon request, at a reasonable time and location, to an authorized official of the DOT or of an entity explicitly granted authority to enforce the HMR.
- Clarify that the material of trade exception in § 173.6 may be used when transporting Division 2.1 and 2.2 gases in Dewar flasks.
- Clarify the lab pack provisions in § 173.12 pertaining to temperature-controlled materials contained in a lab pack.
- Clarify the exceptions for external emergency self-closing valves on CTMVs in § 173.33(g) to specify that external emergency self-closing valves on MC 338 cargo tanks containing cryogenic liquids may remain open during transportation.
- Correct an inadvertent deletion of the § 173.62 packaging requirements for explosives.
- Incorporate special permit DOT SP-13556 into § 173.134, to authorize the transportation by motor vehicle of certain regulated medical wastes, designated as sharps, in non-DOT specification containers fitted into wheeled racks.
- Revise the requirements for cargo air transport of alcoholic beverages § 173.150 to harmonize with the ICAO Technical Instructions.
- Clarify the exceptions in § 173.159a for non-spillable batteries secured to skids or pallets.
- Correct regulatory citations in § 178.2(c).
- Clarify the requirements for the Flame Penetration Resistance test specified for chemical oxygen generators and certain compressed gases in Appendix E to Part 178.
- Clarify the inspection record requirements in § 180.416 for discharge systems of cargo tanks transporting liquefied compressed gases.

The Final Rule is effective May 10, 2013. The voluntary compliance date for these changes was March 11, 2103. Please contact our office for additional information or for assistance with compliance with these amended requirements.

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