

one, two, or three registration years as provided in § 107.616(c).

5. In § 107.616, paragraphs (c) and (d)(2) are revised to read as follows:

§ 107.616 Payment procedures.

* * * * *

(c) Payment must correspond to the total fees properly calculated in the "Amount Due" block of the DOT form F 5800.2. A person may elect to register and pay the required fees for up to three registration years by filing one complete and accurate registration statement.

(d) * * *

(2) Pay a registration and processing fee of \$350 (including a \$50 expedited handling fee). For registration years 2000–2001 and following, persons who do not meet the criteria for a small business, as specified in § 107.612(b)(1), must enclose an additional payment of \$1,700 with the expedited follow-up material, for a total of \$2,050 (including a \$50 expedited handling fee); and

* * * * *

Issued in Washington, D.C. on February 8, 2000, under authority delegated in 49 CFR part 1.

Kelley S. Coyner,
Administrator.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 172

[Docket No. RSPA–2000–6744 (HM–145L)]

RIN 2137–AD39

Hazardous Materials: Hazardous Substances—Revisions

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: In this final rule, RSPA is amending the Hazardous Materials Regulations (HMR) by revising the "List of Hazardous Substances and Reportable Quantities" that appears in Appendix A, "Hazardous Substances other than Radionuclides," to the Hazardous Materials Table. This action is necessary to comply with the Superfund Amendments and Reauthorization Act (SARA) of 1986, which amended the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) to mandate that RSPA regulate, under the HMR, all hazardous substances designated by the Environmental Protection Agency

(EPA). The intended effect of this action is to enable shippers and carriers to identify CERCLA hazardous substances, thereby enabling them to comply with all applicable HMR requirements and to make the required notifications if a discharge of a hazardous substance occurs. No notice of proposed rulemaking (NPRM) has preceded this final rule because, in light of RSPA's lack of discretion concerning the regulation of hazardous substances under the HMR, RSPA finds that under the Administrative Procedure Act notice would serve no purpose and thus is unnecessary.

DATES: This amendment is effective on August 14, 2000. However, immediate compliance with the regulations as amended herein is authorized.

FOR FURTHER INFORMATION CONTACT: Michael Johnsen (202) 366–8553, Office of Hazardous Materials Standards, RSPA, 400 7th Street, SW, Washington, DC 20590. Questions about hazardous substance designations or reportable quantities should be directed to the Environmental Protection Agency (EPA) at the RCRA/Superfund hotline at (800) 424–9346 or, in Washington, DC, (202) 382–3000.

SUPPLEMENTARY INFORMATION:

I. Background

Section 202 of SARA (Pub. L. 99–499) amended Section 306(a) of CERCLA (Pub. L. 96–510), 42 U.S.C. 9656(a), by requiring the Secretary of Transportation to list and regulate hazardous substances, listed or designated under Section 101(14) of CERCLA, 42 U.S.C. 9601(14), as hazardous materials under the Federal hazardous materials transportation law (49 U.S.C. 5101–5127). RSPA carries out the rulemaking responsibilities of the Secretary of Transportation under the Federal hazardous materials transportation law, 49 CFR 1.53(b). This final rule is necessary to comply with 42 U.S.C. 9656(a) as amended by section 202 of SARA.

In carrying out that statutory mandate, RSPA has no discretion to determine what is or is not a hazardous substance or the appropriate reportable quantity (RQ) for materials designated as hazardous substances. This authority is vested in EPA. Therefore, under the CERCLA scheme, EPA must issue final rules amending the list of CERCLA hazardous substances, including adjusting RQs, before RSPA can amend its list of hazardous substances. In the preamble to a final rule on this subject issued under Docket HM–145F (51 FR 42174; November 21, 1986), RSPA included the following statement:

It is RSPA's intention to make changes from time to time to the list of hazardous substances or their RQ's in the Appendix as adjustments are made by EPA.

This rulemaking adjusts the "List of Hazardous Substances and Reportable Quantities" that appears in Appendix A to § 172.101, based on the following final rules that were published by EPA in the **Federal Register** and added and removed entries to the EPA table in 40 CFR 302.4 List of Hazardous Substances and Reportable Quantities under CERCLA:

June 17, 1997 (62 FR 32974) rule added three new waste codes (K156, K157, K158) from the industrial production of carbamate chemicals; May 4, 1998 (63 FR 24596) rule added 2,4,6-Tribromophenol and an associated waste code (K140); August 6, 1998 (63 FR 42110) rule added four waste codes from petroleum refining (K169, K170, K171, K172); and December 15, 1998 (63 FR 69116) rule removed caprolactam.

This rulemaking will enable shippers and carriers to identify CERCLA hazardous substances and thereby enable them to comply with all applicable HMR requirements and to make the required notifications if a discharge of a hazardous substance occurs. In addition to the reporting requirements of the HMR found in §§ 171.15 and 171.16, a discharge of a hazardous substance is subject to EPA reporting requirements at 40 CFR 302.6 and may be subject to the reporting requirements of the U.S. Coast Guard at 33 CFR 153.203.

II. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. The rule is not considered significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). Because of the minimal economic impact of this rule, preparation of a regulatory impact analysis or a regulatory evaluation is not warranted.

B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This final rule does preempt State, local, and Indian tribe requirements but does not adopt any regulation that has substantial

direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

This final rule addresses designation of hazardous material and preempts state, local, or Indian tribe requirements not meeting the "substantively the same" standard. This rule is required by law. Federal hazardous materials transportation law provides at section 5125(b)(2) that if RSPA issues a regulation concerning any of the covered subjects, RSPA must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. The effective date of Federal preemption for these requirements is May 15, 2000.

C. Executive Order 13084

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13084 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review most regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. Because this rule was not preceded by an NPRM, however, the Regulatory Flexibility Act does not apply to it and no assessment is required. EPA addressed the Regulatory Flexibility Act when it made the hazardous substances designations and changes reflected in this rule.

E. Paperwork Reduction Act

This final rule does not impose any new information collection burdens.

F. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

G. Unfunded Mandates Reform Act

This final rule imposes no mandates and thus does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995.

H. Impact on Business Processes and Computer Systems

We do not want to impose new requirements that would mandate business process changes when the resources necessary to implement those requirements would otherwise be applied to "Y2K" or related computer problems. This final rule does not mandate business process changes or require modifications to computer systems. Because this rule does not affect organizations' ability to respond to those problems, we are not delaying the effectiveness of the requirements.

List of Subjects in 49 CFR Part 172

Hazardous materials transportation, Hazardous wastes, Labels, Markings, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, part 172 of Title 49, Code of Federal Regulations, is amended as follows:

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

1. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

2. In Appendix A to § 172.101, Table 1 is amended by removing and adding, in listed order, the following entries to read as follows:

Appendix A to § 172.101—List of Hazardous Substances and Reportable Quantities

* * * * *

TABLE 1 TO APPENDIX A—HAZARDOUS SUBSTANCES OTHER THAN RADIO-NUCLIDES

Hazardous substance	Reportable quantity (RQ) pounds (kilograms)
[REMOVE]	
* * * * *	
Caprolactam	5000
* * * * *	
[ADD]	
* * * * *	
2,4,6-Tribromophenol	100
K140	100
K156	1
K157	1
K158	1
K169	10
K170	1
K171	1
K172	1
* * * * *	

Issued in Washington, DC on February 3, 2000 under authority delegated in 49 CFR Part 1.

Kelley S. Coyner,

Administrator, Research and Special Programs Administration.

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