documents related to hazardous material and requirements related to the number, contents, and placement of those documents." 49 U.S.C. 5125(b)(1)(C). In addition, NYDEC's requirement for indicating the second vehicle on the manifest appears to be inconsistent with the HMR because it applies solely to waste material "and applies differently from or in addition to" the HMR's requirements concerning the "contents of shipping papers, including hazardous waste manifests." 49 CFR 171.3(c)(3).

3. Secondary containment

Section 372.3(a)(7)(iii) allows a transporter to transfer hazardous wastes incidental to transport provided that

if consolidation of loads takes place by moving containers from one transport vehicle to another or containers are removed from transport vehicles prior to being reloaded, the transfer or storage area must be designed to meet secondary containment requirements in accordance with subdivision 373–2.9(f) of this Title.

The containment system specified in section 373–2.9(f) includes requirements for an impervious base, drainage (unless containers are elevated), capacity limits, prevention of run-on into the containment system, and timely removal of spills or accumulated precipitation—except that containers of wastes that do not contain free liquids (other than certain acute hazardous wastes) need only be stored where there is drainage or the containers are elevated or otherwise protected from contact with accumulated liquid.

The HMR do not contain any requirements concerning the physical design or construction of fixed facilities where transporters may exchange hazardous materials between vehicles, including intermodal operations. Rather, the HMR focus on the suitability of the container and proper handling activities. Accordingly, 49 CFR 173.24(b) requires that:

Each package used for the shipment of hazardous materials under this subchapter shall be designed, constructed, maintained, filled, its contents so limited, and closed, so that under conditions normally incident to transportation—(1) * * there will be no identifiable (without the use of instruments) release of hazardous materials to the environment; [and] (2) The effectiveness of the package will not be substantially reduced; for example, impact resistance, strength, packaging compatibility, etc. must be maintained for the minimum and maximum temperatures encountered during transportation.

Cargo tanks and tank cars must be built to specifications and periodically retested and reinspected. *See* 49 CFR 180.407 (cargo tanks), 180.509 (tank cars). Specific procedures, and attendance requirements, apply to the unloading of both tank cars and cargo tanks. 49 CFR 174.67 (tank cars), 177.834 (cargo tanks). Separation and segregation requirements also exist to prevent mixing of incompatible materials. 49 CFR 174.81 (rail cars), 177.848 (motor vehicles).

CWTI contends that NYDEC's requirement for secondary containment is "a direct challenge to the integrity of DOT packaging standards." According to CWTI, the HMR were based on "the premise that packagings can be built to contain hazards under conditions normal to transportation." It states additional requirements in the HMR supplement this central premise: segregation and separation requirements, prohibitions on certain types of materials transported, and requirements for immediate notification of any spills, the clean up of any discharge, and financial responsibility for environmental restoration. CWTI also refers to the requirement in 49 CFR Part 130 for shippers and transporters of petroleum oils (including hazardous wastes containing these oils) in containers larger than 3,500 gallons to prepare response plans.

CWTI states that normal industry practice is to perform loading, unloading, and storage of hazardous wastes "on impervious surfaces," but that "requirements for sloping and spill/ run-off containment are unnecessary." It