§ 950.16 [Amended]

■ 4. Section 950.16 is amended by removing and reserving paragraphs (j), (k), (n), (y) and (z).

[FR Doc. 03–11219 Filed 5–7–03; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0045—FRL–7495–6]

RIN 2060–AK53

National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correcting administrative amendments; change in effective date.

SUMMARY: On February 18, 2003, EPA published a direct final rule on the national emission standards for hazardous air pollutants (NESHAP) for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills (68 FR 7706). The effective date of that direct final rule is May 19, 2003, and remain unchanged, except the amendment adding Incorporation by Reference (IBR) material which must, for administrative purposes, become effective prior to May 19, 2003. This correction moves up the effective date for that amendment, which affects the centralized IBR section for 40 CFR part 63. In addition, the IBR amendment included in the February 18 direct final rule added a new IBR addressing test method ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]; thus the effective date of this IBR material must also match the effective date of the centralized IBR section. This correction moves up the effective date in 40 CFR 63.865(b)(3) and 40 CFR 63.865(b)(5)(iii).

DATES: Effective Dates: The revision of 40 CFR 63.14(i) and the removal of 40 CFR 63.14(j), published on February 18, 2003 (68 FR 7713) are effective May 8, 2003. The IBR amendments to 40 CFR 63.865(b), published on February 18, 2003 (68 FR 7716) are effective May 8, 2003. The IBR of certain publications in the NESHAP is approved by the Director of the Office of the Federal Register on May 8, 2003.

FOR FURTHER INFORMATION CONTACT: For information regarding the administration of the IBR, contact Ms. Janet Eck, Coatings and Consumer Products Group, Emission Standards Division (C539–03), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–7946, facsimile number (919) 541–5689, electronic mail (e-mail) address: *eck.janet@epa.gov.* All other inquiries regarding the NESHAP for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills should be addressed to Mr. Jeff Telander, Minerals and Inorganic Chemicals Group, Emission Standards Division (C504–05), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5427, facsimile number (919) 541–5600, e-mail address: *telander.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: An electronic copy of today's notice will be available on the Worldwide Web through the Technology Transfer Network (TTN). Following the Assistant Administrator's signature, a copy of this notice will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* In addition, an electronic version of all of the above mentioned promulgated NESHAP is currently available on the TTN at *http://www.epa.gov/ttn/oarpg/new.html.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Dated: April 29, 2003.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 03–11461 Filed 5–7–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107, 171, 173, 177 and 180

[Docket No. RSPA–01–10373 (HM–220D)]

RIN 2137–AD58

Hazardous Materials: Requirements for Maintenance, Requalification, Repair and Use of DOT Specification Cylinders; Response to Appeals and Extension of Compliance Dates

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

ACTION: Final rule; response to appeals.

SUMMARY: On August 8, 2002, RSPA published a final rule under Docket No. RSPA–01–10373 (HM–220D) amending the requirements of the Hazardous Materials Regulations applicable to the maintenance, requalification, repair, and use of DOT specification cylinders. The revisions simplified the regulations, responded to petitions for rulemaking, addressed recommendations of the National Transportation Safety Board, and enhanced the safe transportation of hazardous materials in cylinders. In response to appeals submitted by persons affected by the August 8, 2002 final rule, this final rule amends certain requirements, extends certain compliance dates, and makes minor editorial corrections.

DATES: *Effective Date:* This rule is effective June 9, 2003.

Compliance Date: Delayed compliance dates for certain regulatory provisions are set forth in the regulatory text.

FOR FURTHER INFORMATION CONTACT: Sandra Webb, (202) 366–8553, Office of Hazardous Materials Standards or Mark Toughiry, 202–366–4545, Office of Hazardous Materials Technology, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

On August 8, 2002, the Research and Special Programs Administration (RSPA, we) published a final rule under Docket No. 01–10373 (HM–220D) (67 FR 51625) amending the requirements of the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) applicable to the maintenance, requalification, repair, and use of DOT specification cylinders.

We received more than 20 appeals. Several appellants filed supplements to their initial appeals of the implementation of HM–220D, either in total or in part. Appellants included the Air Conditioning and Refrigeration Institute, American Trucking Associations, Compressed Gas Association (CGA), Dangerous Goods Advisory Council, Fire Suppression Systems Association (FSSA), National Propane Gas Association (NPGA) and representatives of cylinder and equipment manufacturers, refillers and users, distributors, and shippers. Because of opposition to certain requirements in the August 8, 2002 final rule, we published a final rule in the **Federal Register** on September 30, 2002 (67 FR 51626), extending the compliance date for certain provisions until May 30, 2003. This extension allowed RSPA to fully evaluate the issues raised by the appellants. The September 30, 2002 final rule extended the compliance date for the following requirements:

—§§ 173.40(b) and 173.301a(d)(3)—Prohibiting the pressure at 55 °C (131 °F) in a cylinder from exceeding the service pressure of the cylinder. This provision affects Hazard Zone B gases, in particular hydrogen sulfide.

—§§ 173.301(f)(2) and 177.840(a)(1)—Requiring the inlet port to the relief channel of a pressure relief device, when installed, to be in the cylinder's vapor space.

—§ 173.301(f)(3) and 180.205(c)(4)—Requiring the set pressure of the pressure relief device to be at test pressure with a tolerance of minus 10% to plus zero for DOT 3-series cylinders.

—§ 173.301(h)(2)—Allowing cylinders filled with a flammable, corrosive, or noxious gas to have the valves protected by loading the cylinders in an upright position and securely bracing in rail cars or motor vehicles, when loaded by the consignor and unloaded by the consignee.

Discussion and Resolution of Appeals

Sections 173.40(b) and 173.301a(d)(3). The August 8, 2002 final rule contains a requirement that the pressure of a Hazard Zone A or B toxic by inhalation hazard material at 55 °C (131 °F) may not exceed the service pressure of the cylinder and that sufficient outage must be provided so that the cylinder will not be liquid full at 55 °C (131 °F). CGA and another appellant state that this revision would affect the shipment of hydrogen sulfide, a Hazard Zone B material, in DOT specification 3A and 3AA480 cylinders, as authorized in § 173.304a. Specifically, the appellants point out that the pressure of hydrogen sulfide at 55 °C (131 °F) exceeds the 480 psi marked service pressure for DOT 3A and 3AA480 cylinders. They also note that the § 173.304a table continues to authorize DOT specification cylinders with a marked service pressure of 480 psi, thus creating a conflict with the provisions in § 173.40(b). The appellants are correct that an inconsistency exists between the provisions in § 173.40(b) and the entry in § 173.304a table for hydrogen sulfide. Hydrogen sulfide has a vapor pressure of about 545 psi at 55 °C (131 °F). Therefore, in this final rule, we are revising the hydrogen sulfide entry in the § 173.304a table. This revised entry permits the continued use of currently authorized cylinders for hydrogen sulfide until December 31, 2003. After the transition period, hydrogen sulfide must be transported in a cylinder that conforms to the requirements in § 173.40(b). Also, for consistency we are extending the dates in §§ 173.40(b) and 173.301a(d)(3) to December 31, 2003.

In addition, an appellant notes that throughout the HMR, the normal filling densities and liquid-full conditions for liquefied compressed gas in cylinders are based on two temperatures, ''54 °C (130 °F)'' and ''55 °C (131 °F).'' The appellant suggests that one set of values be used. We agree and are revising the pressure reference temperature to read ''55 °C (131 °F)'' throughout the HMR, except in § 173.306. This reference temperature is consistent with that used in the United Nations Recommendations on the Transport of Dangerous Goods (UN Model Regulations).

Sections 173.301(f)(2) and 177.840(a)(1). Appellants express concern about the requirement in the August 8, 2002 final rule that the inlet port to the relief channel of a pressure relief device (PRD), when installed, must be in the cylinder's vapor space. Several appellants maintain that it is not possible to assure that the PRD is in communication with the vapor space. They further state that vapor space shifts based on the orientation of a cylinder, thus making it impossible to insure that the inlet port to the PRD is always in the cylinder's vapor space. Other appellants, representing the fire suppression industry, express concern that the current configuration of most fire suppression cylinders locates the inlet port to the pressure relief device in a siphon tube, which communicates directly with the liquid portion of the contents rather than the vapor space. Consequently, this requirement would ban most fire suppression cylinders from transportation. The appellants state that in order to comply with the requirement, fire suppression cylinders would have to be redesigned to increase flow capacity and resubmitted to Underwriters Laboratories for testing and approval. They argue that this process effectively could take eighteen months or more. Moreover, several appellants cite test data generated in the late 1970s by CGA, with DOT participation, demonstrating that the current PRDs operate as designed regardless of whether the PRD inlet port is in the liquid or vapor space of the cylinder. CGA furnished a copy of the bonfire test data used to support the adequacy of PRDs conforming to CGA Pamphlet S–1.1.

Based on the merits of the comments and test data, we agree that the current requirements in CGA Pamphlet S–1.1 are adequate, regardless of whether the inlet port to a PRD communicates with the liquefied gas or the vapor space. However, it remains our position that, in a fire, a cylinder that vents a liquefied flammable gas poses a greater risk than if it vents vapors. Appellants support continuing to apply the requirement to liquefied flammable gases to minimize the amount of gas released and potential for initiation of the gas. Therefore, we are revising §§ 173.301(f)(2) and 177.840(a)(1) to require that the PRD be in the vapor space of cylinders used to transport Division 2.1 (flammable gas) materials, only.

Sections 173.301(f)(3) and 180.205(c)(4). Sections 173.301(f)(3) and 180.205(c)(4) set forth requirements for PRDs. The August 8, 2002 final rule requires that PRDs for DOT–3 series cylinders must be set at 100% of test pressure, with an allowable tolerance of minus 10% to plus zero. CGA and several other appellants oppose this requirement, stating that it does not take into consideration that several types of PRDs are activated either by pressure, temperature or both. For example, appellants state that certain PRDs, such as CG–2, CG–3, and CG–9 devices, are fusible plug devices activated by temperature and not by pressure. PRDs incorporating a CG–1, CG–4, and CG–5 device are activated by pressure or a combination of temperature and pressure. Similarly, other appellants state that the requirements specified in CGA Pamphlet S–1.1 restrict certain PRDs, such as CG–2, CG–3, and CG–7 devices, to service pressures below 500 psig, regardless of the test pressure of the cylinder. The appellants request that the provision requiring PRDs on DOT 3-series cylinders be set at 100% of test pressure, with an allowable tolerance of minus 10% to plus zero apply to the CG–1, CG–4, and CG–5 PRDs, only. We

agree with the appellants and have made the appropriate changes.

In addition, FSSA and other appellants in the fire protection industry emphasize that cylinders used for fire extinguishers have assemblies consisting of a combined rupture disk and holder as specified in CGA Pamphlet S–1.1, paragraph 6.3.2. These appellants reiterate that CGA Pamphlet S–1.1 stipulates an operating tolerance of minus 15% to plus zero for PRDs with a holder. We agree that while the rupture disks are designed with a tolerance of minus 10% to plus zero, when a disk is placed inside a holder, the disk may rupture below its allowable tolerance of 10%. Therefore, we are allowing an additional 5% tolerance, as allowed in CGA S–1.1–1994, paragraph 6.3.2, for a combined rupture disk and holder. We are revising §§ 173.301(f)(3) and 180.205(c)(4) for consistency with these tolerances requirements.

Section 173.301(h)(2). Section 173.301 sets forth the requirements for cylinder valve protection. The August 8, 2002 final rule discontinues an authorization that allows protection of the valves by loading and securing the cylinders in an upright position in cars and motor vehicles, when loaded by the consignor and unloaded by the consignee. An appellant, opposing the removal of this provision, states that shipping experience using this particular method has proven to be adequate and requests that the authorization be continued.

Based upon the appellant's request that this method be allowed for cylinders manufactured before October 1, 2007, in the September 30, 2002 final rule we adopted a new paragraph (h)(2)(iv) to permit continuance of the authorization until May 30, 2003. Upon further consideration of the impact on industry and the changes adopted in § 177.840(a)(1), we agree that the authorization should be continued for cylinders properly secured in rail cars and motor vehicles during transportation. Therefore, we are revising paragraph (h)(2)(iv) to continue the authorization.

Section by Section Review

The following is a section-by-section summary of changes and, where applicable, a discussion of appeals received.

Part 107

Section 107.803. Section 107.803 sets forth the application procedures for approval as an Independent Inspection Agency (IIA). In the August 8, 2002 final rule, we inadvertently omitted a provision contained in former § 173.300a. The provision authorizes an approved IIA to perform other inspections and functions relating to the inspections and verifications of cylinders used in the transportation of hazardous materials. We are correcting the oversight by adding this provision in a new paragraph (e) in this final rule.

Section 107.805. Section 107.805 sets forth application procedures for persons seeking approval to perform periodic cylinder requalification. In the August 8, 2002 final rule, we inadvertently omitted a provision contained in former § 173.34(e)(2)(iv). The provision requires a person who holds a current requalification identification number (RIN) to inform RSPA in writing within 20 days of any change in the company's address, cylinder qualification personnel or testing equipment. The requirement to notify RSPA of these changes is reiterated in all RIN issuance letters. We are correcting the oversight by adding the provision in a new paragraph (e) in this final rule.

Part 171

Section 171.12. In paragraph (b)(15), we are revising the reference ''173.301(j) through (l)'' to read ''173.301(j) through (m)'' for consistency with a change made in the paragraph designations in § 173.301 of this final rule.

Section 171.12a. In paragraph (b)(13), we are revising the reference ''§ 173.301(i) and (j)'' to read ''§ 173.301(j) through (m)'' for consistency with a change made in the paragraph designations in § 173.301 of this final rule.

Part 173

Section 173.40. Section 173.40 sets forth the general packaging requirements for toxic materials packaged in cylinders. An appellant requests that we reconsider the compliance date of a requirement contained in paragraph (a)(2) that permits a DOT 3AL cylinder made of aluminum alloy 6351–T6 filled with a Hazard Zone A material prior to October 1, 2002, to be offered for transportation and transported to its ultimate destination for reprocessing or disposal until April 1, 2003. The appellant states that the April 1, 2003 compliance date did not provide sufficient time to recover affected cylinders. Because cylinders made of aluminum alloy 6351–T6 are susceptible to sustained load cracking, we are not extending the April 1, 2003 compliance deadline date in this final rule. However, persons who may need to transport a filled cylinder for recovery or reprocessing after April 1, 2003, may submit an application for exemption in accordance with the procedures in 49 CFR 107.105 or 107.117.

We are revising paragraph (b), as discussed earlier in this preamble, to extend the compliance date for the requirement that the service pressure of a cylinder used for a Hazard Zone B material equal or exceed the material's vapor pressure at 55 °C (131 °F) until December 31, 2003.

An appellant questions whether the requirement in paragraph (c) that each cylinder valve outlet must be closed with a plug or valve applies to any amount of Division 2.3 Hazard Zone A gas. The requirements of § 173.40 for Division 2.3 Hazard Zone A gases apply to any quantity of hazardous material, including residues and mixtures that meet the definition for this division and zone. Further, this requirement has been in effect since October 1, 1991.

In paragraph (d)(2), we are revising the valve protection requirements to provide that when a protective device or overpack is used, it must be designed to protect the valve from breakage or leakage resulting from a drop of 2.0 m (7 ft) onto a non-yielding surface, such as concrete or steel. An appellant states that although a deformed valve is undesirable, a deformed valve should be acceptable if there is no loss of contents. We agree and are removing the requirement that the valve be protected from deformation.

Section 173.163. We are making a minor editorial change in this section.

Section 173.181. We are removing a reference to former § 173.34(d)(6).

Section 173.226 and 173.228. We are revising §§ 173.226(a) and 173.228(b) to allow welded cylinders filled before October 1, 2002 with Hazard Zone A materials to be transported until December 31, 2003, for reprocessing or disposal of the contents. An appellant requests that we allow welded cylinders filled with Hazard Zone A material before October 1, 2002, to be returned empty to the shipper without any time limitation. Because of the inherent risks posed by using welded cylinders for toxic by inhalation hazard materials, we do not agree that an unlimited time period should be granted.

Section 173.301. Paragraph (a) includes general cylinder requirements for shipment of compressed gases in cylinders and spherical pressure vessels. We are revising the wording in paragraph (a)(3) to require the replacement of a leaking PRD where the leak is through the fusible metal and the opening in the plug body. An appellant states that most gas suppliers do not have the skills to perform these repairs on defective PRDs; therefore, the device

should be replaced and not repaired. We agree with the appellant.

As discussed earlier in this preamble, we are making several changes to the PRD requirements in paragraph (f). We are revising paragraph (f)(2) to require the PRD to be in the vapor space of a cylinder only when it contains a Division 2.1 (flammable gas) material. In paragraph (f)(3), we are applying the operating tolerance requirements to types CG–1, CG–4, and CG–5 PRDs only. We are also allowing an additional 5% tolerance when a PRD is fitted in a disk holder.

A commenter pointed out that the PRD requirement in paragraph (f)(3) also should apply to a DOT 3T cylinder when fitted with a PRD. We agree that these safety controls should apply and are including the DOT 3T cylinder in the provision.

An appellant requests that in paragraph (f)(5)(i) we revise the wording ''or a nonliquefied gas to a pressure of *1800 psig or higher*'' to read ''or a nonliquefied gas to a *pressure greater* than 1800 psig.'' The appellant states that this change would permit vast numbers of ''DOT E1800 lecture bottles'' which are rated for 1800 psi and do not have a PRD to continue to be shipped. We do not agree with the appellant. The provision requiring a cylinder filled with a nonliquefied gas to a pressure of 1800 psi or higher at 70 °F to have a PRD was adopted into the regulations before 1950. We proposed no revision to the requirement. Therefore, the appellant's request is outside the scope of this rulemaking and the requirement is retained.

Paragraph (g) sets forth requirements for manifolding cylinders in transportation. We are revising the wording in paragraph (g)(1) to allow PRDs on manifolded horizontal cylinders, mounted on a motor vehicle or in a framework, to be based on the lowest marked pressure of any individual cylinder in the manifold unit. Appellants state that allowing the manifolded cylinders to have PRDs with the same pressure setting will enhance safety because the set pressure on the individual cylinders will not exceed the minimum test pressure of the cylinders. We agree and have revised the provision accordingly. In addition, the PRD setting of any horizontal cylinder removed from an existing manifold and installed into a different manifold must meet the requirements in paragraph (g)(1) to prevent the premature release of cylinder contents during transportation.

Another appellant requests the removal of a requirement in paragraph (g)(1) stating that PRDs on manifolded horizontal cylinders filled with a compressed gas must be arranged to discharge unobstructed to the open air in such a manner as to prevent any escaping gas from contacting personnel or any adjacent cylinders. The appellant states that the requirement is unnecessary for Division 2.2 (non-flammable) gases and would impose considerable costs with no increase in safety. It was our intent to prevent, after a PRD activates, a condition that restricts the gas from releasing from the device. We are revising the requirement for clarity.

Paragraph (h) sets forth requirements for cylinder valve protection. As discussed earlier in this preamble, we are revising paragraph (h)(2) for cylinders manufactured before October 1, 2007, to allow cylinders to have their valves protected by loading the cylinders in an upright position and securely restraining them in rail cars or motor vehicles, when loaded by the consignor and unloaded by the consignee.

Paragraph (h)(3) contains valve protection requirements for cylinders manufactured on and after October 1, 2007. An appellant who opposes the requirement requests that it be removed. The appellant states that with an estimated 100 million seamless and welded cylinders in circulation within the United States, other than acetylene cylinders, a 5-year transition period does not provide sufficient time for the changeover to a new valve protection system. Further, the appellant states that the valve caps currently in use may not meet the new requirement, and a new design that is different from existing designs will be required to prevent older style caps from being used on cylinders manufactured after October 1, 2007.

Another appellant requests a revision to paragraph (h)(3) to require that cylinder caps and valve guards meeting the new performance drop test adopted in the August 8, 2002 final rule be stamped with the marking ''§ 173.301(h)(3).'' The appellant states that, without this marking, no means exist to identify the caps and valve guards conforming to the performance requirement; thus, the rule would be unenforceable. We do not agree with the first appellant's request that paragraph (h)(3) be removed. The performance requirement provides increased assurance that the valves will be protected if the cylinder is dropped onto a concrete surface. The August 8, 2002 final rule provides a five-year transition period to facilitate compliance with the requirement.

We believe the latter appellant's suggestion that some means should be used to identify cylinder valve caps and guards that meet the new performance requirement has merit. However, we did not include a marking requirement in the notice of proposed rulemaking (Docket HM–220, 63 FR 58460, October 30, 1998). Therefore, the request is beyond the scope of this rulemaking. Even though we did not propose a method to distinguish valve caps and guards conforming to the performance requirement, we encourage industry to employ effective methods. We will consider proposing a marking requirement in a future rulemaking.

Paragraph (i)(3) addresses cylinders longer than 2 m (6.5 ft) horizontally mounted on motor vehicles or in frames. The appellant who opposed the requirement in paragraph (h)(2) that PRDs be arranged in such a manner as to prevent any escaping gas from contacting personnel or any adjacent cylinders also opposed a similar provision in this paragraph. We are revising the provision to clarify that gas released from the device must be unobstructed.

In the August 8, 2002 final rule, we inadvertently omitted reciprocity provisions contained in former § 173.301(i)(2). The provisions authorize cylinders marked ''CTC'' and conforming to Canadian Transport of Dangerous Goods Regulations to be transported to, from or within the United States under certain conditions. We are correcting the oversight by adding the provisions in paragraph (m) in this final rule.

Section 173.301a. Paragraph (d)(3) is revised for consistency with the provisions in § 173.40 which contains general packaging requirements for Hazard Zone A and B materials.

Section 173.302a. An appellant expresses concern that the regulatory text adopted in paragraph (b)(3)(iii) conflicts with the preamble discussion of this section contained in the August 8, 2002 final rule. The regulatory text states that compliance with the average wall stress limitation may be met by computing the elastic expansion rejection limit (REE) in accordance with CGA Pamphlet C–5. However, the preamble states ''we are not authorizing the use of an REE marking applied to the cylinder by a person other than the manufacturer because it may be inaccurate.'' The appellant states that CGA Pamphlet C–5 has allowed persons other than the manufacturer to determine and mark the REE on the cylinder for years. With this being the case, there is no way to differentiate between an REE marking made by the manufacturer or some other person. We disagree with appellant. In our review of CGA Pamphlet C–5, we found no

provision that allows the REE to be stamped by persons other than the cylinder manufacturer. This fact was verified with CGA.

Section 173.304. For uniformity with other references in the HMR, the reference to temperature ''54 °C (130 °F)'' is revised to read ''55 °C (131 °F).''

Section 173.304a. In paragraph (a)(2) table the heading reference ''§§ 173.301(a)(1), 173.301(a)(4)'' in column three is revised to read ''§§ 173.301(l), 173.301a(e), and 180.205(a)'' for consistency with the provisions in the HMR. For uniformity with other temperature references in the HMR, we are revising the wording ''Not liquid full at 130 °F'' and ''Not liquid at 130 °F'' to read ''Not liquid full at 131°F'' in the following entries: ''Dichlorodifluoromethane and difluoroethane mixture,'' ''Insecticide, gases liquefied,'' ''Liquefied nonflammable gases, other than classified flammable, corrosive, toxic & mixtures or solution thereof filled w/ nitrogen, carbon dioxide, or air,'' and ''Methyl acetylene-propadiene, mixtures, stabilized.''

We are correcting several shipping names by replacing the word ''inhibited'' with the word ''stabilized'' for the entries, ''Tetrafluoroethylene/ inhibit,'' ''Trifluorochloroethylene, inhibited,'' ''Vinyl fluoride, inhibited,'' and ''Vinyl methyl ether, inhibited.'' These changes were adopted in a separate final rule (Docket No. RSPA–2000–7702 (HM–215D), June 21, 2001, 66 FR 33316) that made revisions to harmonize the HMR with the standards contained in the UN Model Regulations.

In paragraph (c), for uniformity with other references in the HMR, we are revising the reference temperature ''54 °C (130 °F)'' to read ''55 °C (131 °F).''

In paragraph (d), the specific gravity ''9.504'' is in error. We are correcting the value to read ''0.504.''

Section 173.305. In paragraph (b), for uniformity with other references in the HMR, we are revising the reference temperature ''54 °C (130 °F)'' to read ''55 °C (131 °F).''

Section 173.306. In paragraph (g)(5), we are revising the reference ''§ 173.301(a)(8)'' to correctly reference the outer packaging requirements for cylinders that are now contained in § 173.301(h).

Part 177

Section 177.840. As discussed earlier in this preamble, we are revising paragraph (a)(1) to apply the requirement that a cylinder fitted with a PRD must be in communication with the vapor space to Division 2.1 (flammable gas) material, only.

An appellant states that paragraph (a)(1), as written, prohibits the use of other freight as a means of securement to prevent movement of cylinders under normal conditions of transportation. Also read literally, the wording requires boxes containing cylinders to be securely attached to the motor vehicle. The appellant states that for-hire carriers cannot comply with the requirements. It was not our intent to require that the boxes be attached to the vehicle. We are revising the wording in this paragraph for clarity. However, as adopted in the August 8, 2002 final rule, the cylinders must be secured on the vehicle to prevent their being shifted, overturned or ejected from the vehicle under normal transportation conditions. Further, because we are continuing to allow the protection of the valves to be met by loading the cylinder in an upright position under § 173.301(h)(2) of this final rule, it is crucial that the cylinders be properly secured and restrained during transportation. Depending on the size and weight of the cylinders, the use of other freight as the sole means of securement may not be entirely sufficient.

Part 178

Section 178.46. An appellant requests that the maximum amount of lead (Pb) and bismuth (Bi) for aluminum alloy 6061 be changed to 0.003 percent from 0.005 percent for consistency with the values adopted in ISO 7866 and the UN Model Regulations. As we stated in the August 8, 2002 final rule, we adopted the limits based on chemical composition prescribed for unlisted metallic elements specified in Table 1 of ASTM B221. We plan to address cylinders manufactured to the UN Model Regulations in a future rulemaking.

Part 180

Section 180.203. NPGA requests a revision of the definition of ''commercially free of corrosive components'' to include a reference to Table 1 in the Gas Processors Association (GPA) Standard 2140. In the final rule, we provided for cylinders used for petroleum gases meeting the moisture and corroding component limits in ASTM D–1835, ''Standard Specification for Liquefied Petroleum (LP) Gases,'' to be given an external visual inspection in place of a pressure test. We adopted this provision in § 180.209, in paragraph (e) and the table in paragraph (g). NPGA states that GPA 2140, ''Liquefied Petroleum Gas Specification and Test Methods'' is a technically equivalent standard to ASTM D–1835 and contains the same provisions relative to moisture content and control of sulfur compounds as the ASTM standard. NPGA expresses concern that propane marketers whose supplier contracts may reference GPA 2140 rather than ASTM D–1835 could effectively be precluded from performing external visual inspections. We do not agree that the definition for ''commercially free of corrosive components'' should be revised. We are including a provision to recognize standards that are equivalent to ASTM D–1835 in § 180.209(e) and the table in paragraph(g).

An appellant requests a revision to the definition of ''Non-corrosive service'' to specifically include oxygen. The appellant states that including oxygen will allow cylinders used in oxygen service to be periodically retested once every 10 years instead of once every five years. We do not agree that the definition for ''non-corrosive service'' should be revised to include oxygen. Oxygen may be corrosive when it contains moisture or other impurities. Furthermore, current § 180.209(b) provides that a DOT 3A or 3AA cylinder may be requalified every ten years instead of five years if used for oxygen that is commercially free of corroding components.

An appellant requests a revision to the definition of ''Over-heated'' to add a statement that reads ''WARNING: This requirement pertains to an instantaneous heating. This requirement does not imply that heating cylinders at slightly lower temperatures for longer periods of time is an acceptable practice. Before heating cylinders for any purpose, the manufacturer should be contacted for time and temperature relationships and limits.'' The appellant states that there is a time requirement that must be considered when heating cylinders. The effects on the material are cumulative. Therefore, this warning statement alerts the user to the time interval associated with proposed temperature and to contact the manufacturer for heating operations. We agree that metal degradation is dependent on both temperature and time. However, we do not agree the definition of ''over-heated'' should be revised. The definition of ''over-heated'' in § 180.203 applies to the condemnation criteria for aluminum cylinders during the requalification process and not to instances which may require a cylinder to be heated. Therefore, revising the definition to include a warning statement is not warranted. We recommend that users contact the manufacturers for restrictions on heating aluminum cylinders.

Section 180.205. Paragraph (c) sets forth requirements for periodic requalification of cylinders. As discussed earlier in this preamble, we are revising paragraph (c)(4) to require the PRD to be in the vapor space of a cylinder only when it contains a Division 2.1 (flammable gas) material. Also as discussed earlier, in paragraph (f)(3), we are applying the operating tolerance requirements to CG–1, CG–4, and CG–5 PRDs only.

Paragraph (d) sets forth conditions requiring test and inspection of cylinders. An appellant requests a revision to state that the inspection and test are required when the cylinder shows evidence of dents, corrosion, cracked or abraded areas, leakage, thermal damage ''in excess of what is permitted by CGA Pamphlets C–6, C–6.1, C–6.2, C–6.3, C–8 or C–13.'' The appellant states that, as written, any of the listed conditions, regardless of how inconsequential, would require requalifying the cylinder. Therefore, the requested revision better reflects what is intended and current industry practice. We do not agree with the appellant. The requirement does not apply ''regardless of how inconsequential'' the condition of the cylinder. Rather, as stated, the requirement to perform a test and inspection applies to conditions that might render the cylinder ''unsafe for use in transportation.'' The requirement is retained.

Paragraph (f) sets forth the visual inspection requirements for cylinders. We are revising paragraph (f)(4), containing inspection requirements for cylinders made of aluminum alloy 6351–T6, to remove the wording ''in accordance with the cylinder manufacturer's written recommendations, which must be approved in writing by the Associate Administrator.'' Requalifiers are to inspect the neck and shoulder areas of these cylinders for evidence of sustained load cracking using any appropriate procedure. We are developing an NPRM to address the inspection of these cylinders.

Paragraph (g) sets forth the pressure test requirements for cylinders. In paragraph (g)(2), we are revising the reference ''0.1 cm^3'' to read ''0.1 cc'' because the acronym ''cc'' is a more recognizable unit of measure. In paragraph (g)(3)(ii), the reference ''0.1 cubic centimeter'' is removed and ''0.1 cc'' is added in its place for consistency with the change in paragraph (g)(2).

Section 180.209. In the table in paragraph (a), we are revising the heading to column 3 to read ''Requalification period (years)'' in place of ''Test period (years)'' to more accurately reflect that a requalification may be an inspection or a test.

In the August 8, 2002 final rule, we revised paragraph (b)(1)(ii) to allow cylinders containing ''fluorinated hydrocarbons, liquefied hydrocarbons, and mixtures thereof which are commercially free from corroding components'' and certain other gases to be requalified every ten years instead of every five years. An appellant states that chlorinated hydrocarbons have properties similar to fluorinated hydrocarbons and, therefore, should be listed. We agree and are adding an entry for ''chlorinated hydrocarbons and mixtures thereof that are commercially free from corroding components'' in paragraph (a)(1)(ii) in this final rule. For the same reason, we are adding an entry for chlorinated hydrocarbons in the table in paragraph (g). Also in the table in paragraph (g), we are correcting the entry ''Ethyleneimine, inhibited'' by replacing the word ''inhibited'' with the word ''stabilized.'' In addition, as stated earlier in the preamble discussion to § 180.203, we are revising the wording in § 180.209(e) and the table in paragraph (g) to recognize standards that are equivalent to ASTM D–1835.

In the August 8, 2002 final rule, we inadvertently omitted a requirement in former § 173.34(e)(15) stating that a DOT 3HT cylinder must be requalified in accordance with CGA Pamphlet C–8. We are redesignating current paragraph (k) as paragraph (l) and adding the provision in new paragraph (k) in this final rule.

Finally, in this section, we are correcting several section references.

Section 180.211. In paragraph (d)(1)(iii), we are correcting a section reference.

Section 180.215. In paragraph (b)(1), we are correcting the paragraph heading ''Pressure test records'' to read ''Calibration test records'' to correctly identify the records prescribed in this paragraph. The pressure test records are prescribed in paragraph (b)(2).

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 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).

This final rule amends an August 8, 2002 final rule that made revision to requirements applicable to the maintenance, requalification, repair and use of DOT specification cylinders. A regulatory evaluation prepared for the August 8, 2002 final rule is available for review in the docket. The original regulatory evaluation was not modified because the amendments herein do not impose additional requirements and are not substantive changes to the final rule.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines a rule is not expected to have a significant economic impact on a substantial number of small entities. This final rule imposes no new costs of compliance on the regulated industry and, in fact, should reduce overall costs of compliance. Based on the assessment in the original regulatory evaluation, I hereby certify that while this final rule applies to a substantial number of small entities, there will not be a significant economic impact on those small entities. A detailed Regulatory Flexibility analysis for the August 8, 2002 final rule is available for review in the docket.

C. 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 preempts state, local, and Indian tribe requirements but does not propose any regulation with 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.

Federal hazardous materials transportation law, 49 U.S.C. 5101–5127, contains an express preemption provision (49 U.S.C. 5125(b)) preempting state, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(1) The designation, description, and classification of hazardous materials;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(5) The design, manufacture, fabrication, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This final rule addresses covered subject items 2 and 5 above and preempts state, local, and Indian tribe requirements not meeting the ''substantively the same'' standard. This final rule is necessary to assure an acceptable level of safety for the transportation of hazardous materials in cylinders.

Federal hazardous materials transportation law provides at section 5125(b)(2) that, if DOT issues a regulation concerning any of the covered subjects, DOT 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 of this final rule is 90 days from publication of this final rule in the **Federal Register**.

D. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''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 13175 do not apply.

E. Unfunded Mandates Reform Act of 1995

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more, in the aggregate, to any of the following: State, local, or Indian tribal governments, or the private sector. This rule is the least burdensome alternative to achieve the objective of the rule.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no person is required to respond to an information collection unless it displays a valid OMB control number. The amendments contained in this final rule imposes no changes to the information collection and recordkeeping requirements contained in the August 8, 2002 final rule, which was approved by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35 and assigned control numbers 2137–0022 (approved through 09/30/2005) and 2137–0557 (approved through 12/31/2005).

G. 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.

H. Environmental Assessment

This final rule relaxes certain provisions contained in an August 8, 2002 final rule. The August 8, 2002 final rule incorporates new cylinder technologies through new and updated incorporations by reference of consensus standards developed by CGA; increases flexibility for cylinder requalifiers, and users; and facilitates compliance with the HMR by clarifying and reorganizing regulatory requirements applicable to cylinders. In addition, the August 8, 2002 final rule improves the overall safety performance of DOT specification cylinders by addressing several identified safety problems. The August 8, 2002 final rule contains revisions to minimize unintentional releases of hazardous materials from cylinders during transportation and, therefore, will reduce environmental damage associated with such releases. To the extent that the revisions in this final rule maintain an equivalent level of safety for transportation of hazardous materials in cylinders, we find that there are no significant environmental impacts associated with this final rule.

List of Subjects

49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 177

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Railroad safety, and Reporting and recording requirements.

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 continues to read as follows:

2. **Authority:** 49 U.S.C. 5101–5127; 44701; Sec. 212–213. Pub. L. 104–121, 110 Stat. 857; 49 CFR 1.45 and 1.53.

■ 3. In § 107.803, paragraph (e) is added to read as follows:

§ 107.803 Approval of independent inspection agency.

* * * * *

(e) After approval, the Associate Administrator may authorize, upon request, the independent inspection agency to perform other inspections and functions for which the Associate Administrator finds the applicant to be qualified. Such additional authorizations will be noted on each inspection agency's approval documents.

■ 4. In § 107.805, paragraph (g) is added to read as follows:

§ 107.805 Approval of cylinder requalifiers.

* * * * *

(g) Each holder of a current RIN shall report in writing any change in its name, address, ownership, testing equipment, or management or personnel performing any function under this section, to the Associate Administrator (DHM–32) within 20 days of the change.

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 5. The authority citation for part 171 continues to read as follows:

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

§ 171.12 [Amended]

■ 6. In § 171.12, paragraph (b)(15) is amended by removing the wording ''173.301(j) through (l)'' and adding ''173.301(j) through (m)'' in its place.

§ 171.12a [Amended]

■ 7. In § 171.12a, paragraph (b)(13) is amended by removing the wording

''173.301(i) and (j)'' and adding ''173.301(j) through (m)'' in its place.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

■ 8. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.45 and 1.53.

■ 9. In § 173.40, paragraphs (b) and (d)(2) are revised to read as follows:

§ 173.40 General packaging requirements for toxic materials packaged in cylinders.

* * * * *

(b) *Outage and pressure requirements.* The pressure at 55 °C (131 °F) of Hazard Zone A and, after December 31, 2003, Hazard Zone B materials may not exceed the service pressure of the cylinder. Sufficient outage must be provided so that the cylinder will not be liquid full at 55 °C (131 °F).

* * * * *

(d) * * *

(2) Each cylinder with a valve must be equipped with a protective metal cap, other valve protection device, or an overpack which is sufficient to protect the valve from breakage or leakage resulting from a drop of 2.0 m (7 ft) onto a non-yielding surface, such as concrete or steel. Impact must be at an orientation most likely to cause damage.

* * * * *

■ 10. Section 173.163 is revised to read as follows:

§ 173.163 Hydrogen fluoride.

Hydrogen fluoride (hydrofluoric acid, anhydrous) must be packaged in a specification 3, 3A, 3AA, 3B, 3BN, 3E, or 4A cylinder; or a specification 4B, 4BA, or 4BW cylinder if the cylinder is not brazed. Filling density may not exceed 85 percent of the cylinder's water weight capacity. In place of the periodic volumetric expansion test, cylinders used in exclusive service may be given a complete external visual inspection in conformance with part 180, subpart C, of this subchapter, at the time such periodic requalification becomes due. Cylinders removed from hydrogen fluoride service must be condemned in accordance with § 180.205 of this subchapter and, at the direction of the owner, the cylinder may be rendered incapable of holding pressure.

§ 173.181 [Amended]

■ 11. In § 173.181, the last sentence in paragraph (a)(2) is amended by removing the reference ''§§ 173.34(d)(6) and 177.838(h)'' adding ''§ 177.838(h)'' in its place.

■ 12 In § 173.226, paragraph (a) is revised to read as follows:

§ 173.226 Materials poisonous by inhalation, Division 6.1, Packing Group 1, Hazard Zone A.

* * * * *

(a) In seamless specification cylinders conforming to the requirements of § 173.40. However, a welded cylinder filled before October 1, 2002, may be transported for reprocessing or disposal of the cylinder's contents until December 31, 2003.

* * * * *

■ 13. In § 173.228, paragraph (b) is revised to read as follows:

§ 173.228 Bromine pentafluoride or bromine trifluoride.

* * * * *

(b) A material in Hazard Zone A must be transported in a seamless specification cylinder conforming to the requirements of § 173.40. However, a welded cylinder filled before October 1, 2002, in accordance with the requirements of this subchapter in effect at the time of filling, may be transported for reprocessing or disposal of the cylinder's contents until December 31, 2003. No cylinder may be equipped with a pressure relief device.

§ 173.301 [Amended]

■ 14. In § 173.301, the following amendments are made:

■ a. Paragraph (a) is amended by removing the reference ''173.302 through 173.305'' and adding ''173.301a through 173.305'' in its place.

■ b. Paragraphs (a)(3), (f)(2), (f)(3), (g)(1) introductory text, (h)(2)(iv), (i)(3), and the beginning of the first sentence in paragraph (h)(3) introductory text, are revised.

■ c. Paragraph (m) is redesignated as paragraph (n) and a new paragraph (m) is added.

The revisions and additions read as follows:

§ 173.301 General requirements for shipment of compressed gases in cylinders and spherical pressure vessels.

* * * * *

(a) * * *

(3) Pressure relief devices must be tested for leaks before a filled cylinder is shipped from the cylinder filling plant. It is expressly forbidden to repair a leaking fusible plug device where the leak is through the fusible metal or between the fusible metal and the opening in the plug body, except by removal and replacement of the pressure relief device.

* * * * *

(f) * * *

(2) After December 31, 2003, a pressure relief device, when installed, must be in communication with the vapor space of a cylinder containing a Division 2.1 (flammable gas) material.

(3) For a specification 3, 3A, 3AA, 3AL, 3AX, 3AXX, 3B, 3BN, or 3T cylinder filled with gases in other than Division 2.2, beginning with the first requalification due after December 31, 2003, the burst pressure of a CG–1, CG–4, or CG–5 pressure relief device must be at test pressure with a tolerance of plus zero to minus 10%. An additional 5% tolerance is allowed when a combined rupture disk is placed inside a holder. This requirement does not apply if a CG–2, CG–3 or CG–9 thermally activated relief device or a CG–7 reclosing pressure valve is used on the cylinder.

* * * * *

(g) * * *

(1) Cylinder manifolding is authorized only under conditions prescribed in this paragraph (g). Manifolded cylinders must be supported and held together as a unit by structurally adequate means. Except for Division 2.2 materials, each cylinder must be equipped with an individual shutoff valve that must be tightly closed while in transit. Manifold branch lines must be sufficiently flexible to prevent damage to the valves that otherwise might result from the use of rigid branch lines. Each cylinder must be individually equipped with a pressure relief device as required in paragraph (f) of this section, except that pressure relief devices on manifolded horizontal cylinders that are mounted on a motor vehicle or framework may be selected as to type, location, and quantity according to the lowest marked pressure limit of an individual cylinder in the manifolded unit. The pressure relief devices selected for the manifolded unit must have been tested in accordance with CGA pamphlets S–1.1 and S–7 (incorporated by reference; see § 171.7 of this subchapter). Pressure relief devices on manifolded horizontal cylinders filled with a compressed gas must be arranged to discharge unobstructed to the open air. In addition, for Division 2.1 (flammable gas) material, the PRDs must be arranged to discharge upward to prevent any escaping gas from contacting personnel or any adjacent cylinders. Valves and pressure relief devices on manifolded cylinders filled with a compressed gas must be protected from damage by framing, a cabinet, or other method. Manifolding is authorized for cylinders containing the following gases:

* * * * *

(h) * * *

* * * * *

(2) For cylinders manufactured on or after October 1, 2007, * * *

* * * * *

(iv) By loading the cylinders in an upright position and securely bracing the cylinders in rail cars or motor vehicles, when loaded by the consignor and unloaded by the consignee.

(i) * * *

(3) The pressure relief device must be arranged to discharge unobstructed to the open air. In addition, for Division 2.1 (flammable gas) material, the pressure relief devices must be arranged to discharge upward to prevent any escaping gas from contacting personnel or any adjacent cylinders.

* * * * *

(m) *Canadian cylinders in domestic use.* A Canadian Transport Commission (CTC) specification cylinder manufactured, originally marked and approved in accordance with the CTC regulations and in full conformance with the Canadian Transport of Dangerous Goods (TDG) Regulations is authorized for the transportation of a hazardous material to, from or within the United States under the following conditions:

(1) The CTC specification corresponds with a DOT specification and the cylinder markings are the same as those specified in this subchapter except that they were originally marked with the letters ''CTC'' in place of ''DOT'';

(2) The cylinder has been requalified under a program authorized by the Canadian TDG regulations or requalified in accordance with the requirements in § 180.205 within the prescribed requalification period provided for the corresponding DOT specification;

(3) When the regulations authorize a cylinder for a specific hazardous material with a specification marking prefix of ''DOT'', a cylinder marked ''CTC'' which otherwise bears the same markings that would be required of the specified ''DOT'' cylinder may be used; and

(4) Transport of the cylinder and the material it contains is in all other respects in conformance with the requirements of this subchapter (*e.g.* valve protection, filling requirements, operational requirements, etc.).

* * * * *

■ 15. In § 173.301a, paragraph (d)(3) is revised to read as follows:

§ 173.301a Additional general requirements for shipment of specification cylinders.

* * * * *

(d) * * *

(3) The pressure at 55 °C (131 °F) of Hazard Zone A and, after December 31, 2003, Hazard Zone B materials, may not exceed the service pressure of the cylinder. Sufficient outage must be provided so that the cylinder will not be liquid full at 55 °C (131 °F).

* * * * *

§ 173.304 [Amended]

■ 16. In § 173.304, in paragraphs (b) and (d), the temperature ''54 °C (130 °F)'' is revised to read ''55 °C (131 °F)'' each place it appears.

■ 17. In § 173.304a, the following amendments are made:

■ a. In the table in paragraph (a)(2):

■ 1. The table heading is revised;

■ 2. For the entry ''Dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture) (R–500) (see Note 8)'', in column 2, the wording ''Not liquid full at 130 °F'' is revised to read ''Not liquid full at 131 °F'';

■ 3. For the entry ''Hydrogen sulfide (see Note 10)'' in column one, the wording ''see Note 10'' is revised to read ''see Notes 10 and 14'';

■ 4. For the entry ''Insecticide, gases liquefied (see Notes 8 and 12)'', in column 2, the wording ''Not liquid full at 130 °F'' is removed and the wording ''Not liquid full at 131 °F'' is added in its place;

■ 5. For the entry ''Liquefied nonflammable gases, other than classified flammable, corrosive, toxic & mixtures or solution thereof filled w/nitrogen, carbon dioxide, or air (Notes 7 and 8)'', in column 2, the wording ''Not liquid full at 130 °F'' is revised to read ''Not liquid full at 131 °F'';

■ 6. For the entry ''Methyl acetylene-propadiene, mixtures, stabilized DOT–3A240; (see Note 5)'', in column 2, the wording ''Not liquid at 130 °F'' is revised to read ''Not liquid full at 131 °F'';

■ 7. For the entry ''Tetrafluoroethylene/inhibit'', in column 1, the wording is revised to read ''Tetrafluoroethylene, stabilized'';

■ 8. For the entry ''Trifluorochloroethylene, inhibited'', in column 1, the wording is revised to read ''Trifluorochloroethylene, stabilized'';

■ 9. For the entry ''Vinyl fluoride, inhibited'', in column 1, the wording is revised to read ''Vinyl fluoride, stabilized'';

■ 10. For the entry ''Vinyl methyl ether, inhibited (see Note 5)'', in column 1, the wording is revised to read ''Vinyl methyl ether, stabilized''; and

■ 11. Following the table, Note 14 is added.

■ b. Paragraph (c) and the first sentence in paragraph (d)(4) are revised.

The additions and revisions read as follows:

§ 173.304a Additional requirements for shipment of liquefied compressed gases in specification cylinders.

(a) * * *

(2) * * *

Kind of gas	Maximum permitted filling density (percent) (see Note 1)	Packaging marked as shown in this column or of the same type with higher service pressure must be used, except as provided in §§ 173.301(l), 173.301a(e), and 180.205(a) (see notes following table)
* * *	*	* * *
Dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture) (R–500) (see Note 8).	Not liquid full at 131 °F	DOT–3A240; DOT–3AA240; DOT–3B240; DOT–3E1800; DOT–4A240; DOT–4B240; DOT–4BA240; DOT–4BW240; DOT–4E240; DOT–9; DOT–39.
* * *	*	* * *
Hydrogen sulfide (see Notes 10 and 14)	62.5	DOT–3A480; DOT–3AA480; DOT–3B480; DOT–4A480; DOT–4B480; DOT–4BA480; DOT–4BW480.; DOT–3E1800; DOT–3AL480.
Insecticide, gases liquefied (see Notes 8 and 12)	Not liquid full at 131 °F	DOT–3A300; DOT–3AA300; DOT–3B300; DOT–4B300; DOT–4BA300; DOT–4BW300; DOT–9; DOT–40; DOT–41; DOT–3E1800.
Liquefied nonflammable gases, other than classified flammable, corrosive, toxic & mixtures or solution thereof filled w/nitrogen, carbon dioxide, or air (Notes 7 and 8).	Not liquid full at 131 °F	Specification packaging authorized in paragraph (a)(1) of this section and DOT–3HT; DOT 4D; DOT–4DA; DOT–4DS.

Kind of gas	Maximum permitted filling density (percent) (see Note 1)	Packaging marked as shown in this column or of the same type with higher service pressure must be used, except as provided in §§ 173.301(l), 173.301a(e), and 180.205(a) (see notes following table)
Methyl acetylene-propadiene, mixtures, stabilized DOT–3A240; (see Note 5).	Not liquid full at 131 °F	DOT–4B240 without brazed seams; DOT-4BA240 without brazed seams; DOT–3A240; DOT–3AA240; DOT–3B240; DOT–3E1800; DOT–4BW240; DOT–4E240; DOT–4B240ET; DOT–4; DOT–41; DOT–3AL240.
* * *	*	* * *
Tetrafluoroethylene, stabilized	90	DOT–3A1200; DOT–3AA1200; DOT–3E1800.
Trifluorochloroethylene, stabilized	115	DOT–3A300; DOT–3AA300; DOT–3B300; DOT–4A300; DOT–4B300; DOT–4BA300; DOT–4BW300; DOT–3E1800.
* * *	*	* * *
Vinyl fluoride, stabilized	62	DOT–3A1800; DOT–3AA1800; DOT–3E1800; DOT–3AL1800.
Vinyl methyl ether, stabilized (see Note 5)	68	DOT–4B150, without brazed seams; DOT–4BA225 without brazed seams; DOT–4BW225; DOT–3A150; DOT–3AA150; DOT–3B1800; DOT–3E1800.

* * * * *

Note 14: The use of DOT specification cylinder with a marked service pressure of 480 psi is authorized until December 31, 2003.

* * * * *

(c) *Verification of content in cylinder.* Except as noted in paragraph (d)(4) of this section, the amount of liquefied gas filled into a cylinder must be by weight or, when the gas is lower in pressure than required for liquefaction, a pressure-temperature chart for the specific gas may be used to ensure that the service pressure at 55 °C (131 °F) will not exceed 5/4 of the service pressure at 21 °C (70 °F). The weight of liquefied gas filled into the cylinder also must be checked, after disconnecting the cylinder from the filling line, by the use of an accurate scale.

(d) * * *

(4) *Verification of content.* A cylinder with a water capacity of 90.72 kg (200 lb) or more and for use with a liquefied petroleum gas with a specific gravity of 0.504 or greater at 16 °C (60 °F) may have the quantity of its contents determined by using a fixed length dip tube gauging device. * * *

* * * * *

§ 173.305 [Amended]

■ 18. In § 173.305, in paragraph (b), the term ''130 °F'' is revised to read ''131 °F''.

■ 19. In § 173.306, paragraph (g)(5) is revised to read as follows:

§ 173.306 Limited quantities of compressed gases.

* * * * *

(g) * * *

(5) Each tank must be overpacked in a strong outer packaging in accordance with § 173.301(h).

* * * * *

PART 177—CARRIAGE BY PUBLIC HIGHWAY

■ 20. The authority citation for part 177 continues to read as follows:

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

■ 21. In § 177.840, paragraph (a)(1) is revised to read as follows:

§ 177.840 Class 2 (gases) materials.

(a) * * *

(1) *Cylinders.* Cylinders containing Class 2 gases must be securely restrained in an upright or horizontal position, loaded in racks, or packed in boxes or crates to prevent the cylinders from being shifted, overturned or ejected from the motor vehicle under normal transportation conditions. However, after December 31, 2003, a pressure relief device, when installed, must be in communication with the vapor space of a cylinder containing a Division 2.1 (flammable gas) material.

* * * * *

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

■ 22. The authority citation for part 180 continues to read as follows:

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

■ 23. In § 180.205, the following changes are made:

■ a. Paragraphs (c)(4) and (f)(4) are revised.

■ b. In paragraph (g)(2), the reference ''0.1 cm^3'' is removed and ''0.1 cc'' is added in its place.

■ c. In paragraph (g)(3)(ii), the reference ''0.1 cubic centimeter'' is removed and ''0.1 cc'' is added in its place.

The revisions read as follows:

§ 180.205 General requirements for requalification of cylinders.

* * * * *

(c) * * *

(4) For a specification 3, 3A, 3AA, 3AL, 3AX, 3AXX, 3B, 3BN, or 3T cylinder filled with gases in other than Division 2.2, from the first requalification due on or after December 31, 2003, the burst pressure of a CG–1, CG–4, or CG–5 pressure relief device must be at test pressure with a tolerance of plus zero to minus 10%. An additional 5% tolerance is allowed when a combined rupture disc is placed inside a holder. This requirement does not apply if a CG–2, CG–3 or CG–9 thermally activated relief device or a CG–7 reclosing pressure valve is used on the cylinder.

* * * * *

(f) * * *

(4) In addition to other requirements prescribed in this paragraph (f), a specification or exemption cylinder made of aluminum alloy 6351–T6 must be inspected for evidence of sustained load cracking (SLC) in the neck and shoulder area.

* * * * *

■ 24. In § 180.209, the following amendments are made:

■ a. In the table in paragraph (a)(1):

■ 1. In Column 3, the heading ''Test period (years)'' is revised to read ''Requalification period (years)';

■ 2. For the entry ''3HT'', in column 3, the wording ''3 (*see* §§ 180.209(i) and 180.213(c))'' is revised to read ''3 (*see* §§ 180.209(k) and 180.213(c))';

■ 3. For the entry ''4AA480'', in column 3, the wording ''5 or 10 (*see* § 180.209(e)(14)'' is revised to read ''5 or 10 (*see* § 180.209(h))'';

■ 4. For the entry ''Foreign cylinder (*see* § 173.301(j) of this subchapter for restrictions on use).'', in column 3, the wording

''5 (*see* §§ 180.209(k) and 180.213(d)(iii))'' is revised to read ''5 (*see* §§ 180.209(l) and 180.213(d)(2))''; and

■ 5. In note 2 following the table, the reference ''§ 173.301(e)(1)'' is revised to read ''§ 173.301a(b)''.

■ b. In paragraph (b)(1)(ii), the wording ''fluorinated hydrocarbons, liquefied hydrocarbons, and mixtures thereof that are commercially free from corroding components;'' is revised to read ''chlorinated hydrocarbons, fluorinated hydrocarbons, liquefied hydrocarbons, and mixtures thereof that are commercially free from corroding components;''.

■ c. Paragraph (e) is revised.

■ d. In the table in paragraph (g), a new entry is added immediately following the third entry.

■ e. In the table in paragraph (g), the entry for ''Liquefied petroleum gas'' and the last entry are revised.

■ f. Paragraph (k) is redesignated as paragraph (l) and a new paragraph (k) is added.

The additions and revisions read as follows:

§ 180.209 General requirements for requalification of cylinders.

(a) * * *

(1) * * *

TABLE 1.—REQUALIFICATION OF CYLINDERS [1]

Specification under which cylinder was made	Minimum test pressure (psig) [2]	Requalification period (years)
* *	* *	* *
3HT	5/3 times service pressure	3 (*see* §§ 180.209(k) and 180.213(c)).
* *	* *	* *
4AA480	2 times service pressure (*see* § 180.209(g))	5 or 10 (*see* § 180.209(h)).
* *	* *	* *
Foreign cylinder (*see* § 173.301(j) of this subchapter for restrictions on use).	As marked on cylinder, but not less than 5/3 of any service or working pressure marking.	5 (*see* §§ 180.209(l) and 180.213(d)(2)).

* * * * *

[2] For cylinders not marked with a service pressure, *see* § 173.301a(b) of this subchapter.

* * * * *

(e) *Proof pressure test* A cylinder made in conformance with specifications DOT 4B, 4BA, 4BW, or 4E used exclusively for: liquefied petroleum gas that meets the detail requirement limits in Table I of ASTM D 1835, ''Standard Specification for Liquefied Petroleum (LP) Gases'' (incorporated by reference; see § 171.7 of this subchapter) or an equivalent standard containing the same limits; anhydrous dimethylamine; anhydrous methylamine; anhydrous trimethylamine; methyl chloride; methylacetylene-propadiene stabilized; or dichlorodifluoromethane, difluoroethane, difluorochloroethane, chlorodifluoromethane, chlorotetrafluoroethane, trifluorochloroethylene, or mixture thereof, or mixtures of one or more with trichlorofluoromethane; and commercially free from corroding components and protected externally by a suitable corrosion-resistant coating (such as galvanizing or painting) may be requalified by volumetric expansion testing every 12 years instead of every five years. As an alternative, the cylinder may be subjected to a proof pressure test at least two times the marked service pressure, but this latter type of test must be repeated every seven years after expiration of the first 12-year period. When subjected to a proof pressure test, the cylinder must be carefully examined under test pressure and removed from service if a leak or defect is found.

* * * * *

(g) * * *

Cylinders conforming to—	Used exclusively for—
* * * *	* * *
DOT 3A, DOT 3AA, DOT 3A480X, DOT 4B, DOT 4BA, DOT 4BW, DOT 4E.	Chlorinated hydrocarbons and mixtures thereof that are commercially free from corroding components.
* * * *	* * *
DOT 3A, DOT 3AA, DOT 3A480X, DOT 3B, DOT 4B, DOT 4BA, DOT 4BW, DOT 4E.	Liquefied petroleum gas that meets the detail requirements limits in Table 1 of ASTM 1835, Standard Specification for Liquefied Petroleum (LP) Gases (incorporated by reference; see § 171.7 of this subchapter) or an equivalent standard containing the same limits.
* * * *	* * *
DOT 4B240, DOT 4BW240	Ethyleneimine, stabilized.
* * * *	* * *

* * * * *

(k) *3HT cylinders.* In addition to the other requirements of this section, a cylinder marked DOT–3HT must be requalified in accordance with CGA Pamphlet C–8.

§ 180.211 [Amended]

■ 25. In § 180.211, in paragraph (d)(1)(iii), the reference ''180.215(d)(2)'' is removed and ''180.215(c)(2)'' is added in its place.

§ 180.215 [Amended]

■ 26. In § 180.215, in paragraph(b)(1), the heading ''Pressure test records.'' is removed and ''Calibration test records.'' is added in its place.

Issued in Washington DC on May 2, 2003, under authority delegated in 49 CFR part 1.

Edward A. Brigham,

Acting Deputy Administrator, Research and Special Programs Administration.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2003–14711]

RIN 2127–AI49

Federal Motor Vehicle Safety Standards; Child Restraint Anchorage Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; interim final rule; request for comments.

SUMMARY: This document amends the Federal motor vehicle safety standard on child restraint anchorage systems to: Reflect an extension of the date by which final-stage manufacturers and alterers were required to install tether anchorages in vehicles subject to the standard; and temporarily exclude ''funeral coaches'' (as defined in this document) from the standard altogether. It responds to requests from the Recreation Vehicle Industry Association and from Accubuilt, Inc., respectively. This document adopts the first amendment on a final basis and the second on an interim final basis. The agency also requests comments on the second amendment.

DATES: This rule is effective May 8, 2003. The final rule reflects that the mandatory compliance date for installing tether anchorages in vehicles produced by final-stage manufacturers and alterers was changed from September 1, 2000, to May 1, 2001. This rule excludes funeral coaches from Federal Motor Vehicle Safety Standard No. 225 until May 10, 2004. After reviewing the comments received on this document, NHTSA will decide whether to exclude funeral coaches from the standard on a permanent basis. Because these amendments relieve restrictions on a class of manufacturer that comprises a substantial number of small businesses, we have determined that it is in the public interest to make the changes effective immediately.

You should submit your comments early enough to ensure that Docket Management receives them not later than July 7, 2003.

ADDRESSES: Submit written comments to the Docket Management System, U.S. Department of Transportation, PL 401, 400 Seventh Street, SW., Washington, DC 20590–0001. Comments should refer to Docket Number (NHTSA–7938) and be submitted in two copies. If you wish to receive confirmation of receipt of your written comments, include a self-addressed, stamped postcard.

Comments may also be submitted to the docket electronically by logging onto the Docket Management System website at *http://dms.dot.gov.* Click on ''Help & Information'' to obtain instructions for filing the comment electronically. In every case, the comment should refer to the docket number.

The Docket Management System is located on the Plaza level of the Nassif Building at the Department of Transportation at the above address. You can review public dockets there between the hours of 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You can also review comments on-line at the DOT Docket Management System web site at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For non-legal questions, Mike Huntley, NHTSA Office of Crashworthiness Standards, Special Vehicle and Systems Division, 400 Seventh St., SW., Washington, DC 20590 (telephone 202–366–0029). For legal questions, Deirdre Fujita, NHTSA Office of Chief Counsel, 400 Seventh St., SW., Washington, DC 20590 (telephone 202–366–2992).

SUPPLEMENTARY INFORMATION:

I. ''Petition for Extraordinary Relief'' From the Recreation Vehicle Industry Association

Background

On March 5, 1999, NHTSA published a final rule establishing a new Federal motor vehicle safety standard that required motor vehicle manufacturers to install child restraint anchorage systems that are standardized and independent of the vehicle seat belts.[1] (64 FR 10786) (Docket No. 98–3390, Notice 2) (Federal Motor Vehicle Safety Standard No. 225, 49 CFR 571.225.) Each system is composed of three anchorages: Two lower anchorages and one upper anchorage. The lower anchorages are two 6 millimeter (mm) round bars fastened to the vehicle 720 mm apart and located at the intersection of the vehicle seat cushion and seat back. The upper anchorage is a permanent structure to which the hook of a child restraint upper tether may be attached for the purpose of transferring load from the child restraint to the vehicle structure.

Phase-In Requirements

In the notice of proposed rulemaking (NPRM) for the March 1999 final rule, we recognized that upper tether anchorages could be installed at an earlier date than the lower anchorages (February 20, 1997; 62 FR 7858). We also recognized that more time would be needed to implement a requirement for a rigid bar lower anchorage system (which the final rule ultimately adopted) than an alternative (flexible webbing) lower anchorage system the agency was considering at the time. We requested comments on whether phasing in the requirement for the lower anchorages would be appropriate, and how long a period would be needed to achieve full implementation. We did not raise the possibility of either phasing in the requirement for upper tether anchorages, or delaying the effective date of the upper tether anchorage requirement for vehicles manufactured in more than one stage (*see* 62 FR at 7874).

Based on the information we received, we adopted a three-year phase-in schedule for the lower anchorages in S14 of Standard No. 225. S14 is titled ''Lower anchorages phase-in requirements for vehicles manufactured on or after September 1, 2000 and before September 1, 2002.'' In S14.3, which we titled ''Alternative phase-in schedule for final-stage manufacturers and alterers,'' we specified that a final-stage manufacturer or alterer may, at its option, comply with an alternative requirement during the phase-in. The alternative, specified in S14.3(a), stated that the vehicles ''are not required to comply with the requirements specified

[1] *See* 64 FR 47566; August 31, 1999 (Docket No. NHTSA–99–6160) and 65 FR 46628; July 31, 2000 (Docket No. NHTSA–7648) for later amendments of the rule.