

any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area and does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk

and Avoidance of Unanticipated Takings" issued under the executive order.

This rule, proposing to approve the redesignation of the Richmond Area to attainment for the 8-hour ozone NAAQS, the associated maintenance plan, the 2002 base-year inventory, and the MVEBS identified in the maintenance plan, does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects

##### 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

##### 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: April 5, 2007.

**Judith Katz,**

*Acting Regional Administrator, Region III.*

[FR Doc. E7-7018 Filed 4-11-07; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

#### 49 CFR Parts 107, 171, 172, 173, 176, 178, and 180

[Docket No. PHMSA-2006-25910 (HM-218E)]

**RIN: 2137-AE23**

#### Hazardous Materials: Miscellaneous Cargo Tank Motor Vehicle and Cylinder Issues; Petitions for Rulemaking

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** PHMSA proposes to amend the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to revise certain requirements applicable to the manufacture, maintenance, and use of DOT and MC specification cargo tank motor vehicles, DOT specification cylinders and UN pressure receptacles. The proposed revisions are based on petitions for rulemaking submitted by the regulated community and are intended to enhance the safe transportation of hazardous materials in

commerce, clarify regulatory requirements, and reduce operating burdens on cargo tank and cylinder manufacturers, requalifiers, carriers, shippers, and users.

**DATES:** Comments must be received by June 11, 2007.

**ADDRESSES:** You may submit comments identified by the docket number PHMSA-2006-25910 (HM-218E) by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Web Site:* <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Management System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

- *Hand Delivery:* To the Docket Management System; Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

**Instructions:** You must include the agency name and docket number PHMSA-2006-25910 (Docket No. HM-218E) or the Regulatory Identification Number (RIN) for this notice of proposed rulemaking at the beginning of your comment. Please note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. See the Privacy Act section of this document.

**Docket:** You may view the public docket through the Internet at <http://dms.dot.gov>, or in person at the Docket Management System office at the above address.

**FOR FURTHER INFORMATION CONTACT:** Cameron Satterthwaite or T. Glenn Foster, Office of Hazardous Materials Standards, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001, telephone (202) 366-8553.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Administrative Procedure Act (APA) requires Federal agencies to give interested persons the right to petition for the issuance, amendment, or repeal of a rule (5 U.S.C. 553(e)). PHMSA's rulemaking procedure regulations, at 49 CFR 106.95, provide for persons to ask PHMSA to add, amend or delete a regulation by filing a petition for

rulemaking containing adequate support for the requested action. In this NPRM, PHMSA (also “we” or “us”) proposes to amend the HMR based on petitions for rulemaking submitted by cargo tank and cylinder manufacturers, requalifiers, shippers, and carriers. We are also proposing revisions to address requests for clarification of the regulations. These proposed revisions are intended to enhance the safe transportation of hazardous materials in cargo tank motor vehicles and cylinders, clarify regulatory requirements, and reduce operating burdens on carriers, shippers, and users.

## II. Summary of Proposals in This NPRM

The development of this rulemaking was influenced by a wide array of correspondence received from persons engaged in the manufacture, maintenance, or use of cargo tanks and cylinders. We received petitions for rulemaking requesting changes to the cargo tank and cylinder requirements specified in the HMR and clarification of existing requirements. These petitions are summarized and discussed in the following review-by-section summary:

### A. Part 171

Updated/Revised/Added Incorporations by Reference (§ 171.7)

We have reviewed the following documents pertaining to cargo tanks and compressed gas cylinders. As a result, we have found no provisions that would impose a substantial burden or would have an adverse impact on safety. Therefore, we are proposing to update, revise, and add the following incorporation by reference (IBR) materials in paragraph (a)(3) of § 171.7 in the Table of material incorporated by reference:

- In response to Western Growers Association (WGA) petition P-1352, under the entry “American Society of Mechanical Engineers,” we propose to revise the reference for “ASME Code, Sections II (Parts A and B), V, VIII (Division 1), and IX of 1998 Edition of American Society of Mechanical Engineers Boiler and Pressure Vessel Code” to add a section reference for § 173.5b. See review-by-section preamble discussion in § 173.5b for further details.

- In response to WGA petition P-1352, under the entry “American Society for Testing and Materials,” we propose to add references to ASTM A53/A53M-06a and ASTM A106/A106M-06a. See review-by-section

preamble discussion in § 173.5b for further details.

- In response to Compressed Gas Association (CGA) petition P-1482, under the entry “Compressed Gas Association, Inc.,” we propose to add a reference to CGA, C-1 “Methods for Hydrostatic Testing of Compressed Gas Cylinders,” 2004 edition. See review-by-section preamble discussion in § 180.205 for further details.

- In response to CGA petition P-1489, under the entry “Compressed Gas Association, Inc.,” we propose to update CGA G-2.2, “Guideline Method for Determining Minimum of 0.2% Water in Anhydrous Ammonia,” from the 1985 Edition to reflect the 1985 Second Edition, Reaffirmed 1997. Paragraph (l), in § 173.315, restricts the use of MC 330 and MC 331 cargo tanks constructed of quenched and tempered “QT” steel from transporting anhydrous ammonia unless the ammonia has the specified minimum water content. The analysis of the water content in the ammonia is conducted as prescribed in CGA G-2.2. Currently, CGA G-2.2, 1985, Second Edition is incorporated by reference in § 171.7(a)(3). CGA reaffirmed this publication in 1997. There were no changes to the document other than the title reflecting that it was reaffirmed in 1997.

- In response to CGA petition P-1488, under the entry “Compressed Gas Association, Inc.,” we propose to update CGA P-20, “Standard for Classification of Toxic Gas Mixtures” from the 1995 2nd edition to the 2003 3rd edition. See review-by-section preamble discussion in § 173.115 for further details.

- In response to CGA petition P-1484, under the entry “Compressed Gas Association, Inc.,” we propose to add a reference to CGA TB-25 “Design Considerations for Tube Trailers,” 2005 edition. See review-by-section preamble discussion in § 173.301 for further details.

- In response to CGA petition P-1422, under the entry “Compressed Gas Association, Inc.,” we propose to add a reference to CGA V-9 “Standard for Compressed Gas Cylinder Valves,” 2005 edition. See review-by-section preamble discussion in §§ 173.40 and 173.301 for further details.

In response to Tank Trailer Manufacturers Association (TTMA) petition P-1408, we are also proposing to revise paragraph (b) of § 171.7, List of informational materials not requiring incorporation by reference, to add a reference to TTMA RP No. 96-01, “Structural Integrity of DOT 406, DOT 407, and DOT 412 Cylindrical Cargo Tanks, January 1, 2001 Edition.” See

review-by-section preamble discussion in § 178.345-3 for further details.

### B. Part 173

Mobile Refrigeration Systems (§ 173.5b)

The agricultural produce industry uses large, mobile refrigeration systems on field sites to help preserve freshly harvested fruit and vegetables. These refrigeration systems consist of ASME non-DOT specification pressure components with a maximum total volumetric capacity per vehicle of 2,500 gallons. Refrigerant systems placed in service prior to June 1, 1991, have a maximum allowable working pressure (MAWP) between 150 to 250 psig; and those placed in service on or after June 1, 1991, have an MAWP of 250 psig. The refrigeration system, commonly known as vacuum tubes, accumulators, refrigeration units, icemakers, pressure coolers or evaporators, primarily use Division 2.2 refrigerant gases or anhydrous ammonia in the cooling process. The refrigeration systems may or may not be mounted on a motor vehicle. These refrigerant systems are operated under special permit, SP-10285, which requires each refrigeration system to be visually inspected annually and proof pressure tested at least once every two years. The Western Growers Association (WGA) P-1352 requests we establish design and safety control measures for these refrigeration systems consistent with those specified in the special permit and provide for their use in the HMR. WGA states these refrigeration systems have been authorized under DOT-SP 10285 for highway transportation since 1989 and have an exceptional transportation safety record. WGA conservatively estimates that in a two-month period, these refrigeration systems cool over 18,000,000 cartons of produce valued at more than \$56 million. We agree with WGA that these portable refrigeration systems have a proven safety record under the special permit. Therefore, we propose to add a new § 173.5b to authorize the transportation of these refrigeration systems subject to the design and safety control measures recommended in the petition and prescribed in DOT-SP 10285.

Standards for Cylinder Valves (§§ 173.40 and 173.301)

Currently, § 173.40(c) of the HMR requires each cylinder containing a poison inhalation hazard (PIH) material in Hazard Zone A to be closed with a plug or valve having a taper-threaded connection. Each cylinder, with the plug or valve installed, must be capable of withstanding the cylinder test

pressure without damage or leakage, as specified in § 173.40(c). CGA (P-1422) requests we add a new paragraph (c)(5) to § 173.40 to require cylinders containing a Hazard Zone A material to be closed with a plug or a valve conforming to CGA V-9, "Compressed Gas Association Standard for Compressed Gas Cylinder Valves," 2005 edition. Section 173.301 prescribes general requirements for the shipment of compressed gases in cylinders and spherical vessels. CGA further requests we revise § 173.301(c) to require cylinders containing Hazard Zone A and B toxic gases and mixtures to meet the requirements in CGA V-9. CGA V-9 defines a cylinder valve as the mechanical device attached to a compressed gas cylinder that permits flow into or out of the cylinder when the device is in the open position, and prevents flow when it is in the closed position. CGA V-9 contains standards on general cylinder valve design, design qualification, and performance requirements such as operating temperature limits, pressure ranges, and flow capabilities. This standard also contains testing and maintenance requirements to ensure valves are maintained in a safe working condition. CGA V-9 is not applicable to cylinder valves used on non-refillable cylinders whose valves or inlet connections are permanently attached to the cylinders by means of welding or brazing, or to valves on cylinders that are horizontally mounted to a chassis or framework for road transportation. CGA states use of this publication will provide greater assurance that valves used on cylinders containing toxic materials are in good condition and properly maintained. Based on our review of CGA V-9, we agree with CGA that providing for the use of CGA V-9 will assist shippers in the proper selection and use of valves installed in DOT specification cylinders containing toxic and various types of other gases. Because gases vary in degrees of corrosivity, toxicity, and pressure and concentration, a user must use care in selecting a cylinder valve appropriate for the cylinder's intended use and pressure. The current HMR offer no guidance to users on the proper selection of valves. Therefore, we propose to revise §§ 173.40(c) and 173.301(a) to require valves on cylinders, unless otherwise excepted, to conform to the requirements in CGA V-9, "Standard for Compressed Gas Cylinder Valves," 2005 Fifth Edition. We also solicit comments on the potential cost impacts, if any, of requiring compliance with CGA V-9.

#### Classification Criteria for Toxic Gas Mixtures (§ 173.115)

In § 173.155(c)(2), the definition for Division 2.3 material (gas poisonous by inhalation) provides that LC<sub>50</sub> values for mixtures may be determined using the formula in § 173.133(b)(1)(i) or CGA P-20, "Standard for Classification of Toxic Gas Mixtures." CGA (P-1488) requests we update CGA P-20 from the 1995 2nd edition to the 2003 3rd edition. CGA enclosed a list of changes contained in the 3rd edition. These changes align the LC<sub>50</sub> values contained in CGA P-20 with values contained in the international standards for the following materials: Ethylene oxide, Hydrogen fluoride, Methyl amine, Nitrogen trioxide, Phosphorous pentafluoride, Phosphorous trifluoride, and Tungsten hexafluoride. We agree the petition has merit and propose to revise paragraph (c)(2) to reflect the updated CGA P-20, "Standard for Classification of Toxic Gas Mixtures."

#### Tube Trailers (§ 173.301)

This section prescribes general requirements for the shipment of compressed gases in cylinders and spherical pressure vessels. Paragraph (i) of § 173.301 specifies guidelines for cylinders mounted on motor vehicles or in frames, commonly referred to as tube trailers. CGA (P-1484) requests we revise § 173.301(i) to reference the technical bulletin, CGA TB-25, "Design Considerations for Tube Trailers," 2005 edition. CGA TB-25 addresses protective structures for valves and pressure relief devices, and design considerations for the static, dynamic, and thermal loads affecting tube trailers. These design considerations are intended to reduce the likelihood of the tube separating from the trailer and to minimize the unintentional release of hazardous materials in the event of a highway collision, including but not limited to, a rollover accident. These guidelines are intended to promote the reliable operation of the trailers under normal conditions and minimize the risk of a catastrophic incident in the event of an accident.

We agree the guidelines contained in CGA TB-25 will enhance the safe transportation of tube trailers. CGA developed TB-25 to address safety concerns identified following a May 1, 2001 hydrogen gas tube trailer incident investigated by the National Transportation Safety Board (NTSB). In the incident, certain horizontally mounted cylinders on a semi-trailer, along with valves, piping and fittings, were damaged, causing the release of hydrogen gas. As a result, NTSB made

several recommendations to PHMSA in an effort to address safety concerns. PHMSA responded to NTSB Recommendation H-02-25 by revising ERG Guide 115 in the 2004 Emergency Response Guidebook to include information on the difficulty of detecting and extinguishing hydrogen-fuel fires. As a result, NTSB classified Safety Recommendation H-02-25 as "Closed—Acceptable Action." NTSB also recommended that PHMSA revise § 173.301 to clearly require valves, piping, and fittings for cylinders that are horizontally mounted and used to transport hazardous materials to be protected from multidirectional forces that are likely to occur during accidents, including rollovers (NTSB Recommendation H-02-23); and to require cylinders that are used to transport hazardous materials and are horizontally mounted on a semi-trailer to be protected from impact with the roadway or terrain to reduce the likelihood of their being fractured and ejected during a rollover accident (NTSB Recommendation H-02-24). Accordingly, we propose to revise § 173.301(i) to require tube trailers to conform to the requirements in CGA TB-25, "Design Considerations for Tube Trailers." We also solicit comments on the potential cost impacts, if any, of requiring compliance with CGA TB-25.

Requalification of DOT 3BN Cylinders (§ 173.338)

Section 173.338 authorizes the use of DOT 3BN cylinders for the shipment of tungsten hexafluoride. Section 173.163 permits cylinders used exclusively for hydrogen fluoride to be requalified by external visual inspection in place of the periodic volumetric expansion test. Air Products (P-1458) requests we permit DOT 3BN cylinders used exclusively for tungsten hexafluoride to be requalified by an external visual inspection in place of the volumetric expansion test. Air Products states the chemical and physical properties of tungsten hexafluoride are similar to those of hydrogen fluoride. Air Products states noble metal nickel 200 does not corrode in tungsten hexafluoride service and the company has never had a cylinder fail a volumetric expansion test. We agree with the petitioner that the chemical properties of tungsten hexafluoride are similar to those of hydrogen fluoride. Tungsten hexafluoride does not corrode nickel; therefore, an internal inspection is not warranted. We have authorized DOT 3BN cylinders used exclusively for tungsten hexafluoride to be requalified by an external visual inspection for several years under special permit, SP-

14016, with satisfactory transportation experience. SP-14016 stipulates that DOT 3BN cylinders removed from service must be condemned. Therefore, in § 173.338, we propose to permit DOT 3BN cylinders used exclusively for tungsten hexafluoride to be requalified by an external visual inspection in place of the volumetric expansion test. The cylinders must be condemned when removed from service.

#### C. Part 176

##### Stowage Requirements for Class 2 Material on Vessels (§ 176.200)

Section 176.200 prescribes general stowage requirements for Class 2 (Compressed gases) materials transported aboard vessels. Horizon Lines (P-1471) requests we prohibit vessel stowage of Division 2.1 (flammable gases) in "reefer units," that is, powered refrigerated temperature controlled containers. Horizon Lines expresses concern that sparks emitted from mechanical components of the reefer unit could come into contact with flammable gas in the event of a spill and cause an explosion. Horizon Lines further states its concern was substantiated by several major manufacturers of reefer units. We agree with the petitioner that the stowage of flammable gases in powered refrigerated temperature controlled containers should not be permitted without adequate safety measures. The transport of hazardous materials in temperature controlled containers is addressed in Chapter 7 of the International Maritime Dangerous Goods (IMDG) Code. More specifically, the IMDG Code, at 7.4 and 7.7 requires the use of refrigeration systems with explosion-proof electric fittings within the cooling compartment to prevent ignition of flammable vapors. Consistent with the IMDG Code, we propose to revise § 176.200 (f) to restrict any package containing a Division 2.1 material from transportation in powered refrigerated temperature controlled containers, unless the container equipment is capable of preventing ignition of flammable vapor by having non-sparking or explosion-proof electric fittings within the cooling compartment.

#### D. Part 178

##### DOT 4E Cylinders (§ 178.68)

Section 178.68 contains the manufacturing specification for DOT 4E welded aluminum cylinders. Paragraph (l)(2) specifies the guided bend test procedures and rejection criteria to be applied to welds. Worthington Cylinders Corp (Worthington) (P-1486) requests we revise this paragraph to authorize the use of an alternate bend

test illustrated in paragraph 12 of The Aluminum Association's publication, "Welding Aluminum: Theory and Practice" for determining the soundness of circumferential seam welds on aluminum cylinders. Worthington states use of this alternate test will assure the stress is placed on the weld, rather than the heat-affected zone of the weld. We agree that this alternate bend test is an acceptable test method for aluminum cylinders, as well as the currently authorized bend test designed for thin-walled steel cylinders. Therefore, we are proposing to revise § 178.68(l) to allow the bend test described in The Aluminum Association's publication, "Welding Aluminum: Theory and Practice," as an alternative test method.

##### DOT 406, 407, and 412 Cargo Tank Motor Vehicles (§ 178.345-3)

Section 178.345-3 prescribes structural integrity requirements for the design and construction of DOT 406, DOT 407, and DOT 412 cargo tank motor vehicles. Paragraph (a) specifies the general requirements and acceptance criteria for structural integrity. The Tank Trailer Manufacturers Association (TTMA) (P-1408) requests we revise paragraph (a) to reference TTMA Recommended Practice (RP) No. 96-97, "Structural Integrity of DOT 406, DOT 407, and DOT 412 Cylindrical Cargo Tanks," December 1, 1997 Edition. This standard contains methods for calculating the structural integrity of DOT 406, DOT 407 and DOT 412 cylindrical cargo tanks in conformance with §§ 178.345-3 and 178.345-8(e). Based on the Federal Motor Carrier Safety Administration's review of TTMA RP No. 96-97, we agree with the petitioner that using the methods outlined in the publication for calculating the structural integrity of cargo tanks will be beneficial to manufacturers in reducing time to perform the calculations. Therefore, we propose to revise § 178.345-3(a)(3) to reference the updated TTMA RP 96-01, 2001 Edition, as suitable guidance for performing the structural integrity calculations.

##### Manhole Assemblies on DOT 406, 407, and 412 Cargo Tank Motor Vehicles (§ 178.345-5)

Section 178.345-5 prescribes requirements for manhole assemblies used on DOT 406, DOT 407, and DOT 412 cargo tank motor vehicles. Paragraph (f) specifies that all fittings and devices mounted on a manhole cover, coming in contact with the lading, must withstand the same static internal fluid pressure and contain the

same permanent compliance markings as those prescribed in paragraph (e) for the manhole cover. Because paragraph (e) already requires the manhole cover to be marked with a statement certifying that the manhole cover meets the requirements in § 178.345-5, TTMA (P-1372) requests we remove the marking requirement in paragraph (f). We agree with the petitioner that the requirement in § 178.345-5(f) to mark the manhole's fittings is duplicative of the manhole cover marking requirement in paragraph (e). Therefore, we propose to remove the redundant wording in paragraph (f).

#### E. Part 180

##### Cylinder Requalification (§ 180.205)

Section 180.205 prescribes general requirements for requalification of DOT specification cylinders and special permit cylinders. Paragraph (g) contains requirements for conducting a periodic pressure test for the requalification of cylinders. These requirements include parameters for accuracy of the test equipment. CGA requests we revise paragraph (g) to reference CGA C-1 "Methods for Hydrostatic Testing of Compressed Gas Cylinders," 2004 edition. This CGA publication contains hydrostatic testing requirements for the requalification of cylinders.

We agree the CGA publication more adequately reflects the equipment accuracy requirements for performing a pressure test on cylinders. We propose to revise § 180.205(g) to reference CGA C-1 for requalification of DOT specification cylinders. Section 180.207 covering UN pressure receptacles also references § 180.205(g) for test equipment accuracy. We propose to retain the current requirement in paragraph (g) that permits a pressure test to be repeated, in the event of test equipment failure only, at a pressure increased by 10%, or 100 psi, whichever is the lower value. If repeated, the cumulative increase in test pressure may not exceed 10% of minimum prescribed test pressure, as noted in CGA C-1. As an example, using a cylinder marked "DOT3AA1800", if the first test is performed exactly at the minimum test pressure of 3000 psi (5/3 service pressure), and subsequent tests exactly at 3100, 3200, and 3300, a total of three repeat tests could be performed. However, if the first test is performed at 3200, one repeat test could be performed at 3300. The proposed rule does not alter any of the requirements for the operator to ensure the test system is accurate and ready to test cylinders. We are retaining the requirements contained in current paragraph (g) concerning bands and other removable

attachments, allowing other calibration standards approved by the Associate Administrator, requiring the requalifier to demonstrate calibration to an authorized DOT inspector, and the retention of calibrated cylinder certificates.

#### Cargo Tank Testing and Inspection (§ 180.407)

Section 180.407 prescribes requirements for the periodic testing and inspection of specification cargo tanks. Paragraph (d)(3) of § 180.407 requires each reclosing pressure relief valve that is required to be removed and tested to be able to open at the required set pressure and reseal to a leak-tight condition at 90 percent of the set-to-discharge pressure or the pressure for the applicable cargo tank specification. Paragraph (g)(1)(ii)(A) of § 180.407 requires each self-closing pressure relief valve that is an emergency relief vent to open at the required set pressure and seat to a leak-tight condition at 90 percent of the set-to-discharge pressure or the pressure for the applicable cargo tank specification. Keehn Service Corporation (Keehn Service) (P-1436) states the majority of pressure relief valves installed on MC-330 and MC-331 cargo tank motor vehicles transporting liquefied petroleum gas have a start-to-discharge set pressure of 250 psi. Keehn Service states it is difficult for existing or rebuilt valves to open at this exact pressure. In fact, a margin of error of as much as 4 psig could occur when using a typical 0-400 psig pressure gauge. Keehn Service requests we specify a start-to-discharge tolerance for pressure relief valves. We agree with the petitioner that it may be difficult for a pressure relief valve to function exactly at the specified set pressure and that we should allow a margin of error. Therefore, we propose to revise paragraphs (d)(3) and (g)(1)(ii)(A), of § 180.407, to specify that reclosing and self-closing pressure relief valves must be set-to-discharge at a pressure no more than 110% of the required set pressure. Providing for a tolerance is consistent with the set-to-discharge tolerance allowed for certain other DOT specification pressure vessels.

### III. Regulatory Analyses and Notices

#### A. Statutory/Legal Authority for This Rulemaking

This notice is published under authority of 49 U.S.C. 5103(b), which authorizes the Secretary of Transportation to prescribe regulations for the safe transportation, including security, of hazardous material in

intrastate, interstate, and foreign commerce. This notice proposes to adopt regulations intended to enhance the safe transportation of hazardous materials in cargo tank motor vehicles and cylinders, clarify regulatory requirements, and reduce operating burdens on carriers, shippers, and users.

#### B. Executive Order 12866 and DOT Regulatory Policies and Procedures

This notice of proposed rulemaking 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 (OMB). This rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

The proposed rule addresses several petitions for rulemaking submitted by the regulated community. For the most part, the petitioners request revisions to the HMR that should reduce overall compliance costs. For example, several of the petitioners request we update industry consensus standards incorporated by reference into the HMR. Adoption of industry standards reduces the regulatory burden on persons who offer hazardous material for transportation and persons who transport hazardous materials in commerce. Industry standards developed and adopted by consensus generally are accepted and followed by the industry; thus, their incorporation by reference in the HMR assures that the industry is not forced to comply with a different set of standards to accomplish the same safety goal. In addition, several of the petitions request regulatory relief through alternative means of compliance with current safety regulations or the elimination of requirements that are duplicative, outdated, or otherwise unnecessary for safety. Thus, we are proposing to eliminate a duplicative marking requirement for manholes on certain cargo tank motor vehicles and provide alternative manufacturing and requalification methods for certain cylinders and cargo tank motor vehicles.

Two of the proposals in this NPRM may result in increased compliance costs on the regulated community. We are proposing to require valves on cylinders authorized for the transportation of hazardous materials to conform to requirements in a CGA consensus standard—CGA V-9—applicable to compressed gas cylinder valves. Use of the CGA standard will help shippers to select a valve that is appropriate for the cylinder's intended use and pressure. Use of the correct valve is critical to prevent leaks or

failures during transportation. We believe that most cylinder users already use the CGA consensus standard to guide their valve selection decisions; thus, we expect increased compliance costs associated with this proposal to be minimal. However, we request comments on the potential costs and impacts of requiring compliance with the valve requirements in CGA V-9.

In addition, we are proposing to address a safety problem involving the transportation of hazardous materials in tube trailers through adoption of CGA consensus standard TB-24, "Design Considerations for Tube Trailers." The CGA standard addresses safety concerns identified by NTSB in its investigation of an accident involving tube trailers that resulted in the release of hydrogen gas. We anticipate transportation of hydrogen gas in tube trailers will increase significantly in the coming years to support its use as an alternative fuel for automobiles and other vehicles. Ensuring that hydrogen gas will be transported safely to suppliers and distribution centers will be essential to support its use as an alternative fuel. The CGA standard addresses protective structures for valves and pressure relief devices and design considerations for static, dynamic, and thermal loads affecting tube trailers. The standard is intended to reduce the likelihood of the tube trailer separating from its trailer and to prevent the unintentional release of hazardous materials in the event of a highway collision or rollover accident. Because we are proposing to adopt an industry consensus standard that is already in widespread use by the industry, we expect compliance costs associated with this proposal will be minimal. However, we request comments on the potential cost and other impacts of requiring compliance with the CGA standard.

If adopted, the proposals in this NPRM will enhance transportation safety and may reduce the overall compliance burden on the regulated industry.

#### C. Executive Order 13132

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("federalism"). This proposed rule would preempt State, local, and Indian tribe requirements but does not propose 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.

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

(i) The designation, description, and classification of hazardous material;

(ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;

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

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

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

This proposed rule addresses covered subject items (v) above and preempts State, local, and Indian tribe requirements not meeting the “substantively the same” standard. This proposed rule is necessary to update, clarify and provide relief from regulatory requirements.

Federal hazardous materials transportation law provides at § 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. PHMSA has determined the effective date of Federal preemption for these requirements will be 1 year from the date of publication of a final rule in the **Federal Register**.

#### D. Executive Order 13084

This proposed 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 proposed 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.

#### E. Regulatory Flexibility Act, Executive Order 13272, and DOT Regulatory Policies and Procedures

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 impact on a substantial number of small entities. The proposed rule incorporates several petitions for rulemaking submitted by the regulated community. As specified above, there may be minimal increased costs associated with the adoption of CGA V–9 and CGA TB–24. However, the revisions as a whole proposed in this rulemaking, if adopted, may decrease overall compliance costs for the regulated community while enhancing the safe transportation of hazardous materials in commerce. Therefore, I certify this rule should not have a significant economic impact on a substantial number of small entities.

This notice has been developed in accordance with Executive Order 13272 (“Proper Consideration of Small Entities in Agency Rulemaking”) and DOT’s procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure potential impacts of draft rules on small entities are properly considered.

#### F. Paperwork Reduction Act

PHMSA currently has approved information collections under Office of Management and Budget (OMB) Control Number 2137–0014, “Cargo Tank Specification Requirements,” with an expiration date of November 30, 2007, and Control Number 2137–0022, “Testing, Inspection, and Marking Requirements for Cylinders,” with an expiration date of August 31, 2008. This rule proposes no new information collection and recordkeeping requirements.

Title 5, Code of Federal Regulations requires us to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. Under the Paperwork Reduction Act, no person is required to respond to an information collection unless it has been approved by OMB and displays a valid OMB control number.

Requests for a copy of these information collections should be directed to Deborah Boothe or T. Glenn Foster, Office of Hazardous Materials Standards (DHM–10), Pipeline and Hazardous Materials Safety Administration, Room 8422, 400

Seventh Street, SW., Washington, DC 20590–0001, Telephone (202) 366–8553.

All comments should be addressed to the Dockets Unit as identified in the **ADDRESSES** section, and received prior to the close of the comment period identified in the **DATES** section of this rulemaking. In addition, you may submit comments specifically related to the information collection burden to the PHMSA Desk Officer, Office of Management and Budget (OMB), at fax number 202–395–6974. 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.

#### 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 number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

#### H. Unfunded Mandates Reform Act

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

#### I. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://dms.dot.gov>.

#### List of Subjects

##### 49 CFR Part 171

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

##### 49 CFR Part 173

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

##### 49 CFR Part 176

Hazardous materials transportation, Incorporation by reference, Maritime

carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 178

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

49 CFR Part 180

Hazardous materials transportation, Incorporation by reference, Motor carriers, Motor vehicle safety, Packaging and containers, Railroad safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Chapter I is proposed to be amended as follows:

**PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS**

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

**Authority:** 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45 and 1.53; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub L. 104–134 section 31001.

2. In § 171.7, make the following changes:

a. In the table in paragraph (a)(3), under The Aluminum Association, a new entry titled “Welding Aluminum: Theory and Practice,” 2002 Fourth Edition is added;

b. In the table in paragraph (a)(3), under American Society of Mechanical Engineers, the entry titled “ASME Code, Sections II (Parts A and B), V, VIII (Division 1), and IX of 1998 Edition of American Society of Mechanical Engineers Boiler and Pressure Vessel Code,” is revised;

c. In the table in paragraph (a)(3), under American Society for Testing and Materials, entries for ASTM A53/A53M–06a and ASTM A106/A106M–06a are added;

d. In the table in paragraph (a)(3), under Compressed Gas Association, Inc., entries for CGA Pamphlet G–2.2 1985 edition and CGA Pamphlet P–20 1995 edition are revised;

e. In the table in paragraph (a)(3), under Compressed Gas Association Inc., new entries for CGA C–1 2005 edition, CGA TB–25 2005 edition, and CGA V–9 2005 edition are added; and

f. In paragraph (b), a new entry “Truck Trailer Manufacturers Association,” 1020 Princess Street, Alexandria, Virginia 22314, “TTMA RP No. 96–01,” January 1, 2001 Edition is added in alphabetical order.

The revisions and additions read as follows:

**§ 171.7 Reference material.**

(a) \* \* \*

(3) *Table of material incorporated by reference.* \* \* \*

Source and name of material	49 CFR reference
* * * * *	* * * * *
<i>The Aluminum Association,</i>	
* * * * *	* * * * *
Welding Aluminum: Theory and Practice, 2002 Fourth Edition .....	178.68.
* * * * *	* * * * *
<i>American Society of Mechanical Engineers,</i>	
* * * * *	* * * * *
ASME Code, Sections II (Parts A and B), V, VIII (Division 1), and IX of 1998 Edition of American Society of Mechanical Engineers Boiler and Pressure Vessel Code.	172.102; 173.5b; 173.24b; 173.32; 173.306; 173.315; 173.318; 173.420; 178.245–1; 178.245–3; 178.245–4; 178.245–6; 178.245–7; 178.255–1; 178.255–2; 178.255–14; 178.255–15; 178.270–2; 178.270–3; 178.270–7; 178.270–9; 178.270–11; 178.270–12; 178.271–1; 178.272–1; 178.273; 178.274; 178.276; 178.277; 178.320; 178.337–1; 178.337–2; 178.337–3; 178.337–4; 178.337–6; 178.337–16; 178.337–18; 178.338–1; 178.338–2; 178.338–3; 178.338–4; 178.338–5; 178.338–6; 178.338–13; 178.338–16; 178.338–18; 178.338–19; 178.345–1; 178.345–2; 178.345–3; 178.345–4; 178.345–7; 178.345–14; 178.345–15; 178.346–1; 178.347–1; 178.348–1; 179.400–3; 180.407.
* * * * *	* * * * *
<i>American Society for Testing and Materials,</i>	
* * * * *	* * * * *
ASTM A53/A53M–06a Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless.	173.5b.
* * * * *	* * * * *
ASTM A106/A106M–06a Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service.	173.5b.
* * * * *	* * * * *
<i>Compressed Gas Association, Inc.,</i>	
* * * * *	* * * * *
CGA C–1, Methods for Hydrostatic Testing of Compressed Gas Cylinders, 2004 Edition.	180.205.
* * * * *	* * * * *
CGA G–2.2, Guideline Method for Determining Minimum of 0.2% Water in Anhydrous Ammonia, 1985, Second Edition, Reaffirmed 1997.	173.315.

Source and name of material	49 CFR reference
* * * * * CGA P-20, Standard for the Classification of Toxic Gas Mixtures, 2003, Third Edition.	173.115.
* * * * * CGA TB-25, Design Considerations for Tube Trailers, 2005 Edition.	173.301.
* * * * * CGA V-9, Standard for Compressed Gas Cylinder Valves, 2005 Fifth Edition.	173.40; 173.301.
* * * * *	

(b) List of informational materials not requiring incorporation by reference.

\* \* \*

Source and name of material	49 CFR reference
* * * * * Truck Trailer Manufacturers Association, 1020 Princess Street, Alexandria, Virginia 22314 TTMA RP No. 96-01, Structural Integrity of DOT 406, DOT 407, and DOT 412 Cylindrical Cargo Tanks, January, 2001 Edition.	178.345-3.
* * * * *	

### PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

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

**Authority:** 49 U.S.C. 5101-5128, 44701; 49 CFR 1.45, 1.53.

4. A new § 173.5b is added to read as follows:

#### § 173.5b Portable and mobile refrigeration systems.

This section authorizes the highway transportation of residual amounts of Division 2.2 refrigerant gases or anhydrous ammonia contained in non-specification pressure vessels that are components of refrigeration systems, which may or may not be permanently mounted to a transport vehicle, used for agricultural operations. These refrigeration systems are used at field sites to cool (pre-cool) produce before the produce is loaded into trucks or railcars for market or used to supplement stationary refrigeration systems during peak harvest times. The components of these refrigeration systems are commonly known as vacuum tubes, accumulators, refrigeration units, ice makers, pressure coolers, or evaporators.

(a) *General packaging requirements.* Each non-specification pressure vessel must conform to the following:

(1) Each pressure vessel must be designed, manufactured, and maintained in accordance with applicable requirements of the ASME Code (IBR, see § 171.7 of this subchapter).

(2) Except as authorized in this section, each pressure vessel and associated piping must be rated at a maximum allowable work pressure (MAWP) of 250 psig. The pressure in these components may not exceed MAWP.

(3) Any part of the piping or pressure vessel separated from another component of the refrigeration system by means of a valve, blank flange, or other device must be equipped with a pressure relief valve set at MAWP. All lines that must be disconnected for transportation purposes must be closed by means of a cap, plug or blank flange, and valves at the end of disconnected lines must be tightly closed.

(4) The aggregate total volumetric capacity of components within the refrigeration system authorized for highway transportation in accordance with this section may not exceed 2,500 gallons per vehicle.

(5) Each pressure vessel and associated piping containing anhydrous ammonia must conform to the following:

(i) Piping with a diameter of 2 inches or more must conform to ASTM

Specification A53B Schedule 40 (IBR, see § 171.7 of this subchapter) or ASTM Specification A106 Schedule 40 (IBR, see § 171.7 of this subchapter).

(ii) Piping with a diameter of less than 2 inches must conform to ASTM Specification A53B (IBR, see § 171.7 of this subchapter) Schedule 80 or ASTM Specification A106 Schedule 80 (IBR, see § 171.7 of this subchapter).

(iii) The words "Inhalation Hazard" must be marked as required in special provision 13 in § 172.102 of this subchapter and, when practicable, within 24 inches of the placard.

(b) *Refrigeration systems placed into service prior to June 1, 1991.* (1) For refrigeration systems placed into service prior to June 1, 1991, each pressure vessel and associated piping for the condensing line ("high side") must be rated at an MAWP of not less than 250 psig. Each pressure vessel and associated piping for the evaporating line ("low side") must be rated at an MAWP of not less than 150 psig, except that each pressure vessel or associated piping that will contain refrigerant gas during transportation must be rated at an MAWP of not less than 250 psig. During transportation, pressure in the components that are part of the evaporating line may not exceed 150 psig.

(2) Each pressure vessel and associated piping that is part of the

evaporating line must be marked "LOW SIDE" in a permanent and clearly visible manner. The evaporating line must have a pressure gauge with corresponding temperature markings mounted so as to be easily readable when standing on the ground. The gauge must be permanently marked or tagged "SATURATION GAUGE".

(3) Each pressure vessel and associated piping with an MAWP of 250 psig or greater containing liquid anhydrous ammonia must be isolated using appropriate means from piping and components marked "LOW SIDE".

(4) Liquid lading is only authorized in system components with a rated MAWP of not less than 250 psig.

(5) Prior to transportation, each pressure vessel and associated piping with a rated MAWP of less than 250 psig must be relieved of enough gaseous lading to ensure that the MAWP is not exceeded at transport temperatures up to 54 °C (130 °F).

(6) Refrigeration systems placed into service prior to June 1, 1991, may continue in service until October 1, 2017.

(c) Prior to transportation over public highways, each pressure vessel and associated piping must be drained of refrigerant gas or liquid anhydrous ammonia to the extent practicable. Drained contents must be recovered in conformance with all applicable environmental regulations. Residual liquid anhydrous ammonia in each component may not exceed one percent of the component's total volumetric capacity or 10 gallons, whichever is less.

(d) System inspection and testing. (1) Each refrigeration system authorized under this section must be visually inspected every year. The visual inspection must include items listed in § 180.407(d)(2) applicable to refrigeration systems. A certificate of the annual visual inspection must be dated and signed by the person performing the inspection and must contain that person's company affiliation. The certificate must remain at the equipment owner's office.

(2) Each refrigeration system authorized under this section must be proof pressure tested every two years beginning with the initial pressure test performed after manufacture. Additional pressure tests must be performed after any modification, repair or damage to a part of the system pressurized with refrigerant gas. System test pressures may not be less than one-and-one-half (1.50) times the rated MAWP of the system component or piping.

(3) Pressure relief valves must be successfully tested every two years at the MAWP for the components or piping to which they are attached. Pressure relief valves may be replaced and marked every 5 years with valves certified at the appropriate MAWP, in which case the valves need not be tested every two years. Valves that do not pass the test must be repaired or replaced.

(e) Test markings and reports. (1) Evidence of testing specified in paragraph (d) of this section must be marked on the right forward side of the refrigeration system with 2 inch high letters indicating type of last test (V = visual; P = pressure: hydrostatic or pneumatic) and the month/year in which it was performed. Reports and all of the requirements for records of inspections including markings must be completed as specified in part 180.

(2) Pressure relief valves must be durably marked with either the date of last test, set-pressure and testing company or the date of last replacement, set-pressure, and certifying company, as applicable.

5. In § 173.40, the introductory text to paragraph (c) is revised to read as follows:

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

\* \* \* \* \*

(c) Closures. When a valve is installed in a DOT specification cylinder containing a hazardous material, unless otherwise excepted, the valve must conform to the requirements in CGA V-9 (IBR; see § 171.7 of this subchapter). In addition, each cylinder containing a Hazard Zone A material must be closed with a plug or valve conforming to the following:

\* \* \* \* \*

6. In § 173.115, paragraph (c)(2) is revised to read as follows:

**§ 173.115 Class 2, Divisions 2.1, 2.2, and 2.3—Definitions.**

\* \* \* \* \*

(c) \* \* \*

(2) In the absence of adequate data on human toxicity, is presumed to be toxic to humans because when tested on laboratory animals it has an LC<sub>50</sub> value of not more than 5000 mL/m<sup>3</sup> (see § 173.116(a) of this subpart for assignment of Hazard Zones A, B, C or D). LC<sub>50</sub> values for mixtures may be determined using the formula in § 173.133(b)(1)(i) or CGA P-20 (IBR, see § 171.7 of this subchapter).

\* \* \* \* \*

7. In § 173.301, a new paragraph (a)(11) is added and paragraph (i) is revised to read as follows:

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

(a) \* \* \*

(11) When a valve is installed in a DOT specification cylinder containing a hazardous material, unless otherwise excepted, the valve must conform to the requirements in CGA V-9 (IBR; see § 171.7 of this subchapter).

\* \* \* \* \*

(i) Cylinders mounted in motor vehicles or in frames. (1) MEGCs must conform to the requirements in § 173.312. DOT specification cylinders mounted on motor vehicles or in frames must conform to the requirements specified in this paragraph (i).

(2) Seamless DOT specification cylinders longer than 2 m (6.5 feet) are authorized for transportation only when horizontally mounted on a motor vehicle or in an ISO framework or other framework of equivalent structural integrity in accordance with CGA TB-25 (IBR, see § 171.7 of this subchapter). 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.

(3) Cylinders may not be transported by rail in container on freight car (COFC) or trailer on flat car (TOFC) service except under conditions approved by the Associate Administrator for Safety, Federal Railroad Administration.

\* \* \* \* \*

8. Section 173.338 is revised to read as follows:

**§ 173.338 Tungsten hexafluoride.**

(a) Tungsten hexafluoride must be packaged in specification 3A, 3AA, 3BN, or 3E (§§ 178.36, 178.37, 178.39, 178.42 of this subchapter) cylinders. Cylinders must be equipped with a valve protection cap or be packed in a strong outside container complying with the provisions of § 173.40. Outlets of any valves must be capped or plugged. As an alternative, the cylinder opening may be closed by the use of a metal plug. Specification 3E cylinders must be shipped in an overpack that complies with the provisions of § 173.40.

(b) In place of the volumetric expansion test, DOT 3BN 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 that undergo a complete external visual inspection, in place of

the volumetric expansion test, must be condemned in accordance with § 180.205 of this subchapter if removed from tungsten hexafluoride service.

#### **PART 176—CARRIAGE BY VESSEL**

9. The authority citation for part 176 continues to read as follows:

**Authority:** 49 U.S.C. 5101–5128; 49 CFR 1.53.

10. In § 176.200, paragraph (f) is revised to read as follows:

##### **§ 176.200 General stowage requirements.**

\* \* \* \* \*

(f) Class 2 (compressed gas) material must be kept as cool as practicable and be stowed away from all sources of heat and ignition. Any package containing a Division 2.1 (flammable gas) material is restricted from transport in powered refrigerated temperature controlled containers, unless the equipment is capable of preventing ignition of flammable vapors by having non-sparking or explosion-proof electric fittings within the cooling compartment.

#### **PART 178—SPECIFICATIONS FOR PACKAGINGS**

11. The authority citation for part 178 continues to read as follows:

**Authority:** 49 U.S.C. 5101–5128; 49 CFR 1.53.

12. In § 178.68, paragraph (l)(2) is revised to read as follows:

##### **§ 178.68 Specification 4E welded aluminum cylinders.**

\* \* \* \* \*

(l) \* \* \*

(2) *Guided bend test.* A bend test specimen must be cut from the cylinder used for the physical test specified in paragraph (j) of this section. Specimen must be taken across the seam, must be a minimum of 1½ inches wide, edges must be parallel and rounded with a file, and back-up strip, if used, must be removed by machining. The specimen shall be tested as follows:

(i) The specimen must be bent to refusal in the guided bend test jig as illustrated in paragraph 6.10 of CGA C–3 (IBR, see § 171.7 of this subchapter). The root of the weld (inside surface of the cylinder) must be located away from the ram of the jig. The specimen must not show a crack or other open defect exceeding ⅛ inch in any direction upon completion of the test. Should this specimen fail to meet the requirements, specimens may be taken from each of 2 additional cylinders from the same lot and tested. If either of the latter specimens fails to meet requirements,

the entire lot represented must be rejected.

(ii) Alternatively, the specimen may be tested in a guided bend test jig as illustrated in paragraph 12 of The Aluminum Association's publication, "Welding Aluminum: Theory and Practice" (IBR, see § 171.7 of this subchapter). The root of the weld (inside surface of the cylinder) must be located away from the mandrel of the jig. No specimen must show a crack or other open defect exceeding ⅛ inch in any direction upon completion of the test. Should this specimen fail to meet the requirements, specimens may be taken from each of 2 additional cylinders from the same lot and tested. If either of the latter specimens fails to meet requirements, the entire lot represented must be rejected.

\* \* \* \* \*

13. In § 178.345–3, at the end of paragraph (a)(3), a sentence is added to read as follows:

##### **§ 178.345–3 Structural integrity.**

(a) \* \* \*

(3) \* \* \* TTMA RP 96–01, Structural Integrity of DOT 406, DOT 407, and DOT 412 Cylindrical Cargo Tanks, may be used as guidance in performing the calculations.

\* \* \* \* \*

14. In § 178.345–5, paragraph (f) is revised to read as follows:

##### **§ 178.345–5 Manhole assemblies.**

\* \* \* \* \*

(f) All components mounted on a manhole cover that form part of the lading retention structure of the cargo tank wall must withstand the same static internal fluid pressure as that required for the manhole cover. The component manufacturer shall verify compliance using the same test procedure and frequency of testing as specified in § 178.345–5(b).

#### **PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS**

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

**Authority:** 49 U.S.C. 5101–5128; 49 CFR 1.53.

16. In § 180.205, paragraph (g) is revised to read as follows:

##### **§ 180.205 General requirements for requalification of specification cylinders.**

\* \* \* \* \*

(g) *Pressure test.* Unless otherwise provided, each cylinder required to be pressure tested under this subpart must be tested by means suitable for measuring the expansion of the cylinder

under pressure. The pressure test procedures and equipment accuracy for the volumetric expansion test and, when authorized, the proof pressure test must be in accordance with CGA C–1 (IBR, see § 171.7 of this subchapter), subject to the following limitations as applicable:

(1) Bands and other removable attachments must be loosened or removed before testing so that the cylinder is free to expand in all directions.

(2) Each day before testing, the requalifier shall confirm the accuracy of the expansion-indicating device and the pressure-indicating device by using a calibrated cylinder or other method authorized in writing by the Associate Administrator. In the event the calibrated cylinder's expansion values have changed from the certified certificate expansion values, the calibrated cylinder may be recalibrated using a dead weight test device traceable to the National Institute of Standards and Testing (NIST) measurement standards or using another calibrated cylinder.

(3) The requalifier must demonstrate calibration in conformance with this paragraph (g) to an authorized inspector on any day that the requalifier retests cylinders. A requalifier must maintain calibrated cylinder certificates in accordance with § 180.215(b)(4).

(4) When a test pressure cannot be achieved or maintained due to a malfunction of the test equipment, the pressure test may be repeated only at a pressure increased by 10% or 100 psig, whichever is the lower value. The cumulative increase in test pressure may not exceed 10% of minimum prescribed test pressure.

(5) This paragraph (g) does not authorize retest of a cylinder otherwise required to be condemned under paragraph (i) of this section.

\* \* \* \* \*

In § 180.407, paragraphs (d)(3) and (g)(1)(ii)(A) are revised to read as follows:

##### **§ 180.407 Requirements for test and inspection of specification cargo tanks.**

\* \* \* \* \*

(d) \* \* \*

(3) All reclosing pressure relief valves must be externally inspected for any corrosion or damage which might prevent safe operation. All reclosing pressure relief valves on cargo tanks carrying lading corrosive to the valve must be removed from the cargo tank for inspection and testing. Each reclosing pressure relief valve required to be removed and tested must open at no less than the required set pressure and no

more than 110 percent of the required set pressure and reseal to a leak-tight condition at 90 percent of the set-to-discharge pressure or the pressure prescribed for the applicable cargo tank specification.

- \* \* \* \* \*
- (g) \* \* \*
- (1) \* \* \*
- (ii) \* \* \*

(A) Each self-closing pressure relief valve that is an emergency relief vent must open at no less than the required set pressure and no more than 110 percent of the required set pressure and reseal to a leak-tight condition at 90 percent of the set-to-discharge pressure or the pressure prescribed for the applicable cargo tank specification.

\* \* \* \* \*

Issued in Washington, DC on April 6, 2007 under authority delegated in 49 CFR part 106.

**Theodore L. Wilke,**  
*Acting Associate Administrator for Hazardous Materials Safety.*

[FR Doc. E7-6942 Filed 4-11-07; 8:45 am]

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