

these comments adverse. We are not withdrawing any sections of the direct final rule based on these comments. As noted above, we will soon issue a final rule based on the concurrent notice of proposed rulemaking and we will address these comments as appropriate at that time.

#### List of Subjects in 40 CFR Part 86

Environmental protection, Incorporation by reference, Administrative practice and procedure, Motor vehicle pollution, On-board diagnostics.

Dated: August 6, 2003.

**Robert Brenner,**

*Acting Assistant Administrator, for Office of Air and Radiation.*

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## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Parts 171, 172, 173, 177, 178, 179 and 180

[Docket No. RSPA-02-13773 (HM-218B)]

RIN 2137-AD73

#### Hazardous Materials; Miscellaneous Amendments

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Hazardous Materials Regulations by incorporating miscellaneous changes based on petitions for rulemaking and RSPA initiatives. The intended effect of these regulatory changes is to update, clarify or provide relief from certain regulatory requirements.

**DATES:** *Effective Date:* The effective date of these amendments is October 1, 2003.

*Incorporation by Reference Date:* The incorporation by reference of certain publications listed in these amendments is approved by the Director of the Federal Register as of October 1, 2003.

**FOR FURTHER INFORMATION CONTACT:** Gigi Corbin, Office of Hazardous Materials Standards, (202) 366-8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

#### SUPPLEMENTARY INFORMATION:

##### Background

This final rule will primarily reduce regulatory burdens on industry by

incorporating changes into the Hazardous Materials Regulations (HMR) based on RSPA's own initiatives and petitions for rulemaking submitted in accordance with 49 CFR 106.95. In a continuing effort to review the HMR for necessary revisions, RSPA ("we" and "us") is eliminating, revising, clarifying and relaxing regulatory requirements. On January 21, 2003, RSPA published a Notice of Proposed Rulemaking (NPRM) under Docket RSPA-02-13773 (HM-218B; 68 FR 2734). The NPRM contained information concerning each proposal and invited public comment. Readers should refer to the NPRM for additional background discussion.

RSPA received eleven comments in response to the NPRM. These comments were submitted by representatives of trade associations, such as the American Chemical Council, the American Pyrotechnics Association, and the Chlorine Institute; hazardous materials consulting firms; chemical manufacturers; and carriers of hazardous materials. Most commenters expressed support for various proposals, but several commenters raised concerns about certain provisions in the proposal that are discussed below.

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

#### Section-by-Section Review

##### Part 171

##### Section 171.7

We are revising this section to update certain incorporation by reference materials and are adding three new entries. We are updating the following previously approved pamphlets and standards:

- CGA Pamphlet C-6.2, Guidelines for Visual Inspection and Requalification of Fiber Reinforced High Pressure Cylinders, 1996 edition. The 1996 edition of CGA Pamphlet C-6.2 simply makes editorial changes to the 1988 edition.
- CGA Pamphlet C-11, Recommended Practices for Inspection of Compressed Gas Cylinders at Time of Manufacture, 2001 edition. This new edition of CGA Pamphlet C-11 adds Transport Canada requirements and clarifies existing text.
- CGA Pamphlet C-13, Guidelines for Periodic Visual Inspection and Requalification of Acetylene Cylinders, 2000 edition. This new edition of CGA Pamphlet C-13 adds acetylene cylinders to the rejection criteria, allows condemned acetylene cylinders to be permanently marked as such, and changes the time

parameters for requalification of the porous mass.

- CGA Pamphlet S-1.1, Pressure Relief Device Standards—Part 1—Cylinders for Compressed Gases, 2001 edition (with the exception of paragraph 9.1.1.1). This new edition adds a definition and requirements for the new PRD CG-10 device.
- NFPA 58—Liquefied Petroleum Gas Code, 2001 edition.

We are also incorporating by reference the 2001 edition of the American Pyrotechnics Association's Standard 87-1, Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, which establishes a ten-inch limit on aerial shells for fireworks that may be classed as Division 1.3 explosives.

We are updating the entry for the Association of American Railroads (AAR) Manual of Standards and Recommended Practices, Section C—Part III, Specifications for Tank Cars, Specification M-1002 by adding the 2000 edition and removing the entries for the 1992 and 1996 edition.

We are adding the American Society for Testing and Materials (ASTM) E 114-95 test method for straight beam examination of the tubular surface of cylinders and tubes which is used in conjunction with ASTM E 213-98 to measure the wall thickness of a cylinder and to detect general corrosion and defects located in the path of the ultrasonic straight beam direction. ASTM E 213-98 was incorporated by reference in a final rule published in the **Federal Register** on August 8, 2002 (Docket HM-220D, 67 FR 51626). Two commenters requested we incorporate by reference the ASTM E 114-95 (2001) test method and the ASTM E 213-02 to reflect the latest version of these standards. Because we did not propose to incorporate the newer editions of these standards in the NPRM, we are not incorporating them at this time. These standards may be considered for incorporation by reference in a future rulemaking.

We are also adding the Chlorine Institute's booklets entitled "Chlorine Institute Emergency Kit 'A' for 100-lb. & 150-lb. Chlorine Cylinders" and "Chlorine Institute Emergency Kit 'B' for Chlorine Ton Containers". (See § 173.3 preamble discussion.)

##### Section 171.15

In the NPRM we proposed to move a shipper requirement to notify the Bureau of Explosives (BOE) whenever a rail car containing a time-sensitive product is not received by the consignee within 20 days from shipment from

§§ 173.314(g)(1) and 173.319(a)(3) to § 171.15. We also proposed to require notification to the Federal Railroad Administration (FRA) instead of the BOE by “the person with knowledge (shipper or carrier).” Commenters generally supported notification to the FRA, however, two commenters opposed moving the reporting requirements into § 171.15 because “the reporting requirement for late delivery of time sensitive materials does not meet the criteria of reporting under § 171.15.” The commenters opposed assignment of the reporting responsibility to “the person with knowledge (shipper or carrier)” and said this language is not specific enough and could cause “instances of noncompliance” where the shipper believes the carrier is the “person with knowledge” and vice versa. Commenters are also divided on who should be assigned the reporting responsibility. Some commenters want the responsibility assigned to the shipper, others to the carrier. Another commenter objected to having to choose from multiple telephone numbers depending on time of day to report these late shipments. Based on valid concerns from commenters that the reporting requirements for late shipments do not fit the reporting criteria under § 171.15 and the various other issues raised by commenters that we need to further review, we are not adopting this proposal at this time.

#### Part 172

##### Section 172.101

We are amending the entry for “Butylene” by adding a limited quantity exception for compressed gases (*see* § 173.306) in column (8A) of the Hazardous Materials Table (HMT). This amendment corrects an oversight in previous rulemakings and is consistent with the entries for “Petroleum gases, liquefied” and other hydrocarbons.

We are adding a new domestic entry for “Cartridges power devices, ORM-D” to the HMT for consistency with the packaging exceptions authorized in § 173.63(b). This entry is limited to those cartridges, small arms and cartridges power devices which are authorized to be reclassified and shipped as ORM-D in § 173.63(b)(1).

For Zone B Toxic Inhalation Hazard entries with ID numbers UN3303, UN3304, UN3305, UN3306, UN3307, UN3308, UN3309, and UN3310, we are amending the HMT by adding Special Provisions B9 and B14; and for Zone C Toxic Inhalation Hazard entries with the same ID numbers, we are adding Special Provision B14. The special provisions

were inadvertently omitted in previous rulemakings.

In the NPRM, we proposed to remove the letter “I” in column (1) of the HMT for compressed gas entries with ID numbers UN 3304, UN 3305, and UN 3306 and liquefied gas entries with ID numbers UN 3308, UN 3309 and UN 3310. The letter “I” identifies proper shipping names which are appropriate for describing materials in international transportation. A commenter pointed out that removal of the letter “I” in column 1 of the HMT from these Division 2.3 materials, which show a Class 8 subsidiary hazard, is inappropriate because the definition of Class 8 in § 173.136 is limited to solid and liquid materials. A Class 8 subsidiary hazard for Division 2.3 materials is only prescribed under international regulations. RSPA agrees with the commenter; therefore, this proposal is not adopted.

For the entry “Liquefied gas, toxic, oxidizing, corrosive, n.o.s.” Hazard Zones B, C and D, we are correcting a typographical error in the subsidiary labeling requirements by removing the Division 2.1 label requirement and adding the Division 5.1 label in its place.

We are revising the entry for “Gas sample, non-pressurized, toxic, n.o.s., UN 3169” by adding Special Provision 6 in column (7) of the HMT. The entry is classed as a Division 2.3 poisonous gas and must be described as an inhalation hazard under the provisions of the HMR. A commenter pointed out that the entry “Gas sample, non-pressurized, toxic, flammable, n.o.s., UN 3168” which is also a Division 2.3 gas and must be described as an inhalation hazard material, should also be assigned Special Provision 6. We agree with the commenter and are revising the entry for “Gas sample, non-pressurized, toxic, flammable, n.o.s., UN 3168” in the HMT accordingly.

##### Section 172.504

We are revising paragraph (d) to clarify that the placarding exception for non-bulk packagings containing only the residue of a hazardous material covered by table 2 does not apply to materials subject to the subsidiary placarding requirements in § 172.505 (*e.g.*, poison inhalation hazard). A material subject to the subsidiary placarding requirements in § 172.505 requires placarding for the subsidiary hazard in addition to any other required placards regardless of quantity.

#### Part 173

##### Section 173.3

We are revising § 173.3 to allow a DOT 3A480 or 3AA480 cylinder containing chlorine or sulphur dioxide (both materials poisonous by inhalation) that has developed a leak in the valve or fusible plug to be temporarily repaired using a Chlorine Institute Emergency Kit “A” and be transported by private or contract carrier one time, one way, from the point of discovery to the appropriate facility for discharge and examination. Similarly, we are allowing a DOT 106A500 multi-unit tank car tank containing chlorine or sulphur dioxide that has developed a leak in the valve or fusible plug to be temporarily repaired using a Chlorine Institute Emergency Kit “B.” We have authorized the use of the kits under the exemption program for several years with satisfactory shipping experience. Adopting these exemption provisions into the regulations will eliminate the need for an exemption and facilitate the movement of affected containers to appropriate facilities. We are also correcting a typographical error in the paragraph (d) heading to read “DOT 106A500” instead of “DOT 105A500”. The commenters supported the proposal; however, several commenters requested that use of the “A” and “B” kits be extended to other specification packagings as well as to other compressed gases. Our proposal in the NPRM is based on a satisfactory shipping record under the exemption program using the “A” kits to temporarily repair leaking 3A480 and 3AA480 cylinders and the “B” kits to temporarily repair DOT 106A500 multi-unit tank car tanks containing chlorine or sulphur dioxide. Therefore, we are adopting the amendment as proposed. While other materials might develop a satisfactory shipping record if tested, neither RSPA nor FRA is aware of significant experience in the use of “A” or “B” kits for commodities other than chlorine or sulphur dioxide or for containers other than the specification 3A480/3AA480 cylinders or DOT 106A500 multi-unit tank car tanks. Proponents of this expansion have not presented sufficient or convincing evidence to substantiate a more extensive amendment to the HMR. Including other types of packagings and materials is outside the scope of this rulemaking and may be considered in a future rulemaking.

##### Section 173.12

We are revising § 173.12(c) to authorize the reuse of packagings for shipments of all wastes, not just waste

materials subject to EPA waste manifest requirements, to designated facilities. This includes shipments of spent/waste materials which are being returned to or shipped to an EPA licensed and certified Storage or Disposal facility, but are not subject to the Uniform Hazardous Waste Manifest requirements of the U.S. Environmental Protection Agency.

#### Section 173.29

We are revising paragraph (c) to clarify that the placarding exceptions for non-bulk packages containing only the residue of a § 172.504 Table 2 material do not apply to materials subject to the subsidiary placarding requirements in § 172.505. A material subject to the subsidiary placarding requirements in § 172.505 requires placarding for the subsidiary hazard in addition to any other required placards regardless of quantity.

#### Section 173.31

We are adding a new paragraph authorizing the continued use of existing DOT-103 and 104 tank cars, if they meet all applicable requirements. No new construction of these tanks is authorized. We are also revising paragraph (b)(2)(ii) for clarity by removing the reference to "Chloroprene, inhibited" since Special Provision B57 addresses the requirements for chloroprene in class DOT-115A tank cars, and by removing the last sentence since "breather holes" are not authorized in the HMR. In addition, we are revising paragraph (b)(5) to reflect changes to Appendix Y of the AAR Specifications for Tank Cars. This change recognizes the 2000 edition of Appendix Y in the AAR Tank Car Manual.

#### Section 173.35

In paragraph (b), we are adding, for purposes of clarification, a parenthetical cross-reference to § 180.352 that contains detailed requirements for retest and inspection of IBCs.

#### Section 173.50

We are adding a statement indicating that pyrotechnic substances and articles are considered explosives unless otherwise classed. The definition of "explosive" in § 173.50 previously did not specifically include pyrotechnics.

#### Section 173.54

We are revising paragraph (c) to forbid offering for transportation a leaking or damaged article, even if not in a package. This is in addition to the existing prohibition of offering a leaking

or damaged package of explosives for transportation.

#### Section 173.62

We are revising paragraph (c), in the table of Packing Methods, to clarify that Packing Instruction 132(a) applies to articles with closed casings and Packing Instruction 132(b) applies to articles without closed casings.

#### Section 173.314

We are removing the wording "safety relief" and adding the wording "reclosing pressure relief" in its place in paragraphs (k) and (m) for consistency.

#### Section 173.315

Currently, the HMR appear to require that cargo tank motor vehicles (CTMVs) that transport Division 2.2 materials with a subsidiary hazard, Division 2.1 materials, and anhydrous ammonia in both metered and other than metered delivery service must be equipped with both a passive and an off-truck remote means of emergency discharge control. We are revising § 173.315(n)(1)(vi) to permit CTMVs in both metered and other than metered delivery service, with capacities of more than 3,500 water gallons, used to transport Division 2.2 materials with a subsidiary hazard, Division 2.1 materials, and anhydrous ammonia to be equipped with only a passive means of emergency discharge control, provided that the system functions for both metered and non-metered deliveries. If the system functions only for non-metered deliveries, then the CTMV must also be equipped with an off-truck remote emergency discharge control system.

#### Section 173.320

We are amending paragraph (a)(2) by adding the requirements in subparts G (Emergency Response Information) and H (Training) of part 172 for transportation of cryogenic liquids by rail or highway. We never intended to except shipments of cryogenic liquids from these requirements.

#### Part 177

#### Section 177.834

We are amending § 177.834(a) to require that any packaging containing a hazardous material, regardless of Class or Division, be secured against movement if the packaging is not permanently attached to a motor vehicle. We are also incorporating into paragraph (a) the closely related requirements in § 177.834(g) to prevent relative motion between the hazardous material packages themselves and between packages and the vehicle and to ensure that packages that have valves

or other fittings be loaded in a manner that minimizes the likelihood of damage during transportation to the valves, other fittings or, as clarified in this final rule, other hazardous materials packages. Securement of packages containing hazardous materials to prevent movement during transportation reduces the potential for damage to packages and thus, enhances transportation safety.

Also, for consistency with similar requirements in Parts 174, 175, and 176, we are adding a new paragraph (b) to clarify that packages bearing orientation markings must be loaded in such a way that they remain in the correct position as indicated by the markings.

#### Section 177.835

Currently § 177.835 prohibits carrying a Division 1.1 or Division 1.2 material on any vehicle or a combination of vehicles if the other vehicle is carrying a Division 2.3 or Division 6.1 material. The segregation table in § 177.848 restricts loading and transporting of a Division 1.1 or 1.2 material with a material in Division 2.3, Hazard Zone A or B, and in Division 6.1, PG I, Hazard Zone A. For consistency with the provisions in § 177.848(d), we are revising § 177.835(c)(4)(iii) to limit the segregation restriction for a Division 1.1 or Division 1.2 explosive material to Division 2.3 materials in Hazard Zone A or B and to Division 6.1, PG I materials in Hazard Zone A.

#### Section 177.837

We are amending paragraph (a) to permit the diesel engine of a cargo tank motor vehicle to be running during loading and unloading of Class 3 materials if the ambient temperature is at or below  $-12\text{ }^{\circ}\text{C}$  ( $10\text{ }^{\circ}\text{F}$ ). A motor vehicle's diesel engine is very difficult to restart if the engine is turned off in extremely cold weather for loading or unloading of product. Leaving a motor vehicle engine running in ambient temperatures of below  $-12\text{ }^{\circ}\text{C}$  ( $10\text{ }^{\circ}\text{F}$ ) enhances operating benefits without compromising safety.

#### Section 177.841

We are revising paragraph (e) to expand the prohibition of transporting packagings bearing or required to bear a POISON or POISON INHALATION HAZARD label to include packagings that are placarded or required to be placarded POISON or POISON INHALATION HAZARD. Under § 172.514(c) certain small bulk packagings may either be placarded or labeled.

*Part 178*

## Section 178.45

We are revising paragraph (h) to authorize use of the ASTM E 114 test method for straight beam examinations on the tubular surface of cylinders and tubes as stated earlier in this preamble in the discussion to § 171.7.

*Part 179*

We are removing the specifications and all references to class DOT-103 and 104 tanks cars from this part since new construction of these tank cars is no longer authorized. (Continued use of class DOT-103 and 104 tank cars is authorized in §§ 173.31 and 180.507.)

## Section 179.1

Paragraph (a) implies that only tanks used to transport hazardous materials are subject to the jurisdiction of DOT. For consistency with §§ 171.2(c) and 180.3(a), we are revising paragraph (a) to clarify that any tank represented as a DOT specification tank, even when used to transport non-regulated commodities, is subject to the HMR.

## Section 179.3

We are revising § 179.3 for clarity.

## Section 179.5

We are revising this section by removing an obsolete requirement to furnish a Certificate of Construction to DOT.

## Section 179.7

In paragraph (f), we are removing an outdated compliance date.

## Section 179.100-13

In paragraphs (b) and (c), we are adding, for purposes of clarification, a reference to § 173.314(j), which contains excess flow valve requirements for flammable gases.

*Part 179 Subpart D*

In the heading for Subpart D, we are removing the reference to class DOT-103 and DOT-104 tank cars.

## Section 179.200

In the section heading, we are removing the reference to class DOT-103 and DOT-104 tank cars.

## Section 179.200-14

In the NPRM, we proposed to remove the reference to class DOT-103 and DOT-104 tank cars in paragraph (a). In this section, for the convenience of HMR readers, because the continued use of Class DOT 103 and 104 tank cars is authorized, we are not adopting this proposal.

## Section 179.200-23

We are amending the section heading by removing the words "safety relief" and adding "pressure relief" in their place.

## Section 179.200-24

We are amending the table by removing the reference to a class DOT-103W tank car and adding a reference to a class DOT-111A tank car in its place.

## Section 179.201-1

We are amending the table by removing the entries for class DOT-103 and DOT-104 tank cars because new construction of these tank cars is no longer authorized. (Continued use of class DOT-103 and 104 tank cars is authorized in §§ 173.31 and 180.507.)

## Section 179.201-2

Section 179.201-2 addresses minimum plate thickness for DOT specification tank cars that may no longer be constructed. Therefore, § 179.201-2 is removed and reserved.

## Section 179.201-3

We are amending paragraph (b) by removing the reference to DOT-103 tank cars.

## Section 179.300-17

In this final rule, in § 171.7 we are amending the "Table of material incorporated by reference" by updating the entry for the AAR Specifications for Tank Cars from the 1996 edition to the 2000 edition. See § 171.7 preamble discussion. Therefore, we are amending paragraph (b) for clarity and removing the reference to the January 1996 edition of the AAR Specifications for Tank Cars.

*Part 180*

## Section 180.209

In this final rule, we are incorporating by reference CGA Pamphlet C-13, Guidelines for Periodic Visual Inspection and Requalification of Acetylene Cylinders (see § 171.7 preamble). CGA Pamphlet C-13 changes the time parameters for requalification of the porous mass of acetylene cylinders from "no sooner than 3 years" to "no sooner than 5 years." Consequently, we are also revising paragraph § 180.209(i) to reflect this change.

## Section 180.507

We are adding a new paragraph authorizing the continued use of DOT 103 and 104 tank cars, which may no longer be constructed.

**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. Therefore, it was not reviewed by the Office of Management and Budget (OMB), and a regulatory assessment was not required for OMB. This final rule is not considered to be significant under the Regulatory Policies and Procedures order issued by the U.S. Department of Transportation (44 FR 11034) and, therefore, a Regulatory Analysis under the DOT order is not required.

In this final rule, we are amending miscellaneous provisions in the HMR to clarify the provisions and to relax requirements where warranted; responding to requests from industry associations to update references to standards that are incorporated in the HMR, and making certain technical corrections. These changes will enhance safety. The impact of these amendments is believed to be so minimal that a regulatory evaluation is not warranted. In the NPRM, we invited public comments on any impacts of the proposed changes. We did not receive any comments regarding the impacts of these changes.

*B. Executive Order 13132*

This final rule was analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). Federal law expressly preempts State, local, and Indian tribe requirements, applicable to the transportation of hazardous materials, that cover certain subjects and are not substantively the same as the Federal requirements. 49 U.S.C. 5125(b)(1). These subjects are:

- (i) The designation, description, and classification of hazardous materials;
- (ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;
- (iii) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, content, and placement of those documents;
- (iv) The written notification, recording, and reporting of the unintentional release in transportation of hazardous materials; or
- (v) The design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or container which is represented, marked, certified, or sold as qualified for use in the transport of hazardous materials.

This final rule concerns the classification, packaging, marking, labeling, and handling of hazardous materials, among other covered subjects and preempts any State, local, or Indian tribe requirements concerning these subjects unless the non-Federal requirements are "substantively the same" (see 49 CFR 107.202(d)) as the Federal requirements.

Federal hazardous materials transportation law provides at 49 U.S.C. 5125(b)(2) that if RSPA issues a regulation concerning any of the covered subjects, RSPA must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. The effective date of preemption is 90 days from the publication of this final rule in the **Federal Register**.

#### C. 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 have tribal implications, does not impose substantial direct compliance costs on Indian tribal governments, and does not preempt tribal law, the funding and consultation requirements of Executive Order 13175 do not apply, and a tribal summary impact statement is not required.

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

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities. An agency must conduct a regulatory flexibility analysis unless it determines and certifies that a rule is not expected to have a significant impact on a substantial number of small entities. This final rule amends miscellaneous provisions in the HMR to clarify provisions based on our own initiative and also on petitions for rulemaking. While maintaining safety, it relaxes certain requirements that are overly burdensome and updates references to consensus standards that are incorporated in the HMR.

These amendments are generally intended to provide relief to shippers, carriers, and packaging manufacturers, including small entities. In addition, we are updating references to standards that are incorporated in the HMR; industry associations, representing large and small entities, requested these changes.

This final rule enhances safety, and I certify that this final rule does not have a significant economic impact on a substantial number of small entities.

This final rule 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 that potential impacts of draft rules on small entities are properly considered.

#### E. Paperwork Reduction Act

There are no new information collection requirements in this final rule.

#### F. Unfunded Mandates Reform Act

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 to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule.

#### G. Environmental Assessment

There are no significant environmental impacts associated with this final rule. An environmental assessment is available in the docket for this rulemaking. We received no comments concerning environmental impacts.

#### H. 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.

#### List of Subjects

##### 49 CFR Part 171

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

##### 49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, 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 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

##### 49 CFR Part 178

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

##### 49 CFR Part 179

Hazardous materials transportation, Railroad safety, Reporting and recordkeeping requirements.

##### 49 CFR Part 180

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

■ In consideration of the foregoing, 49 CFR Chapter I is 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. 5101–5127; 49 CFR 1.53.

■ 2. In § 171.7, in the paragraph (a)(3) table:

■ a. Under the entry "American Pyrotechnics Association (APA)," the entry is revised;

■ b. Under the entry "American Society for Testing and Materials," a new entry is added in appropriate alphabetical order;

■ c. Under the entry "Association of American Railroads," the first entry is removed and the second entry is revised;

■ d. Under the entry "Chlorine Institute, Inc.," two new entries are added in appropriate alphabetical order;

■ e. Under the entry "Compressed Gas Association, Inc.," the entries for pamphlets C–6.2, C–11, C–13, and S–1.1 are revised;

■ f. Under the entry "National Fire Protection Association," the entry is revised.

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>American Pyrotechnics Association (APA)</i>	
APA Standard 87-1, Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, December 1, 2001 version.	173.56
<i>American Society for Testing and Materials</i>	
ASTM E 114-95 Standard Practice for Ultrasonic Pulse-Echo Straight-Beam Examination by the Contact Method.	178.45
<i>Association of American Railroads</i>	
AAR Manual of Standards and Recommended Practices, Section C—Part III, Specifications for Tank Cars, Specification M-1002, December 2000.	173.31, 174.63, 179.6, 179.7, 179.12, 179.15, 179.16, 179.20, 179.22, 179.100, 179.101, 179.102, 179.103, 179.200, 179.201, 179.220, 179.300, 179.400, 180.509, 180.513, 180.515, 180.517.
<i>Chlorine Institute, Inc.</i>	
Chlorine Institute Emergency Kit "A" for 100-lb. & 150-lb. Chlorine Cylinders (with the exception of repair method using Device 8 for side leaks), Edition 9, June 2000.	173.3
Chlorine Institute Emergency Kit "B" for Chlorine Ton Containers (with the exception of repair method using Device 9 for side leaks) Edition 8, June 1996.	173.3
<i>Compressed Gas Association, Inc.</i>	
CGA Pamphlet C-6.2, Guidelines for Visual Inspection and Requalification of Fiber Reinforced High Pressure Cylinders, 1996, Third Edition.	180.205
CGA Pamphlet C-11, Recommended Practices for Inspection of Compressed Gas Cylinders at Time of Manufacture, 2001, Third Edition.	178.35
CGA Pamphlet C-13, Guidelines for Periodic Visual Inspection and Requalification of Acetylene Cylinders, 2000, Fourth Edition.	173.303, 180.205, 180.209
CGA Pamphlet S-1.1, Pressure Relief Device Standards—Part 1—Cylinders for Compressed Gases, 2001 (with the exception of paragraph 9.1.1.1), Ninth Edition.	173.301, 173.304a
<i>National Fire Protection Association</i>	
NFPA 58-Liquefied Petroleum Gas Code, 2001 Edition	173.315

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

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

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

■ 4. In § 172.101, the Hazardous Materials Table is amended by adding and revising, in the appropriate alphabetical sequence, the following entries to read as follows:

§ 172.101 HAZARDOUS MATERIALS TABLE

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions	(8) Packaging (§ 173.***)			(9) Quantity limitations		(10) Vessel stowage	
							Excep-tions	Non-bulk	Bulk	Passenger aircraft/ rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
[ADD:]		*		*	*	*	*	*	*	*	*	*	*
D	Cartridges power devices (used to project fastening devices).	ORM-D			None		63	None	None	30 kg gross	30 kg gross	A	
[REVISE:]		*		*	*	*	*	*	*	*	*	*	*
	Butylene see also Petroleum gases, liquefied.	2.1	UN1012		2.1	19, T50	306	304	314, 315.	Forbidden	150 kg	E	40
GI	Compressed gas, toxic, corrosive, n.o.s. Inhalation Hazard Zone B.	2.3	UN3304		2.3, 8	2, B9, B14	None	302, 305.	314, 315.	Forbidden	Forbidden	D	40
GI	Compressed gas, toxic, corrosive, n.o.s. Inhalation Hazard Zone C.	2.3	UN3304		2.3, 8	3, B14	None	302, 305.	314, 315.	Forbidden	Forbidden	D	40
GI	Compressed gas, toxic, flammable, corrosive, n.o.s. Inhalation Hazard Zone B.	2.3	UN3305		2.3, 2.1, 8	2, B9, B14	None	302, 305.	314, 315.	Forbidden	Forbidden	D	17, 40
GI	Compressed gas, toxic, flammable, corrosive, n.o.s. Inhalation Hazard Zone C.	2.3	UN3305		2.3, 2.1, 8	3, B14	None	302, 305.	314, 315.	Forbidden	Forbidden	D	17, 40
GI	Compressed gas, toxic, oxidizing, corrosive, n.o.s. Inhalation Hazard Zone B.	2.3	UN3306		2.3, 5.1, 8	2, B9, B14	None	302, 305.	314, 315.	Forbidden	Forbidden	D	40, 89, 90
GI	Compressed gas, toxic, oxidizing, corrosive, n.o.s. Inhalation Hazard Zone C.	2.3	UN3306		2.3, 5.1, 8	3, B14	None	302, 305.	314, 315.	Forbidden	Forbidden	D	40, 89, 90
G	Compressed gas, toxic, oxidizing, n.o.s. Inhalation Hazard Zone B.	2.3	UN3303		2.3, 5.1	2, B9, B14	None	302, 305.	314, 315.	Forbidden	Forbidden	D	40
G	Compressed gas, toxic, oxidizing, n.o.s. Inhalation Hazard Zone C.	2.3	UN3303		2.3, 5.1	3, B14	None	302, 305.	314, 315.	Forbidden	Forbidden	D	40
	Gas sample, nonpressurized, toxic, flammable, n.o.s., not refrigerated liquid.	2.3	UN3168		2.3, 2.1	6	306	302	None	Forbidden	1 L	D	
	Gas sample, nonpressurized, toxic, n.o.s., not refrigerated liquid.	2.3	UN3169		2.3	6	306	302, 304.	None	Forbidden	1 L	D	
GI	Liquefied gas, toxic, corrosive, n.o.s. Inhalation Hazard Zone B.	2.3	UN3308		2.3, 8	2, B9, B14	None	304	314, 315.	Forbidden	Forbidden	D	40
GI	Liquefied gas, toxic, corrosive, n.o.s. Inhalation Hazard Zone C.	2.3	UN3308		2.3, 8	3, B14	None	304	314, 315.	Forbidden	Forbidden	D	40
GI	Liquefied gas, toxic, flammable, corrosive, n.o.s. Inhalation Hazard Zone B.	2.3	UN3309		2.3, 2.1, 8	2, B9, B14	None	304	314, 315.	Forbidden	Forbidden	D	17, 40
GI	Liquefied gas, toxic, flammable, corrosive, n.o.s. Inhalation Hazard Zone C.	2.3	UN3309		2.3, 2.1, 8	3, B14	None	304	314, 315.	Forbidden	Forbidden	D	17, 40
GI	Liquefied gas, toxic, oxidizing, corrosive, n.o.s. Inhalation Hazard Zone B.	2.3	UN3310		2.3, 5.1, 8	2, B9, B14	None	304	314, 315.	Forbidden	Forbidden	D	40, 89, 90
GI	Liquefied gas, toxic, oxidizing, corrosive, n.o.s. Inhalation Hazard Zone C.	2.3	UN3310		2.3, 5.1, 8	3, B14	None	304	314, 315.	Forbidden	Forbidden	D	40, 89, 90
GI	Liquefied gas, toxic, oxidizing, corrosive, n.o.s. Inhalation Hazard Zone D.	2.3	UN3310		2.3, 5.1, 8	4	None	304	314, 315.	Forbidden	Forbidden	D	40, 89, 90
G	Liquefied gas, toxic, oxidizing, n.o.s. Inhalation Hazard Zone B.	2.3	UN3307		2.3, 5.1	2, B9, B14	None	304	314, 315.	Forbidden	Forbidden	D	40
G	Liquefied gas, toxic, oxidizing, n.o.s. Inhalation Hazard Zone C.	2.3	UN3307		2.3, 5.1	3, B14	None	304	314, 315.	Forbidden	Forbidden	D	40

■ 5. In § 172.504, paragraph (d) is revised to read as follows:

**§ 172.504 General placarding requirements.**

\* \* \* \* \*

(d) *Exception for empty non-bulk packages.* Except for hazardous materials subject to § 172.505, a non-bulk packaging that contains only the residue of a hazardous material covered by Table 2 of paragraph (e) of this section need not be included in determining placarding requirements.

\* \* \* \* \*

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

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

**Authority:** 49 U.S.C. 5101–5127; 44701; 34 CFR 1.45, 1.53.

■ 7. In § 173.3, a new paragraph (d) is added to read as follows:

**§ 173.3 Packaging and exceptions.**

\* \* \* \* \*

(d) *Emergency transportation of DOT 3A480 or 3AA480 cylinders and DOT 106A500 multi-unit tank car tanks.* (1) A DOT 3A480 or DOT 3AA480 cylinder containing chlorine or sulphur dioxide that has developed a leak in a valve or fusible plug may be repaired temporarily by trained personnel using a Chlorine Institute Kit “A” (IBR, see § 171.7 of this subchapter). The repaired cylinder is authorized to be transported by private or contract carrier one time, one way, from the point of discovery to a proper facility for discharge and examination.

(2) A DOT 106A500 multi-unit tank car tank containing chlorine or sulphur dioxide that has developed a leak in the valve or fusible plug may be temporarily repaired by trained personnel using a Chlorine Institute Kit “B” (IBR, see § 171.7 of this subchapter). The repaired tank is authorized to be transported by private or contract carrier one time, one way, from the point of discovery to a proper facility for discharge and examination.

(3) Training for personnel making the repairs in paragraphs (d)(1) and (d)(2) of this section must include:

(i) Proper use of the devices and tools in the applicable kits;

(ii) Use of respiratory equipment and all other safety equipment; and

(iii) Knowledge of the properties of chlorine and sulphur dioxide.

(4) Packagings repaired with “A” or “B” kits must be properly blocked and braced to ensure the packagings are secured in the transport vehicle.

■ 8. In § 173.12, paragraph (c) introductory text is revised to read as follows:

**§ 173.12 Exceptions for shipments of waste materials.**

\* \* \* \* \*

(c) *Reuse of packagings.* A previously used packaging may be reused for the shipment of waste material transported for disposal or recovery, not subject to the reconditioning and reuse provisions contained in § 173.28 and part 178 of this subchapter, under the following conditions:

\* \* \* \* \*

■ 9. In § 173.29, paragraph (c) introductory text is revised to read as follows:

**§ 173.29 Empty packagings.**

\* \* \* \* \*

(c) Except for hazardous materials subject to § 172.505, a non-bulk packaging containing only the residue of a hazardous material covered by table 2 of § 172.504 of this subchapter—

\* \* \* \* \*

■ 10. In § 173.31, a new paragraph (a)(7) is added, and paragraphs (b)(2)(ii) and the last sentence of (b)(5) are revised to read as follows:

**§ 173.31 Use of tank cars.**

(a) \* \* \*

(7) A class DOT–103 or DOT–104 tank car may continue to be used for the transportation of a hazardous material if it meets the requirements of this subchapter and the design requirements in Part 179 of this subchapter in effect on September 30, 2003; however, no new construction is authorized.

(b) \* \* \*

(2) \* \* \*

(ii) A single-unit tank car transporting a Division 6.1 PG I or II, or Class 2, 3, or 4 material must have a reclosing pressure relief device. However, a single-unit tank car built before January 1, 1991, and equipped with a non-reclosing pressure relief device may be used to transport a Division 6.1 PG I or II material or a Class 4 liquid provided

such materials do not meet the definition of a material poisonous by inhalation.

\* \* \* \* \*

(b) \* \* \*

(5) \* \* \* Tank cars modified before July 1, 1996, may conform to the bottom-discontinuity protection requirements of appendix Y, instead of paragraphs E9.00 or E10.00 of the AAR Specifications for Tank Cars.

\* \* \* \* \*

**§ 173.35 [Amended]**

■ 11. In § 173.35, in paragraph (b), the wording “Initial use and reuse of IBCs.” is removed and the wording “*Initial use and reuse of IBCs.*” is added in its place.

■ 12. In § 173.50, paragraph (a) is revised to read as follows:

**§ 173.50 Class 1—Definitions.**

(a) *Explosive.* For the purposes of this subchapter, an *explosive* means any substance or article, including a device, which is designed to function by explosion (*i.e.*, an extremely rapid release of gas and heat) or which, by chemical reaction within itself, is able to function in a similar manner even if not designed to function by explosion, unless the substance or article is otherwise classed under the provisions of this subchapter. The term includes a pyrotechnic substance or article, unless the substance or article is otherwise classed under the provisions of this subchapter.

\* \* \* \* \*

■ 13. In § 173.54, paragraph (c) is revised to read as follows:

**§ 173.54 Forbidden explosives.**

\* \* \* \* \*

(c) A leaking or damaged package or article containing an explosive.

\* \* \* \* \*

■ 14. In § 173.62, paragraph (c) introductory text and in the Table of Packing Methods, in column 1, Packing Instructions 132(a) and 132(b) are revised to read as follows:

**§ 173.62 Specific packaging requirements for explosives.**

\* \* \* \* \*

(c) Explosives must be packaged in accordance with the following table:

\* \* \* \* \*

TABLE OF PACKING METHODS

Packing instruction	Inner packagings	Intermediate packagings	Outer packagings
---------------------	------------------	-------------------------	------------------

TABLE OF PACKING METHODS—Continued

Packing instruction	Inner packagings	Intermediate packagings	Outer packagings
132(a) For articles consisting of closed metal, plastic or fiberboard casings that contain detonating explosives, or consisting of plastics-bonded detonating explosives.	Not necessary	Not necessary	Boxes.—steel (4A); aluminum (4B); wood, natural; ordinary (4C1); wood, natural, sift proof walls (4C2); plywood (4D); reconstituted wood (4F); fiberboard (4G); plastics, solid (4H2).
132(b) For articles without closed casings	Receptacles fiberboard metal plastics. Sheets paper plastics.	Not necessary	Boxes steel (4A); aluminum (4B); wood, natural, ordinary (4C1); wood, natural, sift proof walls (4C2); plywood (4D); reconstituted wood (4F); fiberboard (4G); plastics, solid (4H2).

§ 173.314 [Amended]

■ 15. In § 173.314, the following changes are made:

■ a. In paragraph (k), the wording “safety relief” is removed and the wording “reclosing pressure relief” is added in its place;

■ b. In paragraph (m), the wording “safety relief” is removed and the wording “reclosing pressure relief” is added each place it appears, and in the last sentence, the wording “Safety relief”

is removed and the wording “Reclosing pressure relief” is added in its place.

■ 16. In § 173.315, paragraphs (j)(2) and (k)(4) are revised and in the paragraph (n)(1) table, paragraph (vi) is added to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tanks.

(j) (2) Each container must be equipped with safety devices in compliance with the requirements for safety devices on

containers as specified in NFPA 58 (IBR, see § 171.7 of this subchapter).

(k) (4) It must conform to the applicable provisions of NFPA 58, except to the extent that provisions in NFPA 58 are inconsistent with requirements in parts 178 and 180 of this subchapter.

(n) Emergency discharge control for cargo tank motor vehicles in liquefied compressed gas service.—(1)

§ 173.315(n)(1)(*)	Material	Delivery service	Required emergency discharge control capability
(vi)	Division 2.2 materials with a subsidiary hazard, Division 2.1 materials, and anhydrous ammonia in a cargo tank with a capacity of greater than 13,247.5 L (3,500 water gallons).	Both metered delivery and other than metered delivery service.	Paragraph (n)(2) of this section, provided the system operates for both metered and other than metered deliveries; otherwise, paragraphs (n)(2) and (n)(3) of this section.

■ 17. In § 173.320, paragraph (a)(2) is revised to read as follows:

§ 173.320 Cryogenic liquids, exceptions.

(2) Subparts A, B, C, D, G and H of part 172, (§§ 174.24 for rail and 177.817 for highway) and in addition, part 172 in its entirety for oxygen.

PART 177—CARRIAGE BY PUBLIC HIGHWAY

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

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

■ 19. In § 177.834, paragraph (a) is revised, paragraph (b) is added, and

paragraph (g) is reserved, to read as follows:

§ 177.834 General requirements.

(a) Packages secured in a motor vehicle. Any package containing any hazardous material, not permanently attached to a motor vehicle, must be secured against movement, including relative motion between packages, within the vehicle on which it is being transported, under conditions normally incident to transportation. Packages having valves or other fittings must be loaded in a manner to minimize the likelihood of damage during transportation.

(b) Each package containing a hazardous material bearing package orientation markings prescribed in § 172.312 of this subchapter must be loaded on a transport vehicle or within a freight container in accordance with

such markings and must remain in the correct position indicated by the markings during transportation.

(g) [Reserved]

■ 20. In § 177.835, the section heading and paragraph (c)(4)(iii) are revised to read as follows:

§ 177.835 Class 1 materials.

(c) (4) (iii)

(iii) Division 2.3, Hazard Zone A or Hazard Zone B materials or Division 6.1, PG I, Hazard Zone A materials, or

■ 21. In § 177.837, the section heading and paragraph (a) are revised to read as follows:

**§ 177.837 Class 3 materials.**

\* \* \* \* \*

(a) *Engine stopped.* Unless the engine of a cargo tank motor vehicle is to be used for the operation of a pump, Class 3 material may not be loaded into, or on, or unloaded from any cargo tank motor vehicle while the engine is running. The diesel engine of a cargo tank motor vehicle may be left running during the loading and unloading of a Class 3 material if the ambient atmospheric temperature is at or below  $-12^{\circ}\text{C}$  ( $10^{\circ}\text{F}$ ).

\* \* \* \* \*

■ 22. In § 177.841, the section heading and paragraph (e)(1) are revised to read as follows:

**§ 177.841 Division 6.1 and Division 2.3 materials.**

\* \* \* \* \*

(e) \* \* \*

(1) Except as provided in paragraph (e)(3) of this section, bearing or required to bear a POISON or POISON INHALATION HAZARD label or placard in the same motor vehicle with material that is marked as or known to be foodstuffs, feed or edible material intended for consumption by humans or animals unless the poisonous material is packaged in accordance with this subchapter and is:

\* \* \* \* \*

**PART 178—SPECIFICATIONS FOR PACKAGINGS**

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

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

■ 24. In § 178.45, in paragraph (h) introductory text, the first sentence is revised to read as follows:

**§ 178.45 Specification 3T seamless steel cylinder.**

\* \* \* \* \*

(h) *Ultrasonic examination.* After the hydrostatic test, the cylindrical section of each vessel must be examined in accordance with ASTM Standard E 213 for shear wave and E 114 for straight beam (IBR, *see* § 171.7 of this subchapter). \* \* \*

\* \* \* \* \*

**PART 179—SPECIFICATIONS FOR TANK CARS**

■ 25. The authority citation for part 179 continues to read as follows:

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

■ 26. In § 179.1, paragraph (a) is revised to read as follows:

**§ 179.1 General.**

(a) This part prescribes the specifications for tanks that are to be mounted on or form part of a tank car and which are to be marked with a DOT specification.

\* \* \* \* \*

■ 27. In 179.3, paragraphs (b) and (c) are revised to read as follows:

**§ 179.3 Procedure for securing approval.**

\* \* \* \* \*

(b) When, in the opinion of the Committee, such tanks or equipment are in compliance with the requirements of this subchapter, the application will be approved.

(c) When such tanks or equipment are not in compliance with the requirements of this subchapter, the Committee may recommend service trials to determine the merits of a change in specifications. Such service trials may be conducted only if the builder or shipper applies for and obtains an exemption.

■ 28. § 179.5 is amended as follows:

■ a. In paragraph (a), the wording “owner, the Department, and” is removed and the wording “owner and” is added in its place;

■ b. In paragraph (b), the last sentence is removed;

■ c. In paragraph (d), in the first sentence, the word “Secretary” is removed and the wording “Executive Director—Tank Car Safety, AAR” is added in its place and in the second sentence, the wording “Bureau of Explosives” is removed and the wording “Executive Director—Tank Car Safety, AAR” is added in its place; and

■ d. Paragraph (c) is revised to read as follows:

**§ 179.5 Certificate of construction.**

\* \* \* \* \*

(c) If the owner elects to furnish service equipment, the owner shall furnish the Executive Director—Tank Car Safety, AAR, a report in prescribed form, certifying that the service equipment complies with all the requirements of the specifications.

\* \* \* \* \*

■ 29. In § 179.7, paragraph (f) is revised to read as follows:

**§ 179.7 Quality assurance programs.**

\* \* \* \* \*

(f) No tank car facility may manufacture, repair, inspect, test, qualify or maintain tank cars subject to requirements of this subchapter, unless it is operating in conformance with a

quality assurance program and written procedures required by paragraphs (a) and (b) of this section.

**§ 179.100–13 [Amended]**

■ 30. In § 179.100–13, in paragraphs (b) and (c), the wording “except as prescribed in § 179.102 or § 179.103” is removed and the wording “except as prescribed in §§ 173.314(j), 179.102 or 179.103” is added in its place.

■ 31. In Subpart D, the heading for Subpart D is revised to read as follows:

**Subpart D—Specifications for Non-Pressure Tank Car Tanks (Classes DOT–111AW and 115AW)**

\* \* \* \* \*

■ 32. In § 179.200, the section heading is revised to read as follows:

**§ 179.200 General specifications applicable to non-pressure tank car tanks (Class DOT–111).**

\* \* \* \* \*

**§ 179.200–14 [Amended]**

■ 33. In § 179.200–14, paragraph (f) is removed.

**§ 179.200–23 [Amended]**

■ 34. In § 179.200–23, the section heading is amended by removing the word “safety” and adding the word “pressure” in its place.

**§ 179.200–24 [Amended]**

■ 35. In § 179.200–24, in the table, column 2 is amended by removing the wording “DOT–103–W” and adding the wording “DOT 111A” in its place.

**§ 179.201–1 [Amended]**

■ 36. In § 179.201–1, the table is amended by removing the following entries: DOT–103A–ALW, 103AW, 103ALW, 103ANW, 103BW, 103CW, 103DW, 103EW, 103W, and 104W tank cars.

**§ 179.201–2 [Removed and Reserved]**

■ 37. Section 179.201–2 is removed and reserved.

**§ 179.201–3 [Amended]**

■ 38. In § 179.201–3, in paragraph (b), the wording “DOT–103B, 103BW, 111A60W5” is removed and the wording “DOT–111A60W5” is added in its place.

■ 39. § 179.201–6 is amended as follows:

■ a. In paragraph (a), the wording “103ALW, 103DW, 103W,” is removed;

■ b. In paragraph (b), the wording “103BW,” is removed;

■ c. In paragraph (c), the wording “DOT–103CW, 103DW, 103EW,” is removed and the word “DOT” is added in its place; and

- d. Paragraph (d) is removed.
- 40. In § 179.300–17, paragraph (b) is revised to read as follows:

**§ 179.300–17 Tests of pressure relief devices.**

\* \* \* \* \*

(b) Rupture disks of non-reclosing pressure relief devices must be tested and qualified as prescribed in Appendix A, Paragraph 5, of the AAR Manual of Standards and Recommended Practices, Section C—Part III, Specifications for Tank Cars, Specification M–1002 (IBR, see § 171.7 of this subchapter).

\* \* \* \* \*

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

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

**Authority:** 49 U.S.C. 5151–5127; 49 CFR 1.53.

**§ 180.209 [Amended]**

- 42. In § 180.209, in the paragraph (i) table, Note 2 is amended by removing the wording “3 years” and adding the wording “5 years” in its place.
- 43. In § 180.507, paragraph (b)(5) is added to read as follows:

**§ 180.507 Qualification of tank cars.**

\* \* \* \* \*

(b) \* \* \*

(5) Specification DOT–103A–ALW, 103AW, 103ALW, 103ANW, 103BW, 103CW, 103DW, 103EW, and 104W tank cars may continue in use, but new construction is not authorized.

Issued in Washington, DC on August 6, 2003, under authority delegated in 49 CFR part 1.

**Samuel G. Bonasso,**

*Acting Administrator, Research and Special Programs Administration.*

[FR Doc. 03–20508 Filed 8–13–03; 8:45 am]

BILLING CODE 4910–60–P

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 571**

**Federal Motor Vehicle Safety Standards**

*CFR Correction*

In Title 49 of the Code of Federal Regulations, Parts 400 to 999, revised as of October 1, 2002, in § 571.217, remove the duplicated text, beginning with S5.2.2.3 on page 637 through the end of

the first Table 2, in column 1 on page 638.

[FR Doc. 03–55523 Filed 8–13–03; 8:45 am]

BILLING CODE 1505–01–D

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 300**

[Docket No. 030124019–3040–02; I.D. 073003C]

**Pacific Halibut Fisheries; Oregon Sport Fisheries**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Inseason action; request for comments.

**SUMMARY:** NMFS announces changes to the regulations for the Area 2A sport halibut fisheries off the central coast of Oregon. This action would make additional potential season reopening dates available to halibut fishing in the Oregon central coast recreational fishing subarea. The purpose of this action is to allow increased access to Oregon’s central coast recreational halibut quota.

**DATES:** Effective 0001 local time August 14, 2003, through the 2004 specifications and management measures which will publish in a later **Federal Register** document. Comments on this rule will be accepted through August 29, 2003.

**ADDRESSES:** Submit comments to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070. This **Federal Register** document is available on the Government Printing Office’s website at: [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html).

**FOR FURTHER INFORMATION CONTACT:** Jamie Goen or Yvonne deReynier (NMFS, Northwest Region) 206–526–6140.

**SUPPLEMENTARY INFORMATION:** The Area 2A Catch Sharing Plan for Pacific halibut off Washington, Oregon, and California is implemented in the annual management measures for the Pacific halibut fisheries published on March 7, 2003 (68 FR 10989), as amended at 68 FR 14167, March 24, 2003, at 68 FR 22323, April 28, 2003, at 68 FR 23901, May 6, 2003 and at 68 FR 39024, July 1, 2003. Those regulations established the 2003 area quota for the central coast

of Oregon (Cape Falcon, OR to Humbug Mountain, OR) all-depth fishery of 229,103 lb (103.9 mt) and the related management measures. The third all-depth sport fishery season in this area, both north central and south central sub-areas, is scheduled to be open 2 days per week (Friday and Saturday) on previously announced specific dates, and the nearshore fishery (inside 30–fathoms) is scheduled for 7 days per week.

The pace of the all-depth halibut fishery has been slow off the Oregon central coast in recent years. Oregon Department of Fish and Wildlife (ODFW), the agency that directly monitors the sport halibut fishery off Oregon’s coast, reports sport halibut catch in the 2003 fishery, as of June 22, 2003, to have 114,815 lb (52.1 mt) of quota remaining out of a 229,103 lb (103.9 mt) quota for the Oregon central coast fishery (combined all-depth: north central Oregon and south central Oregon, May and August). This fishery is scheduled to be open on August 1, 2, 8 and 9, and if quota remains, on one or more of the following dates: August 22 and 23, September 5, 6, 19 and 20, October 17 and 18. In order to increase opportunity for participation in sport halibut fisheries in the Oregon central coast subarea, ODFW recommended to NMFS and the International Pacific Halibut Commission (IPHC) that additional potential season reopening dates be available for the all-depth fishery. If quota remains after the previously scheduled August 1, 2, 8 and 9 opening, this change would increase the days available that a vessel could fish for halibut in the all-depth area. The additional potential reopening dates announced in this document allows flexibility in scheduling the remainder of the season and increased opportunity to attain the 2003 sport halibut quota for this subarea. ODFW hopes that by adding potential reopening dates, anglers will be able to access the full halibut quota for this subarea and not leave quota remaining, as in 2002, where about 50,000 lb (22.7 mt) of combined central coast quota remained.

Section 25 of the 2003 Pacific halibut regulations provides NMFS with the authority to make certain inseason management changes, provided that the action is necessary to allow allocation objectives to be met, and that the action will not result in exceeding the catch limit for the area. The Catch Sharing Plan’s structuring objective for the Oregon north central coast area is to provide two periods of fishing opportunity in Spring and in Summer in productive deeper water areas along the