

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

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

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

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

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

Another appellant requests the removal of a requirement in paragraph (g)(1) stating that PRDs on manifolded horizontal cylinders filled with a

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

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

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

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

We believe the latter appellant's suggestion that some means should be used to identify cylinder valve caps and

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

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

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

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

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