

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

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

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

Paragraph (g) sets forth the pressure test requirements for cylinders. In paragraph (g)(2), we are revising the reference “0.1 cm³” to read “0.1 cc” because the acronym “cc” is a more recognizable unit of measure. In paragraph (g)(3)(ii), the reference “0.1 cubic centimeter” is removed and “0.1 cc” is added in its place for consistency with the change in paragraph (g)(2).

Section 180.209. In the table in paragraph (a), we are revising the heading to column 3 to read “Requalification period (years)” in place of “Test period (years)” to more

accurately reflect that a requalification may be an inspection or a test.

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

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

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

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

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

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and was not reviewed by the Office of Management and Budget. The rule is not considered significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

This final rule amends an August 8, 2002 final rule that made revision to requirements applicable to the

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

B. Regulatory Flexibility Act

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

C. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (“Federalism”). This final rule preempts state, local, and Indian tribe requirements but does not propose any regulation with substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

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

- (1) The designation, description, and classification of hazardous materials;
- (2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;
- (3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;
- (4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or