

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