

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In paragraph (f), we are removing an outdated compliance date.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