

While researching a viable NDE method that could accurately detect SLC, we made a significant effort to reduce the risk of injury by educating cylinder users regarding the risk of using cylinders manufactured of aluminum alloy 6351-T6. As a result of this effort, we published the following safety advisory notices in the **Federal Register** between 1983 and 1999, concerning SLC in cylinders manufactured of aluminum alloy 6351-T6:

Aug. 11, 1983; Vol. 48, No. 156; pg. 36559  
 Feb. 27, 1984; Vol. 49, No. 39; pg. 7182  
 Nov. 01, 1984; Vol. 49, No. 213; pg. 44047  
 Jul. 17, 1985; Vol. 50, No. 137; pg. 29037  
 Aug. 15, 1985; Vol. 50, No. 158; pg. 32944  
 Jul. 10, 1987; Vol. 52, No. 132; pg. 26027  
 Mar. 24, 1993; Vol. 58, No. 55; pg. 15895  
 Aug. 10, 1993; Vol. 58, No. 152; pg. 42620  
 Jul. 26, 1994; Vol. 59, No. 142; pg. 38028  
 Dec. 14, 1998; Vol. 63, No. 239; pg. 68819  
 Oct. 18, 1999; Vol. 64, No. 2001; pg. 56243

#### B. Executive Order 13132

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This proposed rule would preempt State, local and Indian tribe requirements, but does not propose any regulation that has 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.

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

- (1) The designation, description, and classification of hazardous material;
- (2) the packing, repacking, handling, labeling, marking, and placarding of hazardous material;
- (3) the preparation, execution, and use of shipping documents related to hazardous material 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
- (5) the design, manufacturing, fabricating, marking, maintenance,

reconditioning, repairing, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This proposed rule covers items 2 and 5 and would preempt any State, local, or Indian tribe requirements not meeting the "substantively the same" standard.

Federal hazardous materials transportation law provides at § 5125(b)(2) that, if the Secretary of Transportation issues a regulation concerning any of the covered subjects, the Secretary 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. We propose that the effective date of Federal preemption will be 90 days from publication of a final rule in the **Federal Register**.

#### C. Executive Order 13175

This proposed 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 proposed rule does not have tribal implications, does not impose substantial direct compliance costs, and is not required by statute, the funding and consultation requirements of Executive Order 13175 do not apply.

#### 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 unless the agency determines a rule is not expected to have a significant economic impact on a substantial number of small entities. This rule imposes only minimal new costs of compliance on the regulated industry. Based on the assessment in the regulatory evaluation, I hereby certify that while this 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 is available for review in the docket.

This proposed 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

This proposed rule may result in a modest increase in annual burden and costs based on a new information collection requirement. These proposals regarding the shipment of aluminum cylinders which result in a new information collection requirement will be submitted to OMB for review and approval. RSPA currently has an approved information collection under OMB Control No. 2137-0022, "Testing, Inspection, and Marking Requirements for Cylinders."

Section 1320.8(d), Title 5, Code of Federal Regulations requires that RSPA provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies a new information collection request that RSPA will submit to OMB for approval based on the requirements in this proposed rule. RSPA has developed burden estimates to reflect changes in this proposed rule. RSPA estimates that the total information collection and recordkeeping burden as proposed in this rule would be as follows:

OMB No. 2137-0022:  
*Total Annual Number of Respondents:* 139,352.  
*Total Annual Responses:* 153,287.  
*Total Annual Burden Hours:* 271,461.  
*Total Annual Burden Cost:* \$2,615,515.  
*Total One-Time Start-Up Cost:* \$964,000.

RSPA specifically requests comments on the information collection and recordkeeping burdens associated with developing, implementing, and maintaining these requirements for approval under this proposed rule.

Direct your requests for a copy of the information collection to Deborah Boothe or T. Glenn Foster, Office of Hazardous Materials Standards (DHM-10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW., Washington, DC 20590-0001, Telephone (202) 366-8553.

Address written comments to the Dockets Unit as identified in the **ADDRESSES** section of this rulemaking. We must receive your comments prior to the close of comment period identified in the **DATES** section of this rulemaking. Under the Paperwork Reduction Act of 1995, no person is required to respond to an information collection unless it displays a valid OMB control number. If these proposed requirements are adopted in a final rule, RSPA will submit the revised information collection and recordkeeping requirements to the