

A regulatory evaluation prepared for the August 8, 2002 final rule is available for review in the docket.

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 interim final rule imposes no new costs of compliance on the regulated industry. Based on the assessment in the original regulatory evaluation, I hereby certify that while this interim 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 interim final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This interim 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
- (5) The design, manufacture, fabrication, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This interim final rule addresses covered subject item 5 above and preempts state, local, and Indian tribe requirements not meeting the "substantively the same" standard.

Federal hazardous materials transportation law provides at section 5125(b)(2) that, if DOT issues a regulation concerning any of the covered subjects, DOT 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. The effective date of federal preemption of this final rule is 90 days from publication of this final rule in the **Federal Register**.

D. Executive Order 13175

This interim final 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 interim final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

E. Unfunded Mandates Reform Act of 1995

This interim final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more, in the aggregate, to any of the following: State, local, or Indian tribal governments, or the private sector.

F. Paperwork Reduction Act

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. The amendments contained in this interim final rule impose no changes to the information collection and recordkeeping requirements contained in the August 8, 2002 final rule, which were approved by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35 and assigned control numbers 2137–0022 (approved through 09/30/2005) and 2137–0557 (approved through 12/31/2005).

G. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information

Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

H. Environmental Assessment

This interim final rule extends the mandatory compliance date for certain persons who requalify cylinders to obtain approval from us and mark their assigned requalifier identification number on successfully requalified cylinders. The approval requirements were adopted in an August 8, 2002 final rule. The regulatory evaluation prepared for the August 8, 2002 final rule contains an environmental assessment and is in the public docket for this rulemaking. The August 8, 2002 final rule incorporates new cylinder technologies through new and updated incorporations by reference of consensus standards developed by CGA; increases flexibility for cylinder requalifiers, and users; and facilitates compliance with the HMR by clarifying and reorganizing regulatory requirements applicable to cylinders. In addition, the August 8, 2002 final rule improves the overall safety performance of DOT specification cylinders by addressing several identified safety problems. The August 8, 2002 final rule contains revisions to reduce unintentional releases of hazardous materials from cylinders during transportation and, therefore, will reduce environmental damage associated with such releases. To the extent that the revisions in this interim final rule maintain safety for transportation of hazardous materials in cylinders, we find that there are no significant environmental impacts associated with this final rule.

List of Subjects

49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Railroad safety, and Reporting and recording requirements.

■ In consideration of the foregoing, title 49, Chapter I, Subchapters A and C of the Code of Federal Regulations, are amended as follows: